

CHAMBER ACTION

1 The Health & Families Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the licensure of health care providers;  
7 creating pts. I, II, III, and IV of ch. 408, F.S.;  
8 creating s. 408.801, F.S.; providing a popular name;  
9 providing legislative findings and purpose; creating s.  
10 408.802, F.S.; providing applicability; creating s.  
11 408.803, F.S.; providing definitions; creating s. 408.804,  
12 F.S.; requiring providers to have and display a license;  
13 providing limitations; creating s. 408.805, F.S.;  
14 establishing license fees; providing a method for  
15 calculating annual adjustment of fees; creating s.  
16 408.806, F.S.; providing a license application process;  
17 requiring specified information to be included on the  
18 application; requiring payment of late fees under certain  
19 circumstances; requiring inspections; providing an  
20 exception; authorizing the Agency for Health Care  
21 Administration to establish procedures and rules for  
22 electronic transmission of required information; creating  
23 s. 408.807, F.S.; providing procedures for change of

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24 | ownership; requiring the transferor to notify the agency  
25 | in writing within a specified time period; providing for  
26 | duties and liability of the transferor; providing for  
27 | maintenance of records; creating s. 408.808, F.S.;  
28 | providing license categories and requirements therefor;  
29 | creating s. 408.809, F.S.; requiring background screening  
30 | of specified employees; providing for submission of proof  
31 | of compliance, under certain circumstances; providing  
32 | conditions for granting provisional and standard licenses;  
33 | providing an exception to screening requirements; creating  
34 | s. 408.810, F.S.; providing minimum licensure  
35 | requirements; providing procedures for discontinuance of  
36 | operation and surrender of license; requiring forwarding  
37 | of client records; requiring publication of a notice of  
38 | discontinuance of operation of a provider; providing  
39 | penalties; providing for statewide toll-free telephone  
40 | numbers for reporting complaints and abusive, neglectful,  
41 | and exploitative practices; requiring proof of legal right  
42 | to occupy property, proof of insurance, and proof of  
43 | financial viability, under certain circumstances;  
44 | requiring disclosure of information relating to financial  
45 | instability; providing a penalty; prohibiting the agency  
46 | from licensing a health care provider that does not have a  
47 | certificate of need or an exemption; creating s. 408.811,  
48 | F.S.; providing for inspections and investigations to  
49 | determine compliance; providing that inspection reports  
50 | are public records; requiring retention of records for a  
51 | specified period of time; creating s. 408.812, F.S.;

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52 | prohibiting certain unlicensed activity by a provider;  
53 | requiring unlicensed providers to cease activity;  
54 | providing penalties; requiring reporting of unlicensed  
55 | providers; creating s. 408.813, F.S.; authorizing the  
56 | agency to impose administrative fines; creating s.  
57 | 408.814, F.S.; providing conditions for the agency to  
58 | impose a moratorium or emergency suspension on a provider;  
59 | requiring notice; creating s. 408.815, F.S.; providing  
60 | grounds for denial or revocation of a license or change-  
61 | of-ownership application; providing conditions to continue  
62 | operation; exempting renewal applications from provisions  
63 | requiring the agency to approve or deny an application  
64 | within a specified period of time, under certain  
65 | circumstances; creating s. 408.816, F.S.; authorizing the  
66 | agency to institute injunction proceedings, under certain  
67 | circumstances; creating s. 408.817, F.S.; providing basis  
68 | for review of administrative proceedings challenging  
69 | agency licensure enforcement action; creating s. 408.818,  
70 | F.S.; requiring fees and fines related to health care  
71 | licensing to be deposited into the Health Care Trust Fund;  
72 | creating s. 408.819, F.S.; authorizing the agency to adopt  
73 | rules; providing a timeframe for compliance; amending s.  
74 | 112.0455, F.S.; providing applicability of licensure  
75 | requirements under pt. II of ch. 408, F.S., to drug-  
76 | testing laboratories; establishing fees for license  
77 | applications; amending ss. 381.0303 and 381.78, F.S.;  
78 | conforming cross references; amending ss. 383.301,  
79 | 383.305, and 383.309, F.S.; providing applicability of

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80 licensure requirements under pt. II of ch. 408, F.S., to  
 81 birth centers; repealing s. 383.304, F.S., relating to  
 82 licensure requirement for birth centers; amending s.  
 83 383.315, F.S.; revising a provision relating to birth  
 84 center consultation agreements; repealing s. 383.332,  
 85 F.S., relating to establishing, managing, or operating a  
 86 birth center without a license and penalties therefor;  
 87 amending s. 383.324, F.S.; conforming provisions relating  
 88 to inspections and investigations of birth centers to  
 89 changes made by the act; repealing s. 383.325, F.S.,  
 90 relating to inspection reports; amending s. 383.33, F.S.,  
 91 relating to administrative fines, penalties, emergency  
 92 orders , and moratoriums on admissions; conforming  
 93 provisions to changes made by the act; repealing s.  
 94 383.331, F.S., relating to injunctive relief; amending s.  
 95 383.335, F.S., relating to partial exemptions; conforming  
 96 provisions to changes made by the act; amending s. 383.50,  
 97 F.S.; conforming a cross reference; amending s. 390.011,  
 98 F.S.; revising a definition; amending s. 390.012, F.S.,  
 99 relating to rulemaking power of the agency; conforming  
 100 provisions to changes made by the act; repealing s.  
 101 390.013, F.S., relating to effective date of rules  
 102 governing abortion clinics; amending s. 390.014, F.S.;  
 103 providing applicability of licensure requirements under  
 104 pt. II of ch. 408, F.S., to abortion clinics; increasing  
 105 fees for licensing of abortion clinics; repealing s.  
 106 390.015, F.S., relating to application for license to  
 107 operate an abortion clinic; repealing s. 390.016, F.S.,

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108 relating to expiration and renewal of license; repealing  
 109 s. 390.017, F.S., relating to grounds for suspension or  
 110 revocation of license; amending s. 390.018, F.S.;  
 111 providing applicability of pt. II of ch. 408, F.S., to  
 112 administrative fines; repealing s. 390.019, F.S., relating  
 113 to inspections and investigations of abortion clinics;  
 114 repealing s. 390.021, F.S., relating to injunctive relief;  
 115 amending s. 393.501, F.S.; revising provisions relating to  
 116 rulemaking; amending s. 394.455, F.S.; revising a  
 117 definition; amending s. 394.4787, F.S.; conforming a cross  
 118 reference; amending s. 394.67, F.S.; deleting and revising  
 119 and providing definitions; conforming cross references;  
 120 amending ss. 394.74 and 394.82, F.S.; conforming cross  
 121 references; amending s. 394.875, F.S.; providing purpose  
 122 of short-term residential treatment facilities; providing  
 123 applicability of licensure requirements under pt. II of  
 124 ch. 408, F.S., to crisis stabilization units, short-term  
 125 residential treatment facilities, residential treatment  
 126 facilities, and residential treatment centers for children  
 127 and adolescents; providing an exemption from licensure  
 128 requirements for hospitals licensed under ch. 395, F.S.,  
 129 and certain programs operated therein; repealing s.  
 130 394.876, F.S., relating to license applications; amending  
 131 s. 394.877, F.S.; providing applicability of pt. II of ch.  
 132 408, F.S., to license fees; amending s. 394.878, F.S.,  
 133 relating to issuance and renewal of licenses; conforming  
 134 provisions to changes made by the act; amending s.  
 135 394.879, F.S.; providing for rulemaking authority;

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136 conforming provisions to changes made by the act; amending  
137 s. 394.90, F.S.; conforming provisions relating to  
138 inspections of crisis stabilization units and residential  
139 treatment facilities to changes made by the act; repealing  
140 s. 394.902, F.S., relating to denial, suspension, and  
141 revocation of licenses of certain mental health  
142 facilities; amending s. 394.907, F.S., relating to access  
143 to records of community mental health centers; providing  
144 for the department to determine licensee compliance with  
145 quality assurance programs; amending s. 395.002, F.S.;  
146 deleting a definition; conforming cross references;  
147 amending ss. 395.003, 395.004, and 395.0161, F.S.;  
148 providing applicability of licensure requirements under  
149 pt. II of ch. 408, F.S., to hospitals, ambulatory surgical  
150 centers, and mobile surgical facilities; repealing s.  
151 395.0055, F.S., relating to background screening;  
152 repealing s. 395.0162, F.S., relating to inspection  
153 reports; amending s. 395.0163, F.S.; revising provisions  
154 relating to deposit of fees; conforming provisions to  
155 changes made by the act; providing an exception to Florida  
156 Building Code requirements for a licensed facility under  
157 specified circumstances; amending s. 395.0191, F.S.;  
158 requiring the presence of certain registered nurses in the  
159 operating room of a facility licensed under ch. 395, F.S.,  
160 during specified procedures; amending s. 395.0193, F.S.;  
161 requiring that reports concerning disciplinary actions be  
162 reported to the Department of Health and that final  
163 disciplinary actions be reported to the Division of Health

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164 Quality Assurance; conforming a cross reference; amending  
165 s. 395.0197, F.S.; conforming a cross reference; amending  
166 ss. 395.0199 and 395.1046, F.S.; providing applicability  
167 of licensure requirements under pt. II of ch. 408, F.S.,  
168 to health care utilization review and complaint  
169 investigation procedures; amending s. 395.1055, F.S.;  
170 providing applicability of licensure requirements under  
171 pt. II of ch. 408, F.S., to adoption and enforcement of  
172 rules; requiring the agency to enforce compliance with  
173 provisions relating to specified immunizations; amending  
174 ss. 395.1065, 395.10973, and 395.10974, F.S.; providing  
175 applicability of licensure requirements under pt. II of  
176 ch. 408, F.S., to administrative penalties and  
177 injunctions, rulemaking, and health care risk managers;  
178 amending ss. 395.602 and 395.701, F.S.; conforming cross  
179 references; amending s. 400.021, F.S.; deleting  
180 definitions; amending s. 400.022, F.S.; providing  
181 applicability of licensure requirements under pt. II of  
182 ch. 408, F.S., to grounds for action for a violation of  
183 residents' rights; amending s. 400.051, F.S.; conforming a  
184 cross reference; amending s. 400.062, F.S.; providing  
185 applicability of licensure requirements under pt. II of  
186 ch. 408, F.S., to nursing homes and related health care  
187 facilities; revising provisions relating to license fees;  
188 amending s. 400.063, F.S.; conforming a cross reference;  
189 amending ss. 400.071 and 400.0712, F.S.; providing  
190 applicability of licensure requirements under pt. II of  
191 ch. 408, F.S., to license applications; amending s.

192 400.102, F.S.; providing applicability of licensure  
 193 requirements under pt. II of ch. 408, F.S., to grounds for  
 194 action by the agency against a licensee; amending s.  
 195 400.111, F.S.; providing applicability of licensure  
 196 requirements under pt. II of ch. 408, F.S.; requiring a  
 197 licensee to disclose certain holdings of a controlling  
 198 interest; amending s. 400.1183, F.S.; revising a provision  
 199 requiring facilities to report resident grievances to the  
 200 agency; amending s. 400.121, F.S., relating to denial,  
 201 suspension, and revocation of licenses and administrative  
 202 fines; conforming provisions to changes made by the act;  
 203 repealing s. 400.125, F.S., relating to injunction  
 204 proceedings; amending s. 400.141, F.S.; revising timeframe  
 205 for submission of information related to staffing  
 206 requirements and number of vacant beds in a facility;  
 207 conforming a cross reference; amending s. 400.162, F.S.;  
 208 providing for payment of a deceased resident's funeral  
 209 services under certain circumstances; amending s. 400.179,  
 210 F.S.; revising provisions relating to liability for  
 211 Medicaid underpayments and overpayments; conforming  
 212 provisions to changes made by the act; amending s. 400.18,  
 213 F.S.; revising provisions relating to the closing of a  
 214 nursing home facility; conforming provisions to changes  
 215 made by the act; amending s. 400.19, F.S.; providing  
 216 applicability of licensure requirements under pt. II of  
 217 ch. 408, F.S., to nursing home facility inspections;  
 218 revising a provision relating to a fine; amending s.  
 219 400.191, F.S.; authorizing the agency to provide



220 | electronic access to inspection reports; requiring the  
 221 | agency to publish the Nursing Home Guide in printed and  
 222 | electronic formats and providing information to be  
 223 | included therein; revising information to be included on  
 224 | the agency Internet site; revising provisions relating to  
 225 | availability of nursing home facility records; amending s.  
 226 | 400.20, F.S.; revising language relating to nursing home  
 227 | administrators; amending s. 400.23, F.S.; providing  
 228 | applicability of pt. II of ch. 408, F.S., to rulemaking  
 229 | for nursing home facilities; providing an alternative to  
 230 | nursing home room requirements under the Florida Building  
 231 | Code, under certain circumstances; requiring nursing home  
 232 | facilities to document rooms not in compliance with the  
 233 | Florida Building Code and to notify the agency of the  
 234 | practice; amending s. 400.241, F.S.; providing  
 235 | applicability of licensure requirements under pt. II of  
 236 | ch. 408, F.S., to prohibited acts relating to  
 237 | establishment, operation, or advertisement of nursing home  
 238 | facilities; amending s. 400.402, F.S.; revising and  
 239 | deleting definitions; amending s. 400.407, F.S.; providing  
 240 | applicability of licensure requirements under pt. II of  
 241 | ch. 408, F.S., to assisted living facilities; conforming  
 242 | provisions to changes made by the act; providing an  
 243 | exemption; amending s. 400.4075, F.S.; providing  
 244 | applicability of licensure requirements under pt. II of  
 245 | ch. 408, F.S., to limited mental health licenses; amending  
 246 | s. 400.408, F.S., relating to penalties imposed on  
 247 | unlicensed assisted living facilities; conforming

248 provisions to changes made by the act; amending ss.  
 249 400.411, 400.412, 400.414, 400.417, and 400.4174, F.S.;  
 250 providing applicability of licensure requirements under  
 251 pt. II of ch. 408, F.S., to assisted living facilities;  
 252 conforming provisions to changes made by the act;  
 253 repealing s. 400.415, F.S., relating to a moratorium on  
 254 admissions and notice thereof; amending s. 400.4176, F.S.;  
 255 conforming provisions to changes made by the act; amending  
 256 s. 400.4178, F.S.; deleting provisions exempting specified  
 257 nursing home facilities from fees for training and  
 258 education programs relating to special care for persons  
 259 with Alzheimer's disease or other related disorders;  
 260 amending ss. 400.418 and 400.419, F.S.; providing  
 261 applicability of pt. II of ch. 408, F.S., to provisions  
 262 relating to disposition and imposition of fees and fines  
 263 collected under pt. III of ch. 400, F.S.; conforming  
 264 provisions to changes made by the act; repealing s.  
 265 400.421, F.S., relating to injunctive proceedings;  
 266 amending s. 400.422, F.S.; conforming a cross reference;  
 267 amending s. 400.423, F.S.; transferring rulemaking  
 268 authority from the Department of Elderly Affairs to the  
 269 agency; amending s. 400.424, F.S.; providing that fines on  
 270 assisted living facilities for failure to comply with  
 271 certain refund provisions are not subject to s.  
 272 400.419(3), F.S.; amending ss. 400.4255, 400.4256,  
 273 400.427, and 400.4275, F.S.; conforming provisions to  
 274 changes made by the act; amending s. 400.426, F.S.;  
 275 conforming a cross reference; amending ss. 400.431 and

276 | 400.434, F.S.; providing applicability of licensure  
 277 | requirements under pt. II of ch. 408, F.S., to the closing  
 278 | of and right of entry and inspection of assisted living  
 279 | facilities; amending s. 400.435, F.S.; revising provisions  
 280 | relating to maintenance of records of inspection reports  
 281 | for a specified period of time; amending s. 400.441, F.S.;  
 282 | transferring rulemaking authority from the Department of  
 283 | Elderly Affairs to the agency; deleting provisions  
 284 | requiring submission of proposed rules and a report to the  
 285 | Legislature; deleting a fee for copies of rules and  
 286 | standards; conforming provisions to changes made by the  
 287 | act; amending ss. 400.442 and 400.444, F.S.; conforming  
 288 | provisions to changes made by the act; amending s.  
 289 | 400.447, F.S.; providing applicability of licensure  
 290 | requirements under pt. II of ch. 408, F.S., to prohibited  
 291 | acts and penalties for violation of said requirements;  
 292 | repealing s. 400.451, F.S., relating to compliance by  
 293 | existing facilities with applicable rules and standards;  
 294 | amending ss. 400.452 and 400.454, F.S.; conforming  
 295 | provisions to changes made by the act; amending ss.  
 296 | 400.464, 400.471, 400.474, and 400.484, F.S.; providing  
 297 | applicability of licensure requirements under pt. II of  
 298 | ch. 408, F.S., to home health agencies; amending s.  
 299 | 400.487, F.S.; revising contents of home health service  
 300 | agreements; authorizing physician assistants and advanced  
 301 | registered nurse practitioners to establish treatment  
 302 | orders; amending s. 400.494, F.S.; conforming provisions  
 303 | to changes made by the act; amending ss. 400.495 and

304 400.497, F.S.; providing applicability of licensure  
 305 requirements under pt. II of ch. 408, F.S., to the toll-  
 306 free central abuse hotline and rules establishing minimum  
 307 standards for home health aides; amending s. 400.506,  
 308 F.S.; providing applicability of licensure requirements  
 309 under pt. II of ch. 408, F.S., to nurse registries;  
 310 requiring a nurse registry to notify patients or their  
 311 families of the availability and costs of visits by  
 312 registered nurses; permitting physician assistants and  
 313 advanced registered nurse practitioners to sign a plan of  
 314 treatment; revising provisions relating to assessment of  
 315 costs related to certain investigations; amending s.  
 316 400.509, F.S.; providing applicability of pt. II of ch.  
 317 408, F.S., to the registration of companion or homemaker  
 318 service providers exempt from licensure; providing a fee  
 319 for registration; conforming provisions to changes made by  
 320 the act; amending s. 400.512, F.S.; conforming provisions  
 321 relating to the screening of home health agency, nurse  
 322 registry, companion, and homemaker personnel to changes  
 323 made by the act; repealing s. 400.515, F.S., relating to  
 324 injunction proceedings; amending s. 400.551, F.S.;  
 325 revising definitions; amending ss. 400.554, 400.555,  
 326 400.5565, 400.557, and 400.5572, F.S.; providing  
 327 applicability of licensure requirements under pt. II of  
 328 ch. 408, F.S., to adult day care centers; amending s.  
 329 400.556, F.S.; authorizing the agency to impose an  
 330 emergency action against an owner, operator, or employee  
 331 of an adult day care facility; revising grounds for action

332 by the agency against an owner, operator, or employee of  
 333 an adult day care facility; providing applicability of  
 334 licensure requirements under pt. II of ch. 408, F.S.;  
 335 repealing s. 400.5575, F.S., relating to disposition of  
 336 fees and fines; repealing s. 400.558, F.S., relating to  
 337 injunctive relief; amending ss. 400.559 and 400.56, F.S.;  
 338 providing applicability of licensure requirements under  
 339 pt. II of ch. 408, F.S., to the closing of and right of  
 340 entry and inspection of adult day care centers; amending  
 341 s. 400.562, F.S.; transferring rulemaking authority from  
 342 the Department of Elderly Affairs to the agency; deleting  
 343 a fee for copies of rules and standards; conforming  
 344 provisions to changes made by the act; repealing s.  
 345 400.564, F.S., relating to prohibited acts and penalties  
 346 therefor; amending ss. 400.602, 400.605, 400.606,  
 347 400.6065, and 400.607, F.S.; providing applicability of  
 348 licensure requirements under pt. II of ch. 408, F.S., to  
 349 hospices; conforming provisions to changes made by the  
 350 act; amending s. 400.6095, F.S.; conforming provisions  
 351 relating to rulemaking to changes made by the act;  
 352 amending ss. 400.617, 400.6211, and 400.625, F.S.;  
 353 conforming provisions relating to legislative intent and  
 354 purpose, rulemaking, training and education programs, and  
 355 residency agreements for adult family-care homes to  
 356 changes made by the act; amending ss. 400.619, 400.6194,  
 357 400.6196, and 400.621, F.S.; providing applicability of  
 358 licensure requirements under pt. II of ch. 408, F.S., to  
 359 adult family-care homes; repealing s. 400.622, F.S.,

360 relating to injunctive proceedings; amending s. 400.801,  
 361 F.S.; conforming provisions relating to homes for special  
 362 services to changes made by the act; providing a fee;  
 363 amending s. 400.805, F.S.; providing applicability of  
 364 licensure requirements under pt. II of ch. 408, F.S., to  
 365 transitional living facilities; providing a fee; amending  
 366 s. 400.902, F.S.; revising a definition; amending ss.  
 367 400.903, 400.905, 400.907, and 400.908, F.S.; providing  
 368 applicability of licensure requirements under pt. II of  
 369 ch. 408, F.S., to prescribed pediatric extended care  
 370 centers; repealing s. 400.906, F.S., relating to initial  
 371 application for a license; repealing s. 400.910, F.S.,  
 372 relating to expiration or renewal of a license and  
 373 conditional licenses; repealing s. 400.911, F.S., relating  
 374 to injunction proceedings; amending s. 400.912, F.S.;  
 375 conforming provisions relating to the closing of a  
 376 prescribed pediatric extended care center to changes made  
 377 by the act; repealing s. 400.913, F.S., relating to right  
 378 of entry and inspection; amending ss. 400.914 and 400.915,  
 379 F.S.; providing applicability of licensure requirements  
 380 under pt. II of ch. 408, F.S., to rules establishing  
 381 standards for and requirements for construction and  
 382 renovation of prescribed pediatric extended care centers;  
 383 repealing s. 400.916, F.S., relating to penalties for  
 384 prohibited acts; repealing s. 400.917, F.S., relating to  
 385 disposition of moneys from fines and fees; amending s.  
 386 400.925, F.S.; deleting and revising definitions; amending  
 387 ss. 400.93, 400.931, 400.932, 400.933, and 400.935, F.S.;

388 providing applicability of licensure requirements under  
 389 pt. II of ch. 408, F.S., to home medical equipment  
 390 providers; repealing s. 400.95, F.S., relating to notice  
 391 of toll-free telephone number for the central abuse  
 392 hotline; amending ss. 400.953 and 400.955, F.S.; revising  
 393 provisions relating to background screening of home  
 394 medical equipment provider personnel; repealing s.  
 395 400.956, F.S., relating to injunction proceedings;  
 396 amending s. 400.960, F.S.; deleting and revising  
 397 definitions; amending s. 400.962, F.S.; providing  
 398 applicability of licensure requirements under pt. II of  
 399 ch. 408, F.S., to intermediate care facilities for persons  
 400 with developmental disabilities; providing a fee;  
 401 repealing s. 400.963, F.S., relating to injunctive  
 402 proceedings; repealing s. 400.965, F.S., relating to  
 403 grounds for actions by the agency against the licensee;  
 404 amending s. 400.967, F.S.; providing applicability of  
 405 licensure requirements under pt. II of ch. 408, F.S., to  
 406 intermediate care facilities for persons with  
 407 developmental disabilities; requiring facilities to adhere  
 408 to the Bill of Rights of Persons Who are Developmentally  
 409 Disabled; amending s. 400.968, F.S.; conforming provisions  
 410 relating to injunctive proceedings and a moratorium on  
 411 admissions to changes made by the act; amending s.  
 412 400.9685, F.S.; conforming language to changes made by the  
 413 act; amending s. 400.969, F.S.; providing applicability of  
 414 pt. II of ch. 408, F.S., to penalties relating to  
 415 intermediate care facilities for persons with

416 developmental disabilities; amending s. 400.980, F.S.;

417 providing applicability of licensure requirements under

418 pt. II of ch. 408, F.S., to health care services pools;

419 amending ss. 400.991, 400.9915, 400.9925, 400.993, and

420 400.9935, F.S.; providing applicability of licensure

421 requirements under pt. II of ch. 408, F.S., to health care

422 clinics; providing a fee; repealing s. 400.992, F.S.,

423 relating to license renewal, transfer of ownership, and

424 provisional licenses; repealing s. 400.994, F.S., relating

425 to injunctive proceedings; repealing s. 400.9945, F.S.,

426 relating to agency actions; amending s. 400.995, F.S.;

427 conforming provisions relating to agency administrative

428 penalties to changes made by the act; amending s. 401.265,

429 F.S.; requiring license requirements for emergency medical

430 technicians and paramedics; amending s. 408.831, F.S.;

431 revising provisions relating to agency action to deny,

432 suspend, or revoke a license or application; amending s.

433 440.102, F.S.; providing applicability of licensure

434 requirements under pt. II of ch. 408, F.S., to drug

435 testing standards for laboratories; amending s. 464.015,

436 F.S.; providing restrictions on the use of the title

437 "Certified Registered Nurse Anesthetist"; amending s.

438 464.016, F.S.; providing a penalty for misuse of the title

439 "Certified Registered Nurse Anesthetist"; amending ss.

440 483.035, 483.051, 483.061, 483.091, 483.101, 483.111,

441 483.172, 483.201, 483.221, and 483.23, F.S.; providing

442 applicability of licensure requirements under pt. II of

443 ch. 408, F.S., to clinical laboratories; repealing s.



444 483.131, F.S., relating to the display of a license;  
 445 repealing s. 483.25, F.S., relating to injunctive  
 446 proceedings; amending ss. 483.291, 483.294, 483.30,  
 447 483.302, 483.317, 483.32, and 483.322, F.S.; providing  
 448 applicability of licensure requirements under pt. II of  
 449 ch. 408, F.S., to multiphasic health testing centers;  
 450 repealing s. 483.311, F.S., relating to the display of a  
 451 license; repealing s. 483.328, F.S., relating to  
 452 injunctive relief; amending s. 765.541, F.S.; conforming  
 453 provisions relating to cadaveric organ and tissue  
 454 procurement to changes made by the act; amending s.  
 455 765.542, F.S.; providing applicability of licensure  
 456 requirements under pt. II of ch. 408, F.S., to organ  
 457 procurement organizations and tissue and eye banks;  
 458 amending s. 765.544, F.S.; conforming provisions relating  
 459 to application fees from organizations and tissue and eye  
 460 banks to changes made by the act; amending ss. 402.164,  
 461 409.815, 409.905, 409.907, 468.505, 483.106, 766.118,  
 462 766.316, and 812.014, F.S.; conforming cross references;  
 463 providing for priority of application in case of conflict;  
 464 transferring rules adopted by the Department of Elderly  
 465 Affairs under pts. III, V, VI, and VII of ch. 400, F.S.,  
 466 to the agency; authorizing the agency to issue licenses  
 467 for less than a specified time period and providing  
 468 conditions therefor; providing an effective date.

469  
 470 Be It Enacted by the Legislature of the State of Florida:  
 471

472           Section 1. Part I of chapter 408, Florida Statutes,  
 473 consisting of sections 408.031, 408.032, 408.033, 408.034,  
 474 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039, 408.040,  
 475 408.041, 408.042, 408.043, 408.044, 408.045, 408.0455, 408.05,  
 476 408.061, 408.062, 408.063, 408.07, 408.08, 408.09, 408.10,  
 477 408.15, 408.16, 408.18, 408.185, 408.20, 408.301, 408.302,  
 478 408.40, 408.50, 408.70, 408.7056, 408.7057, and 408.7071,  
 479 Florida Statutes, is created and entitled "Health Facility and  
 480 Services Planning."

481           Section 2. Part II of chapter 408, Florida Statutes,  
 482 consisting of sections 408.801, 408.802, 408.803, 408.804,  
 483 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811,  
 484 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818,  
 485 408.819, and 408.831, Florida Statutes, is created and entitled  
 486 "Health Care Licensing: General Provisions."

487           Section 3. Part III of chapter 408, Florida Statutes,  
 488 consisting of sections 408.90, 408.901, 408.902, 408.903,  
 489 408.904, 408.905, 408.906, 408.907, 408.908, and 408.909,  
 490 Florida Statutes, is created and entitled "Health Insurance  
 491 Access."

492           Section 4. Part IV of chapter 408, Florida Statutes,  
 493 consisting of sections 408.911, 408.913, 408.914, 408.915,  
 494 408.916, 408.917, and 408.918, Florida Statutes, is created and  
 495 entitled "Health and Human Services Eligibility Access System."

496           Section 5. Sections 408.801, 408.802, 408.803, 408.804,  
 497 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811,  
 498 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818,  
 499 and 408.819, Florida Statutes, are created to read:

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500        408.801 Popular name; purpose.--

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

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

513        408.802 Applicability.--The provisions of this part apply  
514 to the provision of services that require licensure as defined  
515 in this part and to the following entities licensed, registered,  
516 or certified by the Agency for Health Care Administration, as  
517 described in chapters 112, 383, 390, 394, 395, 400, 440, 483,  
518 and 765:

519        (1) Laboratories authorized to perform testing under the  
520 Drug-Free Workplace Act, as provided under ss. 112.0455 and  
521 440.102.

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

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

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

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

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- 528        (6) Residential treatment facilities, as provided under
- 529 part IV of chapter 394.
- 530        (7) Residential treatment centers for children and
- 531 adolescents, as provided under part IV of chapter 394.
- 532        (8) Hospitals, as provided under part I of chapter 395.
- 533        (9) Ambulatory surgical centers, as provided under part I
- 534 of chapter 395.
- 535        (10) Mobile surgical facilities, as provided under part I
- 536 of chapter 395.
- 537        (11) Private review agents, as provided under part I of
- 538 chapter 395.
- 539        (12) Health care risk managers, as provided under part I
- 540 of chapter 395.
- 541        (13) Nursing homes, as provided under part II of chapter
- 542 400.
- 543        (14) Assisted living facilities, as provided under part
- 544 III of chapter 400.
- 545        (15) Home health agencies, as provided under part IV of
- 546 chapter 400.
- 547        (16) Nurse registries, as provided under part IV of
- 548 chapter 400.
- 549        (17) Companion services or homemaker services providers,
- 550 as provided under part IV of chapter 400.
- 551        (18) Adult day care centers, as provided under part V of
- 552 chapter 400.
- 553        (19) Hospices, as provided under part VI of chapter 400.
- 554        (20) Adult family-care homes, as provided under part VII
- 555 of chapter 400.

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

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

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

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

564        (25) Intermediate care facilities for persons with  
565 developmental disabilities, as provided under part XI of chapter  
566 400.

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

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

571        (28) Clinical laboratories, as provided under part I of  
572 chapter 483.

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

575        (30) Organ and tissue procurement agencies, as provided  
576 under chapter 765.

577        408.803 Definitions.--As used in this part, the term:

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

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

583        (3) "Authorizing statute" means the statute authorizing

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584 the licensed operation of a provider listed in s. 408.802,  
 585 including chapters 112, 383, 390, 394, 395, 400, 440, 483, and  
 586 765.

587 (4) "Certification" means certification as a Medicare or  
 588 Medicaid provider of the services that require licensure or  
 589 certification pursuant to the federal Clinical Laboratory  
 590 Improvement Amendment (CLIA).

591 (5) "Change in ownership" means an event in which the  
 592 licensee changes to a different legal entity or in which 45  
 593 percent or more of the ownership, voting shares, or interest in  
 594 a corporation whose shares are not publicly traded on a  
 595 recognized stock exchange is transferred or assigned, including  
 596 the final transfer or assignment of multiple transfers or  
 597 assignments over a 2-year period that cumulatively total 45  
 598 percent or greater. However, a change solely in the management  
 599 company is not a change of ownership.

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

602 (7) "Controlling interest" means:

603 (a) The applicant or licensee;

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

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

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The term does not include a voluntary board member.

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

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

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

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

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

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

640           408.804 License required; display.--  
 641           (1) It is unlawful to provide services that require  
 642 licensure, or operate or maintain a provider that offers or  
 643 provides services that require licensure, without first  
 644 obtaining from the agency a license authorizing the provision of  
 645 such services or the operation or maintenance of such provider.  
 646           (2) A license must be displayed in a conspicuous place  
 647 readily visible to clients who enter at the address that appears  
 648 on the license and is valid only in the hands of the licensee to  
 649 whom it is issued and may not be sold, assigned, or otherwise  
 650 transferred, voluntarily or involuntarily. The license is valid  
 651 only for the licensee, provider, and location for which the  
 652 license is issued.  
 653           408.805 Fees required; adjustments.--Unless otherwise  
 654 limited by authorizing statutes, license fees must be reasonably  
 655 calculated by the agency to cover its costs in carrying out its  
 656 responsibilities under this part, authorizing statutes, and  
 657 applicable rules, including the cost of licensure, inspection,  
 658 and regulation of providers.  
 659           (1) Licensure fees shall be adjusted to provide for  
 660 biennial licensure in agency rules.  
 661           (2) The agency shall annually adjust licensure fees,  
 662 including fees paid per bed, by not more than the change in the  
 663 Consumer Price Index based on the 12 months immediately  
 664 preceding the increase.  
 665           (3) The agency may, by rule, adjust licensure fees to  
 666 cover the cost of administering this part, authorizing statutes,  
 667 and applicable rules.



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668       (4) An inspection fee must be paid as required in  
669 authorizing statutes.

670       (5) Fees are nonrefundable.

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

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

677       (8) Total fees collected may not exceed the cost of  
678 administering this part, authorizing statutes, and applicable  
679 rules.

680       408.806 License application process.--

681       (1) An application for licensure must be made to the  
682 agency on forms furnished by the agency, submitted under oath,  
683 and accompanied by the appropriate fee in order to be accepted  
684 and considered timely. The application must contain information  
685 required by authorizing statutes and applicable rules and must  
686 include:

687       (a) The name, address, and social security number of the  
688 applicant and each controlling interest if the applicant or  
689 controlling interest is an individual.

690       (b) The name, address, and federal employer identification  
691 number or taxpayer identification number of the applicant and  
692 each controlling interest if the applicant or controlling  
693 interest is not an individual.

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

695       (d) The total number of beds or capacity requested, as

696 applicable.

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

699 1. A report or letter from the zoning authority indicating  
700 that the location is zoned appropriately for its use. If the  
701 provider is a community residential home under chapter 419, the  
702 zoning requirement must be satisfied by proof of compliance with  
703 chapter 419. The zoning report or letter is not required for a  
704 renewal application if the provider location did not change  
705 since the date on which the most recent license was issued.

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

708 (f) The name of the person or persons under whose  
709 management or supervision the provider will be operated and the  
710 name of the administrator, if required.

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

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

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

722 (b) The applicant for initial licensure due to a change of  
723 ownership must submit an application that must be received by

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724 the agency at least 60 days prior to the date of change of  
725 ownership.

726 (c) For any other application or request, the applicant  
727 must submit an application or request that must be received by  
728 the agency at least 60 days prior to the requested effective  
729 date, unless otherwise specified in authorizing statutes or  
730 rules.

731 (d) The agency shall notify the licensee by mail or  
732 electronically at least 90 days prior to the expiration of a  
733 license that a renewal license is necessary to continue  
734 operation. The failure to timely file an application and submit  
735 a license fee shall result in a late fee charged to the licensee  
736 by the agency in an amount equal to 50 percent of the licensure  
737 fee but in no event shall the aggregate amount of the fine  
738 exceed \$5,000. If an application is received after the required  
739 filing date and exhibits a hand-canceled postmark obtained from  
740 a United States Post Office dated on or before the required  
741 filing date, no fine will be levied.

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

746 (b) Requested information omitted from an application for  
747 licensure, license renewal, or change of ownership, other than  
748 an inspection, must be filed with the agency within 21 days  
749 after the agency's request for omitted information or the  
750 application shall be deemed incomplete and shall be withdrawn  
751 from further consideration and the fees shall be forfeited.

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

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

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

757        (b) Each license issued shall indicate the name of the  
 758 licensee, the type of provider or service that the licensee is  
 759 required or authorized to operate or offer, the date the license  
 760 is effective, the expiration date of the license, the maximum  
 761 capacity of the licensed premises, if applicable, and any other  
 762 information required or deemed necessary by the agency.

763        (5) In accordance with authorizing statutes and applicable  
 764 rules, proof of compliance with s. 408.810 must be submitted  
 765 with an application for licensure.

766        (6) The agency may not issue an initial license to a  
 767 health care provider subject to the certificate-of-need  
 768 provisions in part I of this chapter if the licensee has not  
 769 been issued a certificate of need or certificate-of-need  
 770 exemption, when applicable. Failure to apply for the renewal of  
 771 a license prior to the expiration date renders the license null  
 772 and void.

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

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

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780 provided under part XII of chapter 400.

781 (c) If an inspection is required by the authorizing  
 782 statute for a license application other than an initial  
 783 application, the inspection must be unannounced. This paragraph  
 784 does not apply to inspections required pursuant to ss. 383.324,  
 785 395.0161(4), and 483.061(2).

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

788 (8) The agency may establish procedures for the electronic  
 789 submission of required information, including, but not limited  
 790 to:

791 (a) Licensure applications.

792 (b) Required signatures.

793 (c) Payment of fees.

794 (d) Notarization of applications.

795  
 796 Requirements for electronic submission of any documents required  
 797 by this part or authorizing statutes may be established by rule.

798 408.807 Change of ownership.--Whenever a change of  
 799 ownership occurs:

800 (1) The transferor shall notify the agency in writing at  
 801 least 60 days before the anticipated date of the change of  
 802 ownership.

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

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

806 (a) The lawful operation of the provider and the welfare  
 807 of the clients served until the date the transferee is licensed

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808 by the agency.

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

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

814 (5) The transferee shall maintain records of the  
815 transferor as required in this part, authorizing statutes, and  
816 applicable rules, including:

817 (a) All client records.

818 (b) Inspection reports.

819 (c) All records required to be maintained pursuant to s.  
820 409.913, if applicable.

821 408.808 License categories.--

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

828 (2) PROVISIONAL LICENSE.--A provisional license may be  
829 issued to an applicant pursuant to s. 408.809(3). An applicant  
830 against whom a proceeding denying or revoking a license is  
831 pending at the time of license renewal may be issued a  
832 provisional license effective until final agency action not  
833 subject to further appeal.

834 (3) INACTIVE LICENSE.--An inactive license may be issued  
835 to a health care provider subject to the certificate-of-need

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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

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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.

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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

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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

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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

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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

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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

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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



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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 or aggregate limitation of the fine is prescribed by  
 1134 authorizing statutes or applicable rules, the agency may  
 1135 establish criteria by rule for the amount of administrative  
 1136 fines applicable to this part, authorizing statutes, and  
 1137 applicable rules. Each day of violation constitutes a separate  
 1138 violation and is subject to a separate fine. For fines imposed  
 1139 by final order of the agency and not subject to further appeal,  
 1140 the violator shall pay the fine plus interest at the rate  
 1141 specified in s. 55.03 for each day beyond the date set by the  
 1142 agency for payment of the fine.

1143 408.814 Moratoriums; emergency suspensions.--

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1144       (1) The agency may impose an immediate moratorium or  
 1145 emergency suspension as defined in s. 120.60 on any provider if  
 1146 the agency determines that any condition related to the provider  
 1147 or licensee presents a threat to the health, safety, or welfare  
 1148 of a client.

1149       (2) A provider or licensee, the license of which is denied  
 1150 or revoked, may be subject to immediate imposition of a  
 1151 moratorium or emergency suspension to run concurrently with  
 1152 licensure denial, revocation, or injunction.

1153       (3) A moratorium or emergency suspension remains in effect  
 1154 after a change of ownership, unless the agency has determined  
 1155 that the conditions that created the moratorium, emergency  
 1156 suspension, or denial of licensure have been corrected.

1157       (4) When a moratorium or emergency suspension is placed on  
 1158 a provider or licensee, notice of the action shall be posted and  
 1159 visible to the public at the location of the provider until the  
 1160 action is lifted.

1161       408.815 License or application denial; revocation.--

1162       (1) In addition to the grounds provided in authorizing  
 1163 statutes, grounds that may be used by the agency for denying and  
 1164 revoking a license or change-of-ownership application include  
 1165 any of the following actions by a controlling interest:

1166       (a) False representation of a material fact in the license  
 1167 application or omission of any material fact from the  
 1168 application.

1169       (b) An intentional or negligent act materially affecting  
 1170 the health or safety of a client of the provider.

1171       (c) A violation of this part, authorizing statutes, or

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1172 applicable rules.

1173 (d) A demonstrated pattern of deficient performance.

1174 (e) The applicant, licensee, or controlling interest has  
 1175 been or is currently excluded, suspended, terminated from  
 1176 participation in the state Medicaid program, the Medicaid  
 1177 program of any other state, or the Medicare program.

1178 (2) If a licensee lawfully continues to operate while a  
 1179 denial or revocation is pending in litigation, the licensee must  
 1180 continue to meet all other requirements of this part,  
 1181 authorizing statutes, and applicable rules and must file  
 1182 subsequent renewal applications for licensure and pay all  
 1183 licensure fees. The provisions of ss. 120.60(1) and  
 1184 408.806(3)(c) shall not apply to renewal applications filed  
 1185 during the time period in which the litigation of the denial or  
 1186 revocation is pending until that litigation is final.

1187 (3) An action under s. 408.814 or denial of the license of  
 1188 the transferor may be grounds for denial of a change-of-  
 1189 ownership application of the transferee.

1190 408.816 Injunctions.--

1191 (1) In addition to the other powers provided by this part  
 1192 and authorizing statutes, the agency may institute injunction  
 1193 proceedings in a court of competent jurisdiction to:

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

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1200 emergency affecting the immediate health and safety of a client.

1201 (b) Enforce the provisions of this part, authorizing  
 1202 statutes, or any minimum standard, rule, or order issued or  
 1203 entered into pursuant thereto when the attempt by the agency to  
 1204 correct a violation through administrative sanctions has failed  
 1205 or when the violation materially affects the health, safety, or  
 1206 welfare of clients or involves any operation of an unlicensed  
 1207 provider.

1208 (c) Terminate the operation of a provider when a violation  
 1209 of any provision of this part, authorizing statutes, or any  
 1210 standard or rule adopted pursuant thereto exists that materially  
 1211 affects the health, safety, or welfare of clients.

1212  
 1213 Such injunctive relief may be temporary or permanent.

1214 (2) If action is necessary to protect clients of providers  
 1215 from immediate, life-threatening situations, the court may allow  
 1216 a temporary injunction without bond upon proper proof being  
 1217 made. If it appears by competent evidence or a sworn,  
 1218 substantiated affidavit that a temporary injunction should be  
 1219 issued, the court, pending the determination on final hearing,  
 1220 shall enjoin the operation of the provider.

1221 408.817 Administrative proceedings.--Administrative  
 1222 proceedings challenging agency licensure enforcement action  
 1223 shall be reviewed on the basis of the facts and conditions that  
 1224 resulted in the agency action.

1225 408.818 Health Care Trust Fund.--Unless otherwise  
 1226 prescribed by authorizing statutes, all fees and fines collected  
 1227 under this part, authorizing statutes, and applicable rules

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1228 shall be deposited into the Health Care Trust Fund, created in  
 1229 s. 408.16, and used to pay the costs of the agency in  
 1230 administering the provider program paying the fees or fines.

1231 408.819 Rules.--The agency is authorized to adopt rules as  
 1232 necessary to administer this part. Any licensed provider that is  
 1233 in operation at the time of adoption of any applicable rule  
 1234 under this part or authorizing statutes shall be given a  
 1235 reasonable time under the particular circumstances, not to  
 1236 exceed 6 months after the date of such adoption, within which to  
 1237 comply with such rule, unless otherwise specified by rule.

1238 Section 6. Subsections (12) and (17) and paragraph (a) of  
 1239 subsection (13) of section 112.0455, Florida Statutes, are  
 1240 amended to read:

1241 112.0455 Drug-Free Workplace Act.--

1242 (12) DRUG-TESTING STANDARDS; LABORATORIES.--

1243 (a) The requirements of part II of chapter 408 shall apply  
 1244 to the provision of services that require licensure pursuant to  
 1245 this section and part II of chapter 408 and to entities licensed  
 1246 by or applying for such licensure from the Agency for Health  
 1247 Care Administration pursuant to this section.

1248 ~~(b)(a)~~ A laboratory may analyze initial or confirmation  
 1249 drug specimens only if:

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

1256 II of chapter 408 except s. 408.810(5)-(10). ~~the following~~  
1257 ~~requirements:~~

1258 ~~a. Upon receipt of a completed, signed, and dated~~  
1259 ~~application, the agency shall require background screening, in~~  
1260 ~~accordance with the level 2 standards for screening set forth in~~  
1261 ~~chapter 435, of the managing employee, or other similarly titled~~  
1262 ~~individual responsible for the daily operation of the~~  
1263 ~~laboratory, and of the financial officer, or other similarly~~  
1264 ~~titled individual who is responsible for the financial operation~~  
1265 ~~of the laboratory, including billings for services. The~~  
1266 ~~applicant must comply with the procedures for level 2 background~~  
1267 ~~screening as set forth in chapter 435, as well as the~~  
1268 ~~requirements of s. 435.03(3).~~

1269 ~~b. The agency may require background screening of any~~  
1270 ~~other individual who is an applicant if the agency has probable~~  
1271 ~~cause to believe that he or she has been convicted of an offense~~  
1272 ~~prohibited under the level 2 standards for screening set forth~~  
1273 ~~in chapter 435.~~

1274 ~~e. Proof of compliance with the level 2 background~~  
1275 ~~screening requirements of chapter 435 which has been submitted~~  
1276 ~~within the previous 5 years in compliance with any other health~~  
1277 ~~care licensure requirements of this state is acceptable in~~  
1278 ~~fulfillment of screening requirements.~~

1279 ~~d. A provisional license may be granted to an applicant~~  
1280 ~~when each individual required by this section to undergo~~  
1281 ~~background screening has met the standards for the Department of~~  
1282 ~~Law Enforcement background check, but the agency has not yet~~  
1283 ~~received background screening results from the Federal Bureau of~~

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1284 ~~Investigation, or a request for a disqualification exemption has~~  
 1285 ~~been submitted to the agency as set forth in chapter 435, but a~~  
 1286 ~~response has not yet been issued. A license may be granted to~~  
 1287 ~~the applicant upon the agency's receipt of a report of the~~  
 1288 ~~results of the Federal Bureau of Investigation background~~  
 1289 ~~screening for each individual required by this section to~~  
 1290 ~~undergo background screening which confirms that all standards~~  
 1291 ~~have been met, or upon the granting of a disqualification~~  
 1292 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 1293 ~~person who is required to undergo level 2 background screening~~  
 1294 ~~may serve in his or her capacity pending the agency's receipt of~~  
 1295 ~~the report from the Federal Bureau of Investigation. However,~~  
 1296 ~~the person may not continue to serve if the report indicates any~~  
 1297 ~~violation of background screening standards and a~~  
 1298 ~~disqualification exemption has not been requested of and granted~~  
 1299 ~~by the agency as set forth in chapter 435.~~

1300 ~~e. Each applicant must submit to the agency, with its~~  
 1301 ~~application, a description and explanation of any exclusions,~~  
 1302 ~~permanent suspensions, or terminations of the applicant from the~~  
 1303 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 1304 ~~requirements for disclosure of ownership and control interests~~  
 1305 ~~under the Medicaid or Medicare programs shall be accepted in~~  
 1306 ~~lieu of this submission.~~

1307 ~~f. Each applicant must submit to the agency a description~~  
 1308 ~~and explanation of any conviction of an offense prohibited under~~  
 1309 ~~the level 2 standards of chapter 435 by a member of the board of~~  
 1310 ~~directors of the applicant, its officers, or any individual~~  
 1311 ~~owning 5 percent or more of the applicant. This requirement does~~

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1312 ~~not apply to a director of a not-for-profit corporation or~~  
 1313 ~~organization if the director serves solely in a voluntary~~  
 1314 ~~capacity for the corporation or organization, does not regularly~~  
 1315 ~~take part in the day-to-day operational decisions of the~~  
 1316 ~~corporation or organization, receives no remuneration for his or~~  
 1317 ~~her services on the corporation or organization's board of~~  
 1318 ~~directors, and has no financial interest and has no family~~  
 1319 ~~members with a financial interest in the corporation or~~  
 1320 ~~organization, provided that the director and the not-for-profit~~  
 1321 ~~corporation or organization include in the application a~~  
 1322 ~~statement affirming that the director's relationship to the~~  
 1323 ~~corporation satisfies the requirements of this sub-subparagraph.~~

1324 ~~g. A license may not be granted to any applicant if the~~  
 1325 ~~applicant or managing employee has been found guilty of,~~  
 1326 ~~regardless of adjudication, or has entered a plea of nolo~~  
 1327 ~~contendere or guilty to, any offense prohibited under the level~~  
 1328 ~~2 standards for screening set forth in chapter 435, unless an~~  
 1329 ~~exemption from disqualification has been granted by the agency~~  
 1330 ~~as set forth in chapter 435.~~

1331 ~~h. The agency may deny or revoke licensure if the~~  
 1332 ~~applicant:~~

1333 ~~(I) Has falsely represented a material fact in the~~  
 1334 ~~application required by sub-subparagraph e. or sub-subparagraph~~  
 1335 ~~f., or has omitted any material fact from the application~~  
 1336 ~~required by sub-subparagraph e. or sub-subparagraph f.; or~~

1337 ~~(II) Has had prior action taken against the applicant~~  
 1338 ~~under the Medicaid or Medicare program as set forth in sub-~~  
 1339 ~~paragraph e.~~



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1340 ~~i. An application for license renewal must contain the~~  
 1341 ~~information required under sub-subparagraphs e. and f.~~

1342 2. The laboratory has written procedures to ensure chain  
 1343 of custody.

1344 3. The laboratory follows proper quality control  
 1345 procedures, including, but not limited to:

1346 a. The use of internal quality controls including the use  
 1347 of samples of known concentrations which are used to check the  
 1348 performance and calibration of testing equipment, and periodic  
 1349 use of blind samples for overall accuracy.

1350 b. An internal review and certification process for drug  
 1351 test results, conducted by a person qualified to perform that  
 1352 function in the testing laboratory.

1353 c. Security measures implemented by the testing laboratory  
 1354 to preclude adulteration of specimens and drug test results.

1355 d. Other necessary and proper actions taken to ensure  
 1356 reliable and accurate drug test results.

1357 (c)~~(b)~~ A laboratory shall disclose to the employer a  
 1358 written test result report within 7 working days after receipt  
 1359 of the sample. All laboratory reports of a drug test result  
 1360 shall, at a minimum, state:

1361 1. The name and address of the laboratory which performed  
 1362 the test and the positive identification of the person tested.

1363 2. Positive results on confirmation tests only, or  
 1364 negative results, as applicable.

1365 3. A list of the drugs for which the drug analyses were  
 1366 conducted.

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1367 4. The type of tests conducted for both initial and  
1368 confirmation tests and the minimum cutoff levels of the tests.

1369 5. Any correlation between medication reported by the  
1370 employee or job applicant pursuant to subparagraph (8)(b)2. and  
1371 a positive confirmed drug test result.

1372  
1373 No report shall disclose the presence or absence of any drug  
1374 other than a specific drug and its metabolites listed pursuant  
1375 to this section.

1376 ~~(d)~~~~(e)~~ The laboratory shall submit to the Agency for  
1377 Health Care Administration a monthly report with statistical  
1378 information regarding the testing of employees and job  
1379 applicants. The reports shall include information on the methods  
1380 of analyses conducted, the drugs tested for, the number of  
1381 positive and negative results for both initial and confirmation  
1382 tests, and any other information deemed appropriate by the  
1383 Agency for Health Care Administration. No monthly report shall  
1384 identify specific employees or job applicants.

1385 ~~(e)~~~~(d)~~ Laboratories shall provide technical assistance to  
1386 the employer, employee, or job applicant for the purpose of  
1387 interpreting any positive confirmed test results which could  
1388 have been caused by prescription or nonprescription medication  
1389 taken by the employee or job applicant.

1390 (13) RULES.--

1391 (a) The Agency for Health Care Administration may adopt  
1392 additional rules to support this law and part II of chapter 408,  
1393 using criteria established by the United States Department of  
1394 Health and Human Services as general guidelines for modeling

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1395 | drug-free workplace laboratories ~~the state drug testing program,~~  
1396 | concerning, but not limited to:

1397 |       1. Standards for drug-testing laboratory licensing and  
1398 | denial, suspension, and revocation of a license.

1399 |       2. Urine, hair, blood, and other body specimens and  
1400 | minimum specimen amounts which are appropriate for drug testing,  
1401 | not inconsistent with other provisions established by law.

1402 |       3. Methods of analysis and procedures to ensure reliable  
1403 | drug-testing results, including standards for initial tests and  
1404 | confirmation tests, not inconsistent with other provisions  
1405 | established by law.

1406 |       4. Minimum cutoff detection levels for drugs or their  
1407 | metabolites for the purposes of determining a positive test  
1408 | result, not inconsistent with other provisions established by  
1409 | law.

1410 |       5. Chain-of-custody procedures to ensure proper  
1411 | identification, labeling, and handling of specimens being  
1412 | tested, not inconsistent with other provisions established by  
1413 | law.

1414 |       6. Retention, storage, and transportation procedures to  
1415 | ensure reliable results on confirmation tests and retests.

1416 |       7. A list of the most common medications by brand name or  
1417 | common name, as applicable, as well as by chemical name, which  
1418 | may alter or affect a drug test.

1419 |  
1420 | This section shall not be construed to eliminate the bargainable  
1421 | rights as provided in the collective bargaining process where  
1422 | applicable.

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1423           (17) LICENSE FEE.--Fees from licensure of drug-testing  
 1424 laboratories shall be sufficient to carry out the  
 1425 responsibilities of the Agency for Health Care Administration  
 1426 for the regulation of drug-testing laboratories. In accordance  
 1427 with s. 408.805, applicants and licensees shall pay a fee for  
 1428 each license application submitted under this part, part II of  
 1429 chapter 408, and applicable rules. The fee shall be not less  
 1430 than \$16,000 or more than \$20,000 per biennium and shall be  
 1431 established by rule. ~~The Agency for Health Care Administration~~  
 1432 ~~shall collect fees for all licenses issued under this part. Each~~  
 1433 ~~nonrefundable fee shall be due at the time of application and~~  
 1434 ~~shall be payable to the Agency for Health Care Administration to~~  
 1435 ~~be deposited in a trust fund administered by the Agency for~~  
 1436 ~~Health Care Administration and used only for the purposes of~~  
 1437 ~~this section. The fee schedule is as follows: For licensure as a~~  
 1438 ~~drug testing laboratory, an annual fee of not less than \$8,000~~  
 1439 ~~or more than \$10,000 per fiscal year; for late filing of an~~  
 1440 ~~application for renewal, an additional fee of \$500 per day shall~~  
 1441 ~~be charged.~~

1442           Section 7. Subsection (7) of section 381.0303, Florida  
 1443 Statutes, is amended to read:

1444           381.0303 Health practitioner recruitment for special needs  
 1445 shelters.--

1446           (7) REVIEW OF EMERGENCY MANAGEMENT PLANS.--The submission  
 1447 of emergency management plans to county health departments by  
 1448 home health agencies pursuant to s. 400.497(8)(c) and (d) and by  
 1449 nurse registries pursuant to s. 400.506(11)(16)(e) and by  
 1450 hospice programs pursuant to s. 400.610(1)(b) is conditional

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1451 upon the receipt of an appropriation by the department to  
 1452 establish medical services disaster coordinator positions in  
 1453 county health departments unless the secretary of the department  
 1454 and a local county commission jointly determine to require such  
 1455 plans to be submitted based on a determination that there is a  
 1456 special need to protect public health in the local area during  
 1457 an emergency.

1458 Section 8. Paragraph (b) of subsection (4) of section  
 1459 381.78, Florida Statutes, is amended to read:

1460 381.78 Advisory council on brain and spinal cord  
 1461 injuries.--

1462 (4) The council shall:

1463 (b) Annually appoint a five-member committee composed of  
 1464 one individual who has a brain injury or has a family member  
 1465 with a brain injury, one individual who has a spinal cord injury  
 1466 or has a family member with a spinal cord injury, and three  
 1467 members who shall be chosen from among these representative  
 1468 groups: physicians, other allied health professionals,  
 1469 administrators of brain and spinal cord injury programs, and  
 1470 representatives from support groups with expertise in areas  
 1471 related to the rehabilitation of individuals who have brain or  
 1472 spinal cord injuries, except that one and only one member of the  
 1473 committee shall be an administrator of a transitional living  
 1474 facility. Membership on the council is not a prerequisite for  
 1475 membership on this committee.

1476 1. The committee shall perform onsite visits to those  
 1477 transitional living facilities identified by the Agency for  
 1478 Health Care Administration as being in possible violation of the

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1479 statutes and rules regulating such facilities. The committee  
1480 members have the same rights of entry and inspection granted  
1481 under s. 400.805~~(4)(8)~~ to designated representatives of the  
1482 agency.

1483 2. Factual findings of the committee resulting from an  
1484 onsite investigation of a facility pursuant to subparagraph 1.  
1485 shall be adopted by the agency in developing its administrative  
1486 response regarding enforcement of statutes and rules regulating  
1487 the operation of the facility.

1488 3. Onsite investigations by the committee shall be funded  
1489 by the Health Care Trust Fund.

1490 4. Travel expenses for committee members shall be  
1491 reimbursed in accordance with s. 112.061.

1492 5. Members of the committee shall recuse themselves from  
1493 participating in any investigation that would create a conflict  
1494 of interest under state law, and the council shall replace the  
1495 member, either temporarily or permanently.

1496 Section 9. Section 383.301, Florida Statutes, is amended  
1497 to read:

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

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1507 chapter 408 and to entities licensed by or applying for such  
 1508 licensure from the Agency for Health Care Administration  
 1509 pursuant to ss. 383.30-383.335.

1510 Section 10. Section 383.304, Florida Statutes, is  
 1511 repealed.

1512 Section 11. Section 383.305, Florida Statutes, is amended  
 1513 to read:

1514 383.305 Licensure; ~~issuance, renewal, denial, suspension,~~  
 1515 ~~revocation; fees; background screening.--~~

1516 (1)(a) In accordance with s. 408.805, an applicant or a  
 1517 licensee shall pay a fee for each license application submitted  
 1518 under ss. 383.30-383.335 and part II of chapter 408. The amount  
 1519 of the fee shall be established by rule. ~~Upon receipt of an~~  
 1520 ~~application for a license and the license fee, the agency shall~~  
 1521 ~~issue a license if the applicant and facility have received all~~  
 1522 ~~approvals required by law and meet the requirements established~~  
 1523 ~~under ss. 383.30-383.335 and by rules promulgated hereunder.~~

1524 (b) ~~A provisional license may be issued to any birth~~  
 1525 ~~center that is in substantial compliance with ss. 383.30-383.335~~  
 1526 ~~and with the rules of the agency. A provisional license may be~~  
 1527 ~~granted for a period of no more than 1 year from the effective~~  
 1528 ~~date of rules adopted by the agency, shall expire automatically~~  
 1529 ~~at the end of its term, and may not be renewed.~~

1530 (c) ~~A license, unless sooner suspended or revoked,~~  
 1531 ~~automatically expires 1 year from its date of issuance and is~~  
 1532 ~~renewable upon application for renewal and payment of the fee~~  
 1533 ~~prescribed, provided the applicant and the birth center meet the~~  
 1534 ~~requirements established under ss. 383.30-383.335 and by rules~~

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1535 ~~promulgated hereunder. A complete application for renewal of a~~  
 1536 ~~license shall be made 90 days prior to expiration of the license~~  
 1537 ~~on forms provided by the agency.~~

1538 ~~(2) An application for a license, or renewal thereof,~~  
 1539 ~~shall be made to the agency upon forms provided by it and shall~~  
 1540 ~~contain such information as the agency reasonably requires,~~  
 1541 ~~which may include affirmative evidence of ability to comply with~~  
 1542 ~~applicable laws and rules.~~

1543 ~~(3)(a) Each application for a birth center license, or~~  
 1544 ~~renewal thereof, shall be accompanied by a license fee. Fees~~  
 1545 ~~shall be established by rule of the agency. Such fees are~~  
 1546 ~~payable to the agency and shall be deposited in a trust fund~~  
 1547 ~~administered by the agency, to be used for the sole purpose of~~  
 1548 ~~carrying out the provisions of ss. 383.30-383.335.~~

1549 ~~(b) The fees established pursuant to ss. 383.30-383.335~~  
 1550 ~~shall be based on actual costs incurred by the agency in the~~  
 1551 ~~administration of its duties under such sections.~~

1552 ~~(4) Each license is valid only for the person or~~  
 1553 ~~governmental unit to whom or which it is issued; is not subject~~  
 1554 ~~to sale, assignment, or other transfer, voluntary or~~  
 1555 ~~involuntary; and is not valid for any premises other than those~~  
 1556 ~~for which it was originally issued.~~

1557 ~~(5) Each license shall be posted in a conspicuous place on~~  
 1558 ~~the licensed premises.~~

1559 ~~(6) Whenever the agency finds that there has been a~~  
 1560 ~~substantial failure to comply with the requirements established~~  
 1561 ~~under ss. 383.30-383.335 or in rules adopted under those~~



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1562 ~~sections, it is authorized to deny, suspend, or revoke a~~  
1563 ~~license.~~

1564 (2)(7) Each applicant for licensure and each licensee must  
1565 comply with the ~~following~~ requirements of part II of chapter 408  
1566 except s. 408.810(7)-(10).÷

1567 ~~(a) Upon receipt of a completed, signed, and dated~~  
1568 ~~application, the agency shall require background screening, in~~  
1569 ~~accordance with the level 2 standards for screening set forth in~~  
1570 ~~chapter 435, of the managing employee, or other similarly titled~~  
1571 ~~individual who is responsible for the daily operation of the~~  
1572 ~~center, and of the financial officer, or other similarly titled~~  
1573 ~~individual who is responsible for the financial operation of the~~  
1574 ~~center, including billings for patient care and services. The~~  
1575 ~~applicant must comply with the procedures for level 2 background~~  
1576 ~~screening as set forth in chapter 435 as well as the~~  
1577 ~~requirements of s. 435.03(3).~~

1578 ~~(b) The agency may require background screening of any~~  
1579 ~~other individual who is an applicant if the agency has probable~~  
1580 ~~cause to believe that he or she has been convicted of a crime or~~  
1581 ~~has committed any other offense prohibited under the level 2~~  
1582 ~~standards for screening set forth in chapter 435.~~

1583 ~~(c) Proof of compliance with the level 2 background~~  
1584 ~~screening requirements of chapter 435 which has been submitted~~  
1585 ~~within the previous 5 years in compliance with any other health~~  
1586 ~~care licensure requirements of this state is acceptable in~~  
1587 ~~fulfillment of the requirements of paragraph (a).~~

1588 ~~(d) A provisional license may be granted to an applicant~~  
1589 ~~when each individual required by this section to undergo~~

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1590 ~~background screening has met the standards for the Department of~~  
 1591 ~~Law Enforcement background check, but the agency has not yet~~  
 1592 ~~received background screening results from the Federal Bureau of~~  
 1593 ~~Investigation, or a request for a disqualification exemption has~~  
 1594 ~~been submitted to the agency as set forth in chapter 435 but a~~  
 1595 ~~response has not yet been issued. A standard license may be~~  
 1596 ~~granted to the applicant upon the agency's receipt of a report~~  
 1597 ~~of the results of the Federal Bureau of Investigation background~~  
 1598 ~~screening for each individual required by this section to~~  
 1599 ~~undergo background screening which confirms that all standards~~  
 1600 ~~have been met, or upon the granting of a disqualification~~  
 1601 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 1602 ~~person who is required to undergo level 2 background screening~~  
 1603 ~~may serve in his or her capacity pending the agency's receipt of~~  
 1604 ~~the report from the Federal Bureau of Investigation. However,~~  
 1605 ~~the person may not continue to serve if the report indicates any~~  
 1606 ~~violation of background screening standards and a~~  
 1607 ~~disqualification exemption has not been requested of and granted~~  
 1608 ~~by the agency as set forth in chapter 435.~~

1609 ~~(e) Each applicant must submit to the agency, with its~~  
 1610 ~~application, a description and explanation of any exclusions,~~  
 1611 ~~permanent suspensions, or terminations of the applicant from the~~  
 1612 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 1613 ~~requirements for disclosure of ownership and control interests~~  
 1614 ~~under the Medicaid or Medicare programs shall be accepted in~~  
 1615 ~~lieu of this submission.~~

1616 ~~(f) Each applicant must submit to the agency a description~~  
 1617 ~~and explanation of any conviction of an offense prohibited under~~

1618 ~~the level 2 standards of chapter 435 by a member of the board of~~  
 1619 ~~directors of the applicant, its officers, or any individual~~  
 1620 ~~owning 5 percent or more of the applicant. This requirement does~~  
 1621 ~~not apply to a director of a not-for-profit corporation or~~  
 1622 ~~organization if the director serves solely in a voluntary~~  
 1623 ~~capacity for the corporation or organization, does not regularly~~  
 1624 ~~take part in the day-to-day operational decisions of the~~  
 1625 ~~corporation or organization, receives no remuneration for his or~~  
 1626 ~~her services on the corporation or organization's board of~~  
 1627 ~~directors, and has no financial interest and has no family~~  
 1628 ~~members with a financial interest in the corporation or~~  
 1629 ~~organization, provided that the director and the not-for-profit~~  
 1630 ~~corporation or organization include in the application a~~  
 1631 ~~statement affirming that the director's relationship to the~~  
 1632 ~~corporation satisfies the requirements of this paragraph.~~

1633 ~~(g) A license may not be granted to an applicant if the~~  
 1634 ~~applicant or managing employee has been found guilty of,~~  
 1635 ~~regardless of adjudication, or has entered a plea of nolo~~  
 1636 ~~contendere or guilty to, any offense prohibited under the level~~  
 1637 ~~2 standards for screening set forth in chapter 435, unless an~~  
 1638 ~~exemption from disqualification has been granted by the agency~~  
 1639 ~~as set forth in chapter 435.~~

1640 ~~(h) The agency may deny or revoke licensure if the~~  
 1641 ~~applicant:~~

1642 ~~1. Has falsely represented a material fact in the~~  
 1643 ~~application required by paragraph (e) or paragraph (f), or has~~  
 1644 ~~omitted any material fact from the application required by~~  
 1645 ~~paragraph (e) or paragraph (f); or~~

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1646           ~~2. Has had prior action taken against the applicant under~~  
1647 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

1648           ~~(i) An application for license renewal must contain the~~  
1649 ~~information required under paragraphs (e) and (f).~~

1650           Section 12. Section 383.309, Florida Statutes, is amended  
1651 to read:

1652           383.309 Minimum standards for birth centers; rules and  
1653 enforcement.--

1654           (1) The agency shall adopt and enforce rules to administer  
1655 ss. 383.30-383.335 and part II of chapter 408, which rules shall  
1656 include, but are not limited to, reasonable and fair minimum  
1657 standards for ensuring that:

1658           (a) Sufficient numbers and qualified types of personnel  
1659 and occupational disciplines are available at all times to  
1660 provide necessary and adequate patient care and safety.

1661           (b) Infection control, housekeeping, sanitary conditions,  
1662 disaster plan, and medical record procedures that will  
1663 adequately protect patient care and provide safety are  
1664 established and implemented.

1665           (c) Licensed facilities are established, organized, and  
1666 operated consistent with established programmatic standards.

1667           ~~(2) Any licensed facility that is in operation at the time~~  
1668 ~~of adoption of any applicable rule under ss. 383.30-383.335~~  
1669 ~~shall be given a reasonable time under the particular~~  
1670 ~~circumstances, not to exceed 1 year after the date of such~~  
1671 ~~adoption, within which to comply with such rule.~~

1672           (2)(3) The agency may not establish any rule governing the  
1673 design, construction, erection, alteration, modification,

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1674 repair, or demolition of birth centers. It is the intent of the  
 1675 Legislature to preempt that function to the Florida Building  
 1676 Commission and the State Fire Marshal through adoption and  
 1677 maintenance of the Florida Building Code and the Florida Fire  
 1678 Prevention Code. However, the agency shall provide technical  
 1679 assistance to the commission and the State Fire Marshal in  
 1680 updating the construction standards of the Florida Building Code  
 1681 and the Florida Fire Prevention Code which govern birth centers.  
 1682 In addition, the agency may enforce the special-occupancy  
 1683 provisions of the Florida Building Code and the Florida Fire  
 1684 Prevention Code which apply to birth centers in conducting any  
 1685 inspection authorized under this chapter.

1686 Section 13. Subsection (1) of section 383.315, Florida  
 1687 Statutes, is amended to read:

1688 383.315 Agreements with consultants for advice or  
 1689 services; maintenance.--

1690 (1) A birth center shall maintain in writing a  
 1691 consultation agreement, signed within the current license period  
 1692 ~~year~~, with each consultant who has agreed to provide advice and  
 1693 services to the birth center as requested.

1694 Section 14. Section 383.324, Florida Statutes, is amended  
 1695 to read:

1696 383.324 ~~Inspections and investigations;~~ Inspection fees.--

1697 ~~(1) The agency shall make or cause to be made such~~  
 1698 ~~inspections and investigations as it deems necessary.~~

1699 ~~(2)~~ Each facility licensed under s. 383.305 shall pay to  
 1700 the agency, at the time of inspection, an inspection fee  
 1701 established by rule of the agency.

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1702       ~~(3) The agency shall coordinate all periodic inspections~~  
 1703       ~~for licensure made by the agency to ensure that the cost to the~~  
 1704       ~~facility of such inspections and the disruption of services by~~  
 1705       ~~such inspections is minimized.~~

1706       Section 15. Section 383.325, Florida Statutes, is  
 1707       repealed.

1708       Section 16. Section 383.33, Florida Statutes, is amended  
 1709       to read:

1710       383.33 Administrative fines ~~penalties; emergency orders;~~  
 1711       ~~moratorium on admissions.--~~

1712       (1)~~(a)~~ In addition to the requirements of part II of  
 1713       chapter 408, the agency may ~~deny, revoke, or suspend a license,~~  
 1714       ~~or~~ impose an administrative fine not to exceed \$500 per  
 1715       violation per day~~,~~ for the violation of any provision of ss.  
 1716       383.30-383.335, part II of chapter 408, or applicable rules ~~or~~  
 1717       ~~any rule adopted under ss. 383.30-383.335. Each day of violation~~  
 1718       ~~constitutes a separate violation and is subject to a separate~~  
 1719       ~~fine.~~

1720       (2)~~(b)~~ In determining the amount of the fine to be levied  
 1721       for a violation, as provided in subsection (1) ~~paragraph (a),~~  
 1722       the following factors shall be considered:

1723       (a)1- The severity of the violation, including the  
 1724       probability that death or serious harm to the health or safety  
 1725       of any person will result or has resulted; the severity of the  
 1726       actual or potential harm; and the extent to which the provisions  
 1727       of ss. 383.30-383.335, part II of chapter 408, or applicable  
 1728       rules were violated.

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1729            ~~(b)2-~~ Actions taken by the licensee to correct the  
 1730 violations or to remedy complaints.  
 1731            ~~(c)3-~~ Any previous violations by the licensee.  
 1732            ~~(e) All amounts collected pursuant to this section shall~~  
 1733 ~~be deposited into a trust fund administered by the agency to be~~  
 1734 ~~used for the sole purpose of carrying out the provisions of ss.~~  
 1735 ~~383.30-383.335.~~  
 1736            ~~(2) The agency may issue an emergency order immediately~~  
 1737 ~~suspending or revoking a license when it determines that any~~  
 1738 ~~condition in the licensed facility presents a clear and present~~  
 1739 ~~danger to the public health and safety.~~  
 1740            ~~(3) The agency may impose an immediate moratorium on~~  
 1741 ~~elective admissions to any licensed facility, building or~~  
 1742 ~~portion thereof, or service when the agency determines that any~~  
 1743 ~~condition in the facility presents a threat to the public health~~  
 1744 ~~or safety.~~  
 1745            Section 17. Section 383.331, Florida Statutes, is  
 1746 repealed.  
 1747            Section 18. Section 383.332, Florida Statutes, is  
 1748 repealed.  
 1749            Section 19. Subsection (1) of section 383.335, Florida  
 1750 Statutes, is amended to read:  
 1751            383.335 Partial exemptions.--  
 1752            (1) Any facility that ~~which~~ was providing obstetrical and  
 1753 gynecological surgical services and was owned and operated by a  
 1754 board-certified obstetrician on June 15, 1984, and that ~~which~~ is  
 1755 otherwise subject to licensure under ss. 383.30-383.335 as a  
 1756 birth center, is exempt from the provisions of ss. 383.30-

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1757 383.335 and part II of chapter 408 which restrict the provision  
 1758 of surgical services and outlet forceps delivery and the  
 1759 administration of anesthesia at birth centers. The agency shall  
 1760 adopt rules specifically related to the performance of such  
 1761 services and the administration of anesthesia at such  
 1762 facilities.

1763 Section 20. Subsection (4) of section 383.50, Florida  
 1764 Statutes, is amended to read:

1765 383.50 Treatment of abandoned newborn infant.--

1766 (4) Each hospital of this state subject to s. 395.1041  
 1767 shall, and any other hospital may, admit and provide all  
 1768 necessary emergency services and care, as defined in s.  
 1769 395.002 (9) ~~(10)~~, to any newborn infant left with the hospital in  
 1770 accordance with this section. The hospital or any of its  
 1771 licensed health care professionals shall consider these actions  
 1772 as implied consent for treatment, and a hospital accepting  
 1773 physical custody of a newborn infant has implied consent to  
 1774 perform all necessary emergency services and care. The hospital  
 1775 or any of its licensed health care professionals is immune from  
 1776 criminal or civil liability for acting in good faith in  
 1777 accordance with this section. Nothing in this subsection limits  
 1778 liability for negligence.

1779 Section 21. Subsection (5) of section 390.011, Florida  
 1780 Statutes, is amended to read:

1781 390.011 Definitions.--As used in this chapter, the term:

1782 (5) "Hospital" means a facility as defined in s. 395.002  
 1783 and licensed under chapter 395.



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1784 Section 22. Subsection (1) of section 390.012, Florida  
1785 Statutes, is amended to read:

1786 390.012 Powers of agency; rules; disposal of fetal  
1787 remains.--

1788 (1) The agency may ~~shall have the authority to~~ develop and  
1789 enforce rules pursuant to ss. 390.001-390.018 and part II of  
1790 chapter 408 for the health, care, and treatment of persons in  
1791 abortion clinics and for the safe operation of such clinics.  
1792 These rules shall be comparable to rules which apply to all  
1793 surgical procedures requiring approximately the same degree of  
1794 skill and care as the performance of first trimester abortions.  
1795 The rules shall be reasonably related to the preservation of  
1796 maternal health of the clients. The rules shall not impose a  
1797 legally significant burden on a woman's freedom to decide  
1798 whether to terminate her pregnancy. The rules shall provide for:

1799 (a) The performance of pregnancy termination procedures  
1800 only by a licensed physician.

1801 (b) The making, protection, and preservation of patient  
1802 records, which shall be treated as medical records under chapter  
1803 458.

1804 Section 23. Section 390.013, Florida Statutes, is  
1805 repealed.

1806 Section 24. Section 390.014, Florida Statutes, is amended  
1807 to read:

1808 390.014 Licenses; fees, ~~display, etc.~~--

1809 (1) The requirements of part II of chapter 408 shall apply  
1810 to the provision of services that require licensure pursuant to  
1811 ss. 390.011-390.018 and part II of chapter 408 and to entities

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1812 licensed by or applying for such licensure from the Agency for  
 1813 Health Care Administration pursuant to ss. 390.011-390.018.  
 1814 However, each applicant for licensure and each licensee is  
 1815 exempt from s. 408.810(7)-(10). ~~No abortion clinic shall operate~~  
 1816 ~~in this state without a currently effective license issued by~~  
 1817 ~~the agency.~~

1818 (2) A separate license shall be required for each clinic  
 1819 maintained on separate premises, even though it is operated by  
 1820 the same management as another clinic; but a separate license  
 1821 shall not be required for separate buildings on the same  
 1822 premises.

1823 (3) In accordance with s. 408.805, an applicant or  
 1824 licensee shall pay a fee for each license application submitted  
 1825 under this part and part II of chapter 408. The amount of the  
 1826 fee shall be established by rule and ~~The annual license fee~~  
 1827 ~~required for a clinic shall be nonrefundable and shall be~~  
 1828 ~~reasonably calculated to cover the cost of regulation under this~~  
 1829 ~~chapter, but may not be less than \$70 or \$35 nor more than \$500~~  
 1830 per biennium \$250.

1831 (4) Counties and municipalities applying for licenses  
 1832 under this act shall be exempt from the payment of the license  
 1833 fees.

1834 ~~(5) The license shall be displayed in a conspicuous place~~  
 1835 ~~inside the clinic.~~

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

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1839 ~~valid for any premises other than those for which it was~~  
1840 ~~originally issued.~~

1841 Section 25. Section 390.015, Florida Statutes, is  
1842 repealed.

1843 Section 26. Section 390.016, Florida Statutes, is  
1844 repealed.

1845 Section 27. Section 390.017, Florida Statutes, is  
1846 repealed.

1847 Section 28. Section 390.018, Florida Statutes, is amended  
1848 to read:

1849 390.018 Administrative fine ~~penalty in lieu of revocation~~  
1850 ~~or suspension.~~ --In addition to the requirements of part II of  
1851 chapter 408 ~~If the agency finds that one or more grounds exist~~  
1852 ~~for the revocation or suspension of a license issued to an~~  
1853 ~~abortion clinic, the agency may, in lieu of such suspension or~~  
1854 ~~revocation,~~ impose a fine upon the clinic in an amount not to  
1855 exceed \$1,000 for each violation of any provision this part,  
1856 part II of chapter 408, or applicable rules. ~~The fine shall be~~  
1857 ~~paid to the agency within 60 days from the date of entry of the~~  
1858 ~~administrative order. If the licensee fails to pay the fine in~~  
1859 ~~its entirety to the agency within the period allowed, the~~  
1860 ~~license of the licensee shall stand suspended, revoked, or~~  
1861 ~~renewal or continuation may be refused, as the case may be, upon~~  
1862 ~~expiration of such period and without any further administrative~~  
1863 ~~or judicial proceedings.~~

1864 Section 29. Section 390.019, Florida Statutes, is  
1865 repealed.

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1866 Section 30. Section 390.021, Florida Statutes, is  
1867 repealed.

1868 Section 31. Subsection (13) of section 394.455, Florida  
1869 Statutes, is amended to read:

1870 394.455 Definitions.--As used in this part, unless the  
1871 context clearly requires otherwise, the term:

1872 (13) "Hospital" means a facility as defined in s. 395.002  
1873 and licensed under chapter 395.

1874 Section 32. Subsection (7) of section 394.4787, Florida  
1875 Statutes, is amended to read:

1876 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,  
1877 and 394.4789.--As used in this section and ss. 394.4786,  
1878 394.4788, and 394.4789:

1879 (7) "Specialty psychiatric hospital" means a hospital  
1880 licensed by the agency pursuant to s. 395.002 (28) ~~(29)~~ as a  
1881 specialty psychiatric hospital.

1882 Section 33. Subsections (3) through (23) of section  
1883 394.67, Florida Statutes, are renumbered as subsections (2)  
1884 through (22), respectively, present subsections (2) and (4) are  
1885 amended, and a new subsection (23) is added to said section, to  
1886 read:

1887 394.67 Definitions.--As used in this part, the term:

1888 ~~(2) "Applicant" means an individual applicant, or any~~  
1889 ~~officer, director, agent, managing employee, or affiliated~~  
1890 ~~person, or any partner or shareholder having an ownership~~  
1891 ~~interest equal to a 5-percent or greater interest in the~~  
1892 ~~corporation, partnership, or other business entity.~~

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1893            (3)~~(4)~~ "Crisis services" means short-term evaluation,  
 1894 stabilization, and brief intervention services provided to a  
 1895 person who is experiencing an acute mental or emotional crisis,  
 1896 as defined in subsection (17) ~~(18)~~, or an acute substance abuse  
 1897 crisis, as defined in subsection (18) ~~(19)~~, to prevent further  
 1898 deterioration of the person's mental health. Crisis services are  
 1899 provided in settings such as a crisis stabilization unit, an  
 1900 inpatient unit, a short-term residential treatment program, a  
 1901 detoxification facility, or an addictions receiving facility; at  
 1902 the site of the crisis by a mobile crisis response team; or at a  
 1903 hospital on an outpatient basis.

1904            (23) "Short-term residential treatment facility" means a  
 1905 facility that provides an alternative to inpatient  
 1906 hospitalization and that provides brief, intensive services 24  
 1907 hours a day, 7 days a week for mentally ill individuals who are  
 1908 temporarily in need of a 24-hour-a-day structured therapeutic  
 1909 setting as a less restrictive but longer-term alternative to  
 1910 hospitalization.

1911            Section 34. Paragraph (a) of subsection (3) of section  
 1912 394.74, Florida Statutes, is amended to read:

1913            394.74 Contracts for provision of local substance abuse  
 1914 and mental health programs.--

1915            (3) Contracts shall include, but are not limited to:

1916            (a) A provision that, within the limits of available  
 1917 resources, substance abuse and mental health crisis services, as  
 1918 defined in s. 394.67 (3)~~(4)~~, shall be available to any individual  
 1919 residing or employed within the service area, regardless of

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1920 ability to pay for such services, current or past health  
1921 condition, or any other factor;

1922 Section 35. Subsections (1) and (5) of section 394.82,  
1923 Florida Statutes, are amended to read:

1924 394.82 Funding of expanded services.--

1925 (1) Pursuant to the General Appropriations Acts for the  
1926 2001-2002 and 2002-2003 fiscal years, funds appropriated to the  
1927 Department of Children and Family Services for the purpose of  
1928 expanding community mental health services must be used to  
1929 implement programs that emphasize crisis services as defined in  
1930 s. 394.67(3)(~~4~~) and treatment services, rehabilitative services,  
1931 support services, and case management services, as defined in s.  
1932 394.67(15)(~~16~~). Following the 2002-2003 fiscal year, the  
1933 Department of Children and Family Services must continue to  
1934 expand the provision of these community mental health services.

1935 (5) By January 1, 2004, the crisis services defined in s.  
1936 394.67(3)(~~4~~) shall be implemented, as appropriate, in the  
1937 state's public community mental health system to serve children  
1938 and adults who are experiencing an acute mental or emotional  
1939 crisis, as defined in s. 394.67(17)(~~18~~). By January 1, 2006, the  
1940 mental health services defined in s. 394.67(15)(~~16~~) shall be  
1941 implemented, as appropriate, in the state's public community  
1942 mental health system to serve adults and older adults who have a  
1943 severe and persistent mental illness and to serve children who  
1944 have a serious emotional disturbance or mental illness, as  
1945 defined in s. 394.492(6).

1946 Section 36. Section 394.875, Florida Statutes, is amended  
1947 to read:

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1948           394.875 Crisis stabilization units, short-term residential  
1949 treatment facilities, residential treatment facilities, and  
1950 residential treatment centers for children and adolescents;  
1951 authorized services; license required; ~~penalties~~.--

1952           (1)(a) The purpose of a crisis stabilization unit is to  
1953 stabilize and redirect a client to the most appropriate and  
1954 least restrictive community setting available, consistent with  
1955 the client's needs. Crisis stabilization units may screen,  
1956 assess, and admit for stabilization persons who present  
1957 themselves to the unit and persons who are brought to the unit  
1958 under s. 394.463. Clients may be provided 24-hour observation,  
1959 medication prescribed by a physician or psychiatrist, and other  
1960 appropriate services. Crisis stabilization units shall provide  
1961 services regardless of the client's ability to pay and shall be  
1962 limited in size to a maximum of 30 beds.

1963           (b) The purpose of a short-term residential treatment  
1964 facility is to provide intensive services in a 24-hour-a-day  
1965 structured therapeutic setting as a less restrictive but longer-  
1966 term alternative to hospitalization.

1967           (c)~~(b)~~ The purpose of a residential treatment facility is  
1968 to be a part of a comprehensive treatment program for mentally  
1969 ill individuals in a community-based residential setting.

1970           (d)~~(e)~~ The purpose of a residential treatment center for  
1971 children and adolescents is to provide mental health assessment  
1972 and treatment services pursuant to ss. 394.491, 394.495, and  
1973 394.496 to children and adolescents who meet the target  
1974 population criteria specified in s. 394.493(1)(a), (b), or (c).

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1975           (2) The requirements of part II of chapter 408 shall apply  
 1976 to the provision of services that require licensure under ss.  
 1977 394.455-394.904 and part II of chapter 408 and to entities  
 1978 licensed by or applying for such licensure from the Agency for  
 1979 Health Care Administration pursuant to ss. 394.455-394.904.  
 1980 However, each applicant for licensure and each licensee is  
 1981 exempt from the provisions of s. 408.810(8)-(10). ~~It is unlawful~~  
 1982 ~~for any entity to hold itself out as a crisis stabilization~~  
 1983 ~~unit, a residential treatment facility, or a residential~~  
 1984 ~~treatment center for children and adolescents, or to act as a~~  
 1985 ~~crisis stabilization unit, a residential treatment facility, or~~  
 1986 ~~a residential treatment center for children and adolescents,~~  
 1987 ~~unless it is licensed by the agency pursuant to this chapter.~~

1988           ~~(3) Any person who violates subsection (2) is guilty of a~~  
 1989 ~~misdemeanor of the first degree, punishable as provided in s.~~  
 1990 ~~775.082 or s. 775.083.~~

1991           ~~(4) The agency may maintain an action in circuit court to~~  
 1992 ~~enjoin the unlawful operation of a crisis stabilization unit, a~~  
 1993 ~~residential treatment facility, or a residential treatment~~  
 1994 ~~center for children and adolescents if the agency first gives~~  
 1995 ~~the violator 14 days' notice of its intention to maintain such~~  
 1996 ~~action and if the violator fails to apply for licensure within~~  
 1997 ~~such 14-day period.~~

1998           (3)(5) The following are exempt from licensure as required  
 1999 in ss. 394.455-394.904 Subsection (2) does not apply to:

2000           (a) Hospitals licensed pursuant to chapter 395 or programs  
 2001 operated within such hospitals. ~~Homes for special services~~  
 2002 ~~licensed under chapter 400; or~~



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2003           (b) Nursing homes licensed under chapter 400.

2004           (c) Comprehensive transitional education programs licensed  
2005 under s. 393.067.

2006           ~~(4)(6)~~ The department, in consultation with the agency,  
2007 may establish multiple license classifications for residential  
2008 treatment facilities.

2009           ~~(5)(7)~~ The agency may not issue a license to a crisis  
2010 stabilization unit unless the unit receives state mental health  
2011 funds and is affiliated with a designated public receiving  
2012 facility.

2013           ~~(6)(8)~~ The agency may issue a license for a crisis  
2014 stabilization unit or short-term residential treatment facility,  
2015 certifying the number of authorized beds for such facility as  
2016 indicated by existing need and available appropriations. The  
2017 agency may disapprove an application for such a license if it  
2018 determines that a facility should not be licensed pursuant to  
2019 the provisions of this chapter. Any facility operating beds in  
2020 excess of those authorized by the agency shall, upon demand of  
2021 the agency, reduce the number of beds to the authorized number,  
2022 forfeit its license, or provide evidence of a license issued  
2023 pursuant to chapter 395 for the excess beds.

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

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2030 governing facility construction, staffing and licensure  
2031 requirements, and the operation of such units for minors.

2032 (8)~~(10)~~ The department, in consultation with the agency,  
2033 must adopt rules governing a residential treatment center for  
2034 children and adolescents which specify licensure standards for:  
2035 admission; length of stay; program and staffing; discharge and  
2036 discharge planning; treatment planning; seclusion, restraints,  
2037 and time-out; rights of patients under s. 394.459; use of  
2038 psychotropic medications; and standards for the operation of  
2039 such centers.

2040 (9)~~(11)~~ Notwithstanding the provisions of subsection (8),  
2041 crisis stabilization units may not exceed their licensed  
2042 capacity by more than 10 percent, nor may they exceed their  
2043 licensed capacity for more than 3 consecutive working days or  
2044 for more than 7 days in 1 month.

2045 (10)~~(12)~~ Notwithstanding the other provisions of this  
2046 section, any facility licensed under former chapter 396 and  
2047 chapter 397 for detoxification, residential level I care, and  
2048 outpatient treatment may elect to license concurrently all of  
2049 the beds at such facility both for that purpose and as a long-  
2050 term residential treatment facility pursuant to this section, if  
2051 all of the following conditions are met:

2052 (a) The licensure application is received by the  
2053 department prior to January 1, 1993.

2054 (b) On January 1, 1993, the facility was licensed under  
2055 former chapter 396 and chapter 397 as a facility for  
2056 detoxification, residential level I care, and outpatient  
2057 treatment of substance abuse.

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2058 (c) The facility restricted its practice to the treatment  
2059 of law enforcement personnel for a period of at least 12 months  
2060 beginning after January 1, 1992.

2061 (d) The number of beds to be licensed under this chapter  
2062 is equal to or less than the number of beds licensed under  
2063 former chapter 396 and chapter 397 as of January 1, 1993.

2064 (e) The licensee agrees in writing to a condition placed  
2065 upon the license that the facility will limit its treatment  
2066 exclusively to law enforcement personnel and their immediate  
2067 families who are seeking admission on a voluntary basis and who  
2068 are exhibiting symptoms of posttraumatic stress disorder or  
2069 other mental health problems, including drug or alcohol abuse,  
2070 which are directly related to law enforcement work and which are  
2071 amenable to verbal treatment therapies; the licensee agrees to  
2072 coordinate the provision of appropriate postresidential care for  
2073 discharged individuals; and the licensee further agrees in  
2074 writing that a failure to meet any condition specified in this  
2075 paragraph shall constitute grounds for a revocation of the  
2076 facility's license as a residential treatment facility.

2077 (f) The licensee agrees that the facility will meet all  
2078 licensure requirements for a residential treatment facility,  
2079 including minimum standards for compliance with lifesafety  
2080 requirements, except those licensure requirements which are in  
2081 express conflict with the conditions and other provisions  
2082 specified in this subsection.

2083 (g) The licensee agrees that the conditions stated in this  
2084 subsection must be agreed to in writing by any person acquiring  
2085 the facility by any means.

2086  
2087 Any facility licensed under this subsection is not required to  
2088 provide any services to any persons except those included in the  
2089 specified conditions of licensure, and is exempt from any  
2090 requirements related to the 60-day or greater average length of  
2091 stay imposed on community-based residential treatment facilities  
2092 otherwise licensed under this chapter.

2093 ~~(13) Each applicant for licensure must comply with the~~  
2094 ~~following requirements:~~

2095 ~~(a) Upon receipt of a completed, signed, and dated~~  
2096 ~~application, the agency shall require background screening, in~~  
2097 ~~accordance with the level 2 standards for screening set forth in~~  
2098 ~~chapter 435, of the managing employee and financial officer, or~~  
2099 ~~other similarly titled individual who is responsible for the~~  
2100 ~~financial operation of the facility, including billings for~~  
2101 ~~client care and services. The applicant must comply with the~~  
2102 ~~procedures for level 2 background screening as set forth in~~  
2103 ~~chapter 435, as well as the requirements of s. 435.03(3).~~

2104 ~~(b) The agency may require background screening of any~~  
2105 ~~other individual who is an applicant if the agency has probable~~  
2106 ~~cause to believe that he or she has been convicted of a crime or~~  
2107 ~~has committed any other offense prohibited under the level 2~~  
2108 ~~standards for screening set forth in chapter 435.~~

2109 ~~(c) Proof of compliance with the level 2 background~~  
2110 ~~screening requirements of chapter 435 which has been submitted~~  
2111 ~~within the previous 5 years in compliance with any other health~~  
2112 ~~care licensure requirements of this state is acceptable in~~  
2113 ~~fulfillment of the requirements of paragraph (a).~~

2114           ~~(d) A provisional license may be granted to an applicant~~  
 2115 ~~when each individual required by this section to undergo~~  
 2116 ~~background screening has met the standards for the Department of~~  
 2117 ~~Law Enforcement background check, but the agency has not yet~~  
 2118 ~~received background screening results from the Federal Bureau of~~  
 2119 ~~Investigation, or a request for a disqualification exemption has~~  
 2120 ~~been submitted to the agency as set forth in chapter 435, but a~~  
 2121 ~~response has not yet been issued. A standard license may be~~  
 2122 ~~granted to the applicant upon the agency's receipt of a report~~  
 2123 ~~of the results of the Federal Bureau of Investigation background~~  
 2124 ~~screening for each individual required by this section to~~  
 2125 ~~undergo background screening which confirms that all standards~~  
 2126 ~~have been met, or upon the granting of a disqualification~~  
 2127 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 2128 ~~person who is required to undergo level 2 background screening~~  
 2129 ~~may serve in his or her capacity pending the agency's receipt of~~  
 2130 ~~the report from the Federal Bureau of Investigation. However,~~  
 2131 ~~the person may not continue to serve if the report indicates any~~  
 2132 ~~violation of background screening standards and a~~  
 2133 ~~disqualification exemption has not been requested of and granted~~  
 2134 ~~by the agency as set forth in chapter 435.~~

2135           ~~(e) Each applicant must submit to the agency, with its~~  
 2136 ~~application, a description and explanation of any exclusions,~~  
 2137 ~~permanent suspensions, or terminations of the applicant from the~~  
 2138 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 2139 ~~requirements for disclosure of ownership and control interests~~  
 2140 ~~under the Medicaid or Medicare programs shall be accepted in~~  
 2141 ~~lieu of this submission.~~

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2142           ~~(f) Each applicant must submit to the agency a description~~  
 2143 ~~and explanation of any conviction of an offense prohibited under~~  
 2144 ~~the level 2 standards of chapter 435 by a member of the board of~~  
 2145 ~~directors of the applicant, its officers, or any individual~~  
 2146 ~~owning 5 percent or more of the applicant. This requirement does~~  
 2147 ~~not apply to a director of a not-for-profit corporation or~~  
 2148 ~~organization if the director serves solely in a voluntary~~  
 2149 ~~capacity for the corporation or organization, does not regularly~~  
 2150 ~~take part in the day-to-day operational decisions of the~~  
 2151 ~~corporation or organization, receives no remuneration for his or~~  
 2152 ~~her services on the corporation or organization's board of~~  
 2153 ~~directors, and has no financial interest and has no family~~  
 2154 ~~members with a financial interest in the corporation or~~  
 2155 ~~organization, provided that the director and the not-for-profit~~  
 2156 ~~corporation or organization include in the application a~~  
 2157 ~~statement affirming that the director's relationship to the~~  
 2158 ~~corporation satisfies the requirements of this paragraph.~~

2159           ~~(g) A license may not be granted to an applicant if the~~  
 2160 ~~applicant or managing employee has been found guilty of,~~  
 2161 ~~regardless of adjudication, or has entered a plea of nolo~~  
 2162 ~~contendere or guilty to, any offense prohibited under the level~~  
 2163 ~~2 standards for screening set forth in chapter 435, unless an~~  
 2164 ~~exemption from disqualification has been granted by the agency~~  
 2165 ~~as set forth in chapter 435.~~

2166           ~~(h) The agency may deny or revoke licensure if the~~  
 2167 ~~applicant:~~

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

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2170 ~~omitted any material fact from the application required by~~  
 2171 ~~paragraph (e) or paragraph (f); or~~

2172 ~~2. Has had prior action taken against the applicant under~~  
 2173 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

2174 ~~(i) An application for license renewal must contain the~~  
 2175 ~~information required under paragraphs (e) and (f).~~

2176 Section 37. Section 394.876, Florida Statutes, is  
 2177 repealed.

2178 Section 38. Section 394.877, Florida Statutes, is amended  
 2179 to read:

2180 394.877 Fees.--

2181 (1) In accordance with s. 408.805, an applicant or  
 2182 licensee shall pay a fee for each license application submitted  
 2183 under this part, part II of chapter 408, and applicable rules.  
 2184 The amount of the fee shall be established by rule. ~~Each~~  
 2185 ~~application for licensure or renewal must be accompanied by a~~  
 2186 ~~fee set by the department, in consultation with the agency, by~~  
 2187 ~~rule.~~ Such fees shall be reasonably calculated to cover only the  
 2188 cost of regulation under this chapter.

2189 ~~(2) All fees collected under this section shall be~~  
 2190 ~~deposited in the Health Care Trust Fund.~~

2191 Section 39. Section 394.878, Florida Statutes, is amended  
 2192 to read:

2193 394.878 Issuance and renewal of licenses.--

2194 ~~(1) Upon review of the application for licensure and~~  
 2195 ~~receipt of appropriate fees, the agency shall issue an original~~  
 2196 ~~or renewal license to any applicant that meets the requirements~~  
 2197 ~~of this chapter.~~

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2198           ~~(2) A license is valid for a period of 1 year. An~~  
 2199           ~~applicant for renewal of a license shall apply to the agency no~~  
 2200           ~~later than 90 days before expiration of the current license.~~

2201           ~~(3) A license may not be transferred from one entity to~~  
 2202           ~~another and is valid only for the premises for which it was~~  
 2203           ~~originally issued. For the purposes of this subsection,~~  
 2204           ~~"transfer" includes, but is not limited to, transfer of a~~  
 2205           ~~majority of the ownership interests in a licensee or transfer of~~  
 2206           ~~responsibilities under the license to another entity by~~  
 2207           ~~contractual arrangement.~~

2208           ~~(4) Each license shall state the services which the~~  
 2209           ~~licensee is required or authorized to perform and the maximum~~  
 2210           ~~residential capacity of the licensed premises.~~

2211           (1)~~(5)~~ The agency may issue a probationary license to an  
 2212           applicant that has completed the application requirements of  
 2213           this chapter but has not, at the time of the application,  
 2214           developed an operational crisis stabilization unit or  
 2215           residential treatment facility. The probationary license shall  
 2216           expire 90 days after issuance and may once be renewed for an  
 2217           additional 90-day period. The agency may cancel a probationary  
 2218           license at any time.

2219           (2)~~(6)~~ The agency may issue an interim license to an  
 2220           applicant that has substantially completed all application  
 2221           requirements and has initiated action to fully meet such  
 2222           requirements. The interim license shall expire 90 days after  
 2223           issuance and, in cases of extreme hardship, may once be renewed  
 2224           for an additional 90-day period.



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2225 ~~(7) Any applicant which fails to file an application for~~  
 2226 ~~license renewal during the 90-day relicensure period shall be~~  
 2227 ~~considered unlicensed and subject to penalties pursuant to s.~~  
 2228 ~~394.875.~~

2229 Section 40. Subsections (1), (3), and (4) of section  
 2230 394.879, Florida Statutes, are amended to read:

2231 394.879 Rules; enforcement.--

2232 (1) The agency, in consultation with the department, may  
 2233 adopt rules to implement the requirements of part II of chapter  
 2234 408. The department, in consultation with the agency, shall  
 2235 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
 2236 the provisions of this chapter, including, at a minimum, rules  
 2237 providing standards to ensure that:

2238 (a) Sufficient numbers and types of qualified personnel  
 2239 are on duty and available at all times to provide necessary and  
 2240 adequate client safety and care.

2241 (b) Adequate space is provided each client of a licensed  
 2242 facility.

2243 (c) Licensed facilities are limited to an appropriate  
 2244 number of beds.

2245 (d) Each licensee establishes and implements adequate  
 2246 infection control, housekeeping, sanitation, disaster planning,  
 2247 and medical recordkeeping.

2248 (e) Licensed facilities are established, organized, and  
 2249 operated in accordance with programmatic standards of the  
 2250 department.

2251 (f) The operation and purposes of these facilities assure  
 2252 individuals' health, safety, and welfare.

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2253 (3) The department, in consultation with the agency, shall  
 2254 allow any licensed facility in operation at the time of adoption  
 2255 of any rule a reasonable period, not to exceed 1 year, to bring  
 2256 itself into compliance with department rules ~~such rule~~.

2257 (4) In accordance with part II of chapter 408, the agency  
 2258 may impose an administrative penalty of no more than \$500 per  
 2259 day against any licensee that violates any rule adopted pursuant  
 2260 to this section and may suspend and ~~or~~ revoke the license and ~~or~~  
 2261 deny the renewal application of such licensee. In imposing such  
 2262 penalty, the agency shall consider the severity of the  
 2263 violation, actions taken by the licensee to correct the  
 2264 violation, and previous violations by the licensee. ~~Fines~~  
 2265 ~~collected under this subsection shall be deposited in the Mental~~  
 2266 ~~Health Facility Licensing Trust Fund.~~

2267 Section 41. Paragraph (a) of subsection (1) of section  
 2268 394.90, Florida Statutes, is amended to read:

2269 394.90 Inspection; right of entry; records.--

2270 (1)(a) The department and the agency, in accordance with  
 2271 s. 408.811, may enter and inspect at any time a licensed  
 2272 facility to determine whether the facility is in compliance with  
 2273 this chapter and the applicable rules ~~of the department~~.

2274 Section 42. Section 394.902, Florida Statutes, is  
 2275 repealed.

2276 Section 43. Subsection (7) of section 394.907, Florida  
 2277 Statutes, is amended to read:

2278 394.907 Community mental health centers; quality assurance  
 2279 programs.--

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2280 (7) The department shall have access to all records  
 2281 necessary to determine licensee ~~agency~~ compliance with the  
 2282 provisions of this section. The records of quality assurance  
 2283 programs which relate solely to actions taken in carrying out  
 2284 the provisions of this section, and records obtained by the  
 2285 department to determine licensee ~~agency~~ compliance with this  
 2286 section, are confidential and exempt from s. 119.07(1). Such  
 2287 records are not admissible in any civil or administrative  
 2288 action, except in disciplinary proceedings by the Department of  
 2289 Business and Professional Regulation and the appropriate  
 2290 regulatory board, nor shall such records be available to the  
 2291 public as part of the record of investigation for, and  
 2292 prosecution in disciplinary proceedings made available to the  
 2293 public by the Department of Business and Professional Regulation  
 2294 or the appropriate regulatory board. Meetings or portions of  
 2295 meetings of quality assurance program committees that relate  
 2296 solely to actions taken pursuant to this section are exempt from  
 2297 s. 286.011.

2298 Section 44. Subsections (5) through (33) of section  
 2299 395.002, Florida Statutes, are renumbered as subsections (4)  
 2300 through (32), respectively, and present subsections (4), (11),  
 2301 and (29) of said section are amended to read:

2302 395.002 Definitions.--As used in this chapter:

2303 ~~(4) "Applicant" means an individual applicant, or any~~  
 2304 ~~officer, director, or agent, or any partner or shareholder~~  
 2305 ~~having an ownership interest equal to a 5-percent or greater~~  
 2306 ~~interest in the corporation, partnership, or other business~~  
 2307 ~~entity.~~

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2308        ~~(10)(11)~~ "General hospital" means any facility which meets  
2309 the provisions of subsection (12) ~~(13)~~ and which regularly makes  
2310 its facilities and services available to the general population.

2311        ~~(28)(29)~~ "Specialty hospital" means any facility which  
2312 meets the provisions of subsection (12) ~~(13)~~, and which  
2313 regularly makes available either:

2314            (a) The range of medical services offered by general  
2315 hospitals, but restricted to a defined age or gender group of  
2316 the population;

2317            (b) A restricted range of services appropriate to the  
2318 diagnosis, care, and treatment of patients with specific  
2319 categories of medical or psychiatric illnesses or disorders; or

2320            (c) Intensive residential treatment programs for children  
2321 and adolescents as defined in subsection (15) ~~(16)~~.

2322        Section 45. Section 395.003, Florida Statutes, is amended  
2323 to read:

2324        395.003 Licensure; ~~issuance, renewal, denial,~~  
2325 ~~modification,~~ suspension, and revocation.--

2326            (1)(a) The requirements of part II of chapter 408 shall  
2327 apply to the provision of services that require licensure  
2328 pursuant to ss. 395.001-395.1065 and part II of chapter 408 and  
2329 to entities licensed by or applying for such licensure from the  
2330 Agency for Health Care Administration pursuant to ss. 395.001-  
2331 395.1065. However, each applicant for licensure and each  
2332 licensee is exempt from s. 408.810(7)-(9). Ambulatory surgical  
2333 center and mobile surgical facility licensees and applicants for  
2334 such licensure are also exempt from s. 408.810(10). ~~A person may~~  
2335 ~~not establish, conduct, or maintain a hospital, ambulatory~~

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2336 ~~surgical center, or mobile surgical facility in this state~~  
 2337 ~~without first obtaining a license under this part.~~

2338 (b)1. It is unlawful for a person to use or advertise to  
 2339 the public, in any way or by any medium whatsoever, any facility  
 2340 as a "hospital," "ambulatory surgical center," or "mobile  
 2341 surgical facility" unless such facility has first secured a  
 2342 license under the provisions of this part.

2343 2. This part does not apply to veterinary hospitals or to  
 2344 commercial business establishments using the word "hospital,"  
 2345 "ambulatory surgical center," or "mobile surgical facility" as a  
 2346 part of a trade name if no treatment of human beings is  
 2347 performed on the premises of such establishments.

2348 (c)3- By December 31, 2004, the agency shall submit a  
 2349 report to the President of the Senate and the Speaker of the  
 2350 House of Representatives recommending whether it is in the  
 2351 public interest to allow a hospital to license or operate an  
 2352 emergency department located off the premises of the hospital.  
 2353 If the agency finds it to be in the public interest, the report  
 2354 shall also recommend licensure criteria for such medical  
 2355 facilities, including criteria related to quality of care and,  
 2356 if deemed necessary, the elimination of the possibility of  
 2357 confusion related to the service capabilities of such facility  
 2358 in comparison to the service capabilities of an emergency  
 2359 department located on the premises of the hospital. Until July  
 2360 1, 2005, additional emergency departments located off the  
 2361 premises of licensed hospitals may not be authorized by the  
 2362 agency.

2363           ~~(2)(a) Upon the receipt of an application for a license~~  
 2364 ~~and the license fee, the agency shall issue a license if the~~  
 2365 ~~applicant and facility have received all approvals required by~~  
 2366 ~~law and meet the requirements established under this part and in~~  
 2367 ~~rules. Such license shall include all beds and services located~~  
 2368 ~~on the premises of the facility.~~

2369           ~~(b) A provisional license may be issued to a new facility~~  
 2370 ~~or a facility that is in substantial compliance with this part~~  
 2371 ~~and with the rules of the agency. A provisional license shall be~~  
 2372 ~~granted for a period of no more than 1 year and shall expire~~  
 2373 ~~automatically at the end of its term. A provisional license may~~  
 2374 ~~not be renewed.~~

2375           ~~(c) A license, unless sooner suspended or revoked, shall~~  
 2376 ~~automatically expire 2 years from the date of issuance and shall~~  
 2377 ~~be renewable biennially upon application for renewal and payment~~  
 2378 ~~of the fee prescribed by s. 395.004(2), provided the applicant~~  
 2379 ~~and licensed facility meet the requirements established under~~  
 2380 ~~this part and in rules. An application for renewal of a license~~  
 2381 ~~shall be made 90 days prior to expiration of the license, on~~  
 2382 ~~forms provided by the agency.~~

2383           (a)(d) The agency shall, at the request of a licensee,  
 2384 issue a single license to a licensee for facilities located on  
 2385 separate premises. Such a license shall specifically state the  
 2386 location of the facilities, the services, and the licensed beds  
 2387 available on each separate premises. If a licensee requests a  
 2388 single license, the licensee shall designate which facility or  
 2389 office is responsible for receipt of information, payment of

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2390 fees, service of process, and all other activities necessary for  
2391 the agency to carry out the provisions of this part.

2392 (b)~~(e)~~ The agency shall, at the request of a licensee that  
2393 is a teaching hospital as defined in s. 408.07(44), issue a  
2394 single license to a licensee for facilities that have been  
2395 previously licensed as separate premises, provided such  
2396 separately licensed facilities, taken together, constitute the  
2397 same premises as defined in s. 395.002~~(23)~~(23)~~(24)~~. Such license for  
2398 the single premises shall include all of the beds, services, and  
2399 programs that were previously included on the licenses for the  
2400 separate premises. The granting of a single license under this  
2401 paragraph shall not in any manner reduce the number of beds,  
2402 services, or programs operated by the licensee.

2403 (c)~~(f)~~ Intensive residential treatment programs for  
2404 children and adolescents which have received accreditation from  
2405 the Joint Commission on Accreditation of Healthcare  
2406 Organizations and which meet the minimum standards developed by  
2407 rule of the agency for such programs shall be licensed by the  
2408 agency under this part.

2409 ~~(3)(a) Each license shall be valid only for the person to  
2410 whom it is issued and shall not be sold, assigned, or otherwise  
2411 transferred, voluntarily or involuntarily. A license is only  
2412 valid for the premises for which it was originally issued.~~

2413 ~~(b)1. An application for a new license is required if  
2414 ownership, a majority of the ownership, or controlling interest  
2415 of a licensed facility is transferred or assigned and when a  
2416 lessee agrees to undertake or provide services to the extent  
2417 that legal liability for operation of the facility rests with~~

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2418 ~~the lessee. The application for a new license showing such~~  
 2419 ~~change shall be made at least 60 days prior to the date of the~~  
 2420 ~~sale, transfer, assignment, or lease.~~

2421 (3)2. After a change of ownership has occurred, the  
 2422 transferee shall be liable for any liability to the state,  
 2423 regardless of when identified, resulting from changes to  
 2424 allowable costs affecting provider reimbursement for Medicaid  
 2425 participation or Public Medical Assistance Trust Fund  
 2426 Assessments, and related administrative fines. ~~The transferee,~~  
 2427 ~~simultaneously with the transfer of ownership, shall pay or make~~  
 2428 ~~arrangements to pay to the agency or the department any amount~~  
 2429 ~~owed to the agency or the department; payment assurances may be~~  
 2430 ~~in the form of an irrevocable credit instrument or payment bond~~  
 2431 ~~acceptable to the agency or the department provided by or on~~  
 2432 ~~behalf of the transferor. The issuance of a license to the~~  
 2433 ~~transferee shall be delayed pending payment or until arrangement~~  
 2434 ~~for payment acceptable to the agency or the department is made.~~

2435 (4) The agency shall issue a license which specifies the  
 2436 service categories and the number of hospital beds in each bed  
 2437 category for which a license is received. Such information shall  
 2438 be listed on the face of the license. All beds which are not  
 2439 covered by any specialty-bed-need methodology shall be specified  
 2440 as general beds. A licensed facility shall not operate a number  
 2441 of hospital beds greater than the number indicated by the agency  
 2442 on the face of the license without approval from the agency  
 2443 under conditions established by rule.

2444 (5)(a) Adherence to patient rights, standards of care, and  
 2445 examination and placement procedures provided under part I of



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2446 | chapter 394 shall be a condition of licensure for hospitals  
2447 | providing voluntary or involuntary medical or psychiatric  
2448 | observation, evaluation, diagnosis, or treatment.

2449 | (b) Any hospital that provides psychiatric treatment to  
2450 | persons under 18 years of age who have emotional disturbances  
2451 | shall comply with the procedures pertaining to the rights of  
2452 | patients prescribed in part I of chapter 394.

2453 | (6) No specialty hospital shall provide any service or  
2454 | regularly serve any population group beyond those services or  
2455 | groups specified in its license.

2456 | ~~(7) Licenses shall be posted in a conspicuous place on~~  
2457 | ~~each of the licensed premises.~~

2458 | (7)(8) In addition to the requirements of part II of  
2459 | chapter 408, whenever the agency finds that there has been a  
2460 | substantial failure to comply with the requirements established  
2461 | under this part or in rules, the agency is authorized to deny,  
2462 | ~~modify,~~ suspend, and ~~or~~ revoke:

2463 | (a) A license;

2464 | (b) That part of a license which is limited to a separate  
2465 | premises, as designated on the license; or

2466 | (c) Licensure approval limited to a facility, building, or  
2467 | portion thereof, or a service, within a given premises.

2468 | (8)(9) A hospital may not be licensed or relicensed if:

2469 | (a) The diagnosis-related groups for 65 percent or more of  
2470 | the discharges from the hospital, in the most recent year for  
2471 | which data is available to the Agency for Health Care  
2472 | Administration pursuant to s. 408.061, are for diagnosis, care,  
2473 | and treatment of patients who have:

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2474 1. Cardiac-related diseases and disorders classified as  
 2475 diagnosis-related groups 103-145, 478-479, 514-518, or 525-527;  
 2476 2. Orthopedic-related diseases and disorders classified as  
 2477 diagnosis-related groups 209-256, 471, 491, 496-503, or 519-520;  
 2478 3. Cancer-related diseases and disorders classified as  
 2479 diagnosis-related groups 64, 82, 172, 173, 199, 200, 203, 257-  
 2480 260, 274, 275, 303, 306, 307, 318, 319, 338, 344, 346, 347, 363,  
 2481 366, 367, 400-414, 473, or 492; or  
 2482 4. Any combination of the above discharges.  
 2483 (b) The hospital restricts its medical and surgical  
 2484 services to primarily or exclusively cardiac, orthopedic,  
 2485 surgical, or oncology specialties.  
 2486 (9)~~(10)~~ A hospital licensed as of June 1, 2004, shall be  
 2487 exempt from subsection (8) ~~(9)~~ as long as the hospital maintains  
 2488 the same ownership, facility street address, and range of  
 2489 services that were in existence on June 1, 2004. Any transfer of  
 2490 beds, or other agreements that result in the establishment of a  
 2491 hospital or hospital services within the intent of this section,  
 2492 shall be subject to subsection (8) ~~(9)~~. Unless the hospital is  
 2493 otherwise exempt under subsection (8) ~~(9)~~, the agency shall deny  
 2494 or revoke the license of a hospital that violates any of the  
 2495 criteria set forth in that subsection.  
 2496 (10)~~(11)~~ The agency may adopt rules implementing the  
 2497 licensure requirements set forth in subsection (8) ~~(9)~~. Within  
 2498 14 days after rendering its decision on a license application or  
 2499 revocation, the agency shall publish its proposed decision in  
 2500 the Florida Administrative Weekly. Within 21 days after  
 2501 publication of the agency's decision, any authorized person may

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2502 file a request for an administrative hearing. In administrative  
 2503 proceedings challenging the approval, denial, or revocation of a  
 2504 license pursuant to subsection (8) ~~(9)~~, the hearing must be  
 2505 based on the facts and law existing at the time of the agency's  
 2506 proposed agency action. Existing hospitals may initiate or  
 2507 intervene in an administrative hearing to approve, deny, or  
 2508 revoke licensure under subsection (8) ~~(9)~~ based upon a showing  
 2509 that an established program will be substantially affected by  
 2510 the issuance or renewal of a license to a hospital within the  
 2511 same district or service area.

2512 Section 46. Section 395.004, Florida Statutes, is amended  
 2513 to read:

2514 395.004 Application for license, fees; ~~expenses.~~--

2515 ~~(1)~~ In accordance with s. 408.805, an applicant or  
 2516 licensee shall pay a fee for each license application submitted  
 2517 under this part, part II of chapter 408, and applicable rules.

2518 The amount of the fee shall be established by rule. An  
 2519 ~~application for a license or renewal thereof shall be made under~~  
 2520 ~~oath to the agency, upon forms provided by it, and shall contain~~  
 2521 ~~such information as the agency reasonably requires, which may~~  
 2522 ~~include affirmative evidence of ability to comply with~~  
 2523 ~~applicable laws and rules.~~

2524 ~~(2) Each application for a general hospital license,~~  
 2525 ~~specialty hospital license, ambulatory surgical center license,~~  
 2526 ~~or mobile surgical facility license, or renewal thereof, shall~~  
 2527 ~~be accompanied by a license fee, in accordance with the~~  
 2528 ~~following schedule:~~

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2529           ~~(a) The biennial license, provisional license, and license~~  
 2530 ~~renewal fee required of a facility licensed under this part~~  
 2531 ~~shall be reasonably calculated to cover the cost of regulation~~  
 2532 ~~under this part and shall be established by rule at the rate of~~  
 2533 ~~not less than \$9.50 per hospital bed, nor more than \$30 per~~  
 2534 ~~hospital bed, except that the minimum license fee shall be~~  
 2535 ~~\$1,500 and the total fees collected from all licensed facilities~~  
 2536 ~~may not exceed the cost of properly carrying out the provisions~~  
 2537 ~~of this part.~~

2538           ~~(b) Such fees shall be paid to the agency and shall be~~  
 2539 ~~deposited in the Planning and Regulation Trust Fund of the~~  
 2540 ~~agency, which is hereby created, for the sole purpose of~~  
 2541 ~~carrying out the provisions of this part.~~

2542           Section 47. Section 395.0055, Florida Statutes, is  
 2543 repealed.

2544           Section 48. Section 395.0161, Florida Statutes, is amended  
 2545 to read:

2546           395.0161 Licensure inspection.--

2547           (1) In accordance with s. 408.811, the agency shall make  
 2548 ~~or cause to be made such inspections and investigations as it~~  
 2549 ~~deems necessary, including:~~

2550           ~~(a) Inspections directed by the Health Care Financing~~  
 2551 ~~Administration.~~

2552           ~~(b) Validation inspections.~~

2553           ~~(c) Lifesafety inspections.~~

2554           ~~(d) Licensure complaint investigations, including full~~  
 2555 ~~licensure investigations with a review of all licensure~~  
 2556 ~~standards as outlined in the administrative rules. Complaints~~

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2557 ~~received by the agency from individuals, organizations, or other~~  
 2558 ~~sources are subject to review and investigation by the agency.~~

2559 ~~(e) Emergency access complaint investigations.~~

2560 ~~(f)~~ inspections of mobile surgical facilities at each time  
 2561 a facility establishes a new location, prior to the admission of  
 2562 patients. However, such inspections shall not be required when a  
 2563 mobile surgical facility is moved temporarily to a location  
 2564 where medical treatment will not be provided.

2565 (2) The agency shall accept, in lieu of its own periodic  
 2566 inspections for licensure, the survey or inspection of an  
 2567 accrediting organization, provided the accreditation of the  
 2568 licensed facility is not provisional and provided the licensed  
 2569 facility authorizes release of, and the agency receives the  
 2570 report of, the accrediting organization. The agency shall  
 2571 develop, and adopt by rule, criteria for accepting survey  
 2572 reports of accrediting organizations in lieu of conducting a  
 2573 state licensure inspection.

2574 (3) In accordance with s. 408.805, an applicant or  
 2575 licensee shall pay a fee for each license application submitted  
 2576 under this part, part II of chapter 408, and applicable rules.  
 2577 With the exception of state-operated licensed facilities, each  
 2578 facility licensed under this part shall pay to the agency, at  
 2579 the time of inspection, the following fees:

2580 (a) Inspection for licensure.--A fee shall be paid which  
 2581 is not less than \$8 per hospital bed, nor more than \$12 per  
 2582 hospital bed, except that the minimum fee shall be \$400 per  
 2583 facility.

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2584 (b) Inspection for lifesafety only.--A fee shall be paid  
2585 which is not less than 75 cents per hospital bed, nor more than  
2586 \$1.50 per hospital bed, except that the minimum fee shall be \$40  
2587 per facility.

2588 (4) The agency shall coordinate all periodic inspections  
2589 for licensure made by the agency to ensure that the cost to the  
2590 facility of such inspections and the disruption of services by  
2591 such inspections is minimized.

2592 Section 49. Section 395.0162, Florida Statutes, is  
2593 repealed.

2594 Section 50. A licensee that failed to renew its ambulatory  
2595 surgical center license may meet requirements of the Florida  
2596 Building Code that were in effect at the time of original  
2597 licensure for the purposes of an initial application if:

2598 (a) The license expired between July 1, 2004, and December  
2599 31, 2004.

2600 (b) The initial license application was filed within 30  
2601 days after the license expiration.

2602 (c) The ambulatory surgical center is in compliance with  
2603 regulatory requirements based upon agency inspection.

2604  
2605 This section only applies to the initial application for  
2606 licensure and does not circumvent any requirement to meet  
2607 current Florida Building Code requirements for renovations or  
2608 other modifications.

2609 Section 51. Subsections (2) and (3) of section 395.0163,  
2610 Florida Statutes, are amended to read:

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2611           395.0163 Construction inspections; plan submission and  
2612 approval; fees.--

2613           (2)(a) The agency is authorized to charge an initial fee  
2614 of \$2,000 for review of plans and construction on all projects,  
2615 no part of which is refundable. The agency may also collect a  
2616 fee, not to exceed 1 percent of the estimated construction cost  
2617 or the actual cost of review, whichever is less, for the portion  
2618 of the review which encompasses initial review through the  
2619 initial revised construction document review. The agency is  
2620 further authorized to collect its actual costs on all subsequent  
2621 portions of the review and construction inspections. The initial  
2622 fee payment shall accompany the initial submission of plans and  
2623 specifications. Any subsequent payment that is due is payable  
2624 upon receipt of the invoice from the agency.

2625           ~~(b) Notwithstanding any other provisions of law to the~~  
2626 ~~contrary, all moneys received by the agency pursuant to the~~  
2627 ~~provisions of this section shall be deposited in the Planning~~  
2628 ~~and Regulation Trust Fund, as created by s. 395.004, to be held~~  
2629 ~~and applied solely for the operations required under this~~  
2630 ~~section.~~

2631           (3) In accordance with s. 408.811, the agency shall  
2632 inspect a mobile surgical facility at initial licensure and at  
2633 each time the facility establishes a new location, prior to  
2634 admission of patients. However, such inspections shall not be  
2635 required when a mobile surgical facility is moved temporarily to  
2636 a location where medical treatment will not be provided.

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2637 Section 52. Paragraph (c) of subsection (2) of section  
 2638 395.0191, Florida Statutes, is redesignated as paragraph (d),  
 2639 and a new paragraph (c) is added to said subsection, to read:  
 2640 395.0191 Staff membership and clinical privileges.--

2641 (2)

2642 (c) A registered nurse licensed under part I of chapter  
 2643 464 and qualified by training and experience in perioperative  
 2644 nursing as defined in s. 464.027(2)(a) shall be present in the  
 2645 operating room and function as the circulating nurse during all  
 2646 operative, surgical, or invasive procedures.

2647 Section 53. Subsections (4) and (6) of section 395.0193,  
 2648 Florida Statutes, are amended to read:

2649 395.0193 Licensed facilities; peer review; disciplinary  
 2650 powers; agency or partnership with physicians.--

2651 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary  
 2652 actions taken under subsection (3) shall be reported in writing  
 2653 to the Department of Health ~~Division of Health Quality Assurance~~  
 2654 ~~of the agency~~ within 30 working days after its initial  
 2655 occurrence, regardless of the pendency of appeals to the  
 2656 governing board of the hospital. The notification shall identify  
 2657 the disciplined practitioner, the action taken, and the reason  
 2658 for such action. All final disciplinary actions taken under  
 2659 subsection (3), if different from those which were reported to  
 2660 the department ~~agency~~ within 30 days after the initial  
 2661 occurrence, shall be reported within 10 working days to the  
 2662 Department of Health ~~Division of Health Quality Assurance of the~~  
 2663 ~~agency~~ in writing and shall specify the disciplinary action  
 2664 taken and the specific grounds therefor. Final disciplinary



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2665 | actions shall be reported monthly to the Division of Health  
 2666 | Quality Assurance of the agency. ~~The division shall review each~~  
 2667 | ~~report and determine whether it potentially involved conduct by~~  
 2668 | ~~the licensee that is subject to disciplinary action, in which~~  
 2669 | ~~case s. 456.073 shall apply. The reports are not subject to~~  
 2670 | ~~inspection under s. 119.07(1) even if the division's~~  
 2671 | ~~investigation results in a finding of probable cause.~~

2672 |         (6) For a single incident or series of isolated incidents  
 2673 | that are nonwillful violations of the reporting requirements of  
 2674 | this section, the agency shall first seek to obtain corrective  
 2675 | action by the facility. If correction is not demonstrated within  
 2676 | the timeframe established by the agency or if there is a pattern  
 2677 | of nonwillful violations of this section, the agency may impose  
 2678 | an administrative fine, not to exceed \$5,000 for any violation  
 2679 | of the reporting requirements of this section. The  
 2680 | administrative fine for repeated nonwillful violations shall not  
 2681 | exceed \$10,000 for any violation. The administrative fine for  
 2682 | each intentional and willful violation may not exceed \$25,000  
 2683 | per violation, per day. The fine for an intentional and willful  
 2684 | violation of this section may not exceed \$250,000. In  
 2685 | determining the amount of fine to be levied, the agency shall be  
 2686 | guided by s. 395.1065(1)~~(2)~~(b).

2687 |         Section 54. Subsection (12) of section 395.0197, Florida  
 2688 | Statutes, is amended to read:

2689 |             395.0197 Internal risk management program.--

2690 |             (12) In addition to any penalty imposed pursuant to this  
 2691 | section, the agency shall require a written plan of correction  
 2692 | from the facility. For a single incident or series of isolated

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2693 incidents that are nonwillful violations of the reporting  
 2694 requirements of this section, the agency shall first seek to  
 2695 obtain corrective action by the facility. If the correction is  
 2696 not demonstrated within the timeframe established by the agency  
 2697 or if there is a pattern of nonwillful violations of this  
 2698 section, the agency may impose an administrative fine, not to  
 2699 exceed \$5,000 for any violation of the reporting requirements of  
 2700 this section. The administrative fine for repeated nonwillful  
 2701 violations shall not exceed \$10,000 for any violation. The  
 2702 administrative fine for each intentional and willful violation  
 2703 may not exceed \$25,000 per violation, per day. The fine for an  
 2704 intentional and willful violation of this section may not exceed  
 2705 \$250,000. In determining the amount of fine to be levied, the  
 2706 agency shall be guided by s. 395.1065 (1) ~~(2)~~ (b).

2707 Section 55. Section 395.0199, Florida Statutes, is amended  
 2708 to read:

2709 395.0199 Private utilization review.--

2710 (1) The purpose of this section is to:

2711 (a) Promote the delivery of quality health care in a cost-  
 2712 effective manner.

2713 (b) Foster greater coordination between providers and  
 2714 health insurers performing utilization review.

2715 (c) Protect patients and insurance providers by ensuring  
 2716 that private review agents are qualified to perform utilization  
 2717 review activities and to make informed decisions on the  
 2718 appropriateness of medical care.

2719 (d) This section does not regulate the activities of  
 2720 private review agents, health insurers, health maintenance

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2721 organizations, or hospitals, except as expressly provided  
 2722 herein, or authorize regulation or intervention as to the  
 2723 correctness of utilization review decisions of insurers or  
 2724 private review agents.

2725 (2) The requirements of part II of chapter 408 shall apply  
 2726 to the provision of services that require registration or  
 2727 licensure pursuant to this section and part II of chapter 408  
 2728 and to persons registered by or applying for such registration  
 2729 from the Agency for Health Care Administration pursuant to this  
 2730 section. However, each applicant for registration and registrant  
 2731 is exempt from the provisions of ss. 408.806(1)(e)2.,  
 2732 408.810(5)-(10), and 408.811. A private review agent conducting  
 2733 utilization review as to health care services performed or  
 2734 proposed to be performed in this state shall register with the  
 2735 agency in accordance with this section.

2736 (3) In accordance with s. 408.805, an applicant for  
 2737 registration or registrant shall pay a fee for each registration  
 2738 application submitted under this section, part II of chapter  
 2739 408, and applicable rules. The amount of the fee shall be  
 2740 established by rule ~~Registration shall be made annually with the~~  
 2741 ~~agency on forms furnished by the agency and shall be accompanied~~  
 2742 ~~by the appropriate registration fee as set by the agency. The~~  
 2743 ~~fee and~~ shall be sufficient to pay for the administrative costs  
 2744 of registering the agent, but shall not exceed \$250. The agency  
 2745 may also charge reasonable fees, reflecting actual costs, to  
 2746 persons requesting copies of registration.

2747 ~~(4) Each applicant for registration must comply with the~~  
 2748 ~~following requirements:~~

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2749           ~~(a) Upon receipt of a completed, signed, and dated~~  
 2750 ~~application, the agency shall require background screening, in~~  
 2751 ~~accordance with the level 2 standards for screening set forth in~~  
 2752 ~~chapter 435, of the managing employee or other similarly titled~~  
 2753 ~~individual who is responsible for the operation of the entity.~~  
 2754 ~~The applicant must comply with the procedures for level 2~~  
 2755 ~~background screening as set forth in chapter 435, as well as the~~  
 2756 ~~requirements of s. 435.03(3).~~

2757           ~~(b) The agency may require background screening of any~~  
 2758 ~~other individual who is an applicant, if the agency has probable~~  
 2759 ~~cause to believe that he or she has been convicted of a crime or~~  
 2760 ~~has committed any other offense prohibited under the level 2~~  
 2761 ~~standards for screening set forth in chapter 435.~~

2762           ~~(c) Proof of compliance with the level 2 background~~  
 2763 ~~screening requirements of chapter 435 which has been submitted~~  
 2764 ~~within the previous 5 years in compliance with any other health~~  
 2765 ~~care licensure requirements of this state is acceptable in~~  
 2766 ~~fulfillment of the requirements of paragraph (a).~~

2767           ~~(d) A provisional registration may be granted to an~~  
 2768 ~~applicant when each individual required by this section to~~  
 2769 ~~undergo background screening has met the standards for the~~  
 2770 ~~Department of Law Enforcement background check, but the agency~~  
 2771 ~~has not yet received background screening results from the~~  
 2772 ~~Federal Bureau of Investigation, or a request for a~~  
 2773 ~~disqualification exemption has been submitted to the agency as~~  
 2774 ~~set forth in chapter 435 but a response has not yet been issued.~~  
 2775 ~~A standard registration may be granted to the applicant upon the~~  
 2776 ~~agency's receipt of a report of the results of the Federal~~

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2777 ~~Bureau of Investigation background screening for each individual~~  
2778 ~~required by this section to undergo background screening which~~  
2779 ~~confirms that all standards have been met, or upon the granting~~  
2780 ~~of a disqualification exemption by the agency as set forth in~~  
2781 ~~chapter 435. Any other person who is required to undergo level 2~~  
2782 ~~background screening may serve in his or her capacity pending~~  
2783 ~~the agency's receipt of the report from the Federal Bureau of~~  
2784 ~~Investigation. However, the person may not continue to serve if~~  
2785 ~~the report indicates any violation of background screening~~  
2786 ~~standards and a disqualification exemption has not been~~  
2787 ~~requested of and granted by the agency as set forth in chapter~~  
2788 ~~435.~~

2789 ~~(e) Each applicant must submit to the agency, with its~~  
2790 ~~application, a description and explanation of any exclusions,~~  
2791 ~~permanent suspensions, or terminations of the applicant from the~~  
2792 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
2793 ~~requirements for disclosure of ownership and control interests~~  
2794 ~~under the Medicaid or Medicare programs shall be accepted in~~  
2795 ~~lieu of this submission.~~

2796 ~~(f) Each applicant must submit to the agency a description~~  
2797 ~~and explanation of any conviction of an offense prohibited under~~  
2798 ~~the level 2 standards of chapter 435 by a member of the board of~~  
2799 ~~directors of the applicant, its officers, or any individual~~  
2800 ~~owning 5 percent or more of the applicant. This requirement does~~  
2801 ~~not apply to a director of a not-for-profit corporation or~~  
2802 ~~organization if the director serves solely in a voluntary~~  
2803 ~~capacity for the corporation or organization, does not regularly~~  
2804 ~~take part in the day-to-day operational decisions of the~~

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2805 ~~corporation or organization, receives no remuneration for his or~~  
 2806 ~~her services on the corporation or organization's board of~~  
 2807 ~~directors, and has no financial interest and has no family~~  
 2808 ~~members with a financial interest in the corporation or~~  
 2809 ~~organization, provided that the director and the not-for-profit~~  
 2810 ~~corporation or organization include in the application a~~  
 2811 ~~statement affirming that the director's relationship to the~~  
 2812 ~~corporation satisfies the requirements of this paragraph.~~

2813 ~~(g) A registration may not be granted to an applicant if~~  
 2814 ~~the applicant or managing employee has been found guilty of,~~  
 2815 ~~regardless of adjudication, or has entered a plea of nolo~~  
 2816 ~~contendere or guilty to, any offense prohibited under the level~~  
 2817 ~~2 standards for screening set forth in chapter 435, unless an~~  
 2818 ~~exemption from disqualification has been granted by the agency~~  
 2819 ~~as set forth in chapter 435.~~

2820 ~~(h) The agency may deny or revoke the registration if any~~  
 2821 ~~applicant:~~

2822 ~~1. Has falsely represented a material fact in the~~  
 2823 ~~application required by paragraph (e) or paragraph (f), or has~~  
 2824 ~~omitted any material fact from the application required by~~  
 2825 ~~paragraph (e) or paragraph (f); or~~

2826 ~~2. Has had prior action taken against the applicant under~~  
 2827 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

2828 ~~(i) An application for registration renewal must contain~~  
 2829 ~~the information required under paragraphs (e) and (f).~~

2830 (4)(5) Registration shall include the following:

2831 (a) A description of the review policies and procedures to  
 2832 be used in evaluating proposed or delivered hospital care.

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2833 (b) The name, address, and telephone number of the  
 2834 utilization review agent performing utilization review, who  
 2835 shall be at least:

2836 1. A licensed practical nurse or licensed registered  
 2837 nurse, or other similarly qualified medical records or health  
 2838 care professionals, for performing initial review when  
 2839 information is necessary from the physician or hospital to  
 2840 determine the medical necessity or appropriateness of hospital  
 2841 services; or

2842 2. A licensed physician, or a licensed physician  
 2843 practicing in the field of psychiatry for review of mental  
 2844 health services, for an initial denial determination prior to a  
 2845 final denial determination by the health insurer and which shall  
 2846 include the written evaluation and findings of the reviewing  
 2847 physician.

2848 (c) A description of an appeal procedure for patients or  
 2849 health care providers whose services are under review, who may  
 2850 appeal an initial denial determination prior to a final  
 2851 determination by the health insurer with whom the private review  
 2852 agent has contracted. The appeal procedure shall provide for  
 2853 review by a licensed physician, or by a licensed physician  
 2854 practicing in the field of psychiatry for review of mental  
 2855 health services, and shall include the written evaluation and  
 2856 findings of the reviewing physician.

2857 (d) A designation of the times when the staff of the  
 2858 utilization review agent will be available by toll-free  
 2859 telephone, which shall include at least 40 hours per week during  
 2860 the normal business hours of the agent.

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2861 (e) An acknowledgment and agreement that any private  
 2862 review agent which, as a general business practice, fails to  
 2863 adhere to the policies, procedures, and representations made in  
 2864 its application for registration shall have its registration  
 2865 revoked.

2866 (f) Disclosure of any incentive payment provision or quota  
 2867 provision which is contained in the agent's contract with a  
 2868 health insurer and is based on reduction or denial of services,  
 2869 reduction of length of stay, or selection of treatment setting.

2870 (g) Updates of any material changes to review policies or  
 2871 procedures.

2872 ~~(6) The agency may impose fines or suspend or revoke the~~  
 2873 ~~registration of any private review agent in violation of this~~  
 2874 ~~section. Any private review agent failing to register or update~~  
 2875 ~~registration as required by this section shall be deemed to be~~  
 2876 ~~within the jurisdiction of the agency and subject to an~~  
 2877 ~~administrative penalty not to exceed \$1,000. The agency may~~  
 2878 ~~bring actions to enjoin activities of private review agents in~~  
 2879 ~~violation of this section.~~

2880 (5)~~(7)~~ No insurer shall knowingly contract with or utilize  
 2881 a private review agent which has failed to register as required  
 2882 by this section or which has had a registration revoked by the  
 2883 agency.

2884 (6)~~(8)~~ A private review agent which operates under  
 2885 contract with the federal or state government for utilization  
 2886 review of patients eligible for hospital or other services under  
 2887 Title XVIII or Title XIX of the Social Security Act is exempt  
 2888 from the provisions of this section for services provided under



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2889 such contract. A private review agent which provides utilization  
 2890 review services to the federal or state government and a private  
 2891 insurer shall not be exempt for services provided to  
 2892 nonfederally funded patients. This section shall not apply to  
 2893 persons who perform utilization review services for medically  
 2894 necessary hospital services provided to injured workers pursuant  
 2895 to chapter 440 and shall not apply to self-insurance funds or  
 2896 service companies authorized pursuant to chapter 440 or part VII  
 2897 of chapter 626.

2898 ~~(7)(9)~~ Facilities licensed under this chapter shall  
 2899 promptly comply with the requests of utilization review agents  
 2900 or insurers which are reasonably necessary to facilitate prompt  
 2901 accomplishment of utilization review activities.

2902 ~~(8)(10)~~ The agency shall adopt rules to implement the  
 2903 provisions of this section.

2904 Section 56. Section 395.1046, Florida Statutes, is amended  
 2905 to read:

2906 395.1046 Complaint investigation procedures.--

2907 (1) In accordance with s. 408.811, the agency shall  
 2908 investigate any complaint against a hospital for any violation  
 2909 of s. 395.1041 that the agency reasonably believes to be legally  
 2910 sufficient. A complaint is legally sufficient if it contains  
 2911 ultimate facts that ~~which~~ show that a violation of this section  
 2912 ~~chapter~~, or any rule adopted ~~under this chapter~~ by the agency  
 2913 under this section, has occurred. The agency may investigate, or  
 2914 continue to investigate, and may take appropriate final action  
 2915 on a complaint, even though the original complainant withdraws  
 2916 his or her complaint or otherwise indicates his or her desire

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2917 | not to cause it to be investigated to completion. ~~When an~~  
 2918 | ~~investigation of any person or facility is undertaken, the~~  
 2919 | ~~agency shall notify such person in writing of the investigation~~  
 2920 | ~~and inform the person or facility in writing of the substance,~~  
 2921 | ~~the facts which show that a violation has occurred, and the~~  
 2922 | ~~source of any complaint filed against him or her. The agency may~~  
 2923 | ~~conduct an investigation without notification to any person if~~  
 2924 | ~~the act under investigation is a criminal offense. The agency~~  
 2925 | ~~shall have access to all records necessary for the investigation~~  
 2926 | ~~of the complaint.~~

2927 |         (2) The agency or its agent shall expeditiously  
 2928 | investigate each complaint against a hospital for a violation of  
 2929 | s. 395.1041. When its investigation is complete, the agency  
 2930 | shall prepare an investigative report. The report shall contain  
 2931 | the investigative findings and the recommendations of the agency  
 2932 | ~~concerning the existence of probable cause.~~

2933 |         (3) The complaint and all information obtained by the  
 2934 | agency during an investigation conducted pursuant to this  
 2935 | section are exempt from the provisions of s. 119.07(1) and s.  
 2936 | 24(a), Art. I of the State Constitution until 10 days after the  
 2937 | facility has been determined by the agency to be out of  
 2938 | compliance with regulatory requirements ~~probable cause has been~~  
 2939 | ~~found to exist by the agency, or until the person who is the~~  
 2940 | ~~subject of the investigation waives his or her privilege of~~  
 2941 | ~~confidentiality, whichever occurs first. In cases where the~~  
 2942 | agency finds that the complaint is either not legally sufficient  
 2943 | or does not demonstrate the facility's noncompliance with  
 2944 | regulatory requirements ~~when the agency determines that no~~

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2945 | ~~probable cause exists~~, all records pertaining thereto are  
 2946 | confidential and exempt from the provisions of s. 119.07(1) and  
 2947 | s. 24(a), Art. I of the State Constitution. However, the  
 2948 | complaint and a summary of the agency's findings shall be  
 2949 | available, although information therein identifying an  
 2950 | individual shall not be disclosed.

2951 | Section 57. Subsections (1) and (7) of section 395.1055,  
 2952 | Florida Statutes, are amended to read:

2953 | 395.1055 Rules and enforcement.--

2954 | (1) The agency shall adopt rules pursuant to ss.  
 2955 | 120.536(1) and 120.54 to implement the provisions of this part  
 2956 | and part II of chapter 408, which shall include reasonable and  
 2957 | fair minimum standards for ensuring that:

2958 | (a) Sufficient numbers and qualified types of personnel  
 2959 | and occupational disciplines are on duty and available at all  
 2960 | times to provide necessary and adequate patient care and safety.

2961 | (b) Infection control, housekeeping, sanitary conditions,  
 2962 | and medical record procedures that will adequately protect  
 2963 | patient care and safety are established and implemented.

2964 | (c) A comprehensive emergency management plan is prepared  
 2965 | and updated annually. Such standards must be included in the  
 2966 | rules adopted by the agency after consulting with the Department  
 2967 | of Community Affairs. At a minimum, the rules must provide for  
 2968 | plan components that address emergency evacuation  
 2969 | transportation; adequate sheltering arrangements; postdisaster  
 2970 | activities, including emergency power, food, and water;  
 2971 | postdisaster transportation; supplies; staffing; emergency  
 2972 | equipment; individual identification of residents and transfer

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2973 | of records, and responding to family inquiries. The  
 2974 | comprehensive emergency management plan is subject to review and  
 2975 | approval by the local emergency management agency. During its  
 2976 | review, the local emergency management agency shall ensure that  
 2977 | the following agencies, at a minimum, are given the opportunity  
 2978 | to review the plan: the Department of Elderly Affairs, the  
 2979 | Department of Health, the Agency for Health Care Administration,  
 2980 | and the Department of Community Affairs. Also, appropriate  
 2981 | volunteer organizations must be given the opportunity to review  
 2982 | the plan. The local emergency management agency shall complete  
 2983 | its review within 60 days and either approve the plan or advise  
 2984 | the facility of necessary revisions.

2985 | (d) Licensed facilities are established, organized, and  
 2986 | operated consistent with established standards and rules.

2987 | (e) Licensed facility beds conform to minimum space,  
 2988 | equipment, and furnishings standards as specified by the  
 2989 | department.

2990 | (f) All hospitals submit such data as necessary to conduct  
 2991 | certificate-of-need reviews required under part I of chapter 408  
 2992 | ~~ss. 408.031-408.045~~. Such data shall include, but shall not be  
 2993 | limited to, patient origin data, hospital utilization data, type  
 2994 | of service reporting, and facility staffing data. The agency  
 2995 | shall not collect data that identifies or could disclose the  
 2996 | identity of individual patients. The agency shall utilize  
 2997 | existing uniform statewide data sources when available and shall  
 2998 | minimize reporting costs to hospitals.

2999 | (g) Each hospital has a quality improvement program  
 3000 | designed according to standards established by their current

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3001 accrediting organization. This program will enhance quality of  
 3002 care and emphasize quality patient outcomes, corrective action  
 3003 for problems, governing board review, and reporting to the  
 3004 agency of standardized data elements necessary to analyze  
 3005 quality of care outcomes. The agency shall use existing data,  
 3006 when available, and shall not duplicate the efforts of other  
 3007 state agencies in order to obtain such data.

3008 (h) Licensed facilities make available on their Internet  
 3009 websites, no later than October 1, 2004, and in a hard copy  
 3010 format upon request, a description of and a link to the patient  
 3011 charge and performance outcome data collected from licensed  
 3012 facilities pursuant to s. 408.061.

3013 (7) The agency shall enforce compliance with the  
 3014 provisions of s. 381.005(2) and rules adopted thereunder with  
 3015 respect to immunizations against the influenza virus and  
 3016 pneumococcal bacteria. ~~Any licensed facility which is in~~  
 3017 ~~operation at the time of promulgation of any applicable rules~~  
 3018 ~~under this part shall be given a reasonable time, under the~~  
 3019 ~~particular circumstances, but not to exceed 1 year from the date~~  
 3020 ~~of such promulgation, within which to comply with such rules.~~

3021 Section 58. Section 395.1065, Florida Statutes, is amended  
 3022 to read:

3023 395.1065 ~~Criminal and~~ Administrative penalties;  
 3024 ~~injunctions; emergency orders; moratorium.~~--

3025 (1) ~~Any person establishing, conducting, managing, or~~  
 3026 ~~operating any facility without a license under this part is~~  
 3027 ~~guilty of a misdemeanor and, upon conviction, shall be fined not~~  
 3028 ~~more than \$500 for the first offense and not more than \$1,000~~

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3029 ~~for each subsequent offense, and each day of continuing~~  
 3030 ~~violation after conviction shall be considered a separate~~  
 3031 ~~offense.~~

3032 (1)~~(2)~~(a) The agency may ~~deny, revoke, or suspend a~~  
 3033 ~~license or~~ impose an administrative fine, not to exceed \$1,000  
 3034 per violation, per day, for the violation of any provision of  
 3035 this part, part II of chapter 408, or applicable rules adopted  
 3036 ~~under this part~~. Each day of violation constitutes a separate  
 3037 violation and is subject to a separate fine.

3038 (b) In determining the amount of fine to be levied for a  
 3039 violation, as provided in paragraph (a), the following factors  
 3040 shall be considered:

3041 1. The severity of the violation, including the  
 3042 probability that death or serious harm to the health or safety  
 3043 of any person will result or has resulted, the severity of the  
 3044 actual or potential harm, and the extent to which the provisions  
 3045 of this part were violated.

3046 2. Actions taken by the licensee to correct the violations  
 3047 or to remedy complaints.

3048 3. Any previous violations of the licensee.

3049 ~~(c) All amounts collected pursuant to this section shall~~  
 3050 ~~be deposited into the Planning and Regulation Trust Fund, as~~  
 3051 ~~created by s. 395.004.~~

3052 (c)~~(d)~~ The agency may impose an administrative fine for  
 3053 the violation of s. 641.3154 or, if sufficient claims due to a  
 3054 provider from a health maintenance organization do not exist to  
 3055 enable the take-back of an overpayment, as provided under s.  
 3056 641.3155(5), for the violation of s. 641.3155(5). The

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3057 administrative fine for a violation cited in this paragraph  
3058 shall be in the amounts specified in s. 641.52(5), and the  
3059 provisions of paragraph (a) do not apply.

3060 ~~(2)(3)~~ Notwithstanding the existence or pursuit of any  
3061 other remedy, the agency may maintain an action in the name of  
3062 the state for injunction or other process to enforce the  
3063 provisions of this part, part II of chapter 408, and applicable  
3064 rules promulgated hereunder.

3065 ~~(4)~~ The agency may issue an emergency order immediately  
3066 suspending or revoking a license when it determines that any  
3067 condition in the licensed facility presents a clear and present  
3068 danger to public health and safety.

3069 ~~(5)~~ The agency may impose an immediate moratorium on  
3070 elective admissions to any licensed facility, building, or  
3071 portion thereof, or service, when the agency determines that any  
3072 condition in the facility presents a threat to public health or  
3073 safety.

3074 ~~(3)(6)~~ In seeking to impose penalties against a facility  
3075 as defined in s. 394.455 for a violation of part I of chapter  
3076 394, the agency is authorized to rely on the investigation and  
3077 findings by the Department of Health in lieu of conducting its  
3078 own investigation.

3079 ~~(4)(7)~~ The agency shall impose a fine of \$500 for each  
3080 instance of the facility's failure to provide the information  
3081 required by rules adopted pursuant to s. 395.1055(1)(h).

3082 Section 59. Subsection (1) of section 395.10973, Florida  
3083 Statutes, is amended to read:

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3084 395.10973 Powers and duties of the agency.--It is the  
3085 function of the agency to:

3086 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
3087 implement the provisions of this part and part II of chapter 408  
3088 conferring duties upon it.

3089 Section 60. Section 395.10974, Florida Statutes, is  
3090 amended to read:

3091 395.10974 Health care risk managers; qualifications,  
3092 licensure, fees.--

3093 (1) The requirements of part II of chapter 408 shall apply  
3094 to the provision of services that require licensure pursuant to  
3095 ss. 395.10971-395.10976 and part II of chapter 408 and to  
3096 entities licensed by or applying for such licensure from the  
3097 Agency for Health Care Administration pursuant to ss. 395.10971-  
3098 395.10976. ~~Any person desiring to be licensed as a health care~~  
3099 ~~risk manager shall submit an application on a form provided by~~  
3100 ~~the agency.~~ In order to qualify for licensure, the applicant  
3101 shall submit evidence satisfactory to the agency that ~~which~~  
3102 demonstrates the applicant's competence, by education or  
3103 experience, in the following areas:

- 3104 (a) Applicable standards of health care risk management.
- 3105 (b) Applicable federal, state, and local health and safety  
3106 laws and rules.
- 3107 (c) General risk management administration.
- 3108 (d) Patient care.
- 3109 (e) Medical care.
- 3110 (f) Personal and social care.
- 3111 (g) Accident prevention.



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- 3112 (h) Departmental organization and management.
- 3113 (i) Community interrelationships.
- 3114 (j) Medical terminology.

3115

3116 Each applicant for licensure and licensee must comply with all  
 3117 provisions of part II of chapter 408 except ss. 408.806(1)(e)2.,  
 3118 408.810, and 408.811. The agency may require such additional  
 3119 information, from the applicant or any other person, as may be  
 3120 reasonably required to verify the information contained in the  
 3121 application.

3122 (2) The agency shall not grant or issue a license as a  
 3123 health care risk manager to any individual unless from the  
 3124 application it affirmatively appears that the applicant:

- 3125 (a) Is 18 years of age or over;
- 3126 (b) Is a high school graduate or equivalent; and
- 3127 (c)1. Has fulfilled the requirements of a 1-year program  
 3128 or its equivalent in health care risk management training which  
 3129 may be developed or approved by the agency;

3130 2. Has completed 2 years of college-level studies which  
 3131 would prepare the applicant for health care risk management, to  
 3132 be further defined by rule; or

3133 3. Has obtained 1 year of practical experience in health  
 3134 care risk management.

3135 (3) The agency shall issue a license to practice health  
 3136 care risk management to any applicant who qualifies under this  
 3137 section. In accordance with s. 408.805, an applicant or licensee  
 3138 shall pay a fee for each license application submitted under  
 3139 this part, part II of chapter 408, and applicable rules. The

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3140 amount of the fee shall be established by rule as follows: and  
 3141 ~~submits~~ an application fee of not more than \$75, a background  
 3142 screening fingerprinting fee of not more than \$75, and a license  
 3143 fee of not more than \$100. ~~The agency shall by rule establish~~  
 3144 ~~fees and procedures for the issuance and cancellation of~~  
 3145 ~~licenses.~~

3146 ~~(4) The agency shall renew a health care risk manager~~  
 3147 ~~license upon receipt of a biennial renewal application and fees.~~  
 3148 ~~The agency shall by rule establish a procedure for the biennial~~  
 3149 ~~renewal of licenses.~~

3150 Section 61. Subsections (6) through (19) of section  
 3151 400.021, Florida Statutes, are renumbered as subsections (5)  
 3152 through (18), respectively, and present subsections (5) and (20)  
 3153 of said section are amended to read:

3154 400.021 Definitions.--When used in this part, unless the  
 3155 context otherwise requires, the term:

3156 ~~(5) "Controlling interest" means:~~

3157 ~~(a) The applicant for licensure or a licensee;~~

3158 ~~(b) A person or entity that serves as an officer of, is on~~  
 3159 ~~the board of directors of, or has a 5 percent or greater~~  
 3160 ~~ownership interest in the management company or other entity,~~  
 3161 ~~related or unrelated, which the applicant or licensee may~~  
 3162 ~~contract with to operate the facility; or~~

3163 ~~(c) A person or entity that serves as an officer of, is on~~  
 3164 ~~the board of directors of, or has a 5 percent or greater~~  
 3165 ~~ownership interest in the applicant or licensee.~~

3166  
 3167 ~~The term does not include a voluntary board member.~~

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3168       ~~(20) "Voluntary board member" means a director of a not-~~  
 3169 ~~for-profit corporation or organization who serves solely in a~~  
 3170 ~~voluntary capacity for the corporation or organization, does not~~  
 3171 ~~receive any remuneration for his or her services on the board of~~  
 3172 ~~directors, and has no financial interest in the corporation or~~  
 3173 ~~organization. The agency shall recognize a person as a voluntary~~  
 3174 ~~board member following submission of a statement to the agency~~  
 3175 ~~by the director and the not-for-profit corporation or~~  
 3176 ~~organization which affirms that the director conforms to this~~  
 3177 ~~definition. The statement affirming the status of the director~~  
 3178 ~~must be submitted to the agency on a form provided by the~~  
 3179 ~~agency.~~

3180       Section 62. Paragraph (c) of subsection (2) of section  
 3181 395.602, Florida Statutes, is amended to read:

3182       395.602 Rural hospitals.--

3183       (2) DEFINITIONS.--As used in this part:

3184       (c) "Inactive rural hospital bed" means a licensed acute  
 3185 care hospital bed, as defined in s. 395.002(13)~~(14)~~, that is  
 3186 inactive in that it cannot be occupied by acute care inpatients.

3187       Section 63. Paragraph (c) of subsection (1) of section  
 3188 395.701, Florida Statutes, is amended to read:

3189       395.701 Annual assessments on net operating revenues for  
 3190 inpatient and outpatient services to fund public medical  
 3191 assistance; administrative fines for failure to pay assessments  
 3192 when due; exemption.--

3193       (1) For the purposes of this section, the term:

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3194 (c) "Hospital" means a health care institution as defined  
3195 in s. 395.002(12)~~(13)~~, but does not include any hospital  
3196 operated by the agency or the Department of Corrections.

3197 Section 64. Subsection (3) of section 400.022, Florida  
3198 Statutes, is amended to read:

3199 400.022 Residents' rights.--

3200 (3) Any violation of the resident's rights set forth in  
3201 this section shall constitute grounds for action by the agency  
3202 under the provisions of s. 400.102, s. 400.121, or part II of  
3203 chapter 408. In order to determine whether the licensee is  
3204 adequately protecting residents' rights, the licensure annual  
3205 inspection of the facility shall include private informal  
3206 conversations with a sample of residents to discuss residents'  
3207 experiences within the facility with respect to rights specified  
3208 in this section and general compliance with standards, and  
3209 consultation with the ombudsman council in the local planning  
3210 and service area of the Department of Elderly Affairs in which  
3211 the nursing home is located.

3212 Section 65. Paragraph (b) of subsection (1) of section  
3213 400.051, Florida Statutes, is amended to read:

3214 400.051 Homes or institutions exempt from the provisions  
3215 of this part.--

3216 (1) The following shall be exempt from the provisions of  
3217 this part:

3218 (b) Any hospital, as defined in s. 395.002~~(11)~~, that is  
3219 licensed under chapter 395.

3220 Section 66. Section 400.062, Florida Statutes, is amended  
3221 to read:

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3222 400.062 License required; fee; disposition; ~~display;~~  
3223 ~~transfer.~~--

3224 (1) The requirements of part II of chapter 408 shall apply  
3225 to the provision of services that require licensure pursuant to  
3226 this part and part II of chapter 408 and to entities licensed by  
3227 or applying for such licensure from the Agency for Health Care  
3228 Administration pursuant to this part. However, each applicant  
3229 for licensure and each licensee is exempt from s. 408.810(7). ~~It~~  
3230 ~~is unlawful to operate or maintain a facility without first~~  
3231 ~~obtaining from the agency a license authorizing such operation.~~

3232 (2) Separate licenses shall be required for facilities  
3233 maintained in separate premises, even though operated under the  
3234 same management. However, a separate license shall not be  
3235 required for separate buildings on the same grounds.

3236 (3) In accordance with s. 408.805, an applicant or  
3237 licensee shall pay a fee for each license application submitted  
3238 under this part, part II of chapter 408, and applicable rules.  
3239 ~~The annual license fee required for each license issued under~~  
3240 ~~this part shall be comprised of two parts. Part I of the license~~  
3241 ~~fee shall be the basic license fee. The rate per bed for the~~  
3242 ~~basic license fee shall be established biennially ~~annually~~ and~~  
3243 ~~shall be \$100 ~~\$50~~ per bed unless modified by rule. ~~The agency~~~~  
3244 ~~may adjust the per bed licensure fees by the Consumer Price~~  
3245 ~~Index based on the 12 months immediately preceding the increase~~  
3246 ~~to cover the cost of regulation under this part. Part II of the~~  
3247 ~~license fee shall be the resident protection fee, which shall be~~  
3248 ~~at the rate of not less than 50 ~~25~~ cents per bed. The rate per~~  
3249 ~~bed shall be the minimum rate per bed, and such rate shall~~

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3250 remain in effect until the effective date of a rate per bed  
 3251 adopted by rule by the agency pursuant to this part. At such  
 3252 time as the amount on deposit in the Resident Protection Trust  
 3253 Fund is less than \$1 million, the agency may adopt rules to  
 3254 establish a rate which may not exceed \$20 ~~\$10~~ per bed. The rate  
 3255 per bed shall revert back to the minimum rate per bed when the  
 3256 amount on deposit in the Resident Protection Trust Fund reaches  
 3257 \$1 million, except that any rate established by rule shall  
 3258 remain in effect until such time as the rate has been equally  
 3259 required for each license issued under this part. Any amount in  
 3260 the fund in excess of \$2 million shall revert to the Health Care  
 3261 Trust Fund and may not be expended without prior approval of the  
 3262 Legislature. The agency may prorate the biennial ~~annual~~ license  
 3263 fee for those licenses which it issues under this part for less  
 3264 than 2 years ~~1 year~~. ~~Funds generated by license fees collected~~  
 3265 ~~in accordance with this section shall be deposited in the~~  
 3266 ~~following manner:~~

3267 ~~(a) The basic license fee collected shall be deposited in~~  
 3268 ~~the Health Care Trust Fund, established for the sole purpose of~~  
 3269 ~~carrying out this part. When the balance of the account~~  
 3270 ~~established in the Health Care Trust Fund for the deposit of~~  
 3271 ~~fees collected as authorized under this section exceeds one-~~  
 3272 ~~third of the annual cost of regulation under this part, the~~  
 3273 ~~excess shall be used to reduce the licensure fees in the next~~  
 3274 ~~year.~~

3275 ~~(b)~~ The resident protection fee collected shall be  
 3276 deposited in the Resident Protection Trust Fund for the sole  
 3277 purpose of paying, in accordance with the provisions of s.

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3278 400.063, for the appropriate alternate placement, care, and  
 3279 treatment of a resident removed from a nursing home facility on  
 3280 a temporary, emergency basis or for the maintenance and care of  
 3281 residents in a nursing home facility pending removal and  
 3282 alternate placement.

3283 (4) Counties or municipalities applying for licenses under  
 3284 this part are exempt from license fees authorized under this  
 3285 section.

3286 ~~(5) The license shall be displayed in a conspicuous place~~  
 3287 ~~inside the facility.~~

3288 ~~(6) A license shall be valid only in the hands of the~~  
 3289 ~~individual, firm, partnership, association, or corporation to~~  
 3290 ~~whom it is issued and shall not be subject to sale, assignment,~~  
 3291 ~~or other transfer, voluntary or involuntary, nor shall a license~~  
 3292 ~~be valid for any premises other than those for which originally~~  
 3293 ~~issued.~~

3294 Section 67. Subsection (1) of section 400.063, Florida  
 3295 Statutes, is amended to read:

3296 400.063 Resident Protection Trust Fund.--

3297 (1) A Resident Protection Trust Fund shall be established  
 3298 for the purpose of collecting and disbursing funds generated  
 3299 from the license fees and administrative fines as provided for  
 3300 in ss. 393.0673(2), 400.062(3) ~~(b)~~, ~~400.111(1)~~, 400.121(2), and  
 3301 400.23(8). Such funds shall be for the sole purpose of paying  
 3302 for the appropriate alternate placement, care, and treatment of  
 3303 residents who are removed from a facility licensed under this  
 3304 part or a facility specified in s. 393.0678(1) in which the  
 3305 agency determines that existing conditions or practices

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3306 constitute an immediate danger to the health, safety, or  
 3307 security of the residents. If the agency determines that it is  
 3308 in the best interest of the health, safety, or security of the  
 3309 residents to provide for an orderly removal of the residents  
 3310 from the facility, the agency may utilize such funds to maintain  
 3311 and care for the residents in the facility pending removal and  
 3312 alternative placement. The maintenance and care of the residents  
 3313 shall be under the direction and control of a receiver appointed  
 3314 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may  
 3315 be expended in an emergency upon a filing of a petition for a  
 3316 receiver, upon the declaration of a state of local emergency  
 3317 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local  
 3318 order of evacuation of a facility by emergency personnel to  
 3319 protect the health and safety of the residents.

3320 Section 68. Section 400.071, Florida Statutes, is amended  
 3321 to read:

3322 400.071 Application for license.--

3323 ~~(1) An application for a license as required by s. 400.062~~  
 3324 ~~shall be made to the agency on forms furnished by it and shall~~  
 3325 ~~be accompanied by the appropriate license fee.~~

3326 (1)(2) The application for a license shall be under oath  
 3327 and shall contain the following:

3328 ~~(a) The name, address, and social security number of the~~  
 3329 ~~applicant if an individual; if the applicant is a firm,~~  
 3330 ~~partnership, or association, its name, address, and employer~~  
 3331 ~~identification number (EIN), and the name and address of any~~  
 3332 ~~controlling interest; and the name by which the facility is to~~  
 3333 ~~be known.~~



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3334 ~~(b) The name of any person whose name is required on the~~  
 3335 ~~application under the provisions of paragraph (a) and who owns~~  
 3336 ~~at least a 10 percent interest in any professional service,~~  
 3337 ~~firm, association, partnership, or corporation providing goods,~~  
 3338 ~~leases, or services to the facility for which the application is~~  
 3339 ~~made, and the name and address of the professional service,~~  
 3340 ~~firm, association, partnership, or corporation in which such~~  
 3341 ~~interest is held.~~

3342 ~~(c) The location of the facility for which a license is~~  
 3343 ~~sought and an indication, as in the original application, that~~  
 3344 ~~such location conforms to the local zoning ordinances.~~

3345 ~~(d) The name of the person or persons under whose~~  
 3346 ~~management or supervision the facility will be conducted and the~~  
 3347 ~~name of the administrator.~~

3348 (a)(e) A signed affidavit disclosing any financial or  
 3349 ownership interest that a controlling interest as defined in  
 3350 part II of chapter 408 ~~person or entity described in paragraph~~  
 3351 ~~(a) or paragraph (d)~~ has held in the last 5 years in any entity  
 3352 licensed by this state or any other state to provide health or  
 3353 residential care which has closed voluntarily or involuntarily;  
 3354 has filed for bankruptcy; has had a receiver appointed; has had  
 3355 a license denied, suspended, or revoked; or has had an  
 3356 injunction issued against it which was initiated by a regulatory  
 3357 agency. The affidavit must disclose the reason any such entity  
 3358 was closed, whether voluntarily or involuntarily.

3359 (b)(f) The total number of beds and the total number of  
 3360 Medicare and Medicaid certified beds.

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3361        (c)~~(g)~~ Information relating to ~~the number, experience, and~~  
 3362 ~~training of the employees of the facility and of the moral~~  
 3363 ~~character of the applicant and employees~~ that ~~which~~ the agency  
 3364 requires by rule, ~~including the name and address of any nursing~~  
 3365 ~~home with which the applicant or employees have been affiliated~~  
 3366 ~~through ownership or employment within 5 years of the date of~~  
 3367 ~~the application for a license and the record of any criminal~~  
 3368 ~~convictions involving the applicant and any criminal convictions~~  
 3369 ~~involving an employee if known by the applicant after inquiring~~  
 3370 ~~of the employee.~~ The applicant must demonstrate that sufficient  
 3371 numbers of qualified staff, by training or experience, will be  
 3372 employed to properly care for the type and number of residents  
 3373 who will reside in the facility.

3374        (d)~~(h)~~ Copies of any civil verdict or judgment involving  
 3375 the applicant rendered within the 10 years preceding the  
 3376 application, relating to medical negligence, violation of  
 3377 residents' rights, or wrongful death. As a condition of  
 3378 licensure, the licensee agrees to provide to the agency copies  
 3379 of any new verdict or judgment involving the applicant, relating  
 3380 to such matters, within 30 days after filing with the clerk of  
 3381 the court. The information required in this paragraph shall be  
 3382 maintained in the facility's licensure file and in an agency  
 3383 database which is available as a public record.

3384        ~~(3)~~ ~~The applicant shall submit evidence which establishes~~  
 3385 ~~the good moral character of the applicant, manager, supervisor,~~  
 3386 ~~and administrator. No applicant, if the applicant is an~~  
 3387 ~~individual; no member of a board of directors or officer of an~~  
 3388 ~~applicant, if the applicant is a firm, partnership, association,~~

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3389 ~~or corporation; and no licensed nursing home administrator shall~~  
 3390 ~~have been convicted, or found guilty, regardless of~~  
 3391 ~~adjudication, of a crime in any jurisdiction which affects or~~  
 3392 ~~may potentially affect residents in the facility.~~

3393 ~~(4) Each applicant for licensure must comply with the~~  
 3394 ~~following requirements:~~

3395 ~~(a) Upon receipt of a completed, signed, and dated~~  
 3396 ~~application, the agency shall require background screening of~~  
 3397 ~~the applicant, in accordance with the level 2 standards for~~  
 3398 ~~screening set forth in chapter 435. As used in this subsection,~~  
 3399 ~~the term "applicant" means the facility administrator, or~~  
 3400 ~~similarly titled individual who is responsible for the day-to-~~  
 3401 ~~day operation of the licensed facility, and the facility~~  
 3402 ~~financial officer, or similarly titled individual who is~~  
 3403 ~~responsible for the financial operation of the licensed~~  
 3404 ~~facility.~~

3405 ~~(b) The agency may require background screening for a~~  
 3406 ~~member of the board of directors of the licensee or an officer~~  
 3407 ~~or an individual owning 5 percent or more of the licensee if the~~  
 3408 ~~agency has probable cause to believe that such individual has~~  
 3409 ~~been convicted of an offense prohibited under the level 2~~  
 3410 ~~standards for screening set forth in chapter 435.~~

3411 ~~(c) Proof of compliance with the level 2 background~~  
 3412 ~~screening requirements of chapter 435 which has been submitted~~  
 3413 ~~within the previous 5 years in compliance with any other health~~  
 3414 ~~care or assisted living licensure requirements of this state is~~  
 3415 ~~acceptable in fulfillment of paragraph (a). Proof of compliance~~  
 3416 ~~with background screening which has been submitted within the~~

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3417 ~~previous 5 years to fulfill the requirements of the Financial~~  
 3418 ~~Services Commission and the Office of Insurance Regulation~~  
 3419 ~~pursuant to chapter 651 as part of an application for a~~  
 3420 ~~certificate of authority to operate a continuing care retirement~~  
 3421 ~~community is acceptable in fulfillment of the Department of Law~~  
 3422 ~~Enforcement and Federal Bureau of Investigation background~~  
 3423 ~~check.~~

3424 ~~(d) A provisional license may be granted to an applicant~~  
 3425 ~~when each individual required by this section to undergo~~  
 3426 ~~background screening has met the standards for the Department of~~  
 3427 ~~Law Enforcement background check, but the agency has not yet~~  
 3428 ~~received background screening results from the Federal Bureau of~~  
 3429 ~~Investigation, or a request for a disqualification exemption has~~  
 3430 ~~been submitted to the agency as set forth in chapter 435, but a~~  
 3431 ~~response has not yet been issued. A license may be granted to~~  
 3432 ~~the applicant upon the agency's receipt of a report of the~~  
 3433 ~~results of the Federal Bureau of Investigation background~~  
 3434 ~~screening for each individual required by this section to~~  
 3435 ~~undergo background screening which confirms that all standards~~  
 3436 ~~have been met, or upon the granting of a disqualification~~  
 3437 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 3438 ~~person who is required to undergo level 2 background screening~~  
 3439 ~~may serve in his or her capacity pending the agency's receipt of~~  
 3440 ~~the report from the Federal Bureau of Investigation; however,~~  
 3441 ~~the person may not continue to serve if the report indicates any~~  
 3442 ~~violation of background screening standards and a~~  
 3443 ~~disqualification exemption has not been requested of and granted~~  
 3444 ~~by the agency as set forth in chapter 435.~~

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3445 ~~(e) Each applicant must submit to the agency, with its~~  
3446 ~~application, a description and explanation of any exclusions,~~  
3447 ~~permanent suspensions, or terminations of the applicant from the~~  
3448 ~~Medicare or Medicaid programs. Proof of compliance with~~  
3449 ~~disclosure of ownership and control interest requirements of the~~  
3450 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
3451 ~~submission.~~

3452 ~~(f) Each applicant must submit to the agency a description~~  
3453 ~~and explanation of any conviction of an offense prohibited under~~  
3454 ~~the level 2 standards of chapter 435 by a member of the board of~~  
3455 ~~directors of the applicant, its officers, or any individual~~  
3456 ~~owning 5 percent or more of the applicant. This requirement~~  
3457 ~~shall not apply to a director of a not-for-profit corporation or~~  
3458 ~~organization if the director serves solely in a voluntary~~  
3459 ~~capacity for the corporation or organization, does not regularly~~  
3460 ~~take part in the day-to-day operational decisions of the~~  
3461 ~~corporation or organization, receives no remuneration for his or~~  
3462 ~~her services on the corporation or organization's board of~~  
3463 ~~directors, and has no financial interest and has no family~~  
3464 ~~members with a financial interest in the corporation or~~  
3465 ~~organization, provided that the director and the not-for-profit~~  
3466 ~~corporation or organization include in the application a~~  
3467 ~~statement affirming that the director's relationship to the~~  
3468 ~~corporation satisfies the requirements of this paragraph.~~

3469 ~~(g) An application for license renewal must contain the~~  
3470 ~~information required under paragraphs (e) and (f).~~

3471 ~~(5) The applicant shall furnish satisfactory proof of~~  
3472 ~~financial ability to operate and conduct the nursing home in~~

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3473 ~~accordance with the requirements of this part and all rules~~  
 3474 ~~adopted under this part, and the agency shall establish~~  
 3475 ~~standards for this purpose, including information reported under~~  
 3476 ~~paragraph (2)(e). The agency also shall establish documentation~~  
 3477 ~~requirements, to be completed by each applicant, that show~~  
 3478 ~~anticipated facility revenues and expenditures, the basis for~~  
 3479 ~~financing the anticipated cash flow requirements of the~~  
 3480 ~~facility, and an applicant's access to contingency financing.~~

3481 ~~(6) If the applicant offers continuing care agreements as~~  
 3482 ~~defined in chapter 651, proof shall be furnished that such~~  
 3483 ~~applicant has obtained a certificate of authority as required~~  
 3484 ~~for operation under that chapter.~~

3485 (2)(7) As a condition of licensure, each licensee, except  
 3486 one offering continuing care agreements as defined in chapter  
 3487 651, must agree to accept recipients of Title XIX of the Social  
 3488 Security Act on a temporary, emergency basis. The persons whom  
 3489 the agency may require such licensees to accept are those  
 3490 recipients of Title XIX of the Social Security Act who are  
 3491 residing in a facility in which existing conditions constitute  
 3492 an immediate danger to the health, safety, or security of the  
 3493 residents of the facility.

3494 (3)(8) ~~The agency may not issue a license to a nursing~~  
 3495 ~~home that fails to receive a certificate of need under the~~  
 3496 ~~provisions of ss. 408.031-408.045. It is the intent of the~~  
 3497 ~~Legislature that, in reviewing a certificate-of-need application~~  
 3498 ~~to add beds to an existing nursing home facility, preference be~~  
 3499 ~~given to the application of a licensee who has been awarded a~~

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3500 Gold Seal as provided for in s. 400.235, if the applicant  
3501 otherwise meets the review criteria specified in s. 408.035.

3502 (4)~~(9)~~ The agency may develop an abbreviated survey for  
3503 licensure renewal applicable to a licensee that has continuously  
3504 operated as a nursing facility since 1991 or earlier, has  
3505 operated under the same management for at least the preceding 30  
3506 months, and has had during the preceding 30 months no class I or  
3507 class II deficiencies.

3508 (5)~~(10)~~ As a condition of licensure, each facility must  
3509 establish and submit with its application a plan for quality  
3510 assurance and for conducting risk management.

3511 ~~(11) The applicant must provide the agency with proof of a~~  
3512 ~~legal right to occupy the property before a license may be~~  
3513 ~~issued. Proof may include, but is not limited to, copies of~~  
3514 ~~warranty deeds, lease or rental agreements, contracts for deeds,~~  
3515 ~~or quitclaim deeds.~~

3516 Section 69. Subsection (4) of section 400.0712, Florida  
3517 Statutes, is renumbered as subsection (3) and present subsection  
3518 (3) of said section is amended to read:

3519 400.0712 Application for inactive license.--

3520 ~~(3) The agency may issue an inactive license to a nursing~~  
3521 ~~home that will be temporarily unable to provide services but is~~  
3522 ~~reasonably expected to resume services.~~

3523 ~~(a) An inactive license issued under this subsection may~~  
3524 ~~be issued for a period not to exceed 12 months and may be~~  
3525 ~~renewed by the agency for an additional 6 months upon~~  
3526 ~~demonstration of progress toward reopening.~~

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3527 ~~(b) All licensure fees must be current and paid in full,~~  
 3528 ~~and may be prorated as provided by agency rule, before the~~  
 3529 ~~inactive license is issued.~~

3530 ~~(c) Reactivation of an inactive license requires that the~~  
 3531 ~~applicant pay all licensure fees and be inspected by the agency~~  
 3532 ~~to confirm that all of the requirements of this part and~~  
 3533 ~~applicable rules are met.~~

3534 Section 70. Section 400.102, Florida Statutes, is amended  
 3535 to read:

3536 400.102 Action by agency against licensee; grounds.--

3537 ~~(1)~~ In addition to the grounds listed in part II of  
 3538 chapter 408, any of the following conditions shall be grounds  
 3539 for action by the agency against a licensee:

3540 (1)(a) An intentional or negligent act materially  
 3541 affecting the health or safety of residents of the facility;

3542 (2)(b) Misappropriation or conversion of the property of a  
 3543 resident of the facility;

3544 (3)(e) Failure to follow the criteria and procedures  
 3545 provided under part I of chapter 394 relating to the  
 3546 transportation, voluntary admission, and involuntary examination  
 3547 of a nursing home resident; or

3548 ~~(d) Violation of provisions of this part or rules adopted~~  
 3549 ~~under this part;~~

3550 (4)(e) Fraudulent altering, defacing, or falsifying any  
 3551 medical or nursing home records, or causing or procuring any of  
 3552 these offenses to be committed. ~~;~~ ~~or~~

3553 ~~(f) Any act constituting a ground upon which application~~  
 3554 ~~for a license may be denied.~~



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3555 ~~(2) If the agency has reasonable belief that any of such~~  
 3556 ~~conditions exist, it shall take the following action:~~

3557 ~~(a) In the case of an applicant for original licensure,~~  
 3558 ~~denial action as provided in s. 400.121.~~

3559 ~~(b) In the case of an applicant for relicensure or a~~  
 3560 ~~current licensee, administrative action as provided in s.~~  
 3561 ~~400.121 or injunctive action as authorized by s. 400.125.~~

3562 ~~(c) In the case of a facility operating without a license,~~  
 3563 ~~injunctive action as authorized in s. 400.125.~~

3564 Section 71. Section 400.111, Florida Statutes, is amended  
 3565 to read:

3566 400.111 Disclosure of controlling interest ~~Expiration of~~  
 3567 ~~license; renewal.--~~

3568 ~~(1) A license issued for the operation of a facility,~~  
 3569 ~~unless sooner suspended or revoked, shall expire on the date set~~  
 3570 ~~forth by the agency on the face of the license or 1 year from~~  
 3571 ~~the date of issuance, whichever occurs first. Ninety days prior~~  
 3572 ~~to the expiration date, an application for renewal shall be~~  
 3573 ~~submitted to the agency. A license shall be renewed upon the~~  
 3574 ~~filing of an application on forms furnished by the agency if the~~  
 3575 ~~applicant has first met the requirements established under this~~  
 3576 ~~part and all rules adopted under this part. The failure to file~~  
 3577 ~~an application within the period established in this subsection~~  
 3578 ~~shall result in a late fee charged to the licensee by the agency~~  
 3579 ~~in an amount equal to 50 percent of the fee in effect on the~~  
 3580 ~~last preceding regular renewal date. A late fee shall be levied~~  
 3581 ~~for each and every day the filing of the license application is~~  
 3582 ~~delayed, but in no event shall such fine aggregate more than~~

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3583  ~~\$5,000. If an application is received after the required filing~~  
 3584  ~~date and exhibits a hand-canceled postmark obtained from a~~  
 3585  ~~United States Post Office dated on or before the required filing~~  
 3586  ~~date, no fine will be levied.~~

3587  ~~(2) A licensee against whom a revocation or suspension~~  
 3588  ~~proceeding, or any judicial proceeding instituted by the agency~~  
 3589  ~~under this part, is pending at the time of license renewal may~~  
 3590  ~~be issued a temporary license effective until final disposition~~  
 3591  ~~by the agency of such proceeding. If judicial relief is sought~~  
 3592  ~~from the aforesaid administrative order, the court having~~  
 3593  ~~jurisdiction may issue such orders regarding the issuance of a~~  
 3594  ~~temporary permit during the pendency of the judicial proceeding.~~

3595  ~~(3) The agency may not renew a license if the applicant~~  
 3596  ~~has failed to pay any fines assessed by final order of the~~  
 3597  ~~agency or final order of the Health Care Financing~~  
 3598  ~~Administration under requirements for federal certification. The~~  
 3599  ~~agency may renew the license of an applicant following the~~  
 3600  ~~assessment of a fine by final order if such fine has been paid~~  
 3601  ~~into an escrow account pending an appeal of a final order.~~

3602  ~~(4) In addition to the requirements of part II of chapter~~  
 3603  ~~408, the licensee shall submit a signed affidavit disclosing any~~  
 3604  ~~financial or ownership interest that a controlling interest~~  
 3605  ~~licensee has held within the last 5 years in any entity licensed~~  
 3606  ~~by the state or any other state to provide health or residential~~  
 3607  ~~care which entity has closed voluntarily or involuntarily; has~~  
 3608  ~~filed for bankruptcy; has had a receiver appointed; has had a~~  
 3609  ~~license denied, suspended, or revoked; or has had an injunction~~  
 3610  ~~issued against it which was initiated by a regulatory agency.~~

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3611 The affidavit must disclose the reason such entity was closed,  
3612 whether voluntarily or involuntarily.

3613 Section 72. Subsections (2) and (5) of section 400.1183,  
3614 Florida Statutes, are amended to read:

3615 400.1183 Resident grievance procedures.--

3616 (2) Each facility shall maintain records of all grievances  
3617 and shall report ~~annually~~ to the agency at the time of  
3618 relicensure the total number of grievances handled during the  
3619 prior licensure period, a categorization of the cases underlying  
3620 the grievances, and the final disposition of the grievances.

3621 ~~(5) The agency may impose an administrative fine, in~~  
3622 ~~accordance with s. 400.121, against a nursing home facility for~~  
3623 ~~noncompliance with this section.~~

3624 Section 73. Section 400.121, Florida Statutes, is amended  
3625 to read:

3626 400.121 Denial, suspension, revocation of license;  
3627 moratorium ~~on admissions~~; administrative fines; procedure; order  
3628 to increase staffing.--

3629 (1) The agency may deny an application, revoke or suspend  
3630 a license, and ~~or~~ impose an administrative fine, not to exceed  
3631 \$500 per violation per day for the violation of any provision of  
3632 this part, part II of chapter 408, or applicable rules, against  
3633 any applicant or licensee for the following violations by the  
3634 applicant, licensee, or other controlling interest:

3635 (a) A violation of any provision of this part, part II of  
3636 chapter 408, or applicable rules ~~s. 400.102(1); or~~

3637 ~~(b) A demonstrated pattern of deficient practice;~~

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3638 ~~(c) Failure to pay any outstanding fines assessed by final~~  
 3639 ~~order of the agency or final order of the Health Care Financing~~  
 3640 ~~Administration pursuant to requirements for federal~~  
 3641 ~~certification. The agency may renew or approve the license of an~~  
 3642 ~~applicant following the assessment of a fine by final order if~~  
 3643 ~~such fine has been paid into an escrow account pending an appeal~~  
 3644 ~~of a final order;~~

3645 ~~(d) Exclusion from the Medicare or Medicaid program; or~~

3646 (b)~~(e)~~ An adverse action by a regulatory agency against  
 3647 any other licensed facility that has a common controlling  
 3648 interest with the licensee or applicant against whom the action  
 3649 under this section is being brought. If the adverse action  
 3650 involves solely the management company, the applicant or  
 3651 licensee shall be given 30 days to remedy before final action is  
 3652 taken. If the adverse action is based solely upon actions by a  
 3653 controlling interest, the applicant or licensee may present  
 3654 factors in mitigation of any proposed penalty based upon a  
 3655 showing that such penalty is inappropriate under the  
 3656 circumstances.

3657  
 3658 All hearings shall be held within the county in which the  
 3659 licensee or applicant operates or applies for a license to  
 3660 operate a facility as defined herein.

3661 (2) Except as provided in s. 400.23(8), a \$500 fine shall  
 3662 be imposed for each violation. Each day a violation of this part  
 3663 occurs constitutes a separate violation and is subject to a  
 3664 separate fine, but in no event may any fine aggregate more than  
 3665 \$5,000. A fine may be levied pursuant to this section in lieu of

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3666 and notwithstanding the provisions of s. 400.23. Fines paid  
3667 shall be deposited in the Resident Protection Trust Fund and  
3668 expended as provided in s. 400.063.

3669 (3) The agency shall revoke or deny a nursing home license  
3670 if the licensee or controlling interest operates a facility in  
3671 this state that:

3672 (a) Has had two moratoria imposed by final order for  
3673 substandard quality of care, as defined by 42 C.F.R. part 483,  
3674 within any 30-month period;

3675 (b) Is conditionally licensed for 180 or more continuous  
3676 days;

3677 (c) Is cited for two class I deficiencies arising from  
3678 unrelated circumstances during the same survey or investigation;  
3679 or

3680 (d) Is cited for two class I deficiencies arising from  
3681 separate surveys or investigations within a 30-month period.

3682  
3683 The licensee may present factors in mitigation of revocation,  
3684 and the agency may make a determination not to revoke a license  
3685 based upon a showing that revocation is inappropriate under the  
3686 circumstances.

3687 ~~(4) The agency may issue an order immediately suspending~~  
3688 ~~or revoking a license when it determines that any condition in~~  
3689 ~~the facility presents a danger to the health, safety, or welfare~~  
3690 ~~of the residents in the facility.~~

3691 ~~(5)(a) The agency may impose an immediate moratorium on~~  
3692 ~~admissions to any facility when the agency determines that any~~

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3693 ~~condition in the facility presents a threat to the health,~~  
 3694 ~~safety, or welfare of the residents in the facility.~~

3695 (4)~~(b)~~ Where the agency has placed a moratorium ~~on~~  
 3696 ~~admissions~~ on any facility two times within a 7-year period, the  
 3697 agency may suspend the nursing home license ~~of the nursing home~~  
 3698 ~~and the facility's management company, if any. During the~~  
 3699 ~~suspension, the agency shall take the facility into receivership~~  
 3700 ~~and shall operate the facility.~~

3701 (5)~~(6)~~ An action taken by the agency to deny, suspend, or  
 3702 revoke a facility's license under this part shall be heard by  
 3703 the Division of Administrative Hearings of the Department of  
 3704 Management Services within 60 days after the assignment of an  
 3705 administrative law judge, unless the time limitation is waived  
 3706 by both parties. The administrative law judge must render a  
 3707 decision within 30 days after receipt of a proposed recommended  
 3708 order.

3709 (6)~~(7)~~ The agency is authorized to require a facility to  
 3710 increase staffing beyond the minimum required by law, if the  
 3711 agency has taken administrative action against the facility for  
 3712 care-related deficiencies directly attributable to insufficient  
 3713 staff. Under such circumstances, the facility may request an  
 3714 expedited interim rate increase. The agency shall process the  
 3715 request within 10 days after receipt of all required  
 3716 documentation from the facility. A facility that fails to  
 3717 maintain the required increased staffing is subject to a fine of  
 3718 \$500 per day for each day the staffing is below the level  
 3719 required by the agency.

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3720           ~~(8) An administrative proceeding challenging an action~~  
 3721 ~~taken by the agency pursuant to this section shall be reviewed~~  
 3722 ~~on the basis of the facts and conditions that resulted in such~~  
 3723 ~~agency action.~~

3724           (7)~~(9)~~ Notwithstanding any other provision of law to the  
 3725 contrary, agency action in an administrative proceeding under  
 3726 this section may be overcome by the licensee upon a showing by a  
 3727 preponderance of the evidence to the contrary.

3728           ~~(8)~~(10) In addition to any other sanction imposed under  
 3729 this part, in any final order that imposes sanctions, the agency  
 3730 may assess costs related to the investigation and prosecution of  
 3731 the case. Payment of agency costs shall be deposited into the  
 3732 Health Care Trust Fund.

3733           Section 74. Section 400.125, Florida Statutes, is  
 3734 repealed.

3735           Section 75. Subsections (14), (15), and (16) of section  
 3736 400.141, Florida Statutes, are amended to read:

3737           400.141 Administration and management of nursing home  
 3738 facilities.--Every licensed facility shall comply with all  
 3739 applicable standards and rules of the agency and shall:

3740           (14) Submit to the agency the information specified in s.  
 3741 400.071(1)(a)~~(2)(e)~~ for a management company within 30 days  
 3742 after the effective date of the management agreement.

3743           (15)(a) By the 15th calendar day of the month following  
 3744 the end of each calendar quarter, submit ~~semiannually~~ to the  
 3745 agency, ~~or more frequently if requested by the agency,~~  
 3746 information regarding facility staff-to-resident ratios, staff  
 3747 turnover, and staff stability, including information regarding

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3748 certified nursing assistants, licensed nurses, the director of  
3749 nursing, and the facility administrator. For purposes of this  
3750 reporting:

3751 1.~~(a)~~ Staff-to-resident ratios must be reported in the  
3752 categories specified in s. 400.23(3)(a) and applicable rules.  
3753 The ratio must be reported as an average for the most recent  
3754 calendar quarter.

3755 2.~~(b)~~ Staff turnover must be reported for the most recent  
3756 12-month period ending on the last workday of the most recent  
3757 calendar quarter prior to the date the information is submitted.  
3758 The turnover rate must be computed quarterly, with the annual  
3759 rate being the cumulative sum of the quarterly rates. The  
3760 turnover rate is the total number of terminations or separations  
3761 experienced during the quarter, excluding any employee  
3762 terminated during a probationary period of 3 months or less,  
3763 divided by the total number of staff employed at the end of the  
3764 period for which the rate is computed, and expressed as a  
3765 percentage.

3766 3.~~(c)~~ The formula for determining staff stability is the  
3767 total number of employees that have been employed for more than  
3768 12 months, divided by the total number of employees employed at  
3769 the end of the most recent calendar quarter, and expressed as a  
3770 percentage.

3771 (b)~~(d)~~ A nursing facility that has failed to comply with  
3772 state minimum-staffing requirements for 2 consecutive days is  
3773 prohibited from accepting new admissions until the facility has  
3774 achieved the minimum-staffing requirements for a period of 6  
3775 consecutive days. For the purposes of this paragraph, any person



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3776 | who was a resident of the facility and was absent from the  
 3777 | facility for the purpose of receiving medical care at a separate  
 3778 | location or was on a leave of absence is not considered a new  
 3779 | admission. Failure to impose such an admissions moratorium  
 3780 | constitutes a class II deficiency.

3781 |        (c)~~(e)~~ A nursing facility that ~~which~~ does not have a  
 3782 | conditional license may be cited for failure to comply with the  
 3783 | standards in s. 400.23(3)(a) only if it has failed to meet those  
 3784 | standards on 2 consecutive days or if it has failed to meet at  
 3785 | least 97 percent of those standards on any one day.

3786 |        (d)~~(f)~~ A facility that ~~which~~ has a conditional license  
 3787 | must be in compliance with the standards in s. 400.23(3)(a) at  
 3788 | all times from the effective date of the conditional license  
 3789 | until the effective date of a subsequent standard license.

3790 |  
 3791 | Nothing in this subsection ~~section~~ shall limit the agency's  
 3792 | ability to impose a deficiency or take other actions if a  
 3793 | facility does not have enough staff to meet the residents'  
 3794 | needs.

3795 |        (16) Report by the 10th calendar day of each month ~~monthly~~  
 3796 | the number of vacant beds in the facility that ~~which~~ are  
 3797 | available for resident occupancy on the last day of the prior  
 3798 | month ~~information is reported.~~

3800 | Facilities that have been awarded a Gold Seal under the program  
 3801 | established in s. 400.235 may develop a plan to provide  
 3802 | certified nursing assistant training as prescribed by federal

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3803 regulations and state rules and may apply to the agency for  
3804 approval of their program.

3805 Section 76. Subsection (6) of section 400.162, Florida  
3806 Statutes, is amended to read:

3807 400.162 Property and personal affairs of residents.--

3808 (6) In the event of the death of a resident, a licensee  
3809 shall return all refunds and funds held in trust to the  
3810 resident's personal representative, if one has been appointed at  
3811 the time the nursing home disburses such funds, and if not, to  
3812 the resident's spouse or adult next of kin named in a  
3813 beneficiary designation form provided by the nursing home to the  
3814 resident. In the event the resident has not completed the  
3815 beneficiary designation form or the resident's designated spouse  
3816 or adult next of kin is deceased or cannot be located and no  
3817 personal representative has been appointed, the nursing home may  
3818 release funds to the funeral home that is handling the deceased  
3819 resident's remains for the funeral home's actual charges for the  
3820 services performed. In all other situations ~~no spouse or adult~~  
3821 ~~next of kin or such person cannot be located,~~ funds due to the  
3822 resident shall be placed in an interest-bearing account in a  
3823 bank, savings association, trust company, or credit union  
3824 located in this state and, if possible, located within the same  
3825 district in which the facility is located, which funds shall not  
3826 be represented as part of the assets of the facility on a  
3827 financial statement, and the licensee shall maintain such  
3828 account until such time as the trust funds are disbursed  
3829 pursuant to the provisions of the Florida Probate Code. All  
3830 other property of a deceased resident being held in trust by the

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3831 | licensee shall be returned to the resident's personal  
 3832 | representative, if one has been appointed at the time the  
 3833 | nursing home disburses such property, and if not, to the  
 3834 | resident's spouse or adult next of kin named in a beneficiary  
 3835 | designation form provided by the nursing home to the resident.  
 3836 | In the event the resident has no spouse or adult next of kin or  
 3837 | such person cannot be located, property being held in trust  
 3838 | shall be safeguarded until such time as the property is  
 3839 | disbursed pursuant to the provisions of the Florida Probate  
 3840 | Code. The trust funds and property of deceased residents shall  
 3841 | be kept separate from the funds and the property of the licensee  
 3842 | and from the funds and property of the residents of the  
 3843 | facility. The nursing home needs to maintain only one account in  
 3844 | which the trust funds amounting to less than \$100 of deceased  
 3845 | residents are placed. However, it shall be the obligation of the  
 3846 | nursing home to maintain adequate records to permit compilation  
 3847 | of interest due each individual resident's account. Separate  
 3848 | accounts shall be maintained with respect to trust funds of  
 3849 | deceased residents equal to or in excess of \$100. In the event  
 3850 | the trust funds of the deceased resident are not disbursed  
 3851 | pursuant to the provisions of the Florida Probate Code within 2  
 3852 | years of the death of the resident, the trust funds shall be  
 3853 | deposited in the Resident Protection Trust Fund and expended as  
 3854 | provided for in s. 400.063, notwithstanding the provisions of  
 3855 | any other law of this state. Any other property of a deceased  
 3856 | resident held in trust by a licensee which is not disbursed in  
 3857 | accordance with the provisions of the Florida Probate Code shall  
 3858 | escheat to the state as provided by law.

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3859 Section 77. Section 400.179, Florida Statutes, is amended  
3860 to read:

3861 400.179 ~~Sale or transfer of ownership of a nursing~~  
3862 ~~facility;~~ Liability for Medicaid underpayments and  
3863 overpayments.--

3864 (1) It is the intent of the Legislature to protect the  
3865 rights of nursing home residents and the security of public  
3866 funds when a nursing facility is sold or the ownership is  
3867 transferred.

3868 ~~(2) Whenever a nursing facility is sold or the ownership~~  
3869 ~~is transferred, including leasing, the transferee shall make~~  
3870 ~~application to the agency for a new license at least 90 days~~  
3871 ~~prior to the date of transfer of ownership.~~

3872 ~~(3) The transferor shall notify the agency in writing at~~  
3873 ~~least 90 days prior to the date of transfer of ownership. The~~  
3874 ~~transferor shall be responsible and liable for the lawful~~  
3875 ~~operation of the nursing facility and the welfare of the~~  
3876 ~~residents domiciled in the facility until the date the~~  
3877 ~~transferee is licensed by the agency. The transferor shall be~~  
3878 ~~liable for any and all penalties imposed against the facility~~  
3879 ~~for violations occurring prior to the date of transfer of~~  
3880 ~~ownership.~~

3881 ~~(4) The transferor shall, prior to transfer of ownership,~~  
3882 ~~repay or make arrangements to repay to the agency or the~~  
3883 ~~Department of Children and Family Services any amounts owed to~~  
3884 ~~the agency or the department. Should the transferor fail to~~  
3885 ~~repay or make arrangements to repay the amounts owed to the~~  
3886 ~~agency or the department prior to the transfer of ownership, the~~

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3887 | ~~issuance of a license to the transferee shall be delayed until~~  
 3888 | ~~repayment or until arrangements for repayment are made.~~

3889 |       (2)~~(5)~~ Because any transfer of a nursing facility may  
 3890 | expose the fact that Medicaid may have underpaid or overpaid the  
 3891 | transferor, and because in most instances, any such underpayment  
 3892 | or overpayment can only be determined following a formal field  
 3893 | audit, the liabilities for any such underpayments or  
 3894 | overpayments shall be as follows:

3895 |       (a) The Medicaid program shall be liable to the transferor  
 3896 | for any underpayments owed during the transferor's period of  
 3897 | operation of the facility.

3898 |       (b) Without regard to whether the transferor had leased or  
 3899 | owned the nursing facility, the transferor shall remain liable  
 3900 | to the Medicaid program for all Medicaid overpayments received  
 3901 | during the transferor's period of operation of the facility,  
 3902 | regardless of when determined.

3903 |       (c) Where the facility transfer takes any form of a sale  
 3904 | of assets, in addition to the transferor's continuing liability  
 3905 | for any such overpayments, if the transferor fails to meet these  
 3906 | obligations, the transferee shall be liable for all liabilities  
 3907 | that can be readily identifiable 90 days in advance of the  
 3908 | transfer. Such liability shall continue in succession until the  
 3909 | debt is ultimately paid or otherwise resolved. It shall be the  
 3910 | burden of the transferee to determine the amount of all such  
 3911 | readily identifiable overpayments from the Agency for Health  
 3912 | Care Administration, and the agency shall cooperate in every way  
 3913 | with the identification of such amounts. Readily identifiable

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3914 overpayments shall include overpayments that will result from,  
3915 but not be limited to:

- 3916 1. Medicaid rate changes or adjustments;
- 3917 2. Any depreciation recapture;
- 3918 3. Any recapture of fair rental value system indexing; or
- 3919 4. Audits completed by the agency.

3920  
3921 The transferor shall remain liable for any such Medicaid  
3922 overpayments that were not readily identifiable 90 days in  
3923 advance of the nursing facility transfer.

3924 (d) Where the transfer involves a facility that has been  
3925 leased by the transferor:

3926 1. The transferee shall, as a condition to being issued a  
3927 license by the agency, acquire, maintain, and provide proof to  
3928 the agency of a bond with a term of 30 months, renewable  
3929 annually, in an amount not less than the total of 3 months  
3930 Medicaid payments to the facility computed on the basis of the  
3931 preceding 12-month average Medicaid payments to the facility.

3932 2. A leasehold licensee may meet the requirements of  
3933 subparagraph 1. by payment of a nonrefundable fee, paid at  
3934 initial licensure, paid at the time of any subsequent change of  
3935 ownership, and paid annually thereafter ~~at the time of any~~  
3936 ~~subsequent annual license renewal~~, in the amount of 2 percent of  
3937 the total of 3 months' Medicaid payments to the facility  
3938 computed on the basis of the preceding 12-month average Medicaid  
3939 payments to the facility. If a preceding 12-month average is not  
3940 available, projected Medicaid payments may be used. The fee  
3941 shall be deposited into the Health Care Trust Fund and shall be

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3942 | accounted for separately as a Medicaid nursing home overpayment  
 3943 | account. These fees shall be used at the sole discretion of the  
 3944 | agency to repay nursing home Medicaid overpayments. Payment of  
 3945 | this fee shall not release the licensee from any liability for  
 3946 | any Medicaid overpayments, nor shall payment bar the agency from  
 3947 | seeking to recoup overpayments from the licensee and any other  
 3948 | liable party. As a condition of exercising this lease bond  
 3949 | alternative, licensees paying this fee must maintain an existing  
 3950 | lease bond through the end of the 30-month term period of that  
 3951 | bond. The agency is herein granted specific authority to  
 3952 | promulgate all rules pertaining to the administration and  
 3953 | management of this account, including withdrawals from the  
 3954 | account, subject to federal review and approval. This provision  
 3955 | shall take effect upon becoming law and shall apply to any  
 3956 | leasehold license application.

3957 |       a. The financial viability of the Medicaid nursing home  
 3958 | overpayment account shall be determined by the agency through  
 3959 | annual review of the account balance and the amount of total  
 3960 | outstanding, unpaid Medicaid overpayments owing from leasehold  
 3961 | licensees to the agency as determined by final agency audits.

3962 |       ~~b. The agency, in consultation with the Florida Health~~  
 3963 | ~~Care Association and the Florida Association of Homes for the~~  
 3964 | ~~Aging, shall study and make recommendations on the minimum~~  
 3965 | ~~amount to be held in reserve to protect against Medicaid~~  
 3966 | ~~overpayments to leasehold licensees and on the issue of~~  
 3967 | ~~successor liability for Medicaid overpayments upon sale or~~  
 3968 | ~~transfer of ownership of a nursing facility. The agency shall~~  
 3969 | ~~submit the findings and recommendations of the study to the~~

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3970 ~~Governor, the President of the Senate, and the Speaker of the~~  
 3971 ~~House of Representatives by January 1, 2003.~~

3972 3. The leasehold licensee may meet the bond requirement  
 3973 through other arrangements acceptable to the agency. The agency  
 3974 is herein granted specific authority to promulgate rules  
 3975 pertaining to lease bond arrangements.

3976 4. All existing nursing facility licensees, operating the  
 3977 facility as a leasehold, shall acquire, maintain, and provide  
 3978 proof to the agency of the 30-month bond required in  
 3979 subparagraph 1., above, on and after July 1, 1993, for each  
 3980 license renewal.

3981 5. It shall be the responsibility of all nursing facility  
 3982 operators, operating the facility as a leasehold, to renew the  
 3983 30-month bond and to provide proof of such renewal to the agency  
 3984 annually ~~at the time of application for license renewal.~~

3985 6. Any failure of the nursing facility operator to  
 3986 acquire, maintain, renew annually, or provide proof to the  
 3987 agency shall be grounds for the agency to deny, ~~cancel,~~ revoke,  
 3988 and ~~or~~ suspend the facility license to operate such facility and  
 3989 to take any further action, including, but not limited to,  
 3990 enjoining the facility, asserting a moratorium pursuant to part  
 3991 II of chapter 408, or applying for a receiver, deemed necessary  
 3992 to ensure compliance with this section and to safeguard and  
 3993 protect the health, safety, and welfare of the facility's  
 3994 residents. A lease agreement required as a condition of bond  
 3995 financing or refinancing under s. 154.213 by a health facilities  
 3996 authority or required under s. 159.30 by a county or



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3997 municipality is not a leasehold for purposes of this paragraph  
3998 and is not subject to the bond requirement of this paragraph.

3999 Section 78. Subsections (1) and (4) of section 400.18,  
4000 Florida Statutes, are amended to read:

4001 400.18 Closing of nursing facility.--

4002 (1) In addition to the requirements of part II of chapter  
4003 408, ~~Whenever a licensee voluntarily discontinues operation, and~~  
4004 ~~during the period when it is preparing for such discontinuance,~~  
4005 ~~it shall inform the agency not less than 90 days prior to the~~  
4006 ~~discontinuance of operation.~~ the licensee also shall inform each  
4007 ~~the~~ resident or the next of kin, legal representative, or agency  
4008 acting on behalf of the resident of the fact, and the proposed  
4009 time, of ~~such~~ discontinuance of operation and give at least 90  
4010 days' notice so that suitable arrangements may be made for the  
4011 transfer and care of the resident. In the event any resident has  
4012 no such person to represent him or her, the licensee shall be  
4013 responsible for securing a suitable transfer of the resident  
4014 before the discontinuance of operation. The agency shall be  
4015 responsible for arranging for the transfer of those residents  
4016 requiring transfer who are receiving assistance under the  
4017 Medicaid program.

4018 ~~(4) Immediately upon discontinuance of operation of a~~  
4019 ~~facility, the licensee shall surrender the license therefor to~~  
4020 ~~the agency, and the license shall be canceled.~~

4021 Section 79. Subsections (1), (2), and (3) of section  
4022 400.19, Florida Statutes, are amended to read:

4023 400.19 Right of entry and inspection.--

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4024           (1) In accordance with part II of chapter 408, the agency  
 4025 and any duly designated officer or employee thereof or a member  
 4026 of the State Long-Term Care Ombudsman Council or the local long-  
 4027 term care ombudsman council shall have the right to enter upon  
 4028 and into the premises of any facility licensed pursuant to this  
 4029 part, or any distinct nursing home unit of a hospital licensed  
 4030 under chapter 395 or any freestanding facility licensed under  
 4031 chapter 395 that provides extended care or other long-term care  
 4032 services, at any reasonable time in order to determine the state  
 4033 of compliance with the provisions of this part and rules in  
 4034 force pursuant thereto. ~~The right of entry and inspection shall~~  
 4035 ~~also extend to any premises which the agency has reason to~~  
 4036 ~~believe is being operated or maintained as a facility without a~~  
 4037 ~~license, but no such entry or inspection of any premises shall~~  
 4038 ~~be made without the permission of the owner or person in charge~~  
 4039 ~~thereof, unless a warrant is first obtained from the circuit~~  
 4040 ~~court authorizing same. Any application for a facility license~~  
 4041 ~~or renewal thereof, made pursuant to this part, shall constitute~~  
 4042 ~~permission for and complete acquiescence in any entry or~~  
 4043 ~~inspection of the premises for which the license is sought, in~~  
 4044 ~~order to facilitate verification of the information submitted on~~  
 4045 ~~or in connection with the application; to discover, investigate,~~  
 4046 ~~and determine the existence of abuse or neglect; or to elicit,~~  
 4047 ~~receive, respond to, and resolve complaints.~~ The agency shall,  
 4048 within 60 days after receipt of a complaint made by a resident  
 4049 or resident's representative, complete its investigation and  
 4050 provide to the complainant its findings and resolution.

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4051           (2) The agency shall coordinate nursing home facility  
 4052      licensing activities and responsibilities of any duly designated  
 4053      officer or employee involved in nursing home facility inspection  
 4054      to assure necessary, equitable, and consistent supervision of  
 4055      inspection personnel without unnecessary duplication of  
 4056      inspections, consultation services, or complaint investigations.  
 4057      ~~To facilitate such coordination, all rules promulgated by the~~  
 4058      ~~agency pursuant to this part shall be distributed to nursing~~  
 4059      ~~homes licensed under s. 400.062 30 days prior to implementation.~~  
 4060      ~~This requirement does not apply to emergency rules.~~

4061           (3) The agency shall every 15 months conduct at least one  
 4062      unannounced inspection to determine compliance by the licensee  
 4063      with statutes, and with rules promulgated under the provisions  
 4064      of those statutes, governing minimum standards of construction,  
 4065      quality and adequacy of care, and rights of residents. The  
 4066      survey shall be conducted every 6 months for the next 2-year  
 4067      period if the facility has been cited for a class I deficiency,  
 4068      has been cited for two or more class II deficiencies arising  
 4069      from separate surveys or investigations within a 60-day period,  
 4070      or has had three or more substantiated complaints within a 6-  
 4071      month period, each resulting in at least one class I or class II  
 4072      deficiency. In addition to any other fees or fines in this part,  
 4073      the agency shall assess a fine for each facility that is subject  
 4074      to the 6-month survey cycle. The fine for the 2-year period  
 4075      shall be \$6,000, ~~one half to be paid at the completion of each~~  
 4076      ~~survey~~. The agency may adjust this fine by the change in the  
 4077      Consumer Price Index, based on the 12 months immediately  
 4078      preceding the increase, to cover the cost of the additional

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4079 surveys. The agency shall verify through subsequent inspection  
 4080 that any deficiency identified during ~~the annual~~ inspection is  
 4081 corrected. However, the agency may verify the correction of a  
 4082 ~~class III or~~ class IV deficiency unrelated to resident rights or  
 4083 resident care without reinspecting the facility if adequate  
 4084 written documentation has been received from the facility, which  
 4085 provides assurance that the deficiency has been corrected. The  
 4086 giving or causing to be given of advance notice of such  
 4087 unannounced inspections by an employee of the agency to any  
 4088 unauthorized person shall constitute cause for suspension of not  
 4089 fewer than 5 working days according to the provisions of chapter  
 4090 110.

4091 Section 80. Section 400.191, Florida Statutes, is amended  
 4092 to read:

4093 400.191 Availability, distribution, and posting of reports  
 4094 and records.--

4095 (1) The agency shall provide information to the public  
 4096 about all of the licensed nursing home facilities operating in  
 4097 the state. The agency shall, within 60 days after an annual  
 4098 inspection visit or within 30 days after any interim visit to a  
 4099 facility, send copies of the inspection reports to the local  
 4100 long-term care ombudsman council, the agency's local office, and  
 4101 a public library or the county seat for the county in which the  
 4102 facility is located. The agency may provide electronic access to  
 4103 inspection reports as a substitute for sending copies.

4104 (2) The agency shall publish the Nursing Home Guide  
 4105 ~~provide additional information~~ in consumer-friendly printed and

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4106 | electronic formats to assist consumers and their families in  
4107 | comparing and evaluating nursing home facilities.

4108 |         (a) The agency shall provide an Internet site which shall  
4109 | include at least the following information either directly or  
4110 | indirectly through a link to another established site or sites  
4111 | of the agency's choosing:

4112 |             1. A list by name and address of all nursing home  
4113 | facilities in this state, including any prior name a facility  
4114 | was known by during the previous 12-month period.

4115 |             2. Whether such nursing home facilities are proprietary or  
4116 | nonproprietary.

4117 |             3. The current owner of the facility's license and the  
4118 | year that that entity became the owner of the license.

4119 |             4. The name of the owner or owners of each facility and  
4120 | whether the facility is affiliated with a company or other  
4121 | organization owning or managing more than one nursing facility  
4122 | in this state.

4123 |             5. The total number of beds in each facility and the most  
4124 | recently available occupancy levels.

4125 |             6. The number of private and semiprivate rooms in each  
4126 | facility.

4127 |             7. The religious affiliation, if any, of each facility.

4128 |             8. The languages spoken by the administrator and staff of  
4129 | each facility.

4130 |             9. Whether or not each facility accepts Medicare or  
4131 | Medicaid recipients or insurance, health maintenance  
4132 | organization, Veterans Administration, CHAMPUS program, or  
4133 | workers' compensation coverage.

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4134 10. Recreational and other programs available at each  
4135 facility.

4136 11. Special care units or programs offered at each  
4137 facility.

4138 12. Whether the facility is a part of a retirement  
4139 community that offers other services pursuant to part III, part  
4140 IV, or part V.

4141 13. Survey and deficiency information ~~contained on the~~  
4142 ~~Online Survey Certification and Reporting (OSCAR) system of the~~  
4143 ~~federal Health Care Financing Administration, including all~~  
4144 federal and state recertification, licensure annual survey,  
4145 ~~revisit, and complaint survey information, for each facility for~~  
4146 ~~the past 30 45 months. For noncertified nursing homes, state~~  
4147 ~~survey and deficiency information, including licensure annual~~  
4148 ~~survey, revisit, and complaint survey information for the past~~  
4149 30 45 months shall be provided.

4150 14. A summary of the deficiency ~~Online Survey~~  
4151 ~~Certification and Reporting (OSCAR)~~ data for each facility over  
4152 the past 30 45 months. Such summary may include a score, rating,  
4153 or comparison ranking with respect to other facilities based on  
4154 the number of citations received by the facility on  
4155 recertification, licensure ~~of annual~~, revisit, and complaint  
4156 surveys; the severity and scope of the citations; and the number  
4157 of ~~annual~~ recertification surveys the facility has had during  
4158 the past 30 45 months. The score, rating, or comparison ranking  
4159 may be presented in either numeric or symbolic form for the  
4160 intended consumer audience.

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- 4161 (b) The agency shall provide the following information in  
 4162 printed form:
- 4163 1. A list by name and address of all nursing home  
 4164 facilities in this state.
  - 4165 2. Whether such nursing home facilities are proprietary or  
 4166 nonproprietary.
  - 4167 3. The current owner or owners of the facility's license  
 4168 and the year that entity became the owner of the license.
  - 4169 4. The total number of beds, and of private and  
 4170 semiprivate rooms, in each facility.
  - 4171 5. The religious affiliation, if any, of each facility.
  - 4172 6. The name of the owner of each facility and whether the  
 4173 facility is affiliated with a company or other organization  
 4174 owning or managing more than one nursing facility in this state.
  - 4175 7. The languages spoken by the administrator and staff of  
 4176 each facility.
  - 4177 8. Whether or not each facility accepts Medicare or  
 4178 Medicaid recipients or insurance, health maintenance  
 4179 organization, Veterans Administration, CHAMPUS program, or  
 4180 workers' compensation coverage.
  - 4181 9. Recreational programs, special care units, and other  
 4182 programs available at each facility.
  - 4183 10. The Internet address for the site where more detailed  
 4184 information can be seen.
  - 4185 11. A statement advising consumers that each facility will  
 4186 have its own policies and procedures related to protecting  
 4187 resident property.

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4188           12. A summary of the deficiency ~~Online Survey~~  
 4189 ~~Certification and Reporting (OSCAR)~~ data for each facility over  
 4190 the past 45 months. Such summary may include a score, rating, or  
 4191 comparison ranking with respect to other facilities based on the  
 4192 number of citations received by the facility on recertification,  
 4193 licensure ~~annual~~, revisit, and complaint surveys; the severity  
 4194 and scope of the citations; the number of citations; and the  
 4195 number of ~~annual~~ recertification surveys the facility has had  
 4196 during the past 30 ~~45~~ months. The score, rating, or comparison  
 4197 ranking may be presented in either numeric or symbolic form for  
 4198 the intended consumer audience.

4199           ~~(e) For purposes of this subsection, references to the~~  
 4200 ~~Online Survey Certification and Reporting (OSCAR) system shall~~  
 4201 ~~refer to any future system that the Health Care Financing~~  
 4202 ~~Administration develops to replace the current OSCAR system.~~

4203           (c)(d) The agency may provide the following additional  
 4204 information on an Internet site or in printed form as the  
 4205 information becomes available:

- 4206           1. The licensure status history of each facility.
- 4207           2. The rating history of each facility.
- 4208           3. The regulatory history of each facility, which may  
 4209 include federal sanctions, state sanctions, federal fines, state  
 4210 fines, and other actions.
- 4211           4. Whether the facility currently possesses the Gold Seal  
 4212 designation awarded pursuant to s. 400.235.
- 4213           5. Internet links to the Internet sites of the facilities  
 4214 or their affiliates.



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4215 (3) Each nursing home facility licensee shall maintain as  
 4216 public information, available upon request, records of all cost  
 4217 and inspection reports pertaining to that facility that have  
 4218 been filed with, or issued by, any governmental agency. Copies  
 4219 of such reports shall be retained in such records for not less  
 4220 than 5 years from the date the reports are filed or issued.

4221 (a) The agency shall ~~quarterly~~ publish in the Nursing Home  
 4222 Guide a "Nursing Home Guide Watch List" to assist consumers in  
 4223 evaluating the quality of nursing home care in Florida. The  
 4224 watch list must identify each facility that met the criteria for  
 4225 a conditional licensure status to be noticed as specified in  
 4226 this section ~~on any day within the quarter covered by the list~~  
 4227 and each facility that is ~~was~~ operating under bankruptcy  
 4228 protection ~~on any day within the quarter~~. The watch list must  
 4229 include, but is not limited to, the facility's name, address,  
 4230 and ownership; the county in which the facility operates; the  
 4231 license expiration date; the number of licensed beds; a  
 4232 description of the deficiency causing the facility to be placed  
 4233 on the list; any corrective action taken; and the cumulative  
 4234 number of days and percentage of days ~~times~~ the facility had a  
 4235 conditional license in the past 30 months ~~has been on a watch~~  
 4236 ~~list~~. The watch list must include a brief description regarding  
 4237 how to choose a nursing home, the categories of licensure, the  
 4238 agency's inspection process, an explanation of terms used in the  
 4239 watch list, and the addresses and phone numbers of the agency's  
 4240 ~~managed care and health quality assurance field area~~ offices.

4241 (b) Upon publication of each quarterly Nursing Home Guide  
 4242 ~~watch list~~, the agency must post ~~transmit~~ a copy on its website

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4243 by the 15th calendar day 2 months following the end of the  
 4244 calendar quarter. Each nursing home licensee must retrieve the  
 4245 most recent version of the Nursing Home Guide from ~~of the watch~~  
 4246 ~~list to each nursing home facility by mail and must make the~~  
 4247 ~~watch list available on the agency's Internet website.~~

4248 (4) Any records of a nursing home facility determined by  
 4249 the agency to be necessary and essential to establish lawful  
 4250 compliance with any rules or standards shall be made available  
 4251 to the agency on the premises of the facility and submitted to  
 4252 the agency. Each facility must submit this information  
 4253 electronically when electronic transmission to the agency is  
 4254 available.

4255 (5) Every nursing home facility licensee shall:

4256 (a) Post, in a sufficient number of prominent positions in  
 4257 the nursing home so as to be accessible to all residents and to  
 4258 the general public:

4259 1. A concise summary of the last inspection report  
 4260 pertaining to the nursing home and issued by the agency, with  
 4261 references to the page numbers of the full reports, noting any  
 4262 deficiencies found by the agency and the actions taken by the  
 4263 licensee to rectify such deficiencies and indicating in such  
 4264 summaries where the full reports may be inspected in the nursing  
 4265 home.

4266 2. A copy of all pages listing the facility from the most  
 4267 recent version of the Florida Nursing Home Guide ~~Watch List.~~

4268 (b) Upon request, provide to any person who has completed  
 4269 a written application with an intent to be admitted to, or to  
 4270 any resident of, such nursing home, or to any relative, spouse,

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4271 or guardian of such person, a copy of the last inspection report  
 4272 pertaining to the nursing home and issued by the agency,  
 4273 provided the person requesting the report agrees to pay a  
 4274 reasonable charge to cover copying costs.

4275 (6) The agency may adopt rules as necessary to administer  
 4276 this section.

4277 Section 81. Section 400.20, Florida Statutes, is amended  
 4278 to read:

4279 400.20 Licensed nursing home administrator required.--A ~~No~~  
 4280 nursing home may not shall operate except under the supervision  
 4281 of a licensed nursing home administrator, and a ~~no~~ person may  
 4282 not shall be a nursing home administrator unless he or she holds  
 4283 ~~is the holder of~~ a current license as provided in chapter 468.

4284 Section 82. Subsections (2), (7), and (8) of section  
 4285 400.23, Florida Statutes, are amended to read:

4286 400.23 Rules; evaluation and deficiencies; licensure  
 4287 status.--

4288 (2) Pursuant to the intention of the Legislature, the  
 4289 agency, in consultation with the Department of Health and the  
 4290 Department of Elderly Affairs, shall adopt and enforce rules to  
 4291 implement this part and part II of chapter 408, which shall  
 4292 include reasonable and fair criteria in relation to:

4293 (a) The location of the facility and housing conditions  
 4294 that will ensure the health, safety, and comfort of residents,  
 4295 including an adequate call system. In making such rules, the  
 4296 agency shall be guided by criteria recommended by nationally  
 4297 recognized reputable professional groups and associations with  
 4298 knowledge of such subject matters. The agency shall update or

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4299 | revise such criteria as the need arises. The agency may require  
4300 | alterations to a building if it determines that an existing  
4301 | condition constitutes a distinct hazard to life, health, or  
4302 | safety. In performing any inspections of facilities authorized  
4303 | by this part, the agency may enforce the special-occupancy  
4304 | provisions of the Florida Building Code and the Florida Fire  
4305 | Prevention Code which apply to nursing homes. The agency is  
4306 | directed to provide assistance to the Florida Building  
4307 | Commission in updating the construction standards of the code  
4308 | relative to nursing homes. A resident or the representative of  
4309 | the resident shall be able to request a change in the placement  
4310 | of the bed in his or her room, provided that at admission the  
4311 | resident or the representative of the resident is presented with  
4312 | a room that meets requirements of the Florida Building Code. The  
4313 | location of a bed may be changed if the requested placement does  
4314 | not infringe on the resident's roommate or interfere with the  
4315 | resident's care or safety as determined by the care planning  
4316 | team in accordance with facility policies and procedures. In  
4317 | addition, the bed placement may not be used as a restraint. Each  
4318 | facility shall maintain a log of resident rooms with beds that  
4319 | are not in strict compliance with the Florida Building Code in  
4320 | order for such log to be used by surveyors and nurse monitors  
4321 | during inspections and visits. Any resident or representative of  
4322 | a resident who requests that a bed be moved shall sign a  
4323 | statement indicating that he or she understands the room will  
4324 | not be in compliance with the Florida Building Code, but he or  
4325 | she would prefer to exercise his or her right to self-  
4326 | determination. The statement must be retained as part of the

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4327 | resident's care plan. Any facility that offers this option shall  
 4328 | submit to the agency a letter signed by the nursing home  
 4329 | administrator of record notifying the agency of this practice  
 4330 | and include a copy of the facility's policies and procedures.

4331 | (b) The number and qualifications of all personnel,  
 4332 | including management, medical, nursing, and other professional  
 4333 | personnel, and nursing assistants, orderlies, and support  
 4334 | personnel, having responsibility for any part of the care given  
 4335 | residents.

4336 | (c) All sanitary conditions within the facility and its  
 4337 | surroundings, including water supply, sewage disposal, food  
 4338 | handling, and general hygiene which will ensure the health and  
 4339 | comfort of residents.

4340 | (d) The equipment essential to the health and welfare of  
 4341 | the residents.

4342 | (e) A uniform accounting system.

4343 | (f) The care, treatment, and maintenance of residents and  
 4344 | measurement of the quality and adequacy thereof, based on rules  
 4345 | developed under this chapter and the Omnibus Budget  
 4346 | Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
 4347 | 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
 4348 | Programs), Subtitle C (Nursing Home Reform), as amended.

4349 | (g) The preparation and annual update of a comprehensive  
 4350 | emergency management plan. The agency shall adopt rules  
 4351 | establishing minimum criteria for the plan after consultation  
 4352 | with the Department of Community Affairs. At a minimum, the  
 4353 | rules must provide for plan components that address emergency  
 4354 | evacuation transportation; adequate sheltering arrangements;

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4355 | postdisaster activities, including emergency power, food, and  
 4356 | water; postdisaster transportation; supplies; staffing;  
 4357 | emergency equipment; individual identification of residents and  
 4358 | transfer of records; and responding to family inquiries. The  
 4359 | comprehensive emergency management plan is subject to review and  
 4360 | approval by the local emergency management agency. During its  
 4361 | review, the local emergency management agency shall ensure that  
 4362 | the following agencies, at a minimum, are given the opportunity  
 4363 | to review the plan: the Department of Elderly Affairs, the  
 4364 | Department of Health, the Agency for Health Care Administration,  
 4365 | and the Department of Community Affairs. Also, appropriate  
 4366 | volunteer organizations must be given the opportunity to review  
 4367 | the plan. The local emergency management agency shall complete  
 4368 | its review within 60 days and either approve the plan or advise  
 4369 | the facility of necessary revisions.

4370 |         (h) The availability, distribution, and posting of reports  
 4371 | and records pursuant to s. 400.191 and the Gold Seal Program  
 4372 | pursuant to s. 400.235.

4373 |         (7) The agency shall, at least every 15 months, evaluate  
 4374 | all nursing home facilities and make a determination as to the  
 4375 | degree of compliance by each licensee with the established rules  
 4376 | adopted under this part as a basis for assigning a licensure  
 4377 | status to that facility. The agency shall base its evaluation on  
 4378 | the most recent inspection report, taking into consideration  
 4379 | findings from other official reports, surveys, interviews,  
 4380 | investigations, and inspections. The agency shall assign a  
 4381 | licensure status of standard or conditional to each nursing  
 4382 | home.

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4383 (a) A standard licensure status means that a facility has  
4384 no class I or class II deficiencies and has corrected all class  
4385 III deficiencies within the time established by the agency.

4386 (b) A conditional licensure status means that a facility,  
4387 due to the presence of one or more class I or class II  
4388 deficiencies, or class III deficiencies not corrected within the  
4389 time established by the agency, is not in substantial compliance  
4390 at the time of the survey with criteria established under this  
4391 part or with rules adopted by the agency. If the facility has no  
4392 class I, class II, or class III deficiencies at the time of the  
4393 followup survey, a standard licensure status may be assigned.

4394 (c) In evaluating the overall quality of care and services  
4395 and determining whether the facility will receive a conditional  
4396 or standard license, the agency shall consider the needs and  
4397 limitations of residents in the facility and the results of  
4398 interviews and surveys of a representative sampling of  
4399 residents, families of residents, ombudsman council members in  
4400 the planning and service area in which the facility is located,  
4401 guardians of residents, and staff of the nursing home facility.

4402 (d) The current licensure status of each facility must be  
4403 indicated in bold print on the face of the license. A list of  
4404 the deficiencies of the facility shall be posted in a prominent  
4405 place that is in clear and unobstructed public view at or near  
4406 the place where residents are being admitted to that facility.  
4407 Licensees receiving a conditional licensure status for a  
4408 facility shall prepare, within 10 working days after receiving  
4409 notice of deficiencies, a plan for correction of all

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4410 deficiencies and shall submit the plan to the agency for  
4411 approval.

4412 ~~(e) Each licensee shall post its license in a prominent~~  
4413 ~~place that is in clear and unobstructed public view at or near~~  
4414 ~~the place where residents are being admitted to the facility.~~

4415 (e)~~(f)~~ The agency shall adopt rules that:

4416 1. Establish uniform procedures for the evaluation of  
4417 facilities.

4418 2. Provide criteria in the areas referenced in paragraph  
4419 (c).

4420 3. Address other areas necessary for carrying out the  
4421 intent of this section.

4422 (8) The agency shall adopt rules pursuant to this part and  
4423 part II of chapter 408 to provide that, when the criteria  
4424 established under subsection (2) are not met, such deficiencies  
4425 shall be classified according to the nature and the scope of the  
4426 deficiency. The scope shall be cited as isolated, patterned, or  
4427 widespread. An isolated deficiency is a deficiency affecting one  
4428 or a very limited number of residents, or involving one or a  
4429 very limited number of staff, or a situation that occurred only  
4430 occasionally or in a very limited number of locations. A  
4431 patterned deficiency is a deficiency where more than a very  
4432 limited number of residents are affected, or more than a very  
4433 limited number of staff are involved, or the situation has  
4434 occurred in several locations, or the same resident or residents  
4435 have been affected by repeated occurrences of the same deficient  
4436 practice but the effect of the deficient practice is not found  
4437 to be pervasive throughout the facility. A widespread deficiency

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4438 | is a deficiency in which the problems causing the deficiency are  
 4439 | pervasive in the facility or represent systemic failure that has  
 4440 | affected or has the potential to affect a large portion of the  
 4441 | facility's residents. The agency shall indicate the  
 4442 | classification on the face of the notice of deficiencies as  
 4443 | follows:

4444 |       (a) A class I deficiency is a deficiency that the agency  
 4445 | determines presents a situation in which immediate corrective  
 4446 | action is necessary because the facility's noncompliance has  
 4447 | caused, or is likely to cause, serious injury, harm, impairment,  
 4448 | or death to a resident receiving care in a facility. The  
 4449 | condition or practice constituting a class I violation shall be  
 4450 | abated or eliminated immediately, unless a fixed period of time,  
 4451 | as determined by the agency, is required for correction. A class  
 4452 | I deficiency is subject to a civil penalty of \$10,000 for an  
 4453 | isolated deficiency, \$12,500 for a patterned deficiency, and  
 4454 | \$15,000 for a widespread deficiency. The fine amount shall be  
 4455 | doubled for each deficiency if the facility was previously cited  
 4456 | for one or more class I or class II deficiencies during the last  
 4457 | annual inspection or any inspection or complaint investigation  
 4458 | since the last annual inspection. A fine must be levied  
 4459 | notwithstanding the correction of the deficiency.

4460 |       (b) A class II deficiency is a deficiency that the agency  
 4461 | determines has compromised the resident's ability to maintain or  
 4462 | reach his or her highest practicable physical, mental, and  
 4463 | psychosocial well-being, as defined by an accurate and  
 4464 | comprehensive resident assessment, plan of care, and provision  
 4465 | of services. A class II deficiency is subject to a civil penalty

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4466 of \$2,500 for an isolated deficiency, \$5,000 for a patterned  
 4467 deficiency, and \$7,500 for a widespread deficiency. The fine  
 4468 amount shall be doubled for each deficiency if the facility was  
 4469 previously cited for one or more class I or class II  
 4470 deficiencies during the last licensure ~~annual~~ inspection or any  
 4471 inspection or complaint investigation since the last licensure  
 4472 ~~annual~~ inspection. A fine shall be levied notwithstanding the  
 4473 correction of the deficiency.

4474 (c) A class III deficiency is a deficiency that the agency  
 4475 determines will result in no more than minimal physical, mental,  
 4476 or psychosocial discomfort to the resident or has the potential  
 4477 to compromise the resident's ability to maintain or reach his or  
 4478 her highest practical physical, mental, or psychosocial well-  
 4479 being, as defined by an accurate and comprehensive resident  
 4480 assessment, plan of care, and provision of services. A class III  
 4481 deficiency is subject to a civil penalty of \$1,000 for an  
 4482 isolated deficiency, \$2,000 for a patterned deficiency, and  
 4483 \$3,000 for a widespread deficiency. The fine amount shall be  
 4484 doubled for each deficiency if the facility was previously cited  
 4485 for one or more class I or class II deficiencies during the last  
 4486 licensure ~~annual~~ inspection or any inspection or complaint  
 4487 investigation since the last annual inspection. A citation for a  
 4488 class III deficiency must specify the time within which the  
 4489 deficiency is required to be corrected. If a class III  
 4490 deficiency is corrected within the time specified, no civil  
 4491 penalty shall be imposed.

4492 (d) A class IV deficiency is a deficiency that the agency  
 4493 determines has the potential for causing no more than a minor

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4494 negative impact on the resident. If the class IV deficiency is  
4495 isolated, no plan of correction is required.

4496 Section 83. Subsections (3) and (4) of section 400.241,  
4497 Florida Statutes, are renumbered as subsections (1) and (2),  
4498 respectively, and present subsections (1) and (2) of said  
4499 section are amended to read:

4500 400.241 Prohibited acts; penalties for violations.--

4501 ~~(1) It is unlawful for any person or public body to~~  
4502 ~~establish, conduct, manage, or operate a home as defined in this~~  
4503 ~~part without obtaining a valid current license.~~

4504 ~~(2) It is unlawful for any person or public body to offer~~  
4505 ~~or advertise to the public, in any way by any medium whatever,~~  
4506 ~~nursing home care or service or custodial services without~~  
4507 ~~obtaining a valid current license. It is unlawful for any holder~~  
4508 ~~of a license issued pursuant to the provisions of this part to~~  
4509 ~~advertise or hold out to the public that it holds a license for~~  
4510 ~~a facility other than that for which it actually holds a~~  
4511 ~~license.~~

4512 Section 84. Subsections (6) through (27) of section  
4513 400.402, Florida Statutes, are renumbered as subsections (5)  
4514 through (26), respectively, and present subsections (5), (12),  
4515 (14), (17), and (20) are amended to read:

4516 400.402 Definitions.--When used in this part, the term:

4517 ~~(5) "Applicant" means an individual owner, corporation,~~  
4518 ~~partnership, firm, association, or governmental entity that~~  
4519 ~~applies for a license.~~

4520 (11)~~(12)~~ "Extended congregate care" means acts beyond  
4521 those authorized in subsection (16) ~~(17)~~ that may be performed

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4522 | pursuant to part I of chapter 464 by persons licensed thereunder  
 4523 | while carrying out their professional duties, and other  
 4524 | supportive services which may be specified by rule. The purpose  
 4525 | of such services is to enable residents to age in place in a  
 4526 | residential environment despite mental or physical limitations  
 4527 | that might otherwise disqualify them from residency in a  
 4528 | facility licensed under this part.

4529 |        (13)~~(14)~~ "Limited nursing services" means acts that may be  
 4530 | performed pursuant to part I of chapter 464 by persons licensed  
 4531 | thereunder while carrying out their professional duties but  
 4532 | limited to those acts which the agency ~~department~~ specifies by  
 4533 | rule. Acts which may be specified by rule as allowable limited  
 4534 | nursing services shall be for persons who meet the admission  
 4535 | criteria established by the agency ~~department~~ for assisted  
 4536 | living facilities and shall not be complex enough to require 24-  
 4537 | hour nursing supervision and may include such services as the  
 4538 | application and care of routine dressings, and care of casts,  
 4539 | braces, and splints.

4540 |        (16)~~(17)~~ "Personal services" means direct physical  
 4541 | assistance with or supervision of the activities of daily living  
 4542 | and the self-administration of medication and other similar  
 4543 | services which the agency ~~department~~ may define by rule.  
 4544 | "Personal services" shall not be construed to mean the provision  
 4545 | of medical, nursing, dental, or mental health services.

4546 |        (19)~~(20)~~ "Resident" means a person 18 years of age or  
 4547 | older, residing in and receiving care from a facility, including  
 4548 | a person receiving services pursuant to s. 400.553(2).

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4549 Section 85. Section 400.407, Florida Statutes, is amended  
4550 to read:

4551 400.407 License required; fee, ~~display~~.--

4552 (1) The requirements of part II of chapter 408 shall apply  
4553 to the provision of services that require licensure pursuant  
4554 this part and part II of chapter 408 and to entities licensed by  
4555 or applying for such licensure from the agency pursuant to this  
4556 part. However, each applicant for licensure and each licensee is  
4557 exempt from s. 408.810(10). A license issued by the agency is  
4558 required for an assisted living facility operating in this  
4559 state.

4560 (2) Separate licenses shall be required for facilities  
4561 maintained in separate premises, even though operated under the  
4562 same management. A separate license shall not be required for  
4563 separate buildings on the same grounds.

4564 (3) In addition to the requirements of 408.806, each ~~Any~~  
4565 ~~license granted by the agency must state the maximum resident~~  
4566 ~~capacity of the facility,~~ the type of care for which the license  
4567 is granted, ~~the date the license is issued, the expiration date~~  
4568 ~~of the license, and any other information deemed necessary by~~  
4569 ~~the agency.~~ Licenses shall be issued for one or more of the  
4570 following categories of care: standard, extended congregate  
4571 care, limited nursing services, or limited mental health.

4572 (a) A standard license shall be issued to facilities  
4573 providing one or more of the personal services identified in s.  
4574 400.402. Such facilities may also employ or contract with a  
4575 person licensed under part I of chapter 464 to administer  
4576 medications and perform other tasks as specified in s. 400.4255.

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4577 (b) An extended congregate care license shall be issued to  
 4578 facilities providing, directly or through contract, services  
 4579 beyond those authorized in paragraph (a), including acts  
 4580 performed pursuant to part I of chapter 464 by persons licensed  
 4581 thereunder, and supportive services defined by rule to persons  
 4582 who otherwise would be disqualified from continued residence in  
 4583 a facility licensed under this part.

4584 1. In order for extended congregate care services to be  
 4585 provided in a facility licensed under this part, the agency must  
 4586 first determine that all requirements established in law and  
 4587 rule are met and must specifically designate, on the facility's  
 4588 license, that such services may be provided and whether the  
 4589 designation applies to all or part of a facility. Such  
 4590 designation may be made at the time of initial licensure or  
 4591 relicensure, or upon request in writing by a licensee under this  
 4592 part and part II of chapter 408. Notification of approval or  
 4593 denial of such request shall be made in accordance with part II  
 4594 of chapter 408 ~~within 90 days after receipt of such request and~~  
 4595 ~~all necessary documentation~~. Existing facilities qualifying to  
 4596 provide extended congregate care services must have maintained a  
 4597 standard license and may not have been subject to administrative  
 4598 sanctions during the previous 2 years, or since initial  
 4599 licensure if the facility has been licensed for less than 2  
 4600 years, for any of the following reasons:

- 4601 a. A class I or class II violation;
- 4602 b. Three or more repeat or recurring class III violations
- 4603 of identical or similar resident care standards as specified in

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4604 rule from which a pattern of noncompliance is found by the  
4605 agency;

4606 c. Three or more class III violations that were not  
4607 corrected in accordance with the corrective action plan approved  
4608 by the agency;

4609 d. Violation of resident care standards resulting in a  
4610 requirement to employ the services of a consultant pharmacist or  
4611 consultant dietitian;

4612 e. Denial, suspension, or revocation of a license for  
4613 another facility under this part in which the applicant for an  
4614 extended congregate care license has at least 25 percent  
4615 ownership interest; or

4616 f. Imposition of a moratorium ~~on admissions~~ or initiation  
4617 of injunctive proceedings.

4618 2. Facilities that are licensed to provide extended  
4619 congregate care services shall maintain a written progress  
4620 report on each person who receives such services, which report  
4621 describes the type, amount, duration, scope, and outcome of  
4622 services that are rendered and the general status of the  
4623 resident's health. A registered nurse, or appropriate designee,  
4624 representing the agency shall visit such facilities at least  
4625 quarterly to monitor residents who are receiving extended  
4626 congregate care services and to determine if the facility is in  
4627 compliance with this part, part II of chapter 408, and ~~with~~  
4628 rules that relate to extended congregate care. One of these  
4629 visits may be in conjunction with the regular survey. The  
4630 monitoring visits may be provided through contractual  
4631 arrangements with appropriate community agencies. A registered

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4632 nurse shall serve as part of the team that inspects such  
 4633 facility. The agency may waive one of the required yearly  
 4634 monitoring visits for a facility that has been licensed for at  
 4635 least 24 months to provide extended congregate care services,  
 4636 if, during the inspection, the registered nurse determines that  
 4637 extended congregate care services are being provided  
 4638 appropriately, and if the facility has no class I or class II  
 4639 violations and no uncorrected class III violations. Before such  
 4640 decision is made, the agency shall consult with the long-term  
 4641 care ombudsman council for the area in which the facility is  
 4642 located to determine if any complaints have been made and  
 4643 substantiated about the quality of services or care. The agency  
 4644 may not waive one of the required yearly monitoring visits if  
 4645 complaints have been made and substantiated.

4646 3. Facilities that are licensed to provide extended  
 4647 congregate care services shall:

4648 a. Demonstrate the capability to meet unanticipated  
 4649 resident service needs.

4650 b. Offer a physical environment that promotes a homelike  
 4651 setting, provides for resident privacy, promotes resident  
 4652 independence, and allows sufficient congregate space as defined  
 4653 by rule.

4654 c. Have sufficient staff available, taking into account  
 4655 the physical plant and firesafety features of the building, to  
 4656 assist with the evacuation of residents in an emergency, as  
 4657 necessary.

4658 d. Adopt and follow policies and procedures that maximize  
 4659 resident independence, dignity, choice, and decisionmaking to



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4660 permit residents to age in place to the extent possible, so that  
4661 moves due to changes in functional status are minimized or  
4662 avoided.

4663 e. Allow residents or, if applicable, a resident's  
4664 representative, designee, surrogate, guardian, or attorney in  
4665 fact to make a variety of personal choices, participate in  
4666 developing service plans, and share responsibility in  
4667 decisionmaking.

4668 f. Implement the concept of managed risk.

4669 g. Provide, either directly or through contract, the  
4670 services of a person licensed pursuant to part I of chapter 464.

4671 h. In addition to the training mandated in s. 400.452,  
4672 provide specialized training as defined by rule for facility  
4673 staff.

4674 4. Facilities licensed to provide extended congregate care  
4675 services are exempt from the criteria for continued residency as  
4676 set forth in rules adopted under s. 400.441. Facilities so  
4677 licensed shall adopt their own requirements within guidelines  
4678 for continued residency set forth by ~~the department in~~ rule.  
4679 However, such facilities may not serve residents who require 24-  
4680 hour nursing supervision. Facilities licensed to provide  
4681 extended congregate care services shall provide each resident  
4682 with a written copy of facility policies governing admission and  
4683 retention.

4684 5. The primary purpose of extended congregate care  
4685 services is to allow residents, as they become more impaired,  
4686 the option of remaining in a familiar setting from which they  
4687 would otherwise be disqualified for continued residency. A

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4688 facility licensed to provide extended congregate care services  
 4689 may also admit an individual who exceeds the admission criteria  
 4690 for a facility with a standard license, if the individual is  
 4691 determined appropriate for admission to the extended congregate  
 4692 care facility.

4693 6. Before admission of an individual to a facility  
 4694 licensed to provide extended congregate care services, the  
 4695 individual must undergo a medical examination as provided in s.  
 4696 400.426(4) and the facility must develop a preliminary service  
 4697 plan for the individual.

4698 7. When a facility can no longer provide or arrange for  
 4699 services in accordance with the resident's service plan and  
 4700 needs and the facility's policy, the facility shall make  
 4701 arrangements for relocating the person in accordance with s.  
 4702 400.428(1)(k).

4703 8. Failure to provide extended congregate care services  
 4704 may result in denial of extended congregate care license  
 4705 renewal.

4706 9. No later than January 1 of each year, ~~the department,~~  
 4707 ~~in consultation with~~ the agency, shall prepare and submit to the  
 4708 Governor, the President of the Senate, the Speaker of the House  
 4709 of Representatives, and the chairs of appropriate legislative  
 4710 committees, a report on the status of, and recommendations  
 4711 related to, extended congregate care services. The status report  
 4712 must include, but need not be limited to, the following  
 4713 information:

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- 4714 a. A description of the facilities licensed to provide  
 4715 such services, including total number of beds licensed under  
 4716 this part.
- 4717 b. The number and characteristics of residents receiving  
 4718 such services.
- 4719 c. The types of services rendered that could not be  
 4720 provided through a standard license.
- 4721 d. An analysis of deficiencies cited during licensure  
 4722 inspections.
- 4723 e. The number of residents who required extended  
 4724 congregate care services at admission and the source of  
 4725 admission.
- 4726 f. Recommendations for statutory or regulatory changes.
- 4727 g. The availability of extended congregate care to state  
 4728 clients residing in facilities licensed under this part and in  
 4729 need of additional services, and recommendations for  
 4730 appropriations to subsidize extended congregate care services  
 4731 for such persons.
- 4732 h. Such other information as the department considers  
 4733 appropriate.
- 4734 (c) A limited nursing services license shall be issued to  
 4735 a facility that provides services beyond those authorized in  
 4736 paragraph (a) and as specified in this paragraph.
- 4737 1. In order for limited nursing services to be provided in  
 4738 a facility licensed under this part, the agency must first  
 4739 determine that all requirements established in law and rule are  
 4740 met and must specifically designate, on the facility's license,  
 4741 that such services may be provided. Such designation may be made

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4742 at the time of initial licensure or relicensure, or upon request  
 4743 in writing by a licensee under this part and part II of chapter  
 4744 408. Notification of approval or denial of such request shall be  
 4745 made in accordance with part II of chapter 408 ~~within 90 days~~  
 4746 ~~after receipt of such request and all necessary documentation.~~  
 4747 Existing facilities qualifying to provide limited nursing  
 4748 services shall have maintained a standard license and may not  
 4749 have been subject to administrative sanctions that affect the  
 4750 health, safety, and welfare of residents for the previous 2  
 4751 years or since initial licensure if the facility has been  
 4752 licensed for less than 2 years.

4753 2. Facilities that are licensed to provide limited nursing  
 4754 services shall maintain a written progress report on each person  
 4755 who receives such nursing services, which report describes the  
 4756 type, amount, duration, scope, and outcome of services that are  
 4757 rendered and the general status of the resident's health. A  
 4758 registered nurse representing the agency shall visit such  
 4759 facilities at least twice a year to monitor residents who are  
 4760 receiving limited nursing services and to determine if the  
 4761 facility is in compliance with applicable provisions of this  
 4762 part, part II of chapter 408, and ~~with~~ related rules. The  
 4763 monitoring visits may be provided through contractual  
 4764 arrangements with appropriate community agencies. A registered  
 4765 nurse shall also serve as part of the team that inspects such  
 4766 facility.

4767 3. A person who receives limited nursing services under  
 4768 this part must meet the admission criteria established by the  
 4769 agency for assisted living facilities. When a resident no longer

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4770 meets the admission criteria for a facility licensed under this  
 4771 part, arrangements for relocating the person shall be made in  
 4772 accordance with s. 400.428(1)(k), unless the facility is  
 4773 licensed to provide extended congregate care services.

4774 (4) In accordance with s. 408.805, an applicant or  
 4775 licensee shall pay a fee for each license application submitted  
 4776 under this part, part II of chapter 408, and applicable rules.  
 4777 The amount of the fee shall be established by rule.

4778 (a) The biennial license fee required of a facility is  
 4779 \$300 per license, with an additional fee of \$50 per resident  
 4780 based on the total licensed resident capacity of the facility,  
 4781 except that no additional fee will be assessed for beds  
 4782 designated for recipients of optional state supplementation  
 4783 payments provided for in s. 409.212. The total fee may not  
 4784 exceed \$10,000, no part of which shall be returned to the  
 4785 facility. ~~The agency shall adjust the per bed license fee and~~  
 4786 ~~the total licensure fee annually by not more than the change in~~  
 4787 ~~the consumer price index based on the 12 months immediately~~  
 4788 ~~preceding the increase.~~

4789 (b) In addition to the total fee assessed under paragraph  
 4790 (a), the agency shall require facilities that are licensed to  
 4791 provide extended congregate care services under this part to pay  
 4792 an additional fee per licensed facility. The amount of the  
 4793 biennial fee shall be \$400 per license, with an additional fee  
 4794 of \$10 per resident based on the total licensed resident  
 4795 capacity of the facility. No part of this fee shall be returned  
 4796 to the facility. ~~The agency may adjust the per bed license fee~~  
 4797 ~~and the annual license fee once each year by not more than the~~

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4798 ~~average rate of inflation for the 12 months immediately~~  
4799 ~~preceding the increase.~~

4800 (c) In addition to the total fee assessed under paragraph  
4801 (a), the agency shall require facilities that are licensed to  
4802 provide limited nursing services under this part to pay an  
4803 additional fee per licensed facility. The amount of the biennial  
4804 fee shall be \$250 per license, with an additional fee of \$10 per  
4805 resident based on the total licensed resident capacity of the  
4806 facility. No part of this fee shall be returned to the facility.  
4807 ~~The agency may adjust the per bed license fee and the biennial~~  
4808 ~~license fee once each year by not more than the average rate of~~  
4809 ~~inflation for the 12 months immediately preceding the increase.~~

4810 (5) Counties or municipalities applying for licenses under  
4811 this part are exempt from the payment of license fees.

4812 ~~(6) The license shall be displayed in a conspicuous place~~  
4813 ~~inside the facility.~~

4814 ~~(7) A license shall be valid only in the possession of the~~  
4815 ~~individual, firm, partnership, association, or corporation to~~  
4816 ~~which it is issued and shall not be subject to sale, assignment,~~  
4817 ~~or other transfer, voluntary or involuntary; nor shall a license~~  
4818 ~~be valid for any premises other than that for which originally~~  
4819 ~~issued.~~

4820 ~~(8) A fee may be charged to a facility requesting a~~  
4821 ~~duplicate license. The fee shall not exceed the actual cost of~~  
4822 ~~duplication and postage.~~

4823 Section 86. Subsection (1) of section 400.4075, Florida  
4824 Statutes, is amended to read:

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4825           400.4075 Limited mental health license.--An assisted  
4826 living facility that serves three or more mental health  
4827 residents must obtain a limited mental health license.

4828           (1) To obtain a limited mental health license, a facility  
4829 must hold a standard license as an assisted living facility,  
4830 must not have any current uncorrected deficiencies or  
4831 violations, and must ensure that, within 6 months after  
4832 receiving a limited mental health license, the facility  
4833 administrator and the staff of the facility who are in direct  
4834 contact with mental health residents must complete training of  
4835 no less than 6 hours related to their duties. Such designation  
4836 may be made at the time of initial licensure or relicensure or  
4837 upon request in writing by a licensee under this part and part  
4838 II of chapter 408. Notification of approval or denial of such  
4839 request shall be made in accordance with this part, part II of  
4840 chapter 408, and applicable rules. This training will be  
4841 provided by or approved by the Department of Children and Family  
4842 Services.

4843           Section 87. Section 400.408, Florida Statutes, is amended  
4844 to read:

4845           400.408 Unlicensed facilities; referral of person for  
4846 residency to unlicensed facility; penalties; verification of  
4847 licensure status.--

4848           ~~(1)(a) It is unlawful to own, operate, or maintain an~~  
4849 ~~assisted living facility without obtaining a license under this~~  
4850 ~~part.~~

4851           ~~(b) Except as provided under paragraph (d), any person who~~  
4852 ~~owns, operates, or maintains an unlicensed assisted living~~

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4853 ~~facility commits a felony of the third degree, punishable as~~  
4854 ~~provided in s. 775.082, s. 775.083, or s. 775.084. Each day of~~  
4855 ~~continued operation is a separate offense.~~

4856 ~~(c) Any person found guilty of violating paragraph (a) a~~  
4857 ~~second or subsequent time commits a felony of the second degree,~~  
4858 ~~punishable as provided under s. 775.082, s. 775.083, or s.~~  
4859 ~~775.084. Each day of continued operation is a separate offense.~~

4860 ~~(d) Any person who owns, operates, or maintains an~~  
4861 ~~unlicensed assisted living facility due to a change in this part~~  
4862 ~~or a modification in department rule within 6 months after the~~  
4863 ~~effective date of such change and who, within 10 working days~~  
4864 ~~after receiving notification from the agency, fails to cease~~  
4865 ~~operation or apply for a license under this part commits a~~  
4866 ~~felony of the third degree, punishable as provided in s.~~  
4867 ~~775.082, s. 775.083, or s. 775.084. Each day of continued~~  
4868 ~~operation is a separate offense.~~

4869 ~~(e) Any facility that fails to cease operation after~~  
4870 ~~agency notification may be fined for each day of noncompliance~~  
4871 ~~pursuant to s. 400.419.~~

4872 ~~(f) When a licensee has an interest in more than one~~  
4873 ~~assisted living facility, and fails to license any one of these~~  
4874 ~~facilities, the agency may revoke the license, impose a~~  
4875 ~~moratorium, or impose a fine pursuant to s. 400.419, on any or~~  
4876 ~~all of the licensed facilities until such time as the unlicensed~~  
4877 ~~facility is licensed or ceases operation.~~

4878 ~~(g) If the agency determines that an owner is operating or~~  
4879 ~~maintaining an assisted living facility without obtaining a~~  
4880 ~~license and determines that a condition exists in the facility~~

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

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4881 ~~that poses a threat to the health, safety, or welfare of a~~  
 4882 ~~resident of the facility, the owner is subject to the same~~  
 4883 ~~actions and fines imposed against a licensed facility as~~  
 4884 ~~specified in ss. 400.414 and 400.419.~~

4885 ~~(h) Any person aware of the operation of an unlicensed~~  
 4886 ~~assisted living facility must report that facility to the~~  
 4887 ~~agency. The agency shall provide to the department's elder~~  
 4888 ~~information and referral providers a list, by county, of~~  
 4889 ~~licensed assisted living facilities, to assist persons who are~~  
 4890 ~~considering an assisted living facility placement in locating a~~  
 4891 ~~licensed facility.~~

4892 (2)(i) Each field office of the Agency for Health Care  
 4893 Administration shall establish a local coordinating workgroup  
 4894 which includes representatives of local law enforcement  
 4895 agencies, state attorneys, the Medicaid Fraud Control Unit of  
 4896 the Department of Legal Affairs, local fire authorities, the  
 4897 Department of Children and Family Services, the district long-  
 4898 term care ombudsman council, and the district human rights  
 4899 advocacy committee to assist in identifying the operation of  
 4900 unlicensed facilities and to develop and implement a plan to  
 4901 ensure effective enforcement of state laws relating to such  
 4902 facilities. The workgroup shall report its findings, actions,  
 4903 and recommendations semiannually to the Director of Health  
 4904 Facility Regulation of the agency.

4905 (3)(2) It is unlawful to knowingly refer a person for  
 4906 residency to an unlicensed assisted living facility; to an  
 4907 assisted living facility the license of which is under denial or  
 4908 has been suspended or revoked; or to an assisted living facility

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4909 | that has a moratorium pursuant to part II of chapter 408, ~~en~~  
 4910 | ~~admissions~~. Any person who violates this subsection commits a  
 4911 | noncriminal violation, punishable by a fine not exceeding \$500  
 4912 | as provided in s. 775.083.

4913 |         (a) Any health care practitioner, as defined in s.  
 4914 | 456.001, who is aware of the operation of an unlicensed facility  
 4915 | shall report that facility to the agency. Failure to report a  
 4916 | facility that the practitioner knows or has reasonable cause to  
 4917 | suspect is unlicensed shall be reported to the practitioner's  
 4918 | licensing board.

4919 |         (b) Any hospital or community mental health center  
 4920 | licensed under chapter 395 or chapter 394 which knowingly  
 4921 | discharges a patient or client to an unlicensed facility is  
 4922 | subject to sanction by the agency.

4923 |         (c) Any employee of the agency or department, or the  
 4924 | Department of Children and Family Services, who knowingly refers  
 4925 | a person for residency to an unlicensed facility; to a facility  
 4926 | the license of which is under denial or has been suspended or  
 4927 | revoked; or to a facility that has a moratorium pursuant to part  
 4928 | II of chapter 408 ~~en admissions~~ is subject to disciplinary  
 4929 | action by the agency or department, or the Department of  
 4930 | Children and Family Services.

4931 |         (d) The employer of any person who is under contract with  
 4932 | the agency or department, or the Department of Children and  
 4933 | Family Services, and who knowingly refers a person for residency  
 4934 | to an unlicensed facility; to a facility the license of which is  
 4935 | under denial or has been suspended or revoked; or to a facility  
 4936 | that has a moratorium pursuant to part II of chapter 408 ~~en~~

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4937 | ~~admissions~~ shall be fined and required to prepare a corrective  
4938 | action plan designed to prevent such referrals.

4939 |         (e) The agency shall provide the department and the  
4940 | Department of Children and Family Services with a list of  
4941 | licensed facilities within each county and shall update the list  
4942 | at least quarterly.

4943 |         (f) At least annually, the agency shall notify, in  
4944 | appropriate trade publications, physicians licensed under  
4945 | chapter 458 or chapter 459, hospitals licensed under chapter  
4946 | 395, nursing home facilities licensed under part II of this  
4947 | chapter, and employees of the agency or the department, or the  
4948 | Department of Children and Family Services, who are responsible  
4949 | for referring persons for residency, that it is unlawful to  
4950 | knowingly refer a person for residency to an unlicensed assisted  
4951 | living facility and shall notify them of the penalty for  
4952 | violating such prohibition. The department and the Department of  
4953 | Children and Family Services shall, in turn, notify service  
4954 | providers under contract to the respective departments who have  
4955 | responsibility for resident referrals to facilities. Further,  
4956 | the notice must direct each noticed facility and individual to  
4957 | contact the appropriate agency office in order to verify the  
4958 | licensure status of any facility prior to referring any person  
4959 | for residency. Each notice must include the name, telephone  
4960 | number, and mailing address of the appropriate office to  
4961 | contact.

4962 |         Section 88. Section 400.411, Florida Statutes, is amended  
4963 | to read:

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4964 400.411 Initial application for license; provisional  
4965 license.--

4966 (1) Each applicant for licensure must comply with all  
4967 provisions of part II of chapter 408 and must: ~~Application for a~~  
4968 ~~license shall be made to the agency on forms furnished by it and~~  
4969 ~~shall be accompanied by the appropriate license fee.~~

4970 ~~(2) The applicant may be an individual owner, a~~  
4971 ~~corporation, a partnership, a firm, an association, or a~~  
4972 ~~governmental entity.~~

4973 ~~(3) The application must be signed by the applicant under~~  
4974 ~~oath and must contain the following:~~

4975 ~~(a) The name, address, date of birth, and social security~~  
4976 ~~number of the applicant and the name by which the facility is to~~  
4977 ~~be known. If the applicant is a firm, partnership, or~~  
4978 ~~association, the application shall contain the name, address,~~  
4979 ~~date of birth, and social security number of every member~~  
4980 ~~thereof. If the applicant is a corporation, the application~~  
4981 ~~shall contain the corporation's name and address; the name,~~  
4982 ~~address, date of birth, and social security number of each of~~  
4983 ~~its directors and officers; and the name and address of each~~  
4984 ~~person having at least a 5-percent ownership interest in the~~  
4985 ~~corporation.~~

4986 ~~(b) The name and address of any professional service,~~  
4987 ~~firm, association, partnership, or corporation that is to~~  
4988 ~~provide goods, leases, or services to the facility if a 5-~~  
4989 ~~percent or greater ownership interest in the service, firm,~~  
4990 ~~association, partnership, or corporation is owned by a person~~

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4991 ~~whose name must be listed on the application under paragraph~~  
 4992 ~~(a).~~  
 4993 ~~(c) The name and address of any long-term care facility~~  
 4994 ~~with which the applicant, administrator, or financial officer~~  
 4995 ~~has been affiliated through ownership or employment within 5~~  
 4996 ~~years of the date of this license application; and a signed~~  
 4997 ~~affidavit disclosing any financial or ownership interest that~~  
 4998 ~~the applicant, or any person listed in paragraph (a), holds or~~  
 4999 ~~has held within the last 5 years in any facility licensed under~~  
 5000 ~~this part, or in any other entity licensed by this state or~~  
 5001 ~~another state to provide health or residential care, which~~  
 5002 ~~facility or entity closed or ceased to operate as a result of~~  
 5003 ~~financial problems, or has had a receiver appointed or a license~~  
 5004 ~~denied, suspended or revoked, or was subject to a moratorium on~~  
 5005 ~~admissions, or has had an injunctive proceeding initiated~~  
 5006 ~~against it.~~  
 5007 ~~(d) A description and explanation of any exclusions,~~  
 5008 ~~permanent suspensions, or terminations of the applicant from the~~  
 5009 ~~Medicare or Medicaid programs. Proof of compliance with~~  
 5010 ~~disclosure of ownership and control interest requirements of the~~  
 5011 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
 5012 ~~submission.~~  
 5013 ~~(e) The names and addresses of persons of whom the agency~~  
 5014 ~~may inquire as to the character, reputation, and financial~~  
 5015 ~~responsibility of the owner and, if different from the~~  
 5016 ~~applicant, the administrator and financial officer.~~  
 5017 (a)(f) Identify ~~Identification~~ of all other homes or  
 5018 facilities, including the addresses and the license or licenses

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5019 | under which they operate, if applicable, which are currently  
5020 | operated by the applicant or administrator and which provide  
5021 | housing, meals, and personal services to residents.

5022 |        ~~(b)(g)~~ Provide the location of the facility for which a  
5023 | license is sought and documentation, signed by the appropriate  
5024 | local government official, which states that the applicant has  
5025 | met local zoning requirements.

5026 |        ~~(c)(h)~~ Provide the name, address, date of birth, social  
5027 | security number, education, and experience of the administrator,  
5028 | if different from the applicant.

5029 |        ~~(4) The applicant shall furnish satisfactory proof of~~  
5030 | ~~financial ability to operate and conduct the facility in~~  
5031 | ~~accordance with the requirements of this part. A certificate of~~  
5032 | ~~authority, pursuant to chapter 651, may be provided as proof of~~  
5033 | ~~financial ability.~~

5034 |        ~~(5) If the applicant is a continuing care facility~~  
5035 | ~~certified under chapter 651, a copy of the facility's~~  
5036 | ~~certificate of authority must be provided.~~

5037 |        ~~(2)(6)~~ In addition to the requirements of s. 408.810, the  
5038 | applicant shall provide proof of liability insurance as defined  
5039 | in s. 624.605.

5040 |        ~~(7) If the applicant is a community residential home, the~~  
5041 | ~~applicant must provide proof that it has met the requirements~~  
5042 | ~~specified in chapter 419.~~

5043 |        ~~(8) The applicant must provide the agency with proof of~~  
5044 | ~~legal right to occupy the property.~~

5045 |        ~~(3)(9)~~ The applicant must furnish proof that the facility  
5046 | has received a satisfactory firesafety inspection. The local

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5047 authority having jurisdiction or the State Fire Marshal must  
5048 conduct the inspection within 30 days after written request by  
5049 the applicant.

5050 ~~(4)(10)~~ The applicant must furnish documentation of a  
5051 satisfactory sanitation inspection of the facility by the county  
5052 health department.

5053 ~~(11) The applicant must furnish proof of compliance with~~  
5054 ~~level 2 background screening as required under s. 400.4174.~~

5055 ~~(5)(12)~~ A provisional license may be issued to an  
5056 applicant making initial application for licensure or making  
5057 application for a change of ownership. A provisional license  
5058 shall be limited in duration to a specific period of time not to  
5059 exceed 6 months, as determined by the agency.

5060 ~~(6)(13)~~ A county or municipality may not issue an  
5061 occupational license that is being obtained for the purpose of  
5062 operating a facility regulated under this part without first  
5063 ascertaining that the applicant has been licensed to operate  
5064 such facility at the specified location or locations by the  
5065 agency. The agency shall furnish to local agencies responsible  
5066 for issuing occupational licenses sufficient instruction for  
5067 making such determinations.

5068 Section 89. Section 400.412, Florida Statutes, is amended  
5069 to read:

5070 400.412 Sale or transfer of ownership of a facility.--It  
5071 is the intent of the Legislature to protect the rights of the  
5072 residents of an assisted living facility when the facility is  
5073 sold or the ownership thereof is transferred. Therefore, in  
5074 addition to the requirements of part II of chapter 408, whenever

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5075 a facility is sold or the ownership thereof is transferred,  
5076 including leasing:

5077 ~~(1) The transferee shall make application to the agency~~  
5078 ~~for a new license at least 60 days before the date of transfer~~  
5079 ~~of ownership. The application must comply with the provisions of~~  
5080 ~~s. 400.411.~~

5081 ~~(2)(a) The transferor shall notify the agency in writing~~  
5082 ~~at least 60 days before the date of transfer of ownership.~~

5083 ~~(1)(b)~~ The transferee new owner shall notify the  
5084 residents, in writing, of the change transfer of ownership  
5085 within 7 days after ~~of his or her~~ receipt of the new license.

5086 ~~(3) The transferor shall be responsible and liable for:~~

5087 ~~(a) The lawful operation of the facility and the welfare~~  
5088 ~~of the residents domiciled in the facility until the date the~~  
5089 ~~transferee is licensed by the agency.~~

5090 ~~(b) Any and all penalties imposed against the facility for~~  
5091 ~~violations occurring before the date of transfer of ownership~~  
5092 ~~unless the penalty imposed is a moratorium on admissions or~~  
5093 ~~denial of licensure. The moratorium on admissions or denial of~~  
5094 ~~licensure remains in effect after the transfer of ownership,~~  
5095 ~~unless the agency has approved the transferee's corrective~~  
5096 ~~action plan or the conditions which created the moratorium or~~  
5097 ~~denial have been corrected, and may be grounds for denial of~~  
5098 ~~license to the transferee in accordance with chapter 120.~~

5099 ~~(c) Any outstanding liability to the state, unless the~~  
5100 ~~transferee has agreed, as a condition of sale or transfer, to~~  
5101 ~~accept the outstanding liabilities and to guarantee payment~~  
5102 ~~therefor; except that, if the transferee fails to meet these~~



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5103 | ~~obligations, the transferor shall remain liable for the~~  
5104 | ~~outstanding liability.~~

5105 |        ~~(2)(4)~~ The transferor of a facility the license of which  
5106 | is denied pending an administrative hearing shall, as a part of  
5107 | the written change of ownership ~~transfer of ownership~~ contract,  
5108 | advise the transferee that a plan of correction must be  
5109 | submitted by the transferee and approved by the agency at least  
5110 | 7 days before the change ~~transfer~~ of ownership and that failure  
5111 | to correct the condition which resulted in the moratorium  
5112 | pursuant to part II of chapter 408 ~~on admissions~~ or denial of  
5113 | licensure is grounds for denial of the transferee's license.

5114 |        ~~(5)~~ The transferee must provide the agency with proof of  
5115 | ~~legal right to occupy the property before a license may be~~  
5116 | ~~issued. Proof may include, but is not limited to, copies of~~  
5117 | ~~warranty deeds, or copies of lease or rental agreements,~~  
5118 | ~~contracts for deeds, quitclaim deeds, or other such~~  
5119 | ~~documentation.~~

5120 |        Section 90. Section 400.414, Florida Statutes, is amended  
5121 | to read:

5122 |        400.414 Denial, revocation, ~~or~~ suspension of license;  
5123 | moratorium; imposition of administrative fine; grounds.--

5124 |        (1) The agency may deny, revoke, and ~~or~~ suspend any  
5125 | license issued under this part and, ~~or~~ impose a moratorium and  
5126 | an administrative fine in the manner provided in chapter 120 on  
5127 | an assisted living facility for a violation of any provision of  
5128 | this part, part II of chapter 408, or applicable rules, or for  
5129 | any of the following actions by an assisted living facility, for  
5130 | the actions of any person subject to level 2 background

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5131 screening under s. 408.809 ~~400.4174~~, or for the actions of any  
5132 facility employee:

5133 (a) An intentional or negligent act seriously affecting  
5134 the health, safety, or welfare of a resident of the facility.

5135 (b) The determination by the agency that the owner lacks  
5136 the financial ability to provide continuing adequate care to  
5137 residents.

5138 (c) Misappropriation or conversion of the property of a  
5139 resident of the facility.

5140 (d) Failure to follow the criteria and procedures provided  
5141 under part I of chapter 394 relating to the transportation,  
5142 voluntary admission, and involuntary examination of a facility  
5143 resident.

5144 (e) A citation of any of the following deficiencies as  
5145 defined in s. 400.419:

- 5146 1. One or more cited class I deficiencies.
- 5147 2. Three or more cited class II deficiencies.
- 5148 3. Five or more cited class III deficiencies that have  
5149 been cited on a single survey and have not been corrected within  
5150 the times specified.

5151 (f) A determination that a person subject to level 2  
5152 background screening under s. 408.809 ~~400.4174(1)~~ does not meet  
5153 the screening standards of s. 435.04 or that the facility is  
5154 retaining an employee subject to level 1 background screening  
5155 standards under s. ~~400.4174(2)~~ who does not meet the screening  
5156 standards of s. 435.03 and for whom exemptions from  
5157 disqualification have not been provided by the agency.

5158 (g) A determination that an employee, volunteer,  
 5159 administrator, or owner, or person who otherwise has access to  
 5160 the residents of a facility does not meet the criteria specified  
 5161 in s. 435.03(2), and the owner or administrator has not taken  
 5162 action to remove the person. Exemptions from disqualification  
 5163 may be granted as set forth in s. 435.07. No administrative  
 5164 action may be taken against the facility if the person is  
 5165 granted an exemption.

5166 ~~(h) Violation of a moratorium.~~

5167 ~~(i) Failure of the license applicant, the licensee during~~  
 5168 ~~relicensure, or a licensee that holds a provisional license to~~  
 5169 ~~meet the minimum license requirements of this part, or related~~  
 5170 ~~rules, at the time of license application or renewal.~~

5171 ~~(j) A fraudulent statement or omission of any material~~  
 5172 ~~fact on an application for a license or any other document~~  
 5173 ~~required by the agency, including the submission of a license~~  
 5174 ~~application that conceals the fact that any board member,~~  
 5175 ~~officer, or person owning 5 percent or more of the facility may~~  
 5176 ~~not meet the background screening requirements of s. 400.4174,~~  
 5177 ~~or that the applicant has been excluded, permanently suspended,~~  
 5178 ~~or terminated from the Medicaid or Medicare programs.~~

5179 (h)(k) An intentional or negligent life-threatening act in  
 5180 violation of the uniform firesafety standards for assisted  
 5181 living facilities or other firesafety standards that threatens  
 5182 the health, safety, or welfare of a resident of a facility, as  
 5183 communicated to the agency by the local authority having  
 5184 jurisdiction or the State Fire Marshal.

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5185 ~~(1) Exclusion, permanent suspension, or termination from~~  
5186 ~~the Medicare or Medicaid programs.~~

5187 (i)~~(m)~~ Knowingly operating any unlicensed facility or  
5188 providing without a license any service that must be licensed  
5189 under this chapter.

5190 (j)~~(n)~~ Any act constituting a ground upon which  
5191 application for a license may be denied.

5192

5193 ~~Administrative proceedings challenging agency action under this~~  
5194 ~~subsection shall be reviewed on the basis of the facts and~~  
5195 ~~conditions that resulted in the agency action.~~

5196 (2) Upon notification by the local authority having  
5197 jurisdiction or by the State Fire Marshal, the agency may deny  
5198 or revoke the license of an assisted living facility that fails  
5199 to correct cited fire code violations that affect or threaten  
5200 the health, safety, or welfare of a resident of a facility.

5201 (3) The agency may deny a license to any applicant or  
5202 controlling interest as defined in part II of chapter 408 that  
5203 ~~to any officer or board member of an applicant who is a firm,~~  
5204 ~~corporation, partnership, or association or who owns 5 percent~~  
5205 ~~or more of the facility, if the applicant, officer, or board~~  
5206 ~~member~~ has or had a 25-percent or greater financial or ownership  
5207 interest in any other facility licensed under this part, or in  
5208 any entity licensed by this state or another state to provide  
5209 health or residential care, which facility or entity during the  
5210 5 years prior to the application for a license closed due to  
5211 financial inability to operate; had a receiver appointed or a  
5212 license denied, suspended, or revoked; was subject to a

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5213 moratorium pursuant to part II of chapter 408 ~~on admissions~~; had  
 5214 an injunctive proceeding initiated against it; or has an  
 5215 outstanding fine assessed under this chapter.

5216 (4) The agency shall deny or revoke the license of an  
 5217 assisted living facility that has two or more class I violations  
 5218 that are similar or identical to violations identified by the  
 5219 agency during a survey, inspection, monitoring visit, or  
 5220 complaint investigation occurring within the previous 2 years.

5221 (5) An action taken by the agency to suspend, deny, or  
 5222 revoke a facility's license under this part, in which the agency  
 5223 claims that the facility owner or an employee of the facility  
 5224 has threatened the health, safety, or welfare of a resident of  
 5225 the facility be heard by the Division of Administrative Hearings  
 5226 of the Department of Management Services within 120 days after  
 5227 receipt of the facility's request for a hearing, unless that  
 5228 time limitation is waived by both parties. The administrative  
 5229 law judge must render a decision within 30 days after receipt of  
 5230 a proposed recommended order.

5231 (6) The agency shall provide to the Division of Hotels and  
 5232 Restaurants of the Department of Business and Professional  
 5233 Regulation, on a monthly basis, a list of those assisted living  
 5234 facilities that have had their licenses denied, suspended, or  
 5235 revoked or that are involved in an appellate proceeding pursuant  
 5236 to s. 120.60 related to the denial, suspension, or revocation of  
 5237 a license.

5238 (7) Agency notification of a license suspension or  
 5239 revocation, or denial of a license renewal, shall be posted and  
 5240 visible to the public at the facility.

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5241 ~~(8) The agency may issue a temporary license pending final~~  
 5242 ~~disposition of a proceeding involving the suspension or~~  
 5243 ~~revocation of an assisted living facility license.~~

5244 Section 91. Section 400.415, Florida Statutes, is  
 5245 repealed.

5246 Section 92. Section 400.417, Florida Statutes, is amended  
 5247 to read:

5248 400.417 Expiration of license; renewal; conditional  
 5249 license.--

5250 ~~(1) Biennial licenses, unless sooner suspended or revoked,~~  
 5251 ~~shall expire 2 years from the date of issuance. Limited nursing,~~  
 5252 ~~extended congregate care, and limited mental health licenses~~  
 5253 ~~shall expire at the same time as the facility's standard~~  
 5254 ~~license, regardless of when issued. The agency shall notify the~~  
 5255 ~~facility at least 120 days prior to expiration that a renewal~~  
 5256 ~~license is necessary to continue operation. The notification~~  
 5257 ~~must be provided electronically or by mail delivery. Ninety days~~  
 5258 ~~prior to the expiration date, an application for renewal shall~~  
 5259 ~~be submitted to the agency. Fees must be prorated. The failure~~  
 5260 ~~to file a timely renewal application shall result in a late fee~~  
 5261 ~~charged to the facility in an amount equal to 50 percent of the~~  
 5262 ~~current fee.~~

5263 (2) A license shall be renewed in accordance with part II  
 5264 of chapter 408 ~~within 90 days upon the timely filing of an~~  
 5265 ~~application on forms furnished by the agency and the provision~~  
 5266 ~~of satisfactory proof of ability to operate and conduct the~~  
 5267 ~~facility in accordance with the requirements of this part and~~  
 5268 ~~adopted rules, including proof that the facility has received a~~

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5269 | satisfactory firesafety inspection, conducted by the local  
5270 | authority having jurisdiction or the State Fire Marshal, within  
5271 | the preceding 12 months ~~and an affidavit of compliance with the~~  
5272 | ~~background screening requirements of s. 400.4174.~~

5273 |       (3) In addition to the requirements of part II of chapter  
5274 | 408, ~~An applicant for renewal of a license who has complied with~~  
5275 | ~~the provisions of s. 400.411 with respect to proof of financial~~  
5276 | ~~ability to operate shall not be required to provide further~~  
5277 | ~~proof unless the facility or any other facility owned or~~  
5278 | ~~operated in whole or in part by the same person has demonstrated~~  
5279 | ~~financial instability as provided under s. 400.447(2) or unless~~  
5280 | ~~the agency suspects that the facility is not financially stable~~  
5281 | ~~as a result of the annual survey or complaints from the public~~  
5282 | ~~or a report from the State Long-Term Care Ombudsman Council.~~  
5283 | each facility must report to the agency any adverse court action  
5284 | concerning the facility's financial viability, within 7 days  
5285 | after its occurrence. The agency shall have access to books,  
5286 | records, and any other financial documents maintained by the  
5287 | facility to the extent necessary to determine the facility's  
5288 | financial stability. ~~A license for the operation of a facility~~  
5289 | ~~shall not be renewed if the licensee has any outstanding fines~~  
5290 | ~~assessed pursuant to this part which are in final order status.~~

5291 |       (4) ~~A licensee against whom a revocation or suspension~~  
5292 | ~~proceeding is pending at the time of license renewal may be~~  
5293 | ~~issued a conditional license effective until final disposition~~  
5294 | ~~by the agency. If judicial relief is sought from the final~~  
5295 | ~~disposition, the court having jurisdiction may issue a~~  
5296 | ~~conditional license for the duration of the judicial proceeding.~~

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5297        (4)~~(5)~~ A conditional license may be issued to an applicant  
 5298 for license renewal if the applicant fails to meet all standards  
 5299 and requirements for licensure. A conditional license issued  
 5300 under this subsection shall be limited in duration to a specific  
 5301 period of time not to exceed 6 months, as determined by the  
 5302 agency, and shall be accompanied by an agency-approved plan of  
 5303 correction.

5304        (5)~~(6)~~ When an extended care or limited nursing license is  
 5305 requested during a facility's biennial license period, the fee  
 5306 shall be prorated in order to permit the additional license to  
 5307 expire at the end of the biennial license period. The fee shall  
 5308 be calculated as of the date the additional license application  
 5309 is received by the agency.

5310        (6)~~(7)~~ The agency department may by rule establish renewal  
 5311 procedures, identify forms, and specify documentation necessary  
 5312 to administer this section and part II of chapter 408.

5313        Section 93. Section 400.4174, Florida Statutes, is amended  
 5314 to read:

5315        400.4174 Background screening; exemptions.--

5316        ~~(1)(a) Level 2 background screening must be conducted on  
 5317 each of the following persons, who shall be considered employees  
 5318 for the purposes of conducting screening under chapter 435:~~

5319        ~~1. The facility owner if an individual, the administrator,  
 5320 and the financial officer.~~

5321        ~~2. An officer or board member if the facility owner is a  
 5322 firm, corporation, partnership, or association, or any person  
 5323 owning 5 percent or more of the facility if the agency has  
 5324 probable cause to believe that such person has been convicted of~~



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5325 ~~any offense prohibited by s. 435.04. For each officer, board~~  
 5326 ~~member, or person owning 5 percent or more who has been~~  
 5327 ~~convicted of any such offense, the facility shall submit to the~~  
 5328 ~~agency a description and explanation of the conviction at the~~  
 5329 ~~time of license application. This subparagraph does not apply to~~  
 5330 ~~a board member of a not-for-profit corporation or organization~~  
 5331 ~~if the board member serves solely in a voluntary capacity, does~~  
 5332 ~~not regularly take part in the day-to-day operational decisions~~  
 5333 ~~of the corporation or organization, receives no remuneration for~~  
 5334 ~~his or her services, and has no financial interest and has no~~  
 5335 ~~family members with a financial interest in the corporation or~~  
 5336 ~~organization, provided that the board member and facility submit~~  
 5337 ~~a statement affirming that the board member's relationship to~~  
 5338 ~~the facility satisfies the requirements of this subparagraph.~~

5339 ~~(b) Proof of compliance with level 2 screening standards~~  
 5340 ~~which has been submitted within the previous 5 years to meet any~~  
 5341 ~~facility or professional licensure requirements of the agency or~~  
 5342 ~~the Department of Health satisfies the requirements of this~~  
 5343 ~~subsection, provided that such proof is accompanied, under~~  
 5344 ~~penalty of perjury, by an affidavit of compliance with the~~  
 5345 ~~provisions of chapter 435. Proof of compliance with the~~  
 5346 ~~background screening requirements of the Financial Services~~  
 5347 ~~Commission and the Office of Insurance Regulation for applicants~~  
 5348 ~~for a certificate of authority to operate a continuing care~~  
 5349 ~~retirement community under chapter 651, submitted within the~~  
 5350 ~~last 5 years, satisfies the Department of Law Enforcement and~~  
 5351 ~~Federal Bureau of Investigation portions of a level 2 background~~  
 5352 ~~check.~~

5353 ~~(c) The agency may grant a provisional license to a~~  
 5354 ~~facility applying for an initial license when each individual~~  
 5355 ~~required by this subsection to undergo screening has completed~~  
 5356 ~~the Department of Law Enforcement background checks, but has not~~  
 5357 ~~yet received results from the Federal Bureau of Investigation,~~  
 5358 ~~or when a request for an exemption from disqualification has~~  
 5359 ~~been submitted to the agency pursuant to s. 435.07, but a~~  
 5360 ~~response has not been issued.~~

5361 (2) The owner or administrator of an assisted living  
 5362 facility must conduct level 1 background screening, as set forth  
 5363 in chapter 435, on all employees hired on or after October 1,  
 5364 1998, who perform personal services as defined in s.  
 5365 400.402(16)~~(17)~~. The agency may exempt an individual from  
 5366 employment disqualification as set forth in chapter 435. Such  
 5367 persons shall be considered as having met this requirement if:

5368 (1)(a) Proof of compliance with level 1 screening  
 5369 requirements obtained to meet any professional license  
 5370 requirements in this state is provided and accompanied, under  
 5371 penalty of perjury, by a copy of the person's current  
 5372 professional license and an affidavit of current compliance with  
 5373 the background screening requirements.

5374 (2)(b) The person required to be screened has been  
 5375 continuously employed in the same type of occupation for which  
 5376 the person is seeking employment without a breach in service  
 5377 which exceeds 180 days, and proof of compliance with the level 1  
 5378 screening requirement which is no more than 2 years old is  
 5379 provided. Proof of compliance shall be provided directly from  
 5380 one employer or contractor to another, and not from the person

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5381 | screened. Upon request, a copy of screening results shall be  
5382 | provided by the employer retaining documentation of the  
5383 | screening to the person screened.

5384 |       (3)~~(e)~~ The person required to be screened is employed by a  
5385 | corporation or business entity or related corporation or  
5386 | business entity that owns, operates, or manages more than one  
5387 | facility or agency licensed under this chapter, and for whom a  
5388 | level 1 screening was conducted by the corporation or business  
5389 | entity as a condition of initial or continued employment.

5390 |       Section 94. Section 400.4176, Florida Statutes, is amended  
5391 | to read:

5392 |       400.4176 Notice of change of administrator.--If, during  
5393 | the period for which a license is issued, the owner changes  
5394 | administrators, the owner must notify the agency of the change  
5395 | within 10 days and provide documentation within 90 days that the  
5396 | new administrator has completed the applicable core educational  
5397 | requirements under s. 400.452. ~~Background screening shall be~~  
5398 | ~~completed on any new administrator as specified in s. 400.4174.~~

5399 |       Section 95. Subsection (8) of section 400.4178, Florida  
5400 | Statutes, is renumbered as subsection (7) and present subsection  
5401 | (7) of said section is amended to read:

5402 |       400.4178 Special care for persons with Alzheimer's disease  
5403 | or other related disorders.--

5404 |       ~~(7) Any facility more than 90 percent of whose residents~~  
5405 | ~~receive monthly optional supplementation payments is not~~  
5406 | ~~required to pay for the training and education programs required~~  
5407 | ~~under this section. A facility that has one or more such~~  
5408 | ~~residents shall pay a reduced fee that is proportional to the~~

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5409 ~~percentage of such residents in the facility. A facility that~~  
 5410 ~~does not have any residents who receive monthly optional~~  
 5411 ~~supplementation payments must pay a reasonable fee, as~~  
 5412 ~~established by the department, for such training and education~~  
 5413 ~~programs.~~

5414 Section 96. Section 400.418, Florida Statutes, is amended  
 5415 to read:

5416 400.418 Disposition of fees and administrative fines.--

5417 ~~(1) Income from license fees, inspection fees, late fees,~~  
 5418 ~~and administrative fines collected under this part generated~~  
 5419 ~~pursuant to ss. 400.407, 400.408, 400.417, 400.419, and 400.431~~  
 5420 ~~shall be deposited in the Health Care Trust Fund administered by~~  
 5421 ~~the agency. Such funds shall be directed to and used by the~~  
 5422 ~~agency for the following purposes:~~

5423 (1)(a) Up to 50 percent of the trust funds accrued each  
 5424 fiscal year under this part may be used to offset the expenses  
 5425 of receivership, pursuant to s. 400.422, if the court determines  
 5426 that the income and assets of the facility are insufficient to  
 5427 provide for adequate management and operation.

5428 (2)(b) An amount of \$5,000 of the trust funds accrued each  
 5429 year under this part shall be allocated to pay for inspection-  
 5430 related physical and mental health examinations requested by the  
 5431 agency pursuant to s. 400.426 for residents who are either  
 5432 recipients of supplemental security income or have monthly  
 5433 incomes not in excess of the maximum combined federal and state  
 5434 cash subsidies available to supplemental security income  
 5435 recipients, as provided for in s. 409.212. Such funds shall only  
 5436 be used where the resident is ineligible for Medicaid.

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5437            ~~(3)(c)~~ Any trust funds accrued each year under this part  
 5438 and not used for the purposes specified in subsections (1) and  
 5439 (2) paragraphs (a) and (b) shall be used to offset the costs of  
 5440 the licensure program, ~~including the costs of conducting~~  
 5441 ~~background investigations,~~ verifying information submitted,  
 5442 defraying the costs of processing the names of applicants, and  
 5443 conducting inspections and monitoring visits pursuant to this  
 5444 part and part II of chapter 408.

5445            ~~(2) Income from fees generated pursuant to s. 400.441(5)~~  
 5446 ~~shall be deposited in the Health Care Trust Fund and used to~~  
 5447 ~~offset the costs of printing and postage.~~

5448            Section 97. Section 400.419, Florida Statutes, is amended  
 5449 to read:

5450            400.419 Violations; imposition of administrative fines;  
 5451 grounds.--

5452            (1) The agency shall impose an administrative fine in the  
 5453 manner provided in chapter 120 for the violation of any  
 5454 provision of this part, part II of chapter 408, and applicable  
 5455 rules for any of the actions or violations as set forth within  
 5456 ~~this section~~ by an assisted living facility, for the actions of  
 5457 any person subject to level 2 background screening under s.  
 5458 400.4174, for the actions of any facility employee, or for an  
 5459 intentional or negligent act seriously affecting the health,  
 5460 safety, or welfare of a resident of the facility.

5461            (2) Each violation of this part and adopted rules shall be  
 5462 classified according to the nature of the violation and the  
 5463 gravity of its probable effect on facility residents. The agency

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5464 shall indicate the classification on the written notice of the  
5465 violation as follows:

5466 (a) Class "I" violations are those conditions or  
5467 occurrences related to the operation and maintenance of a  
5468 facility or to the personal care of residents which the agency  
5469 determines present an imminent danger to the residents or guests  
5470 of the facility or a substantial probability that death or  
5471 serious physical or emotional harm would result therefrom. The  
5472 condition or practice constituting a class I violation shall be  
5473 abated or eliminated within 24 hours, unless a fixed period, as  
5474 determined by the agency, is required for correction. The agency  
5475 shall impose an administrative fine for a cited class I  
5476 violation in an amount not less than \$5,000 and not exceeding  
5477 \$10,000 for each violation. A fine may be levied notwithstanding  
5478 the correction of the violation.

5479 (b) Class "II" violations are those conditions or  
5480 occurrences related to the operation and maintenance of a  
5481 facility or to the personal care of residents which the agency  
5482 determines directly threaten the physical or emotional health,  
5483 safety, or security of the facility residents, other than class  
5484 I violations. The agency shall impose an administrative fine for  
5485 a cited class II violation in an amount not less than \$1,000 and  
5486 not exceeding \$5,000 for each violation. A fine shall be levied  
5487 notwithstanding the correction of the violation.

5488 (c) Class "III" violations are those conditions or  
5489 occurrences related to the operation and maintenance of a  
5490 facility or to the personal care of residents which the agency  
5491 determines indirectly or potentially threaten the physical or

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5492 | emotional health, safety, or security of facility residents,  
 5493 | other than class I or class II violations. The agency shall  
 5494 | impose an administrative fine for a cited class III violation in  
 5495 | an amount not less than \$500 and not exceeding \$1,000 for each  
 5496 | violation. A citation for a class III violation must specify the  
 5497 | time within which the violation is required to be corrected. If  
 5498 | a class III violation is corrected within the time specified, no  
 5499 | fine may be imposed, unless it is a repeated offense.

5500 |         (d) Class "IV" violations are those conditions or  
 5501 | occurrences related to the operation and maintenance of a  
 5502 | building or to required reports, forms, or documents that do not  
 5503 | have the potential of negatively affecting residents. These  
 5504 | violations are of a type that the agency determines do not  
 5505 | threaten the health, safety, or security of residents of the  
 5506 | facility. The agency shall impose an administrative fine for a  
 5507 | cited class IV violation in an amount not less than \$100 and not  
 5508 | exceeding \$200 for each violation. A citation for a class IV  
 5509 | violation must specify the time within which the violation is  
 5510 | required to be corrected. If a class IV violation is corrected  
 5511 | within the time specified, no fine shall be imposed. Any class  
 5512 | IV violation that is corrected during the time an agency survey  
 5513 | is being conducted will be identified as an agency finding and  
 5514 | not as a violation.

5515 |         (3) For purposes of this section, in determining if a  
 5516 | penalty is to be imposed and in fixing the amount of the fine,  
 5517 | the agency shall consider the following factors:

5518 |             (a) The gravity of the violation, including the  
 5519 | probability that death or serious physical or emotional harm to

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5520 a resident will result or has resulted, the severity of the  
5521 action or potential harm, and the extent to which the provisions  
5522 of the applicable laws or rules were violated.

5523 (b) Actions taken by the owner or administrator to correct  
5524 violations.

5525 (c) Any previous violations.

5526 (d) The financial benefit to the facility of committing or  
5527 continuing the violation.

5528 (e) The licensed capacity of the facility.

5529 (4) Each day of continuing violation after the date fixed  
5530 for termination of the violation, as ordered by the agency,  
5531 constitutes an additional, separate, and distinct violation.

5532 (5) Any action taken to correct a violation shall be  
5533 documented in writing by the owner or administrator of the  
5534 facility and verified through followup visits by agency  
5535 personnel. The agency may impose a fine and, in the case of an  
5536 owner-operated facility, revoke or deny a facility's license  
5537 when a facility administrator fraudulently misrepresents action  
5538 taken to correct a violation.

5539 ~~(6) For fines that are upheld following administrative or~~  
5540 ~~judicial review, the violator shall pay the fine, plus interest~~  
5541 ~~at the rate as specified in s. 55.03, for each day beyond the~~  
5542 ~~date set by the agency for payment of the fine.~~

5543 ~~(7) Any unlicensed facility that continues to operate~~  
5544 ~~after agency notification is subject to a \$1,000 fine per day.~~

5545 ~~(8) Any licensed facility whose owner or administrator~~  
5546 ~~concurrently operates an unlicensed facility shall be subject to~~  
5547 ~~an administrative fine of \$5,000 per day.~~



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5548 ~~(9) Any facility whose owner fails to apply for a change~~  
 5549 ~~of ownership license in accordance with s. 400.412 and operates~~  
 5550 ~~the facility under the new ownership is subject to a fine of~~  
 5551 ~~\$5,000.~~

5552 (6)~~(10)~~ In addition to any administrative fines imposed,  
 5553 the agency may assess a survey fee, equal to the lesser of one  
 5554 half of the facility's biennial license and bed fee or \$500, to  
 5555 cover the cost of conducting initial complaint investigations  
 5556 that result in the finding of a violation that was the subject  
 5557 of the complaint or monitoring visits conducted under s.  
 5558 400.428(3)(c) to verify the correction of the violations.

5559 (7)~~(11)~~ The agency, as an alternative to or in conjunction  
 5560 with an administrative action against a facility for violations  
 5561 of this part and adopted rules, shall make a reasonable attempt  
 5562 to discuss each violation and recommended corrective action with  
 5563 the owner or administrator of the facility, prior to written  
 5564 notification. The agency, instead of fixing a period within  
 5565 which the facility shall enter into compliance with standards,  
 5566 may request a plan of corrective action from the facility which  
 5567 demonstrates a good faith effort to remedy each violation by a  
 5568 specific date, subject to the approval of the agency.

5569 ~~(12) Administrative fines paid by any facility under this~~  
 5570 ~~section shall be deposited into the Health Care Trust Fund and~~  
 5571 ~~expended as provided in s. 400.418.~~

5572 (8)~~(13)~~ The agency shall develop and disseminate an annual  
 5573 list of all facilities sanctioned or fined \$5,000 or more for  
 5574 violations of state standards, the number and class of  
 5575 violations involved, the penalties imposed, and the current

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5576 | status of cases. The list shall be disseminated, at no charge,  
 5577 | to the Department of Elderly Affairs, the Department of Health,  
 5578 | the Department of Children and Family Services, the area  
 5579 | agencies on aging, the Florida Statewide Advocacy Council, and  
 5580 | the state and local ombudsman councils. The Department of  
 5581 | Children and Family Services shall disseminate the list to  
 5582 | service providers under contract to the department who are  
 5583 | responsible for referring persons to a facility for residency.  
 5584 | The agency may charge a fee commensurate with the cost of  
 5585 | printing and postage to other interested parties requesting a  
 5586 | copy of this list.

5587 |       Section 98. Section 400.421, Florida Statutes, is  
 5588 | repealed.

5589 |       Section 99. Subsection (9) of section 400.422, Florida  
 5590 | Statutes, is amended to read:

5591 |       400.422 Receivership proceedings.--

5592 |       (9) The court may direct the agency to allocate funds from  
 5593 | the Health Care Trust Fund to the receiver, subject to the  
 5594 | provisions of s. 400.418~~(1)~~.

5595 |       Section 100. Subsection (10) of section 400.423, Florida  
 5596 | Statutes, is amended to read:

5597 |       400.423 Internal risk management and quality assurance  
 5598 | program; adverse incidents and reporting requirements.--

5599 |       (10) The agency ~~Department of Elderly Affairs~~ may adopt  
 5600 | rules necessary to administer this section.

5601 |       Section 101. Subsections (3) and (8) of section 400.424,  
 5602 | Florida Statutes, are amended to read:

5603 |       400.424 Contracts.--

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5604 (3)(a) The contract shall include a refund policy to be  
 5605 implemented at the time of a resident's transfer, discharge, or  
 5606 death. The refund policy shall provide that the resident or  
 5607 responsible party is entitled to a prorated refund based on the  
 5608 daily rate for any unused portion of payment beyond the  
 5609 termination date after all charges, including the cost of  
 5610 damages to the residential unit resulting from circumstances  
 5611 other than normal use, have been paid to the licensee. For the  
 5612 purpose of this paragraph, the termination date shall be the  
 5613 date the unit is vacated by the resident and cleared of all  
 5614 personal belongings. If the amount of belongings does not  
 5615 preclude renting the unit, the facility may clear the unit and  
 5616 charge the resident or his or her estate for moving and storing  
 5617 the items at a rate equal to the actual cost to the facility,  
 5618 not to exceed 20 percent of the regular rate for the unit,  
 5619 provided that 14 days' advance written notification is given. If  
 5620 the resident's possessions are not claimed within 45 days after  
 5621 notification, the facility may dispose of them. The contract  
 5622 shall also specify any other conditions under which claims will  
 5623 be made against the refund due the resident. Except in the case  
 5624 of death or a discharge due to medical reasons, the refunds  
 5625 shall be computed in accordance with the notice of relocation  
 5626 requirements specified in the contract. However, a resident may  
 5627 not be required to provide the licensee with more than 30 days'  
 5628 notice of termination. If after a contract is terminated, the  
 5629 facility intends to make a claim against a refund due the  
 5630 resident, the facility shall notify the resident or responsible  
 5631 party in writing of the claim and shall provide said party with

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5632 a reasonable time period of no less than 14 calendar days to  
 5633 respond. The facility shall provide a refund to the resident or  
 5634 responsible party within 45 days after the transfer, discharge,  
 5635 or death of the resident. The agency shall impose a fine upon a  
 5636 facility that fails to comply with the refund provisions of this  
 5637 ~~the~~ paragraph, which fine shall be equal to three times the  
 5638 amount due to the resident and not subject to the provisions of  
 5639 s. 400.419(3). One-half of the fine shall be remitted to the  
 5640 resident or his or her estate, and the other half to the Health  
 5641 Care Trust Fund to be used for the purpose specified in s.  
 5642 400.418.

5643 (b) If a licensee agrees to reserve a bed for a resident  
 5644 who is admitted to a medical facility, including, but not  
 5645 limited to, a nursing home, health care facility, or psychiatric  
 5646 facility, the resident or his or her responsible party shall  
 5647 notify the licensee of any change in status that would prevent  
 5648 the resident from returning to the facility. Until such notice  
 5649 is received, the agreed-upon daily rate may be charged by the  
 5650 licensee.

5651 (c) The purpose of any advance payment and a refund policy  
 5652 for such payment, including any advance payment for housing,  
 5653 meals, or personal services, shall be covered in the contract.

5654 (8) The agency ~~department~~ may by rule clarify terms,  
 5655 establish procedures, clarify refund policies and contract  
 5656 provisions, and specify documentation as necessary to administer  
 5657 this section.

5658 Section 102. Subsection (3) of section 400.4255, Florida  
 5659 Statutes, is amended to read:

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5660 | 400.4255 Use of personnel; emergency care.--  
 5661 | (3) Facility staff may withhold or withdraw  
 5662 | cardiopulmonary resuscitation if presented with an order not to  
 5663 | resuscitate executed pursuant to s. 401.45. The agency  
 5664 | ~~department~~ shall adopt rules providing for the implementation of  
 5665 | such orders. Facility staff and facilities shall not be subject  
 5666 | to criminal prosecution or civil liability, nor be considered to  
 5667 | have engaged in negligent or unprofessional conduct, for  
 5668 | withholding or withdrawing cardiopulmonary resuscitation  
 5669 | pursuant to such an order and applicable rules ~~adopted by the~~  
 5670 | ~~department~~. The absence of an order to resuscitate executed  
 5671 | pursuant to s. 401.45 does not preclude a physician from  
 5672 | withholding or withdrawing cardiopulmonary resuscitation as  
 5673 | otherwise permitted by law.

5674 | Section 103. Subsection (6) of section 400.4256, Florida  
 5675 | Statutes, is amended to read:

5676 | 400.4256 Assistance with self-administration of  
 5677 | medication.--

5678 | (6) The agency ~~department~~ may by rule establish facility  
 5679 | procedures and interpret terms as necessary to implement this  
 5680 | section.

5681 | Section 104. Subsection (9) of section 400.426, Florida  
 5682 | Statutes, is amended to read:

5683 | 400.426 Appropriateness of placements; examinations of  
 5684 | residents.--

5685 | (9) If, at any time after admission to a facility, a  
 5686 | resident appears to need care beyond that which the facility is  
 5687 | licensed to provide, the agency shall require the resident to be

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5688 | physically examined by a licensed physician or licensed nurse  
5689 | practitioner. This examination shall, to the extent possible, be  
5690 | performed by the resident's preferred physician or nurse  
5691 | practitioner and shall be paid for by the resident with personal  
5692 | funds, except as provided in s. 400.418(2)(1)~~(b)~~. Following this  
5693 | examination, the examining physician or licensed nurse  
5694 | practitioner shall complete and sign a medical form provided by  
5695 | the agency. The completed medical form shall be submitted to the  
5696 | agency within 30 days after the date the facility owner or  
5697 | administrator is notified by the agency that the physical  
5698 | examination is required. After consultation with the physician  
5699 | or licensed nurse practitioner who performed the examination, a  
5700 | medical review team designated by the agency shall then  
5701 | determine whether the resident is appropriately residing in the  
5702 | facility. The medical review team shall base its decision on a  
5703 | comprehensive review of the resident's physical and functional  
5704 | status, including the resident's preferences, and not on an  
5705 | isolated health-related problem. In the case of a mental health  
5706 | resident, if the resident appears to have needs in addition to  
5707 | those identified in the community living support plan, the  
5708 | agency may require an evaluation by a mental health  
5709 | professional, as determined by the Department of Children and  
5710 | Family Services. A facility may not be required to retain a  
5711 | resident who requires more services or care than the facility is  
5712 | able to provide in accordance with its policies and criteria for  
5713 | admission and continued residency. Members of the medical review  
5714 | team making the final determination may not include the agency  
5715 | personnel who initially questioned the appropriateness of a

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

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5716 resident's placement. Such determination is final and binding  
 5717 upon the facility and the resident. Any resident who is  
 5718 determined by the medical review team to be inappropriately  
 5719 residing in a facility shall be given 30 days' written notice to  
 5720 relocate by the owner or administrator, unless the resident's  
 5721 continued residence in the facility presents an imminent danger  
 5722 to the health, safety, or welfare of the resident or a  
 5723 substantial probability exists that death or serious physical  
 5724 harm would result to the resident if allowed to remain in the  
 5725 facility.

5726 Section 105. Subsection (8) of section 400.427, Florida  
 5727 Statutes, is amended to read:

5728 400.427 Property and personal affairs of residents.--

5729 (8) The agency ~~department~~ may by rule clarify terms and  
 5730 specify procedures and documentation necessary to administer the  
 5731 provisions of this section relating to the proper management of  
 5732 residents' funds and personal property and the execution of  
 5733 surety bonds.

5734 Section 106. Subsection (4) of section 400.4275, Florida  
 5735 Statutes, is amended to read:

5736 400.4275 Business practice; personnel records; liability  
 5737 insurance.--The assisted living facility shall be administered  
 5738 on a sound financial basis that is consistent with good business  
 5739 practices.

5740 (4) The agency ~~department~~ may by rule clarify terms,  
 5741 establish requirements for financial records, accounting  
 5742 procedures, personnel procedures, insurance coverage, and

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5743 reporting procedures, and specify documentation as necessary to  
5744 implement the requirements of this section.

5745 Section 107. Subsections (1), (4), and (5) of section  
5746 400.431, Florida Statutes, are amended to read:

5747 400.431 Closing of facility; notice; penalty.--

5748 (1) In addition to the requirements of part II of chapter  
5749 408, ~~Whenever a facility voluntarily discontinues operation, it~~  
5750 ~~shall inform the agency in writing at least 90 days prior to the~~  
5751 ~~discontinuance of operation.~~ the facility shall also inform each  
5752 resident or the next of kin, legal representative, or agency  
5753 acting on each resident's behalf, of the fact and the proposed  
5754 time of such discontinuance of operation, following the  
5755 notification requirements provided in s. 400.428(1)(k). In the  
5756 event a resident has no person to represent him or her, the  
5757 facility shall be responsible for referral to an appropriate  
5758 social service agency for placement.

5759 ~~(4) Immediately upon discontinuance of the operation of a~~  
5760 ~~facility, the owner shall surrender the license therefor to the~~  
5761 ~~agency, and the license shall be canceled.~~

5762 (4)(5) The agency may levy a fine in an amount no greater  
5763 than \$5,000 upon each person or business entity that owns any  
5764 interest in a facility that terminates operation without  
5765 providing notice to the agency and the residents of the facility  
5766 at least 30 days before operation ceases. This fine shall not be  
5767 levied against any facility involuntarily closed at the  
5768 initiation of the agency. The agency shall use the proceeds of  
5769 the fines to operate the facility until all residents of the  
5770 facility are relocated ~~and shall deposit any balance of the~~



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5771 ~~proceeds into the Health Care Trust Fund established pursuant to~~  
5772 ~~s. 400.418.~~

5773 Section 108. Section 400.434, Florida Statutes, is amended  
5774 to read:

5775 400.434 Right of entry and inspection.--Any duly  
5776 designated officer or employee of the department, the Department  
5777 of Children and Family Services, ~~the agency,~~ the Medicaid Fraud  
5778 Control Unit of the Department of Legal Affairs, the state or  
5779 local fire marshal, ~~or~~ a member of the state or local long-term  
5780 care ombudsman council, or the agency in accordance with s.  
5781 408.811 shall have the right to enter unannounced upon and into  
5782 the premises of any facility licensed pursuant to this part in  
5783 order to determine the state of compliance with the provisions  
5784 of this part, part II of chapter 408, and ~~of~~ applicable rules ~~or~~  
5785 ~~standards in force pursuant thereto. The right of entry and~~  
5786 ~~inspection shall also extend to any premises which the agency~~  
5787 ~~has reason to believe is being operated or maintained as a~~  
5788 ~~facility without a license; but no such entry or inspection of~~  
5789 ~~any premises may be made without the permission of the owner or~~  
5790 ~~person in charge thereof, unless a warrant is first obtained~~  
5791 ~~from the circuit court authorizing such entry. The warrant~~  
5792 ~~requirement shall extend only to a facility which the agency has~~  
5793 ~~reason to believe is being operated or maintained as a facility~~  
5794 ~~without a license. Any application for a license or renewal~~  
5795 ~~thereof made pursuant to this part shall constitute permission~~  
5796 ~~for, and complete acquiescence in, any entry or inspection of~~  
5797 ~~the premises for which the license is sought, in order to~~  
5798 ~~facilitate verification of the information submitted on or in~~

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5799 ~~connection with the application; to discover, investigate, and~~  
 5800 ~~determine the existence of abuse or neglect; or to elicit,~~  
 5801 ~~receive, respond to, and resolve complaints. Any current valid~~  
 5802 ~~license shall constitute unconditional permission for, and~~  
 5803 ~~complete acquiescence in, any entry or inspection of the~~  
 5804 ~~premises by authorized personnel.~~ The agency shall retain the  
 5805 right of entry and inspection of facilities that have had a  
 5806 license revoked or suspended within the previous 24 months, to  
 5807 ensure that the facility is not operating unlawfully. However,  
 5808 before entering the facility, a statement of probable cause must  
 5809 be filed with the director of the agency, who must approve or  
 5810 disapprove the action within 48 hours. Probable cause shall  
 5811 include, but is not limited to, evidence that the facility holds  
 5812 itself out to the public as a provider of personal care services  
 5813 or the receipt of a complaint by the long-term care ombudsman  
 5814 council about the facility. Data collected by the state or local  
 5815 long-term care ombudsman councils or the state or local advocacy  
 5816 councils may be used by the agency in investigations involving  
 5817 violations of regulatory standards.

5818 Section 109. Subsections (2) and (3) of section 400.435,  
 5819 Florida Statutes, are renumbered as subsections (1) and (2),  
 5820 respectively, and present subsection (1) of said section is  
 5821 amended to read:

5822 400.435 Inspection ~~Maintenance of records;~~ reports.--

5823 ~~(1) Every facility shall maintain, as public information~~  
 5824 ~~available for public inspection under such conditions as the~~  
 5825 ~~agency shall prescribe, records containing copies of all~~  
 5826 ~~inspection reports pertaining to the facility that have been~~

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5827 ~~issued by the agency to the facility. Copies of inspection~~  
 5828 ~~reports shall be retained in the records for 5 years from the~~  
 5829 ~~date the reports are filed or issued.~~

5830 (1)~~(2)~~ Within 60 days after the date of the biennial  
 5831 inspection visit required under s. 408.811 or within 30 days  
 5832 after the date of any interim visit, the agency shall forward  
 5833 the results of the inspection to the local ombudsman council in  
 5834 whose planning and service area, as defined in part II, the  
 5835 facility is located; to at least one public library or, in the  
 5836 absence of a public library, the county seat in the county in  
 5837 which the inspected assisted living facility is located; and,  
 5838 when appropriate, to the district Adult Services and Mental  
 5839 Health Program Offices.

5840 Section 110. Section 400.441, Florida Statutes, is amended  
 5841 to read:

5842 400.441 Rules establishing standards.--

5843 (1) It is the intent of the Legislature that rules  
 5844 published and enforced pursuant to this section shall include  
 5845 criteria by which a reasonable and consistent quality of  
 5846 resident care and quality of life may be ensured and the results  
 5847 of such resident care may be demonstrated. Such rules shall also  
 5848 ensure a safe and sanitary environment that is residential and  
 5849 noninstitutional in design or nature. It is further intended  
 5850 that reasonable efforts be made to accommodate the needs and  
 5851 preferences of residents to enhance the quality of life in a  
 5852 facility. In order to provide safe and sanitary facilities and  
 5853 the highest quality of resident care accommodating the needs and  
 5854 preferences of residents, the agency department, in consultation

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5855 | with the department ~~agency~~, the Department of Children and  
 5856 | Family Services, and the Department of Health, shall adopt  
 5857 | rules, policies, and procedures to administer this part and part  
 5858 | II of chapter 408, which must include reasonable and fair  
 5859 | minimum standards in relation to:

5860 |         (a) The requirements for and maintenance of facilities,  
 5861 | not in conflict with the provisions of chapter 553, relating to  
 5862 | plumbing, heating, cooling, lighting, ventilation, living space,  
 5863 | and other housing conditions, which will ensure the health,  
 5864 | safety, and comfort of residents and protection from fire  
 5865 | hazard, including adequate provisions for fire alarm and other  
 5866 | fire protection suitable to the size of the structure. Uniform  
 5867 | firesafety standards shall be established and enforced by the  
 5868 | State Fire Marshal in cooperation with the agency, the  
 5869 | department, and the Department of Health.

5870 |         1. Evacuation capability determination.--

5871 |         a. The provisions of the National Fire Protection  
 5872 | Association, NFPA 101A, Chapter 5, 1995 edition, shall be used  
 5873 | for determining the ability of the residents, with or without  
 5874 | staff assistance, to relocate from or within a licensed facility  
 5875 | to a point of safety as provided in the fire codes adopted  
 5876 | herein. An evacuation capability evaluation for initial  
 5877 | licensure shall be conducted within 6 months after the date of  
 5878 | licensure. For existing licensed facilities that are not  
 5879 | equipped with an automatic fire sprinkler system, the  
 5880 | administrator shall evaluate the evacuation capability of  
 5881 | residents at least annually. The evacuation capability  
 5882 | evaluation for each facility not equipped with an automatic fire

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5883 | sprinkler system shall be validated, without liability, by the  
 5884 | State Fire Marshal, by the local fire marshal, or by the local  
 5885 | authority having jurisdiction over firesafety, before the  
 5886 | license renewal date. If the State Fire Marshal, local fire  
 5887 | marshal, or local authority having jurisdiction over firesafety  
 5888 | has reason to believe that the evacuation capability of a  
 5889 | facility as reported by the administrator may have changed, it  
 5890 | may, with assistance from the facility administrator, reevaluate  
 5891 | the evacuation capability through timed exiting drills.  
 5892 | Translation of timed fire exiting drills to evacuation  
 5893 | capability may be determined:

5894 |       (I) Three minutes or less: prompt.

5895 |       (II) More than 3 minutes, but not more than 13 minutes:  
 5896 | slow.

5897 |       (III) More than 13 minutes: impractical.

5898 |       b. The Office of the State Fire Marshal shall provide or  
 5899 | cause the provision of training and education on the proper  
 5900 | application of Chapter 5, NFPA 101A, 1995 edition, to its  
 5901 | employees, to staff of the Agency for Health Care Administration  
 5902 | who are responsible for regulating facilities under this part,  
 5903 | and to local governmental inspectors. The Office of the State  
 5904 | Fire Marshal shall provide or cause the provision of this  
 5905 | training within its existing budget, but may charge a fee for  
 5906 | this training to offset its costs. The initial training must be  
 5907 | delivered within 6 months after July 1, 1995, and as needed  
 5908 | thereafter.

5909 |       c. The Office of the State Fire Marshal, in cooperation  
 5910 | with provider associations, shall provide or cause the provision

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5911 of a training program designed to inform facility operators on  
 5912 how to properly review bid documents relating to the  
 5913 installation of automatic fire sprinklers. The Office of the  
 5914 State Fire Marshal shall provide or cause the provision of this  
 5915 training within its existing budget, but may charge a fee for  
 5916 this training to offset its costs. The initial training must be  
 5917 delivered within 6 months after July 1, 1995, and as needed  
 5918 thereafter.

5919 d. The administrator of a licensed facility shall sign an  
 5920 affidavit verifying the number of residents occupying the  
 5921 facility at the time of the evacuation capability evaluation.

5922 2. Firesafety requirements.--

5923 a. Except for the special applications provided herein,  
 5924 effective January 1, 1996, the provisions of the National Fire  
 5925 Protection Association, Life Safety Code, NFPA 101, 1994  
 5926 edition, Chapter 22 for new facilities and Chapter 23 for  
 5927 existing facilities shall be the uniform fire code applied by  
 5928 the State Fire Marshal for assisted living facilities, pursuant  
 5929 to s. 633.022.

5930 b. Any new facility, regardless of size, that applies for  
 5931 a license on or after January 1, 1996, must be equipped with an  
 5932 automatic fire sprinkler system. The exceptions as provided in  
 5933 section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein,  
 5934 apply to any new facility housing eight or fewer residents. On  
 5935 July 1, 1995, local governmental entities responsible for the  
 5936 issuance of permits for construction shall inform, without  
 5937 liability, any facility whose permit for construction is  
 5938 obtained prior to January 1, 1996, of this automatic fire

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5939 | sprinkler requirement. As used in this part, the term "a new  
5940 | facility" does not mean an existing facility that has undergone  
5941 | change of ownership.

5942 |       c. Notwithstanding any provision of s. 633.022 or of the  
5943 | National Fire Protection Association, NFPA 101A, Chapter 5, 1995  
5944 | edition, to the contrary, any existing facility housing eight or  
5945 | fewer residents is not required to install an automatic fire  
5946 | sprinkler system, nor to comply with any other requirement in  
5947 | Chapter 23, NFPA 101, 1994 edition, that exceeds the firesafety  
5948 | requirements of NFPA 101, 1988 edition, that applies to this  
5949 | size facility, unless the facility has been classified as  
5950 | impractical to evacuate. Any existing facility housing eight or  
5951 | fewer residents that is classified as impractical to evacuate  
5952 | must install an automatic fire sprinkler system within the  
5953 | timeframes granted in this section.

5954 |       d. Any existing facility that is required to install an  
5955 | automatic fire sprinkler system under this paragraph need not  
5956 | meet other firesafety requirements of Chapter 23, NFPA 101, 1994  
5957 | edition, which exceed the provisions of NFPA 101, 1988 edition.  
5958 | The mandate contained in this paragraph which requires certain  
5959 | facilities to install an automatic fire sprinkler system  
5960 | supersedes any other requirement.

5961 |       e. This paragraph does not supersede the exceptions  
5962 | granted in NFPA 101, 1988 edition or 1994 edition.

5963 |       f. This paragraph does not exempt facilities from other  
5964 | firesafety provisions adopted under s. 633.022 and local  
5965 | building code requirements in effect before July 1, 1995.

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5966 | g. A local government may charge fees only in an amount  
 5967 | not to exceed the actual expenses incurred by local government  
 5968 | relating to the installation and maintenance of an automatic  
 5969 | fire sprinkler system in an existing and properly licensed  
 5970 | assisted living facility structure as of January 1, 1996.

5971 | h. If a licensed facility undergoes major reconstruction  
 5972 | or addition to an existing building on or after January 1, 1996,  
 5973 | the entire building must be equipped with an automatic fire  
 5974 | sprinkler system. Major reconstruction of a building means  
 5975 | repair or restoration that costs in excess of 50 percent of the  
 5976 | value of the building as reported on the tax rolls, excluding  
 5977 | land, before reconstruction. Multiple reconstruction projects  
 5978 | within a 5-year period the total costs of which exceed 50  
 5979 | percent of the initial value of the building at the time the  
 5980 | first reconstruction project was permitted are to be considered  
 5981 | as major reconstruction. Application for a permit for an  
 5982 | automatic fire sprinkler system is required upon application for  
 5983 | a permit for a reconstruction project that creates costs that go  
 5984 | over the 50-percent threshold.

5985 | i. Any facility licensed before January 1, 1996, that is  
 5986 | required to install an automatic fire sprinkler system shall  
 5987 | ensure that the installation is completed within the following  
 5988 | timeframes based upon evacuation capability of the facility as  
 5989 | determined under subparagraph 1.:

5990 | (I) Impractical evacuation capability, 24 months.

5991 | (II) Slow evacuation capability, 48 months.

5992 | (III) Prompt evacuation capability, 60 months.

5993 |



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5994 | The beginning date from which the deadline for the automatic  
 5995 | fire sprinkler installation requirement must be calculated is  
 5996 | upon receipt of written notice from the local fire official that  
 5997 | an automatic fire sprinkler system must be installed. The local  
 5998 | fire official shall send a copy of the document indicating the  
 5999 | requirement of a fire sprinkler system to the Agency for Health  
 6000 | Care Administration.

6001 |         j. It is recognized that the installation of an automatic  
 6002 | fire sprinkler system may create financial hardship for some  
 6003 | facilities. The appropriate local fire official shall, without  
 6004 | liability, grant two 1-year extensions to the timeframes for  
 6005 | installation established herein, if an automatic fire sprinkler  
 6006 | installation cost estimate and proof of denial from two  
 6007 | financial institutions for a construction loan to install the  
 6008 | automatic fire sprinkler system are submitted. However, for any  
 6009 | facility with a class I or class II, or a history of uncorrected  
 6010 | class III, firesafety deficiencies, an extension must not be  
 6011 | granted. The local fire official shall send a copy of the  
 6012 | document granting the time extension to the Agency for Health  
 6013 | Care Administration.

6014 |         k. A facility owner whose facility is required to be  
 6015 | equipped with an automatic fire sprinkler system under Chapter  
 6016 | 23, NFPA 101, 1994 edition, as adopted herein, must disclose to  
 6017 | any potential buyer of the facility that an installation of an  
 6018 | automatic fire sprinkler requirement exists. The sale of the  
 6019 | facility does not alter the timeframe for the installation of  
 6020 | the automatic fire sprinkler system.

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6021           1. Existing facilities required to install an automatic  
6022 fire sprinkler system as a result of construction-type  
6023 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted  
6024 herein, or evacuation capability requirements shall be notified  
6025 by the local fire official in writing of the automatic fire  
6026 sprinkler requirement, as well as the appropriate date for final  
6027 compliance as provided in this subparagraph. The local fire  
6028 official shall send a copy of the document to the Agency for  
6029 Health Care Administration.

6030           m. Except in cases of life-threatening fire hazards, if an  
6031 existing facility experiences a change in the evacuation  
6032 capability, or if the local authority having jurisdiction  
6033 identifies a construction-type restriction, such that an  
6034 automatic fire sprinkler system is required, it shall be  
6035 afforded time for installation as provided in this subparagraph.

6036  
6037 Facilities that are fully sprinkled and in compliance with other  
6038 firesafety standards are not required to conduct more than one  
6039 of the required fire drills between the hours of 11 p.m. and 7  
6040 a.m., per year. In lieu of the remaining drills, staff  
6041 responsible for residents during such hours may be required to  
6042 participate in a mock drill that includes a review of evacuation  
6043 procedures. Such standards must be included or referenced in the  
6044 rules adopted by the State Fire Marshal. Pursuant to s.  
6045 633.022(1)(b), the State Fire Marshal is the final  
6046 administrative authority for firesafety standards established  
6047 and enforced pursuant to this section. All licensed facilities

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6048 | must have an annual fire inspection conducted by the local fire  
6049 | marshal or authority having jurisdiction.

6050 |         3. Resident elopement requirements.--Facilities are  
6051 | required to conduct a minimum of two resident elopement  
6052 | prevention and response drills per year. All administrators and  
6053 | direct care staff must participate in the drills which shall  
6054 | include a review of procedures to address resident elopement.  
6055 | Facilities must document the implementation of the drills and  
6056 | ensure that the drills are conducted in a manner consistent with  
6057 | the facility's resident elopement policies and procedures.

6058 |         (b) The preparation and annual update of a comprehensive  
6059 | emergency management plan. Such standards must be included in  
6060 | the rules adopted by the agency ~~department~~ after consultation  
6061 | with the Department of Community Affairs. At a minimum, the  
6062 | rules must provide for plan components that address emergency  
6063 | evacuation transportation; adequate sheltering arrangements;  
6064 | postdisaster activities, including provision of emergency power,  
6065 | food, and water; postdisaster transportation; supplies;  
6066 | staffing; emergency equipment; individual identification of  
6067 | residents and transfer of records; communication with families;  
6068 | and responses to family inquiries. The comprehensive emergency  
6069 | management plan is subject to review and approval by the local  
6070 | emergency management agency. During its review, the local  
6071 | emergency management agency shall ensure that the following  
6072 | agencies, at a minimum, are given the opportunity to review the  
6073 | plan: the Department of Elderly Affairs, the Department of  
6074 | Health, the Agency for Health Care Administration, and the  
6075 | Department of Community Affairs. Also, appropriate volunteer

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6076 organizations must be given the opportunity to review the plan.  
6077 The local emergency management agency shall complete its review  
6078 within 60 days and either approve the plan or advise the  
6079 facility of necessary revisions.

6080 (c) The number, training, and qualifications of all  
6081 personnel having responsibility for the care of residents. The  
6082 rules must require adequate staff to provide for the safety of  
6083 all residents. Facilities licensed for 17 or more residents are  
6084 required to maintain an alert staff for 24 hours per day.

6085 (d) All sanitary conditions within the facility and its  
6086 surroundings which will ensure the health and comfort of  
6087 residents. The rules must clearly delineate the responsibilities  
6088 of the agency's licensure and survey staff, the county health  
6089 departments, and the local authority having jurisdiction over  
6090 fire safety and ensure that inspections are not duplicative. The  
6091 agency may collect fees for food service inspections conducted  
6092 by the county health departments and transfer such fees to the  
6093 Department of Health.

6094 (e) ~~License application and license renewal, transfer of~~  
6095 ~~ownership,~~ Proper management of resident funds and personal  
6096 property, surety bonds, resident contracts, refund policies,  
6097 ~~financial ability to operate,~~ and facility and staff records.

6098 (f) Inspections, complaint investigations, moratoriums,  
6099 classification of deficiencies, levying and enforcement of  
6100 penalties, and use of income from fees and fines.

6101 (g) The enforcement of the resident bill of rights  
6102 specified in s. 400.428.

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6103 (h) The care and maintenance of residents, which must  
 6104 include, but is not limited to:  
 6105 1. The supervision of residents;  
 6106 2. The provision of personal services;  
 6107 3. The provision of, or arrangement for, social and  
 6108 leisure activities;  
 6109 4. The arrangement for appointments and transportation to  
 6110 appropriate medical, dental, nursing, or mental health services,  
 6111 as needed by residents;  
 6112 5. The management of medication;  
 6113 6. The nutritional needs of residents;  
 6114 7. Resident records; and  
 6115 8. Internal risk management and quality assurance.  
 6116 (i) Facilities holding a limited nursing, extended  
 6117 congregate care, or limited mental health license.  
 6118 (j) The establishment of specific criteria to define  
 6119 appropriateness of resident admission and continued residency in  
 6120 a facility holding a standard, limited nursing, extended  
 6121 congregate care, and limited mental health license.  
 6122 (k) The use of physical or chemical restraints. The use of  
 6123 physical restraints is limited to half-bed rails as prescribed  
 6124 and documented by the resident's physician with the consent of  
 6125 the resident or, if applicable, the resident's representative or  
 6126 designee or the resident's surrogate, guardian, or attorney in  
 6127 fact. The use of chemical restraints is limited to prescribed  
 6128 dosages of medications authorized by the resident's physician  
 6129 and must be consistent with the resident's diagnosis. Residents  
 6130 who are receiving medications that can serve as chemical

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6131 restraints must be evaluated by their physician at least  
 6132 annually to assess:

- 6133 1. The continued need for the medication.
- 6134 2. The level of the medication in the resident's blood.
- 6135 3. The need for adjustments in the prescription.

6136 (1) The establishment of specific policies and procedures  
 6137 on resident elopement. Facilities shall conduct a minimum of two  
 6138 resident elopement drills each year. All administrators and  
 6139 direct care staff shall participate in the drills. Facilities  
 6140 shall document the drills.

6141 (2) In adopting any rules pursuant to this part, the  
 6142 agency ~~department~~, in conjunction with the department ~~agency~~,  
 6143 shall make distinct standards for facilities based upon facility  
 6144 size; the types of care provided; the physical and mental  
 6145 capabilities and needs of residents; the type, frequency, and  
 6146 amount of services and care offered; and the staffing  
 6147 characteristics of the facility. Rules developed pursuant to  
 6148 this section shall not restrict the use of shared staffing and  
 6149 shared programming in facilities that are part of retirement  
 6150 communities that provide multiple levels of care and otherwise  
 6151 meet the requirements of law and rule. Except for uniform  
 6152 firesafety standards, the agency ~~department~~ shall adopt by rule  
 6153 separate and distinct standards for facilities with 16 or fewer  
 6154 beds and for facilities with 17 or more beds. The standards for  
 6155 facilities with 16 or fewer beds shall be appropriate for a  
 6156 noninstitutional residential environment, provided that the  
 6157 structure is no more than two stories in height and all persons  
 6158 who cannot exit the facility unassisted in an emergency reside

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6159 | on the first floor. The agency ~~department~~, in conjunction with  
 6160 | the department ~~agency~~, may make other distinctions among types  
 6161 | of facilities as necessary to enforce the provisions of this  
 6162 | part. Where appropriate, the agency shall offer alternate  
 6163 | solutions for complying with established standards, based on  
 6164 | distinctions made by the department and the agency relative to  
 6165 | the physical characteristics of facilities and the types of care  
 6166 | offered therein.

6167 |       (3) ~~The department shall submit a copy of proposed rules~~  
 6168 | ~~to the Speaker of the House of Representatives, the President of~~  
 6169 | ~~the Senate, and appropriate committees of substance for review~~  
 6170 | ~~and comment prior to the promulgation thereof.~~

6171 |       (a) Rules adopted ~~promulgated~~ by the agency ~~department~~  
 6172 | shall encourage the development of homelike facilities which  
 6173 | promote the dignity, individuality, personal strengths, and  
 6174 | decisionmaking ability of residents.

6175 |       (4)~~(b)~~ The agency, in consultation with the department,  
 6176 | may waive rules promulgated pursuant to this part in order to  
 6177 | demonstrate and evaluate innovative or cost-effective congregate  
 6178 | care alternatives which enable individuals to age in place. Such  
 6179 | waivers may be granted only in instances where there is  
 6180 | reasonable assurance that the health, safety, or welfare of  
 6181 | residents will not be endangered. To apply for a waiver, the  
 6182 | licensee shall submit to the agency a written description of the  
 6183 | concept to be demonstrated, including goals, objectives, and  
 6184 | anticipated benefits; the number and types of residents who will  
 6185 | be affected, if applicable; a brief description of how the  
 6186 | demonstration will be evaluated; and any other information

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6187 | deemed appropriate by the agency. Any facility granted a waiver  
 6188 | shall submit a report of findings to the agency and the  
 6189 | department within 12 months. At such time, the agency may renew  
 6190 | or revoke the waiver or pursue any regulatory or statutory  
 6191 | changes necessary to allow other facilities to adopt the same  
 6192 | practices. The agency ~~department~~ may by rule clarify terms and  
 6193 | establish waiver application procedures, criteria for reviewing  
 6194 | waiver proposals, and procedures for reporting findings, as  
 6195 | necessary to implement this subsection.

6196 |       (5)~~(4)~~ The agency may use an abbreviated biennial standard  
 6197 | licensure inspection that consists of a review of key quality-  
 6198 | of-care standards in lieu of a full inspection in facilities  
 6199 | which have a good record of past performance. However, a full  
 6200 | inspection shall be conducted in facilities which have had a  
 6201 | history of class I or class II violations, uncorrected class III  
 6202 | violations, confirmed ombudsman council complaints, or confirmed  
 6203 | licensure complaints, within the previous licensure period  
 6204 | immediately preceding the inspection or when a potentially  
 6205 | serious problem is identified during the abbreviated inspection.  
 6206 | The agency, in consultation with the department, shall develop  
 6207 | the key quality-of-care standards with input from the State  
 6208 | Long-Term Care Ombudsman Council and representatives of provider  
 6209 | groups for incorporation into its rules. ~~The department, in~~  
 6210 | ~~consultation with the agency, shall report annually to the~~  
 6211 | ~~Legislature concerning its implementation of this subsection.~~  
 6212 | ~~The report shall include, at a minimum, the key quality-of-care~~  
 6213 | ~~standards which have been developed; the number of facilities~~  
 6214 | ~~identified as being eligible for the abbreviated inspection; the~~



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6215 ~~number of facilities which have received the abbreviated~~  
 6216 ~~inspection and, of those, the number that were converted to full~~  
 6217 ~~inspection; the number and type of subsequent complaints~~  
 6218 ~~received by the agency or department on facilities which have~~  
 6219 ~~had abbreviated inspections; any recommendations for~~  
 6220 ~~modification to this subsection; any plans by the agency to~~  
 6221 ~~modify its implementation of this subsection; and any other~~  
 6222 ~~information which the department believes should be reported.~~

6223 ~~(5) A fee shall be charged by the department to any person~~  
 6224 ~~requesting a copy of this part or rules promulgated under this~~  
 6225 ~~part. Such fees shall not exceed the actual cost of duplication~~  
 6226 ~~and postage.~~

6227 Section 111. Subsection (4) of section 400.442, Florida  
 6228 Statutes, is amended to read:

6229 400.442 Pharmacy and dietary services.--

6230 (4) The agency ~~department~~ may by rule establish procedures  
 6231 and specify documentation as necessary to implement this  
 6232 section.

6233 Section 112. Subsection (3) of section 400.444, Florida  
 6234 Statutes, is amended to read:

6235 400.444 Construction and renovation; requirements.--

6236 (3) The agency ~~department~~ may adopt rules to establish  
 6237 procedures and specify the documentation necessary to implement  
 6238 this section.

6239 Section 113. Subsections (4) through (7) of section  
 6240 400.447, Florida Statutes, are renumbered as subsections (1)  
 6241 through (4) and present subsections (1), (2), and (3) of said  
 6242 section are amended to read:

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6243           400.447 Prohibited acts; penalties for violation.--  
 6244           ~~(1) It is unlawful for any person or public body to offer~~  
 6245 ~~or advertise to the public, in any way by any medium whatever,~~  
 6246 ~~personal services as defined in this act, without obtaining a~~  
 6247 ~~valid current license. It is unlawful for any holder of a~~  
 6248 ~~license issued pursuant to the provisions of this act to~~  
 6249 ~~advertise or hold out to the public that it holds a license for~~  
 6250 ~~a facility other than that for which it actually holds a~~  
 6251 ~~license.~~  
 6252           ~~(2) It is unlawful for any holder of a license issued~~  
 6253 ~~pursuant to the provisions of this act to withhold from the~~  
 6254 ~~agency any evidence of financial instability, including, but not~~  
 6255 ~~limited to, bad checks, delinquent accounts, nonpayment of~~  
 6256 ~~withholding taxes, unpaid utility expenses, nonpayment for~~  
 6257 ~~essential services, or adverse court action concerning the~~  
 6258 ~~financial viability of the facility or any other facility~~  
 6259 ~~licensed under part II or part III of this chapter which is~~  
 6260 ~~owned by the licensee.~~  
 6261           ~~(3) Any person found guilty of violating subsection (1) or~~  
 6262 ~~subsection (2) commits a misdemeanor of the second degree,~~  
 6263 ~~punishable as provided in s. 775.083. Each day of continuing~~  
 6264 ~~violation shall be considered a separate offense.~~  
 6265           Section 114. Section 400.451, Florida Statutes, is  
 6266 repealed.  
 6267           Section 115. Subsections (1), (3), and (6) of section  
 6268 400.452, Florida Statutes, as amended by section 3 of chapter  
 6269 2003-405, Laws of Florida, are amended to read:

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6270 |           400.452 Staff training and educational programs; core  
6271 | educational requirement.--

6272 |           (1) Administrators and other assisted living facility  
6273 | staff must meet minimum training and education requirements  
6274 | established by the Department of Elderly Affairs or agency by  
6275 | rule. This training and education is intended to assist  
6276 | facilities to appropriately respond to the needs of residents,  
6277 | to maintain resident care and facility standards, and to meet  
6278 | licensure requirements.

6279 |           (3) Effective January 1, 2004, a new facility  
6280 | administrator must complete the required training and education,  
6281 | including the competency test, within a reasonable time after  
6282 | being employed as an administrator, as determined by the  
6283 | department. Failure to do so is a violation of this part and  
6284 | subjects the violator to an administrative fine as prescribed in  
6285 | s. 400.419. Administrators licensed in accordance with chapter  
6286 | 468, part II, are exempt from this requirement. Other licensed  
6287 | professionals may be exempted, as determined by ~~the department~~  
6288 | by rule.

6289 |           (6) Other facility staff shall participate in training  
6290 | relevant to their job duties as specified by rule ~~of the~~  
6291 | ~~department~~.

6292 |           Section 116. Section 400.454, Florida Statutes, is amended  
6293 | to read:

6294 |           400.454 Collection of information; local subsidy.--

6295 |           (1) To enable the agency ~~department~~ to collect the  
6296 | information requested by the Legislature regarding the actual  
6297 | cost of providing room, board, and personal care in facilities,

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6298 | the agency may ~~department is authorized~~ to conduct field visits  
 6299 | and audits of facilities as may be necessary. The owners of  
 6300 | randomly sampled facilities shall submit such reports, audits,  
 6301 | and accountings of cost as required ~~the department may require~~  
 6302 | by rule; provided that such reports, audits, and accountings  
 6303 | shall be the minimum necessary to implement the provisions of  
 6304 | this section. Any facility selected to participate in the study  
 6305 | shall cooperate with the agency ~~department~~ by providing cost of  
 6306 | operation information to interviewers.

6307 | (2) Local governments or organizations may contribute to  
 6308 | the cost of care of local facility residents by further  
 6309 | subsidizing the rate of state-authorized payment to such  
 6310 | facilities. Implementation of local subsidy shall require agency  
 6311 | ~~departmental~~ approval and shall not result in reductions in the  
 6312 | state supplement.

6313 | Section 117. Subsections (1) and (4) of section 400.464,  
 6314 | Florida Statutes, are amended to read:

6315 | 400.464 Home health agencies to be licensed; expiration of  
 6316 | license; exemptions; unlawful acts; penalties.--

6317 | (1) The requirements of part II of chapter 408 shall apply  
 6318 | to the provision of services that require licensure pursuant to  
 6319 | this part and part II of chapter 408 and entities licensed or  
 6320 | registered by or applying for such licensure or registration  
 6321 | from the Agency for Health Care Administration pursuant to this  
 6322 | part. However, each applicant for licensure and each licensee is  
 6323 | exempt from the provisions of ss. 408.806(1)(e)2. and  
 6324 | 408.810(10). ~~Any home health agency must be licensed by the~~  
 6325 | ~~agency to operate in this state. A license issued to a home~~

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6326 ~~health agency, unless sooner suspended or revoked, expires 1~~  
6327 ~~year after its date of issuance.~~

6328 (4)(a) ~~An organization may not provide, offer, or~~  
6329 ~~advertise home health services to the public unless the~~  
6330 ~~organization has a valid license or is specifically exempted~~  
6331 ~~under this part.~~ An organization that offers or advertises to  
6332 the public any service for which licensure or registration is  
6333 required under this part must include in the advertisement the  
6334 license number or regulation number issued to the organization  
6335 by the agency. The agency shall assess a fine of not less than  
6336 \$100 to any licensee or registrant who fails to include the  
6337 license or registration number when submitting the advertisement  
6338 for publication, broadcast, or printing. The holder of a license  
6339 issued under this part may not advertise or indicate to the  
6340 public that it holds a home health agency or nurse registry  
6341 license other than the one it has been issued.

6342 (b) A person who violates paragraph (a) is subject to an  
6343 injunctive proceeding under s. 408.816 ~~400.515~~. A violation of  
6344 paragraph (a) or s. 408.813 is a deceptive and unfair trade  
6345 practice and constitutes a violation of the Florida Deceptive  
6346 and Unfair Trade Practices Act.

6347 ~~(c) A person who violates the provisions of paragraph (a)~~  
6348 ~~commits a misdemeanor of the second degree, punishable as~~  
6349 ~~provided in s. 775.082 or s. 775.083. Any person who commits a~~  
6350 ~~second or subsequent violation commits a misdemeanor of the~~  
6351 ~~first degree, punishable as provided in s. 775.082 or s.~~  
6352 ~~775.083. Each day of continuing violation constitutes a separate~~  
6353 ~~offense.~~

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6354 Section 118. Section 400.471, Florida Statutes, is amended  
6355 to read:

6356 400.471 Application for license; ~~fee; provisional license;~~  
6357 ~~temporary permit.~~--

6358 (1) Each applicant for licensure must comply with all  
6359 provisions of this part and part II of chapter 408. ~~Application~~  
6360 ~~for an initial license or for renewal of an existing license~~  
6361 ~~must be made under oath to the agency on forms furnished by it~~  
6362 ~~and must be accompanied by the appropriate license fee as~~  
6363 ~~provided in subsection (8). The agency must take final action on~~  
6364 ~~an initial licensure application within 60 days after receipt of~~  
6365 ~~all required documentation.~~

6366 (2) In addition to the requirements of part II of chapter  
6367 408, the applicant must file with the application satisfactory  
6368 proof that the home health agency is in compliance with this  
6369 part and applicable rules, including:

6370 (a) A listing of services to be provided, either directly  
6371 by the applicant or through contractual arrangements with  
6372 existing providers. ~~;~~

6373 (b) The number and discipline of professional staff to be  
6374 employed. ~~;~~ ~~and~~

6375 ~~(c) Proof of financial ability to operate.~~

6376 ~~(3) An applicant for initial licensure must demonstrate~~  
6377 ~~financial ability to operate by submitting a balance sheet and~~  
6378 ~~income and expense statement for the first 2 years of operation~~  
6379 ~~which provide evidence of having sufficient assets, credit, and~~  
6380 ~~projected revenues to cover liabilities and expenses. The~~  
6381 ~~applicant shall have demonstrated financial ability to operate~~

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6382 ~~if the applicant's assets, credit, and projected revenues meet~~  
6383 ~~or exceed projected liabilities and expenses. All documents~~  
6384 ~~required under this subsection must be prepared in accordance~~  
6385 ~~with generally accepted accounting principles, and the financial~~  
6386 ~~statement must be signed by a certified public accountant.~~

6387 ~~(4) Each applicant for licensure must comply with the~~  
6388 ~~following requirements:~~

6389 ~~(a) Upon receipt of a completed, signed, and dated~~  
6390 ~~application, the agency shall require background screening of~~  
6391 ~~the applicant, in accordance with the level 2 standards for~~  
6392 ~~screening set forth in chapter 435. As used in this subsection,~~  
6393 ~~the term "applicant" means the administrator, or a similarly~~  
6394 ~~titled person who is responsible for the day-to-day operation of~~  
6395 ~~the licensed home health agency, and the financial officer, or~~  
6396 ~~similarly titled individual who is responsible for the financial~~  
6397 ~~operation of the licensed home health agency.~~

6398 ~~(b) The agency may require background screening for a~~  
6399 ~~member of the board of directors of the licensee or an officer~~  
6400 ~~or an individual owning 5 percent or more of the licensee if the~~  
6401 ~~agency reasonably suspects that such individual has been~~  
6402 ~~convicted of an offense prohibited under the level 2 standards~~  
6403 ~~for screening set forth in chapter 435.~~

6404 ~~(c) Proof of compliance with the level 2 background~~  
6405 ~~screening requirements of chapter 435 which has been submitted~~  
6406 ~~within the previous 5 years in compliance with any other health~~  
6407 ~~care or assisted living licensure requirements of this state is~~  
6408 ~~acceptable in fulfillment of paragraph (a). Proof of compliance~~  
6409 ~~with background screening which has been submitted within the~~

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6410 ~~previous 5 years to fulfill the requirements of the Financial~~  
6411 ~~Services Commission and the Office of Insurance Regulation~~  
6412 ~~pursuant to chapter 651 as part of an application for a~~  
6413 ~~certificate of authority to operate a continuing care retirement~~  
6414 ~~community is acceptable in fulfillment of the Department of Law~~  
6415 ~~Enforcement and Federal Bureau of Investigation background~~  
6416 ~~check.~~

6417 ~~(d) A provisional license may be granted to an applicant~~  
6418 ~~when each individual required by this section to undergo~~  
6419 ~~background screening has met the standards for the Department of~~  
6420 ~~Law Enforcement background check, but the agency has not yet~~  
6421 ~~received background screening results from the Federal Bureau of~~  
6422 ~~Investigation. A standard license may be granted to the licensee~~  
6423 ~~upon the agency's receipt of a report of the results of the~~  
6424 ~~Federal Bureau of Investigation background screening for each~~  
6425 ~~individual required by this section to undergo background~~  
6426 ~~screening which confirms that all standards have been met, or~~  
6427 ~~upon the granting of a disqualification exemption by the agency~~  
6428 ~~as set forth in chapter 435. Any other person who is required to~~  
6429 ~~undergo level 2 background screening may serve in his or her~~  
6430 ~~capacity pending the agency's receipt of the report from the~~  
6431 ~~Federal Bureau of Investigation. However, the person may not~~  
6432 ~~continue to serve if the report indicates any violation of~~  
6433 ~~background screening standards and a disqualification exemption~~  
6434 ~~has not been requested of and granted by the agency as set forth~~  
6435 ~~in chapter 435.~~

6436 ~~(e) Each applicant must submit to the agency, with its~~  
6437 ~~application, a description and explanation of any exclusions,~~

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6438 ~~permanent suspensions, or terminations of the licensee or~~  
6439 ~~potential licensee from the Medicare or Medicaid programs. Proof~~  
6440 ~~of compliance with the requirements for disclosure of ownership~~  
6441 ~~and control interest under the Medicaid or Medicare programs may~~  
6442 ~~be accepted in lieu of this submission.~~

6443 ~~(f) Each applicant must submit to the agency a description~~  
6444 ~~and explanation of any conviction of an offense prohibited under~~  
6445 ~~the level 2 standards of chapter 435 by a member of the board of~~  
6446 ~~directors of the applicant, its officers, or any individual~~  
6447 ~~owning 5 percent or more of the applicant. This requirement does~~  
6448 ~~not apply to a director of a not-for-profit corporation or~~  
6449 ~~organization if the director serves solely in a voluntary~~  
6450 ~~capacity for the corporation or organization, does not regularly~~  
6451 ~~take part in the day-to-day operational decisions of the~~  
6452 ~~corporation or organization, receives no remuneration for his or~~  
6453 ~~her services on the corporation or organization's board of~~  
6454 ~~directors, and has no financial interest and has no family~~  
6455 ~~members with a financial interest in the corporation or~~  
6456 ~~organization, provided that the director and the not-for-profit~~  
6457 ~~corporation or organization include in the application a~~  
6458 ~~statement affirming that the director's relationship to the~~  
6459 ~~corporation satisfies the requirements of this paragraph.~~

6460 ~~(g) A license may not be granted to an applicant if the~~  
6461 ~~applicant, administrator, or financial officer has been found~~  
6462 ~~guilty of, regardless of adjudication, or has entered a plea of~~  
6463 ~~nolo contendere or guilty to, any offense prohibited under the~~  
6464 ~~level 2 standards for screening set forth in chapter 435, unless~~

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6465 ~~an exemption from disqualification has been granted by the~~  
6466 ~~agency as set forth in chapter 435.~~

6467 ~~(h) The agency may deny or revoke licensure if the~~  
6468 ~~applicant:~~

6469 ~~1. Has falsely represented a material fact in the~~  
6470 ~~application required by paragraph (e) or paragraph (f), or has~~  
6471 ~~omitted any material fact from the application required by~~  
6472 ~~paragraph (e) or paragraph (f); or~~

6473 ~~2. Has been or is currently excluded, suspended,~~  
6474 ~~terminated from, or has involuntarily withdrawn from~~  
6475 ~~participation in this state's Medicaid program, or the Medicaid~~  
6476 ~~program of any other state, or from participation in the~~  
6477 ~~Medicare program or any other governmental or private health~~  
6478 ~~care or health insurance program.~~

6479 ~~(i) An application for license renewal must contain the~~  
6480 ~~information required under paragraphs (e) and (f).~~

6481 ~~(3)(5)~~ In addition to the requirements of s. 408.810, the  
6482 home health agency must also obtain and maintain the following  
6483 insurance coverages in an amount of not less than \$250,000 per  
6484 claim, and the home health agency must submit proof of coverage  
6485 with an initial application for licensure and with each annual  
6486 application for license renewal:

6487 (a) Malpractice insurance as defined in s. 624.605(1)(k).~~;~~

6488 (b) Liability insurance as defined in s. 624.605(1)(b).

6489 ~~(6) Ninety days before the expiration date, an application~~  
6490 ~~for renewal must be submitted to the agency under oath on forms~~  
6491 ~~furnished by it, and a license must be renewed if the applicant~~  
6492 ~~has met the requirements established under this part and~~

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6493 ~~applicable rules. The home health agency must file with the~~  
 6494 ~~application satisfactory proof that it is in compliance with~~  
 6495 ~~this part and applicable rules. If there is evidence of~~  
 6496 ~~financial instability, the home health agency must submit~~  
 6497 ~~satisfactory proof of its financial ability to comply with the~~  
 6498 ~~requirements of this part.~~

6499 ~~(7) When transferring the ownership of a home health~~  
 6500 ~~agency, the transferee must submit an application for a license~~  
 6501 ~~at least 60 days before the effective date of the transfer. If~~  
 6502 ~~the home health agency is being leased, a copy of the lease~~  
 6503 ~~agreement must be filed with the application.~~

6504 ~~(4)(8) In accordance with s. 408.805, an applicant or~~  
 6505 ~~licensee shall pay a fee for each license application submitted~~  
 6506 ~~under this part, part II of chapter 408, and applicable rules.~~  
 6507 ~~The amount of the fee shall be established by rule and shall be~~  
 6508 ~~set at ~~The license fee and annual renewal fee required of a home~~~~  
 6509 ~~health agency are nonrefundable. The agency shall set the fees~~  
 6510 ~~in an amount that is sufficient to cover the agency's ~~its~~ costs~~  
 6511 ~~in carrying out its responsibilities under this part, but not to~~  
 6512 ~~exceed \$2,000 per biennium ~~\$1,000~~. However, state, county, or~~  
 6513 ~~municipal governments applying for licenses under this part are~~  
 6514 ~~exempt from the payment of license fees. ~~All fees collected~~~~  
 6515 ~~under this part must be deposited in the Health Care Trust Fund~~  
 6516 ~~for the administration of this part.~~

6517 ~~(9) The license must be displayed in a conspicuous place~~  
 6518 ~~in the administrative office of the home health agency and is~~  
 6519 ~~valid only while in the possession of the person to which it is~~  
 6520 ~~issued. The license may not be sold, assigned, or otherwise~~

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6521 ~~transferred, voluntarily or involuntarily, and is valid only for~~  
 6522 ~~the home health agency and location for which originally issued.~~

6523 ~~(10) A home health agency against whom a revocation or~~  
 6524 ~~suspension proceeding is pending at the time of license renewal~~  
 6525 ~~may be issued a provisional license effective until final~~  
 6526 ~~disposition by the agency of such proceedings. If judicial~~  
 6527 ~~relief is sought from the final disposition, the court that has~~  
 6528 ~~jurisdiction may issue a temporary permit for the duration of~~  
 6529 ~~the judicial proceeding.~~

6530 (5)~~(11)~~ The agency may not issue a license designated as  
 6531 certified to a home health agency that fails to satisfy the  
 6532 requirements of a Medicare certification survey from the agency.

6533 ~~(12) The agency may not issue a license to a home health~~  
 6534 ~~agency that has any unpaid fines assessed under this part.~~

6535 Section 119. Section 400.474, Florida Statutes, is amended  
 6536 to read:

6537 400.474 Denial, suspension, revocation of license;  
 6538 injunction; grounds; ~~penalties.~~--

6539 (1) The agency may deny, revoke, and ~~or~~ suspend a license,  
 6540 and ~~or~~ impose an administrative fine in the manner provided in  
 6541 chapter 120, or initiate injunctive proceedings under this part,  
 6542 part II of chapter 408, or applicable rules s. 400.515.

6543 (2) Any of the following actions by a home health agency  
 6544 or its employee is grounds for disciplinary action by the  
 6545 agency:

6546 (a) Violation of this part, part II of chapter 408, or of  
 6547 applicable rules.

6548 (b) An intentional, reckless, or negligent act that  
6549 materially affects the health or safety of a patient.

6550 (c) Knowingly providing home health services in an  
6551 unlicensed assisted living facility or unlicensed adult family-  
6552 care home, unless the home health agency or employee reports the  
6553 unlicensed facility or home to the agency within 72 hours after  
6554 providing the services.

6555 ~~(3) The agency may impose the following penalties for~~  
6556 ~~operating without a license upon an applicant or owner who has~~  
6557 ~~in the past operated, or who currently operates, a licensed home~~  
6558 ~~health agency.~~

6559 ~~(a) If a home health agency that is found to be operating~~  
6560 ~~without a license wishes to apply for a license, the home health~~  
6561 ~~agency may submit an application only after the agency has~~  
6562 ~~verified that the home health agency no longer operates an~~  
6563 ~~unlicensed home health agency.~~

6564 ~~(b) Any person, partnership, or corporation that violates~~  
6565 ~~paragraph (a) and that previously operated a licensed home~~  
6566 ~~health agency or concurrently operates both a licensed home~~  
6567 ~~health agency and an unlicensed home health agency commits a~~  
6568 ~~felony of the third degree punishable as provided in s. 775.082,~~  
6569 ~~s. 775.083, or s. 775.084. If an owner has an interest in more~~  
6570 ~~than one home health agency and fails to license any one of~~  
6571 ~~those home health agencies, the agency must issue a cease and~~  
6572 ~~desist order for the activities of the unlicensed home health~~  
6573 ~~agency and impose a moratorium on any or all of the licensed~~  
6574 ~~related home health agencies until the unlicensed home health~~  
6575 ~~agency is licensed.~~

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6576        (3)(e) If any home health agency is found to be operating  
 6577 without a license ~~meets the criteria in paragraph (a) or~~  
 6578 ~~paragraph (b)~~ and that home health agency has received any  
 6579 government reimbursement for services ~~provided by an unlicensed~~  
 6580 ~~home health agency~~, the agency shall make a fraud referral to  
 6581 the appropriate government reimbursement program.

6582        ~~(4) The agency may deny, revoke, or suspend the license of~~  
 6583 ~~a home health agency, or may impose on a home health agency~~  
 6584 ~~administrative fines not to exceed the aggregate sum of \$5,000~~  
 6585 ~~if:~~

6586            ~~(a) The agency is unable to obtain entry to the home~~  
 6587 ~~health agency to conduct a licensure survey, complaint~~  
 6588 ~~investigation, surveillance visit, or monitoring visit.~~

6589            ~~(b) An applicant or a licensed home health agency has~~  
 6590 ~~falsely represented a material fact in the application, or has~~  
 6591 ~~omitted from the application any material fact, including, but~~  
 6592 ~~not limited to, the fact that the controlling or ownership~~  
 6593 ~~interest is held by any officer, director, agent, manager,~~  
 6594 ~~employee, affiliated person, partner, or shareholder who is not~~  
 6595 ~~eligible to participate.~~

6596            ~~(c) An applicant, owner, or person who has a 5 percent or~~  
 6597 ~~greater interest in a licensed entity:~~

6598            ~~1. Has been previously found by any licensing, certifying,~~  
 6599 ~~or professional standards board or agency to have violated the~~  
 6600 ~~standards or conditions that relate to home health-related~~  
 6601 ~~licensure or certification, or to the quality of home health-~~  
 6602 ~~related services provided; or~~

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6603           ~~2. Has been or is currently excluded, suspended,~~  
 6604 ~~terminated from, or has involuntarily withdrawn from,~~  
 6605 ~~participation in the Medicaid program of this state or any other~~  
 6606 ~~state, the Medicare program, or any other governmental health~~  
 6607 ~~care or health insurance program.~~

6608           Section 120. Subsection (1) and paragraphs (a) and (b) of  
 6609 subsection (2) of section 400.484, Florida Statutes, are amended  
 6610 to read:

6611           400.484 Right of inspection; deficiencies; fines.--

6612           (1) In accordance with s. 408.811, ~~Any duly authorized~~  
 6613 ~~officer or employee of the agency may make such inspections and~~  
 6614 ~~investigations as are necessary in order to determine the state~~  
 6615 ~~of compliance with this part and with applicable rules. The~~  
 6616 ~~right of inspection extends to any business that the agency has~~  
 6617 ~~reason to believe is being operated as a home health agency~~  
 6618 ~~without a license, but such inspection of any such business may~~  
 6619 ~~not be made without the permission of the owner or person in~~  
 6620 ~~charge unless a warrant is first obtained from a circuit court.~~  
 6621 ~~Any application for a license issued under this part or for~~  
 6622 ~~license renewal constitutes permission for an appropriate~~  
 6623 ~~inspection to verify the information submitted on or in~~  
 6624 ~~connection with the application.~~

6625           (2) The agency shall impose fines for various classes of  
 6626 deficiencies in accordance with the following schedule:

6627           (a) A class I deficiency is any act, omission, or practice  
 6628 that results in a patient's death, disablement, or permanent  
 6629 injury, or places a patient at imminent risk of death,  
 6630 disablement, or permanent injury. Upon finding a class I

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6631 deficiency, the agency may impose an administrative fine in the  
 6632 amount of \$5,000 for each occurrence and each day that the  
 6633 deficiency exists. In addition, the agency may immediately  
 6634 revoke the license and, or impose a moratorium pursuant to part  
 6635 II of chapter 408 ~~on the admission of new patients,~~ until the  
 6636 factors causing the deficiency have been corrected.

6637 (b) A class II deficiency is any act, omission, or  
 6638 practice that has a direct adverse effect on the health, safety,  
 6639 or security of a patient. Upon finding a class II deficiency,  
 6640 the agency may impose an administrative fine in the amount of  
 6641 \$1,000 for each occurrence and each day that the deficiency  
 6642 exists. In addition, the agency may suspend the license and, or  
 6643 impose a moratorium pursuant to part II of chapter 408 ~~on the~~  
 6644 ~~admission of new patients,~~ until the deficiency has been  
 6645 corrected.

6646 Section 121. Subsections (1) and (2) of section 400.487,  
 6647 Florida Statutes, are amended to read:

6648 400.487 Home health service agreements; physician's,  
 6649 physician assistant's, and advanced registered nurse  
 6650 practitioner's treatment orders; patient assessment;  
 6651 establishment and review of plan of care; provision of services;  
 6652 orders not to resuscitate.--

6653 (1) Services provided by a home health agency must be  
 6654 covered by an agreement between the home health agency and the  
 6655 patient or the patient's legal representative specifying the  
 6656 home health services to be provided, the rates or charges for  
 6657 services paid with private funds, and the sources ~~method~~ of  
 6658 payment, which may include Medicare, Medicaid, private



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6659 | insurance, personal funds, or a combination thereof. A home  
6660 | health agency providing skilled care must make an assessment of  
6661 | the patient's needs within 48 hours after the start of services.

6662 | (2) When required by the provisions of chapter 464; part  
6663 | I, part III, or part V of chapter 468; or chapter 486, the  
6664 | attending physician, physician assistant, or advanced registered  
6665 | nurse practitioner, acting within his or her respective scope of  
6666 | practice, shall ~~for a patient who is to receive skilled care~~  
6667 | ~~must~~ establish treatment orders for a patient who is to receive  
6668 | skilled care. The treatment orders must be signed by the  
6669 | physician, physician assistant, or advanced registered nurse  
6670 | practitioner before a claim is submitted to a managed care  
6671 | organization and the treatment orders must be signed in the time  
6672 | allowed under the provider agreement. The treatment orders shall  
6673 | ~~within 30 days after the start of care and must~~ be reviewed, as  
6674 | frequently as the patient's illness requires, by the physician,  
6675 | physician assistant, or advanced registered nurse practitioner,  
6676 | in consultation with the home health agency ~~personnel that~~  
6677 | ~~provide services to the patient.~~

6678 | Section 122. Section 400.494, Florida Statutes, is amended  
6679 | to read:

6680 | 400.494 Information about patients confidential.--

6681 | (1) Information about patients received by persons  
6682 | employed by, or providing services to, a home health agency or  
6683 | received by the licensing agency through reports or inspection  
6684 | shall be confidential and exempt from the provisions of s.  
6685 | 119.07(1) and shall not be disclosed to any person other than

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6686 | the patient without the written consent of that patient or the  
6687 | patient's guardian.

6688 |         (2) This section does not apply to information lawfully  
6689 | requested by the Medicaid Fraud Control Unit of the Office of  
6690 | the Attorney General or requested pursuant to 408.811 ~~Department~~  
6691 | ~~of Legal Affairs.~~

6692 |         Section 123. Section 400.495, Florida Statutes, is amended  
6693 | to read:

6694 |         400.495 Notice of toll-free telephone number for central  
6695 | abuse hotline.--In addition to the requirements of 408.810(5),  
6696 | ~~On or before the first day home health services are provided to~~  
6697 | ~~a patient, any home health agency or nurse registry licensed~~  
6698 | ~~under this part must inform the patient and his or her immediate~~  
6699 | ~~family, if appropriate, of the right to report abusive,~~  
6700 | ~~neglectful, or exploitative practices. The statewide toll-free~~  
6701 | ~~telephone number for the central abuse hotline must be provided~~  
6702 | ~~to patients in a manner that is clearly legible and must include~~  
6703 | ~~the words: "To report abuse, neglect, or exploitation, please~~  
6704 | ~~call toll-free (phone number)."~~ the Agency for Health Care  
6705 | Administration shall adopt rules that provide for 90 days'  
6706 | ~~advance notice of a change in the toll-free telephone number and~~  
6707 | that outline due process procedures, as provided under chapter  
6708 | 120, for home health agency personnel and nurse registry  
6709 | personnel who are reported to the central abuse hotline. Home  
6710 | health agencies and nurse registries shall establish appropriate  
6711 | policies and procedures for providing such notice to patients.

6712 |         Section 124. Section 400.497, Florida Statutes, is amended  
6713 | to read:

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6714           400.497 Rules establishing minimum standards.--The agency  
6715 shall adopt, publish, and enforce rules to implement part II of  
6716 chapter 408 and this part, including, as applicable, ss. 400.506  
6717 and 400.509, which must provide reasonable and fair minimum  
6718 standards relating to:

6719           (1) The home health aide competency test and home health  
6720 aide training. The agency shall create the home health aide  
6721 competency test and establish the curriculum and instructor  
6722 qualifications for home health aide training. Licensed home  
6723 health agencies may provide this training and shall furnish  
6724 documentation of such training to other licensed home health  
6725 agencies upon request. Successful passage of the competency test  
6726 by home health aides may be substituted for the training  
6727 required under this section and any rule adopted pursuant  
6728 thereto.

6729           (2) Shared staffing. The agency shall allow shared  
6730 staffing if the home health agency is part of a retirement  
6731 community that provides multiple levels of care, is located on  
6732 one campus, is licensed under this chapter, and otherwise meets  
6733 the requirements of law and rule.

6734           (3) The criteria for the frequency of onsite licensure  
6735 surveys.

6736           (4) Licensure application and renewal.

6737           (5) The requirements for onsite and electronic  
6738 accessibility of supervisory personnel of home health agencies.

6739           (6) Information to be included in patients' records.

6740           (7) Geographic service areas.

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6741 (8) Preparation of a comprehensive emergency management  
6742 plan pursuant to s. 400.492.

6743 (a) The Agency for Health Care Administration shall adopt  
6744 rules establishing minimum criteria for the plan and plan  
6745 updates, with the concurrence of the Department of Health and in  
6746 consultation with the Department of Community Affairs.

6747 (b) The rules must address the requirements in s. 400.492.  
6748 In addition, the rules shall provide for the maintenance of  
6749 patient-specific medication lists that can accompany patients  
6750 who are transported from their homes.

6751 (c) The plan is subject to review and approval by the  
6752 county health department. During its review, the county health  
6753 department shall ensure that the following agencies, at a  
6754 minimum, are given the opportunity to review the plan:

- 6755 1. The local emergency management agency.
- 6756 2. The Agency for Health Care Administration.
- 6757 3. The local chapter of the American Red Cross or other  
6758 lead sheltering agency.
- 6759 4. The district office of the Department of Children and  
6760 Family Services.

6761  
6762 The county health department shall complete its review within 60  
6763 days after receipt of the plan and shall either approve the plan  
6764 or advise the home health agency of necessary revisions.

6765 (d) For any home health agency that operates in more than  
6766 one county, the Department of Health shall review the plan,  
6767 after consulting with all of the county health departments, the  
6768 agency, and all the local chapters of the American Red Cross or

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6769 other lead sheltering agencies in the areas of operation for  
 6770 that particular home health agency. The Department of Health  
 6771 shall complete its review within 90 days after receipt of the  
 6772 plan and shall either approve the plan or advise the home health  
 6773 agency of necessary revisions. The Department of Health shall  
 6774 make every effort to avoid imposing differing requirements based  
 6775 on differences between counties on the home health agency.

6776 (e) The requirements in this subsection do not apply to:

6777 1. A facility that is certified under chapter 651 and has  
 6778 a licensed home health agency used exclusively by residents of  
 6779 the facility; or

6780 2. A retirement community that consists of residential  
 6781 units for independent living and either a licensed nursing home  
 6782 or an assisted living facility, and has a licensed home health  
 6783 agency used exclusively by the residents of the retirement  
 6784 community, provided the comprehensive emergency management plan  
 6785 for the facility or retirement community provides for continuous  
 6786 care of all residents with special needs during an emergency.

6787 Section 125. Section 400.506, Florida Statutes, is amended  
 6788 to read:

6789 400.506 Licensure of nurse registries; requirements;  
 6790 penalties.--

6791 (1) A nurse registry is exempt from the licensing  
 6792 requirements of a home health agency but must be licensed as a  
 6793 nurse registry. The requirements of part II of chapter 408 shall  
 6794 apply to the provision of services that require licensure  
 6795 pursuant to ss. 400.506-400.518 and part II of chapter 408 and  
 6796 to entities licensed by or applying for such license from the

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6797 Agency for Health Care Administration pursuant to ss. 400.506-  
 6798 400.518. Each operational site of the nurse registry must be  
 6799 licensed, unless there is more than one site within a county. If  
 6800 there is more than one site within a county, only one license  
 6801 per county is required. Each operational site must be listed on  
 6802 the license.

6803 (2) Each applicant for licensure and each licensee must  
 6804 comply with all provisions of part II and chapter 408, except  
 6805 ss. 408.806(1)(e)2., 408.810(6), and 408.810(10). ~~the following~~  
 6806 ~~requirements:~~

6807 ~~(a) Upon receipt of a completed, signed, and dated~~  
 6808 ~~application, the agency shall require background screening, in~~  
 6809 ~~accordance with the level 2 standards for screening set forth in~~  
 6810 ~~chapter 435, of the managing employee, or other similarly titled~~  
 6811 ~~individual who is responsible for the daily operation of the~~  
 6812 ~~nurse registry, and of the financial officer, or other similarly~~  
 6813 ~~titled individual who is responsible for the financial operation~~  
 6814 ~~of the registry, including billings for patient care and~~  
 6815 ~~services. The applicant shall comply with the procedures for~~  
 6816 ~~level 2 background screening as set forth in chapter 435.~~

6817 ~~(b) The agency may require background screening of any~~  
 6818 ~~other individual who is an applicant if the agency has probable~~  
 6819 ~~cause to believe that he or she has been convicted of a crime or~~  
 6820 ~~has committed any other offense prohibited under the level 2~~  
 6821 ~~standards for screening set forth in chapter 435.~~

6822 ~~(c) Proof of compliance with the level 2 background~~  
 6823 ~~screening requirements of chapter 435 which has been submitted~~  
 6824 ~~within the previous 5 years in compliance with any other health~~

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6825 ~~care or assisted living licensure requirements of this state is~~  
6826 ~~acceptable in fulfillment of the requirements of paragraph (a).~~

6827 ~~(d) A provisional license may be granted to an applicant~~  
6828 ~~when each individual required by this section to undergo~~  
6829 ~~background screening has met the standards for the Department of~~  
6830 ~~Law Enforcement background check but the agency has not yet~~  
6831 ~~received background screening results from the Federal Bureau of~~  
6832 ~~Investigation. A standard license may be granted to the~~  
6833 ~~applicant upon the agency's receipt of a report of the results~~  
6834 ~~of the Federal Bureau of Investigation background screening for~~  
6835 ~~each individual required by this section to undergo background~~  
6836 ~~screening which confirms that all standards have been met, or~~  
6837 ~~upon the granting of a disqualification exemption by the agency~~  
6838 ~~as set forth in chapter 435. Any other person who is required to~~  
6839 ~~undergo level 2 background screening may serve in his or her~~  
6840 ~~capacity pending the agency's receipt of the report from the~~  
6841 ~~Federal Bureau of Investigation. However, the person may not~~  
6842 ~~continue to serve if the report indicates any violation of~~  
6843 ~~background screening standards and a disqualification exemption~~  
6844 ~~has not been requested of and granted by the agency as set forth~~  
6845 ~~in chapter 435.~~

6846 ~~(e) Each applicant must submit to the agency, with its~~  
6847 ~~application, a description and explanation of any exclusions,~~  
6848 ~~permanent suspensions, or terminations of the applicant from the~~  
6849 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
6850 ~~requirements for disclosure of ownership and control interests~~  
6851 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
6852 ~~of this submission.~~

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

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6853           ~~(f) Each applicant must submit to the agency a description~~  
 6854           ~~and explanation of any conviction of an offense prohibited under~~  
 6855           ~~the level 2 standards of chapter 435 by a member of the board of~~  
 6856           ~~directors of the applicant, its officers, or any individual~~  
 6857           ~~owning 5 percent or more of the applicant. This requirement does~~  
 6858           ~~not apply to a director of a not-for-profit corporation or~~  
 6859           ~~organization if the director serves solely in a voluntary~~  
 6860           ~~capacity for the corporation or organization, does not regularly~~  
 6861           ~~take part in the day-to-day operational decisions of the~~  
 6862           ~~corporation or organization, receives no remuneration for his or~~  
 6863           ~~her services on the corporation or organization's board of~~  
 6864           ~~directors, and has no financial interest and has no family~~  
 6865           ~~members with a financial interest in the corporation or~~  
 6866           ~~organization, provided that the director and the not-for-profit~~  
 6867           ~~corporation or organization include in the application a~~  
 6868           ~~statement affirming that the director's relationship to the~~  
 6869           ~~corporation satisfies the requirements of this paragraph.~~

6870           ~~(g) A license may not be granted to an applicant if the~~  
 6871           ~~applicant or managing employee has been found guilty of,~~  
 6872           ~~regardless of adjudication, or has entered a plea of nolo~~  
 6873           ~~contendere or guilty to, any offense prohibited under the level~~  
 6874           ~~2 standards for screening set forth in chapter 435, unless an~~  
 6875           ~~exemption from disqualification has been granted by the agency~~  
 6876           ~~as set forth in chapter 435.~~

6877           ~~(h) The agency may deny or revoke the license if any~~  
 6878           ~~applicant:~~

6879           ~~1. Has falsely represented a material fact in the~~  
 6880           ~~application required by paragraph (c) or paragraph (f), or has~~



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6881 ~~omitted any material fact from the application required by~~  
6882 ~~paragraph (e) or paragraph (f); or~~

6883 ~~2. Has had prior action taken against the applicant under~~  
6884 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

6885 ~~(i) An application for license renewal must contain the~~  
6886 ~~information required under paragraphs (e) and (f).~~

6887 (3) In accordance with s. 408.805, an applicant or  
6888 licensee shall pay a fee for each license application submitted  
6889 under ss. 400.508-400.518, part II of chapter 408, and  
6890 applicable rules. The amount of the fee shall be established by  
6891 rule and may not exceed \$2,000 per biennium. Application for  
6892 license must be made to the Agency for Health Care  
6893 Administration on forms furnished by it and must be accompanied  
6894 by the appropriate licensure fee, as established by rule and not  
6895 to exceed the cost of regulation under this part. The licensure  
6896 fee for nurse registries may not exceed \$1,000 and must be  
6897 deposited in the Health Care Trust Fund.

6898 ~~(4) The Agency for Health Care Administration may deny,~~  
6899 ~~revoke, or suspend a license or impose an administrative fine in~~  
6900 ~~the manner provided in chapter 120 against a nurse registry~~  
6901 ~~that:~~

6902 ~~(a) Fails to comply with this section or applicable rules.~~

6903 ~~(b) Commits an intentional, reckless, or negligent act~~  
6904 ~~that materially affects the health or safety of a person~~  
6905 ~~receiving services.~~

6906 ~~(5) A license issued for the operation of a nurse~~  
6907 ~~registry, unless sooner suspended or revoked, expires 1 year~~  
6908 ~~after its date of issuance. Sixty days before the expiration~~

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6909 ~~date, an application for renewal must be submitted to the Agency~~  
 6910 ~~for Health Care Administration on forms furnished by it. The~~  
 6911 ~~Agency for Health Care Administration shall renew the license if~~  
 6912 ~~the applicant has met the requirements of this section and~~  
 6913 ~~applicable rules. A nurse registry against which a revocation or~~  
 6914 ~~suspension proceeding is pending at the time of license renewal~~  
 6915 ~~may be issued a conditional license effective until final~~  
 6916 ~~disposition by the Agency for Health Care Administration of such~~  
 6917 ~~proceedings. If judicial relief is sought from the final~~  
 6918 ~~disposition, the court having jurisdiction may issue a~~  
 6919 ~~conditional license for the duration of the judicial proceeding.~~

6920 ~~(6) The Agency for Health Care Administration may~~  
 6921 ~~institute injunctive proceedings under s. 400.515.~~

6922 (4)(7) A person that offers or advertises to the public  
 6923 that it provides any service for which licensure is required  
 6924 under this section must include in such advertisement the  
 6925 license number issued to it by the Agency for Health Care  
 6926 Administration.

6927 ~~(8) It is unlawful for a person to offer or advertise to~~  
 6928 ~~the public services as defined by rule without obtaining a valid~~  
 6929 ~~license from the Agency for Health Care Administration. It is~~  
 6930 ~~unlawful for any holder of a license to advertise or hold out to~~  
 6931 ~~the public that he or she holds a license for other than that~~  
 6932 ~~for which he or she actually holds a license. A person who~~  
 6933 ~~violates this subsection is subject to injunctive proceedings~~  
 6934 ~~under s. 400.515.~~

6935 ~~(9) Any duly authorized officer or employee of the Agency~~  
 6936 ~~for Health Care Administration may make such inspections and~~

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6937 | ~~investigations as are necessary to respond to complaints or to~~  
 6938 | ~~determine the state of compliance with this section and~~  
 6939 | ~~applicable rules.~~

6940 |       ~~(a) If, in responding to a complaint, an agent or employee~~  
 6941 | ~~of the Agency for Health Care Administration has reason to~~  
 6942 | ~~believe that a crime has been committed, he or she shall notify~~  
 6943 | ~~the appropriate law enforcement agency.~~

6944 |       ~~(b) If, in responding to a complaint, an agent or employee~~  
 6945 | ~~of the Agency for Health Care Administration has reason to~~  
 6946 | ~~believe that abuse, neglect, or exploitation has occurred,~~  
 6947 | ~~according to the definitions in chapter 415, he or she shall~~  
 6948 | ~~file a report under chapter 415.~~

6949 |       (5)~~(10)~~(a) A nurse registry may refer for contract in  
 6950 | private residences registered nurses and licensed practical  
 6951 | nurses registered and licensed under part I of chapter 464,  
 6952 | certified nursing assistants certified under part II of chapter  
 6953 | 464, home health aides who present documented proof of  
 6954 | successful completion of the training required by rule of the  
 6955 | agency, and companions or homemakers for the purposes of  
 6956 | providing those services authorized under s. 400.509(1). Each  
 6957 | person referred by a nurse registry must provide current  
 6958 | documentation that he or she is free from communicable diseases.

6959 |       (b) A certified nursing assistant or home health aide may  
 6960 | be referred for a contract to provide care to a patient in his  
 6961 | or her home only if that patient is under a physician's care. A  
 6962 | certified nursing assistant or home health aide referred for  
 6963 | contract in a private residence shall be limited to assisting a  
 6964 | patient with bathing, dressing, toileting, grooming, eating,

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6965 | physical transfer, and those normal daily routines the patient  
 6966 | could perform for himself or herself were he or she physically  
 6967 | capable. A certified nursing assistant or home health aide may  
 6968 | not provide medical or other health care services that require  
 6969 | specialized training and that may be performed only by licensed  
 6970 | health care professionals. The nurse registry shall obtain the  
 6971 | name and address of the attending physician and send written  
 6972 | notification to the physician within 48 hours after a contract  
 6973 | is concluded that a certified nursing assistant or home health  
 6974 | aide will be providing care for that patient.

6975 |       (c) A nurse registry shall, at the time of contracting for  
 6976 | services through the nurse registry, advise the patient, the  
 6977 | patient's family, or a person acting on behalf of the patient of  
 6978 | the availability of registered nurses to make visits to the  
 6979 | patient's home at an additional cost. ~~A registered nurse shall~~  
 6980 | ~~make monthly visits to the patient's home to assess the~~  
 6981 | ~~patient's condition and quality of care being provided by the~~  
 6982 | ~~certified nursing assistant or home health aide.~~ Any condition  
 6983 | that ~~which~~ in the professional judgment of the nurse requires  
 6984 | further medical attention shall be reported to the attending  
 6985 | physician and the nurse registry. The assessment shall become a  
 6986 | part of the patient's file with the nurse registry ~~and may be~~  
 6987 | ~~reviewed by the agency during their survey procedure.~~

6988 |       ~~(6)(11)~~ A person who is referred by a nurse registry for  
 6989 | contract in private residences and who is not a nurse licensed  
 6990 | under part I of chapter 464 may perform only those services or  
 6991 | care to clients that the person has been certified to perform or  
 6992 | trained to perform as required by law or rules of the Agency for

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6993 Health Care Administration or the Department of Business and  
 6994 Professional Regulation. Providing services beyond the scope  
 6995 authorized under this subsection constitutes the unauthorized  
 6996 practice of medicine or a violation of the Nurse Practice Act  
 6997 and is punishable as provided under chapter 458, chapter 459, or  
 6998 part I of chapter 464.

6999 ~~(7)(12)~~ Each nurse registry must require every applicant  
 7000 for contract to complete an application form providing the  
 7001 following information:

7002 (a) The name, address, date of birth, and social security  
 7003 number of the applicant.

7004 (b) The educational background and employment history of  
 7005 the applicant.

7006 (c) The number and date of the applicable license or  
 7007 certification.

7008 (d) When appropriate, information concerning the renewal  
 7009 of the applicable license, registration, or certification.

7010 ~~(8)(13)~~ Each nurse registry must comply with the  
 7011 procedures set forth in s. 400.512 for maintaining records of  
 7012 the employment history of all persons referred for contract and  
 7013 is subject to the standards and conditions set forth in that  
 7014 section. However, an initial screening may not be required for  
 7015 persons who have been continuously registered with the nurse  
 7016 registry since September 30, 1990.

7017 ~~(9)(14)~~ The nurse registry must maintain the application  
 7018 on file, and that file must be open to the inspection of the  
 7019 Agency for Health Care Administration. The nurse registry must  
 7020 maintain on file the name and address of the client to whom the

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7021 nurse or other nurse registry personnel is sent for contract and  
 7022 the amount of the fee received by the nurse registry. A nurse  
 7023 registry must maintain the file that includes the application  
 7024 and other applicable documentation for 3 years after the date of  
 7025 the last file entry of client-related information.

7026 (10)~~(15)~~ Nurse registries shall assist persons who would  
 7027 need assistance and sheltering during evacuations because of  
 7028 physical, mental, or sensory disabilities in registering with  
 7029 the appropriate local emergency management agency pursuant to s.  
 7030 252.355.

7031 (11)~~(16)~~ Each nurse registry shall prepare and maintain a  
 7032 comprehensive emergency management plan that is consistent with  
 7033 the criteria in this subsection and with the local special needs  
 7034 plan. The plan shall be updated annually. The plan shall specify  
 7035 how the nurse registry shall facilitate the provision of  
 7036 continuous care by persons referred for contract to persons who  
 7037 are registered pursuant to s. 252.355 during an emergency that  
 7038 interrupts the provision of care or services in private  
 7039 residencies.

7040 (a) All persons referred for contract who care for persons  
 7041 registered pursuant to s. 252.355 must include in the patient  
 7042 record a description of how care will be continued during a  
 7043 disaster or emergency that interrupts the provision of care in  
 7044 the patient's home. It shall be the responsibility of the person  
 7045 referred for contract to ensure that continuous care is  
 7046 provided.

7047 (b) Each nurse registry shall maintain a current  
 7048 prioritized list of patients in private residences who are

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7049 registered pursuant to s. 252.355 and are under the care of  
 7050 persons referred for contract and who need continued services  
 7051 during an emergency. This list shall indicate, for each patient,  
 7052 if the client is to be transported to a special needs shelter  
 7053 and if the patient is receiving skilled nursing services. Nurse  
 7054 registries shall make this list available to county health  
 7055 departments and to local emergency management agencies upon  
 7056 request.

7057 (c) Each person referred for contract who is caring for a  
 7058 patient who is registered pursuant to s. 252.355 shall provide a  
 7059 list of the patient's medication and equipment needs to the  
 7060 nurse registry. Each person referred for contract shall make  
 7061 this information available to county health departments and to  
 7062 local emergency management agencies upon request.

7063 (d) Each person referred for contract shall not be  
 7064 required to continue to provide care to patients in emergency  
 7065 situations that are beyond the person's control and that make it  
 7066 impossible to provide services, such as when roads are  
 7067 impassable or when patients do not go to the location specified  
 7068 in their patient records.

7069 (e) The comprehensive emergency management plan required  
 7070 by this subsection is subject to review and approval by the  
 7071 county health department. During its review, the county health  
 7072 department shall ensure that, at a minimum, the local emergency  
 7073 management agency, the Agency for Health Care Administration,  
 7074 and the local chapter of the American Red Cross or other lead  
 7075 sheltering agency are given the opportunity to review the plan.  
 7076 The county health department shall complete its review within 60

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7077 days after receipt of the plan and shall either approve the plan  
7078 or advise the nurse registry of necessary revisions.

7079 (f) The Agency for Health Care Administration shall adopt  
7080 rules establishing minimum criteria for the comprehensive  
7081 emergency management plan and plan updates required by this  
7082 subsection, with the concurrence of the Department of Health and  
7083 in consultation with the Department of Community Affairs.

7084 (12)~~(17)~~ All persons referred for contract in private  
7085 residences by a nurse registry must comply with the following  
7086 requirements for a plan of treatment:

7087 (a) When, in accordance with the privileges and  
7088 restrictions imposed upon a nurse under part I of chapter 464,  
7089 the delivery of care to a patient is under the direction or  
7090 supervision of a physician or when a physician is responsible  
7091 for the medical care of the patient, a medical plan of treatment  
7092 must be established for each patient receiving care or treatment  
7093 provided by a licensed nurse in the home. The original medical  
7094 plan of treatment must be timely signed by the physician,  
7095 physician assistant, or advanced registered nurse practitioner,  
7096 acting within his or her respective scope of practice, and  
7097 reviewed ~~by him or her~~ in consultation with the licensed nurse  
7098 at least every 2 months. Any additional order or change in  
7099 orders must be obtained from the physician, physician assistant,  
7100 or advanced registered nurse practitioner and reduced to writing  
7101 and timely signed by the physician, physician assistant, or  
7102 advanced registered nurse practitioner. The delivery of care  
7103 under a medical plan of treatment must be substantiated by the  
7104 appropriate nursing notes or documentation made by the nurse in



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7105 compliance with nursing practices established under part I of  
7106 chapter 464.

7107 (b) Whenever a medical plan of treatment is established  
7108 for a patient, the initial medical plan of treatment, any  
7109 amendment to the plan, additional order or change in orders, and  
7110 copy of nursing notes must be filed in the office of the nurse  
7111 registry.

7112 (13)~~(18)~~ The nurse registry must comply with the notice  
7113 requirements of s. 400.495, relating to abuse reporting.

7114 (14)~~(19)~~ In addition to any other penalties imposed  
7115 pursuant to this section or part, the agency may assess costs  
7116 related to an investigation that results in a successful  
7117 prosecution., ~~excluding costs associated with an attorney's~~  
7118 ~~time. If the agency imposes such an assessment and the~~  
7119 ~~assessment is not paid, and if challenged is not the subject of~~  
7120 ~~a pending appeal, prior to the renewal of the license, the~~  
7121 ~~license shall not be issued until the assessment is paid or~~  
7122 ~~arrangements for payment of the assessment are made.~~

7123 (15)~~(20)~~ The Agency for Health Care Administration shall  
7124 adopt rules to implement this section and part II of chapter  
7125 408.

7126 Section 126. Section 400.509, Florida Statutes, is amended  
7127 to read:

7128 400.509 Registration of particular service providers  
7129 exempt from licensure; certificate of registration; regulation  
7130 of registrants.--

7131 (1) Any organization that provides companion services or  
7132 homemaker services and does not provide a home health service to

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7133 a person is exempt from licensure under this part. However, any  
7134 organization that provides companion services or homemaker  
7135 services must register with the agency.

7136 (2) The requirements of part II of chapter 408 shall apply  
7137 to the provision of services that require registration or  
7138 licensure pursuant to this section and part II of chapter 408  
7139 and entities registered by or applying for such registration  
7140 from the Agency for Health Care Administration pursuant to this  
7141 section. Each applicant for registration and each registrant  
7142 must comply with all provisions of part II of chapter 408 except  
7143 ss. 408.806(1)(e) and 408.810(6)-(10). Registration consists of  
7144 annually filing with the agency, under oath, on forms provided  
7145 by it, the following information:

7146 ~~(a) If the registrant is a firm or partnership, the name,~~  
7147 ~~address, date of birth, and social security number of every~~  
7148 ~~member.~~

7149 ~~(b) If the registrant is a corporation or association, its~~  
7150 ~~name and address; the name, address, date of birth, and social~~  
7151 ~~security number of each of its directors and officers; and the~~  
7152 ~~name and address of each person having at least a 5 percent~~  
7153 ~~interest in the corporation or association.~~

7154 ~~(c) The name, address, date of birth, and social security~~  
7155 ~~number of each person employed by or under contract with the~~  
7156 ~~organization.~~

7157 (3) In accordance with s. 408.805, applicants and  
7158 registrants shall pay fees for all registrations issued under  
7159 this part, part II of chapter 408, and applicable rules. The  
7160 amount of the fee shall be \$50 per biennium. The agency shall

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7161 ~~charge a registration fee of \$25 to be submitted with the~~  
7162 ~~information required under subsection (2).~~

7163 ~~(4) Each applicant for registration must comply with the~~  
7164 ~~following requirements:~~

7165 ~~(a) Upon receipt of a completed, signed, and dated~~  
7166 ~~application, the agency shall require background screening, in~~  
7167 ~~accordance with the level 1 standards for screening set forth in~~  
7168 ~~chapter 435, of every individual who will have contact with the~~  
7169 ~~client. The agency shall require background screening of the~~  
7170 ~~managing employee or other similarly titled individual who is~~  
7171 ~~responsible for the operation of the entity, and of the~~  
7172 ~~financial officer or other similarly titled individual who is~~  
7173 ~~responsible for the financial operation of the entity, including~~  
7174 ~~billings for client services in accordance with the level 2~~  
7175 ~~standards for background screening as set forth in chapter 435.~~

7176 ~~(b) The agency may require background screening of any~~  
7177 ~~other individual who is affiliated with the applicant if the~~  
7178 ~~agency has a reasonable basis for believing that he or she has~~  
7179 ~~been convicted of a crime or has committed any other offense~~  
7180 ~~prohibited under the level 2 standards for screening set forth~~  
7181 ~~in chapter 435.~~

7182 ~~(c) Proof of compliance with the level 2 background~~  
7183 ~~screening requirements of chapter 435 which has been submitted~~  
7184 ~~within the previous 5 years in compliance with any other health~~  
7185 ~~care or assisted living licensure requirements of this state is~~  
7186 ~~acceptable in fulfillment of paragraph (a).~~

7187 ~~(d) A provisional registration may be granted to an~~  
7188 ~~applicant when each individual required by this section to~~

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7189 ~~undergo background screening has met the standards for the~~  
 7190 ~~abuse registry background check through the agency and the~~  
 7191 ~~Department of Law Enforcement background check, but the agency~~  
 7192 ~~has not yet received background screening results from the~~  
 7193 ~~Federal Bureau of Investigation. A standard registration may be~~  
 7194 ~~granted to the applicant upon the agency's receipt of a report~~  
 7195 ~~of the results of the Federal Bureau of Investigation background~~  
 7196 ~~screening for each individual required by this section to~~  
 7197 ~~undergo background screening which confirms that all standards~~  
 7198 ~~have been met, or upon the granting of a disqualification~~  
 7199 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 7200 ~~person who is required to undergo level 2 background screening~~  
 7201 ~~may serve in his or her capacity pending the agency's receipt of~~  
 7202 ~~the report from the Federal Bureau of Investigation. However,~~  
 7203 ~~the person may not continue to serve if the report indicates any~~  
 7204 ~~violation of background screening standards and if a~~  
 7205 ~~disqualification exemption has not been requested of and granted~~  
 7206 ~~by the agency as set forth in chapter 435.~~

7207 ~~(e) Each applicant must submit to the agency, with its~~  
 7208 ~~application, a description and explanation of any exclusions,~~  
 7209 ~~permanent suspensions, or terminations of the applicant from the~~  
 7210 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 7211 ~~requirements for disclosure of ownership and control interests~~  
 7212 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
 7213 ~~of this submission.~~

7214 ~~(f) Each applicant must submit to the agency a description~~  
 7215 ~~and explanation of any conviction of an offense prohibited under~~  
 7216 ~~the level 2 standards of chapter 435 which was committed by a~~

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7217 ~~member of the board of directors of the applicant, its officers,~~  
 7218 ~~or any individual owning 5 percent or more of the applicant.~~  
 7219 ~~This requirement does not apply to a director of a not-for-~~  
 7220 ~~profit corporation or organization who serves solely in a~~  
 7221 ~~voluntary capacity for the corporation or organization, does not~~  
 7222 ~~regularly take part in the day-to-day operational decisions of~~  
 7223 ~~the corporation or organization, receives no remuneration for~~  
 7224 ~~his or her services on the corporation's or organization's board~~  
 7225 ~~of directors, and has no financial interest and no family~~  
 7226 ~~members having a financial interest in the corporation or~~  
 7227 ~~organization, if the director and the not-for-profit corporation~~  
 7228 ~~or organization include in the application a statement affirming~~  
 7229 ~~that the director's relationship to the corporation satisfies~~  
 7230 ~~the requirements of this paragraph.~~

7231 ~~(g) A registration may not be granted to an applicant if~~  
 7232 ~~the applicant or managing employee has been found guilty of,~~  
 7233 ~~regardless of adjudication, or has entered a plea of nolo~~  
 7234 ~~contendere or guilty to, any offense prohibited under the level~~  
 7235 ~~2 standards for screening set forth in chapter 435, unless an~~  
 7236 ~~exemption from disqualification has been granted by the agency~~  
 7237 ~~as set forth in chapter 435.~~

7238 ~~(h) The agency may deny or revoke the registration of any~~  
 7239 ~~applicant who:~~

7240 ~~1. Has falsely represented a material fact in the~~  
 7241 ~~application required by paragraph (e) or paragraph (f), or has~~  
 7242 ~~omitted any material fact from the application required by~~  
 7243 ~~paragraph (e) or paragraph (f); or~~

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7244 ~~2. Has had prior action taken against the applicant under~~  
7245 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

7246 ~~(i) An application for licensure renewal must contain the~~  
7247 ~~information required under paragraphs (e) and (f).~~

7248 (4)~~(5)~~ Each registrant must obtain the employment or  
7249 contract history of persons who are employed by or under  
7250 contract with the organization and who will have contact at any  
7251 time with patients or clients in their homes by:

7252 (a) Requiring such persons to submit an employment or  
7253 contractual history to the registrant; and

7254 (b) Verifying the employment or contractual history,  
7255 unless through diligent efforts such verification is not  
7256 possible. The agency shall prescribe by rule the minimum  
7257 requirements for establishing that diligent efforts have been  
7258 made.

7259  
7260 There is no monetary liability on the part of, and no cause of  
7261 action for damages arises against, a former employer of a  
7262 prospective employee of or prospective independent contractor  
7263 with a registrant who reasonably and in good faith communicates  
7264 his or her honest opinions about the former employee's or  
7265 contractor's job performance. This subsection does not affect  
7266 the official immunity of an officer or employee of a public  
7267 corporation.

7268 ~~(6) On or before the first day on which services are~~  
7269 ~~provided to a patient or client, any registrant under this part~~  
7270 ~~must inform the patient or client and his or her immediate~~  
7271 ~~family, if appropriate, of the right to report abusive,~~

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7272 ~~neglectful, or exploitative practices. The statewide toll-free~~  
 7273 ~~telephone number for the central abuse hotline must be provided~~  
 7274 ~~to patients or clients in a manner that is clearly legible and~~  
 7275 ~~must include the words: "To report abuse, neglect, or~~  
 7276 ~~exploitation, please call toll-free (phone number)."~~  
 7277 ~~Registrants must establish appropriate policies and procedures~~  
 7278 ~~for providing such notice to patients or clients.~~

7279 ~~(7) The provisions of s. 400.512 regarding screening apply~~  
 7280 ~~to any person or business entity registered under this section~~  
 7281 ~~on or after October 1, 1994.~~

7282 ~~(8) Upon verification that all requirements for~~  
 7283 ~~registration have been met, the Agency for Health Care~~  
 7284 ~~Administration shall issue a certificate of registration valid~~  
 7285 ~~for no more than 1 year.~~

7286 ~~(9) The Agency for Health Care Administration may deny,~~  
 7287 ~~suspend, or revoke the registration of a person that:~~

7288 ~~(a) Fails to comply with this section or applicable rules.~~

7289 ~~(b) Commits an intentional, reckless, or negligent act~~  
 7290 ~~that materially affects the health or safety of a person~~  
 7291 ~~receiving services.~~

7292 ~~(10) The Agency for Health Care Administration may~~  
 7293 ~~institute injunctive proceedings under s. 400.515.~~

7294 (5)~~(11)~~ A person that offers or advertises to the public a  
 7295 service for which registration is required must include in its  
 7296 advertisement the registration number issued by the Agency for  
 7297 Health Care Administration.

7298 ~~(12) It is unlawful for a person to offer or advertise to~~  
 7299 ~~the public services, as defined by rule, without obtaining a~~

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7300 ~~certificate of registration from the Agency for Health Care~~  
 7301 ~~Administration. It is unlawful for any holder of a certificate~~  
 7302 ~~of registration to advertise or hold out to the public that he~~  
 7303 ~~or she holds a certificate of registration for other than that~~  
 7304 ~~for which he or she actually holds a certificate of~~  
 7305 ~~registration. Any person who violates this subsection is subject~~  
 7306 ~~to injunctive proceedings under s. 400.515.~~

7307 ~~(13) Any duly authorized officer or employee of the Agency~~  
 7308 ~~for Health Care Administration has the right to make such~~  
 7309 ~~inspections and investigations as are necessary in order to~~  
 7310 ~~respond to complaints or to determine the state of compliance~~  
 7311 ~~with this section and applicable rules.~~

7312 ~~(a) If, in responding to a complaint, an officer or~~  
 7313 ~~employee of the Agency for Health Care Administration has reason~~  
 7314 ~~to believe that a crime has been committed, he or she shall~~  
 7315 ~~notify the appropriate law enforcement agency.~~

7316 ~~(b) If, in responding to a complaint, an officer or~~  
 7317 ~~employee of the Agency for Health Care Administration has reason~~  
 7318 ~~to believe that abuse, neglect, or exploitation has occurred,~~  
 7319 ~~according to the definitions in chapter 415, he or she shall~~  
 7320 ~~file a report under chapter 415.~~

7321 ~~(6)~~(14) In addition to any other penalties imposed  
 7322 pursuant to this section or part, the agency may assess costs  
 7323 related to an investigation that results in a successful  
 7324 prosecution, excluding costs associated with an attorney's time.  
 7325 If the agency imposes such an assessment and the assessment is  
 7326 not paid, and if challenged is not the subject of a pending  
 7327 appeal, prior to the renewal of the registration, the



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7328 registration shall not be issued until the assessment is paid or  
7329 arrangements for payment of the assessment are made.

7330 ~~(7)(15)~~ The Agency for Health Care Administration shall  
7331 adopt rules to administer this section and part II of chapter  
7332 408.

7333 Section 127. Subsections (3) through (7) of section  
7334 400.512, Florida Statutes, are renumbered as subsections (2)  
7335 through (6) and present subsections (2) and (7) are amended to  
7336 read:

7337 400.512 Screening of home health agency personnel; nurse  
7338 registry personnel; and companions and homemakers.--The agency  
7339 shall require employment or contractor screening as provided in  
7340 chapter 435, using the level 1 standards for screening set forth  
7341 in that chapter, for home health agency personnel; persons  
7342 referred for employment by nurse registries; and persons  
7343 employed by companion or homemaker services registered under s.  
7344 400.509.

7345 ~~(2) The administrator of each home health agency, the~~  
7346 ~~managing employee of each nurse registry, and the managing~~  
7347 ~~employee of each companion or homemaker service registered under~~  
7348 ~~s. 400.509 must sign an affidavit annually, under penalty of~~  
7349 ~~perjury, stating that all personnel hired, contracted with, or~~  
7350 ~~registered on or after October 1, 1994, who enter the home of a~~  
7351 ~~patient or client in their service capacity have been screened~~  
7352 ~~and that its remaining personnel have worked for the home health~~  
7353 ~~agency or registrant continuously since before October 1, 1994.~~

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7354            (6)~~(7)~~(a) It is a misdemeanor of the first degree,  
7355 punishable under s. 775.082 or s. 775.083, for any person  
7356 willfully, knowingly, or intentionally to:

7357            1. Fail, by false statement, misrepresentation,  
7358 impersonation, or other fraudulent means, to disclose in any  
7359 application for voluntary or paid employment a material fact  
7360 used in making a determination as to such person's  
7361 qualifications to be an employee under this section; or

7362            ~~2. Operate or attempt to operate an entity licensed or~~  
7363 ~~registered under this part with persons who do not meet the~~  
7364 ~~minimum standards for good moral character as contained in this~~  
7365 ~~section; or~~

7366            ~~2.3.~~ Use information from the criminal records obtained  
7367 under this section for any purpose other than screening that  
7368 person for employment as specified in this section or release  
7369 such information to any other person for any purpose other than  
7370 screening for employment under this section.

7371            (b) It is a felony of the third degree, punishable under  
7372 s. 775.082, s. 775.083, or s. 775.084, for any person willfully,  
7373 knowingly, or intentionally to use information from the juvenile  
7374 records of a person obtained under this section for any purpose  
7375 other than screening for employment under this section.

7376            Section 128. Section 400.515, Florida Statutes, is  
7377 repealed.

7378            Section 129. Subsections (6) and (7) of section 400.551,  
7379 Florida Statutes, are amended to read:

7380            400.551 Definitions.--As used in this part, the term:

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7381 (6) "Operator" means the licensee or person having general  
7382 administrative charge of an adult day care center.

7383 (7) "Owner" means the licensee ~~owner~~ of an adult day care  
7384 center.

7385 Section 130. Section 400.554, Florida Statutes, is amended  
7386 to read:

7387 400.554 License requirement; fee; exemption; display.--

7388 (1) The requirements of part II of chapter 408 shall apply  
7389 to the provision of services that require licensure pursuant  
7390 this part and part II of chapter 408 and to entities licensed by  
7391 or applying for such licensure from the Agency for Health Care  
7392 Administration pursuant this part. However, each applicant for  
7393 licensure and each licensee is exempt from the provisions of s.  
7394 408.810(10). It is unlawful to operate an adult day care center  
7395 without first obtaining from the agency a license authorizing  
7396 such operation. The agency is responsible for licensing adult  
7397 day care centers in accordance with this part.

7398 (2) Separate licenses are required for centers operated on  
7399 separate premises, even though operated under the same  
7400 management. Separate licenses are not required for separate  
7401 buildings on the same premises.

7402 (3) In accordance with s. 408.805, an applicant or  
7403 licensee shall pay a fee for each license application submitted  
7404 under this part and part II of chapter 408. The amount of the  
7405 fee shall be established by rule and ~~The biennial license fee~~  
7406 ~~required of a center shall be determined by the department, but~~  
7407 may not exceed \$150.

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7408 (4) County-operated or municipally operated centers  
7409 applying for licensure under this part are exempt from the  
7410 payment of license fees.

7411 ~~(5) The license for a center shall be displayed in a~~  
7412 ~~conspicuous place inside the center.~~

7413 ~~(6) A license is valid only in the possession of the~~  
7414 ~~individual, firm, partnership, association, or corporation to~~  
7415 ~~which it is issued and is not subject to sale, assignment, or~~  
7416 ~~other transfer, voluntary or involuntary; nor is a license valid~~  
7417 ~~for any premises other than the premises for which originally~~  
7418 ~~issued.~~

7419 Section 131. Section 400.555, Florida Statutes, is amended  
7420 to read:

7421 400.555 Application for license.--

7422 ~~(1) An application for a license to operate an adult day~~  
7423 ~~care center must be made to the agency on forms furnished by the~~  
7424 ~~agency and must be accompanied by the appropriate license fee~~  
7425 ~~unless the applicant is exempt from payment of the fee as~~  
7426 ~~provided in s. 400.554(4).~~

7427 ~~(2) In addition to all provisions of part II of chapter~~  
7428 ~~408, the applicant for licensure must furnish:~~

7429 ~~(a) a description of the physical and mental capabilities~~  
7430 ~~and needs of the participants to be served and the availability,~~  
7431 ~~frequency, and intensity of basic services and of supportive and~~  
7432 ~~optional services to be provided and proof of adequate liability~~  
7433 ~~insurance coverage.~~

7434 ~~(b) Satisfactory proof of financial ability to operate and~~  
7435 ~~conduct the center in accordance with the requirements of this~~

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7436 ~~part, which must include, in the case of an initial application,~~  
 7437 ~~a 1-year operating plan and proof of a 3-month operating reserve~~  
 7438 ~~fund; and~~

7439 ~~(c) Proof of adequate liability insurance coverage.~~

7440 ~~(d) Proof of compliance with level 2 background screening~~  
 7441 ~~as required under s. 400.5572.~~

7442 ~~(e) A description and explanation of any exclusions,~~  
 7443 ~~permanent suspensions, or terminations of the application from~~  
 7444 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
 7445 ~~disclosure of ownership and control interest requirements of the~~  
 7446 ~~Medicare or Medicaid programs shall be accepted in lieu of this~~  
 7447 ~~submission.~~

7448 Section 132. Section 400.556, Florida Statutes, is amended  
 7449 to read:

7450 400.556 Denial, suspension, revocation of license;  
 7451 emergency action; administrative fines; investigations and  
 7452 inspections.--

7453 (1) The agency may deny, revoke, or suspend a license  
 7454 under this part, impose an action under s. 408.814, and ~~or may~~  
 7455 impose an administrative fine against the owner of an adult day  
 7456 care center or its operator or employee in the manner provided  
 7457 in chapter 120 for the violation of any provision of this part,  
 7458 part II of chapter 408, or applicable rules.

7459 (2) Each of the following actions by the owner of an adult  
 7460 day care center or by its operator or employee is a ground for  
 7461 action by the agency against the owner of the center or its  
 7462 operator or employee:

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7463 (a) An intentional or negligent act materially affecting  
7464 the health or safety of center participants.

7465 ~~(b) A violation of this part or of any standard or rule~~  
7466 ~~under this part.~~

7467 (b)(e) A failure of persons subject to level 2 background  
7468 screening under s. 408.809 ~~400.4174(1)~~ to meet the screening  
7469 standards of s. 435.04, or the retention by the center of an  
7470 employee subject to level 1 background screening standards under  
7471 s. ~~400.4174(2)~~ who does not meet the screening standards of s.  
7472 435.03 and for whom exemptions from disqualification have not  
7473 been provided by the agency.

7474 (c)(d) Failure to follow the criteria and procedures  
7475 provided under part I of chapter 394 relating to the  
7476 transportation, voluntary admission, and involuntary examination  
7477 of center participants.

7478 (d)(e) Multiple or repeated violations of this part or of  
7479 any standard or rule adopted under this part or part II of  
7480 chapter 408.

7481 ~~(f) Exclusion, permanent suspension, or termination of the~~  
7482 ~~owner, if an individual, officer, or board member of the adult~~  
7483 ~~day care center, if the owner is a firm, corporation,~~  
7484 ~~partnership, or association, or any person owning 5 percent or~~  
7485 ~~more of the center, from the Medicare or Medicaid program.~~

7486 (3) The agency is responsible for all investigations and  
7487 inspections conducted pursuant to this part.

7488 Section 133. Section 400.5565, Florida Statutes, is  
7489 amended to read:

7490 400.5565 Administrative fines; ~~interest.~~--

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7491 (1)(a) If the agency determines that an adult day care  
 7492 center is not operated in compliance with this part, part II of  
 7493 chapter 408, or applicable ~~with rules adopted under this part,~~  
 7494 the agency, notwithstanding any other administrative action it  
 7495 takes, shall make a reasonable attempt to discuss with the owner  
 7496 each violation and recommended corrective action prior to  
 7497 providing the owner with written notification. The agency may  
 7498 request the submission of a corrective action plan for the  
 7499 center which demonstrates a good faith effort to remedy each  
 7500 violation by a specific date, subject to the approval of the  
 7501 agency.

7502 (b) The owner of a center or its operator or employee  
 7503 found in violation of this part, part II of chapter 408, or  
 7504 applicable rules ~~or of rules adopted under this part~~ may be  
 7505 fined by the agency. A fine may not exceed \$500 for each  
 7506 violation. In no event, however, may such fines in the aggregate  
 7507 exceed \$5,000.

7508 (c) The failure to correct a violation by the date set by  
 7509 the agency, or the failure to comply with an approved corrective  
 7510 action plan, is a separate violation for each day such failure  
 7511 continues, unless the agency approves an extension to a specific  
 7512 date.

7513 ~~(d) If the owner of a center or its operator or employee~~  
 7514 ~~appeals an agency action under this section and the fine is~~  
 7515 ~~upheld, the violator shall pay the fine, plus interest at the~~  
 7516 ~~legal rate specified in s. 687.01 for each day that the fine~~  
 7517 ~~remains unpaid after the date set by the agency for payment of~~  
 7518 ~~the fine.~~

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7519 (2) In determining whether to impose a fine and in fixing  
7520 the amount of any fine, the agency shall consider the following  
7521 factors:

7522 (a) The gravity of the violation, including the  
7523 probability that death or serious physical or emotional harm to  
7524 a participant will result or has resulted, the severity of the  
7525 actual or potential harm, and the extent to which the provisions  
7526 of the applicable statutes or rules were violated.

7527 (b) Actions taken by the owner or operator to correct  
7528 violations.

7529 (c) Any previous violations.

7530 (d) The financial benefit to the center of committing or  
7531 continuing the violation.

7532 Section 134. Section 400.557, Florida Statutes, is amended  
7533 to read:

7534 400.557 ~~Expiration of license; renewal;~~ Conditional  
7535 license ~~or permit.~~--

7536 ~~(1) A license issued for the operation of an adult day~~  
7537 ~~care center, unless sooner suspended or revoked, expires 2 years~~  
7538 ~~after the date of issuance. The agency shall notify a licensee~~  
7539 ~~at least 120 days before the expiration date that license~~  
7540 ~~renewal is required to continue operation. The notification must~~  
7541 ~~be provided electronically or by mail delivery. At least 90 days~~  
7542 ~~prior to the expiration date, an application for renewal must be~~  
7543 ~~submitted to the agency. A license shall be renewed, upon the~~  
7544 ~~filing of an application on forms furnished by the agency, if~~  
7545 ~~the applicant has first met the requirements of this part and of~~  
7546 ~~the rules adopted under this part. The applicant must file with~~



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7547 ~~the application satisfactory proof of financial ability to~~  
 7548 ~~operate the center in accordance with the requirements of this~~  
 7549 ~~part and in accordance with the needs of the participants to be~~  
 7550 ~~served and an affidavit of compliance with the background~~  
 7551 ~~screening requirements of s. 400.5572.~~

7552 ~~(2) A licensee against whom a revocation or suspension~~  
 7553 ~~proceeding is pending at the time for license renewal may be~~  
 7554 ~~issued a conditional license effective until final disposition~~  
 7555 ~~by the agency of the proceeding. If judicial relief is sought~~  
 7556 ~~from the final disposition, the court having jurisdiction may~~  
 7557 ~~issue a conditional permit effective for the duration of the~~  
 7558 ~~judicial proceeding.~~

7559 ~~(3) The agency may issue a conditional license to an~~  
 7560 ~~applicant for license renewal or change of ownership if the~~  
 7561 ~~applicant fails to meet all standards and requirements for~~  
 7562 ~~licensure. A conditional license issued under this subsection~~  
 7563 ~~must be limited to a specific period not exceeding 6 months, as~~  
 7564 ~~determined by the agency, and must be accompanied by an approved~~  
 7565 ~~plan of correction.~~

7566 Section 135. Section 400.5572, Florida Statutes, is  
 7567 amended to read:

7568 400.5572 Background screening.--

7569 ~~(1)(a) Level 2 background screening must be conducted on~~  
 7570 ~~each of the following persons, who shall be considered employees~~  
 7571 ~~for the purposes of conducting screening under chapter 435:~~

7572 ~~1. The adult day care center owner if an individual, the~~  
 7573 ~~operator, and the financial officer.~~

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7574           ~~2. An officer or board member if the owner of the adult~~  
7575 ~~day care center is a firm, corporation, partnership, or~~  
7576 ~~association, or any person owning 5 percent or more of the~~  
7577 ~~facility, if the agency has probable cause to believe that such~~  
7578 ~~person has been convicted of any offense prohibited by s.~~  
7579 ~~435.04. For each officer, board member, or person owning 5~~  
7580 ~~percent or more who has been convicted of any such offense, the~~  
7581 ~~facility shall submit to the agency a description and~~  
7582 ~~explanation of the conviction at the time of license~~  
7583 ~~application. This subparagraph does not apply to a board member~~  
7584 ~~of a not-for-profit corporation or organization if the board~~  
7585 ~~member serves solely in a voluntary capacity, does not regularly~~  
7586 ~~take part in the day-to-day operational decisions of the~~  
7587 ~~corporation or organization, receives no remuneration for his or~~  
7588 ~~her services, and has no financial interest and has no family~~  
7589 ~~members with a financial interest in the corporation or~~  
7590 ~~organization, provided that the board member and facility submit~~  
7591 ~~a statement affirming that the board member's relationship to~~  
7592 ~~the facility satisfies the requirements of this subparagraph.~~

7593           ~~(b) Proof of compliance with level 2 screening standards~~  
7594 ~~which has been submitted within the previous 5 years to meet any~~  
7595 ~~facility or professional licensure requirements of the agency or~~  
7596 ~~the Department of Health satisfies the requirements of this~~  
7597 ~~subsection.~~

7598           ~~(c) The agency may grant a provisional license to an adult~~  
7599 ~~day care center applying for an initial license when each~~  
7600 ~~individual required by this subsection to undergo screening has~~  
7601 ~~completed the Department of Law Enforcement background check,~~

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7602 ~~but has not yet received results from the Federal Bureau of~~  
 7603 ~~Investigation, or when a request for an exemption from~~  
 7604 ~~disqualification has been submitted to the agency pursuant to s.~~  
 7605 ~~435.07, but a response has not been issued.~~

7606       (2) The owner or administrator of an adult day care center  
 7607 must conduct level 1 background screening as set forth in  
 7608 chapter 435 on all employees hired on or after October 1, 1998,  
 7609 who provide basic services or supportive and optional services  
 7610 to the participants. Such persons satisfy this requirement if:

7611       (1)(a) Proof of compliance with level 1 screening  
 7612 requirements obtained to meet any professional license  
 7613 requirements in this state is provided and accompanied, under  
 7614 penalty of perjury, by a copy of the person's current  
 7615 professional license and an affidavit of current compliance with  
 7616 the background screening requirements.

7617       (2)(b) The person required to be screened has been  
 7618 continuously employed, without a breach in service that exceeds  
 7619 180 days, in the same type of occupation for which the person is  
 7620 seeking employment and provides proof of compliance with the  
 7621 level 1 screening requirement which is no more than 2 years old.  
 7622 Proof of compliance must be provided directly from one employer  
 7623 or contractor to another, and not from the person screened. Upon  
 7624 request, a copy of screening results shall be provided to the  
 7625 person screened by the employer retaining documentation of the  
 7626 screening.

7627       (3)(c) The person required to be screened is employed by a  
 7628 corporation or business entity or related corporation or  
 7629 business entity that owns, operates, or manages more than one

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7630 facility or agency licensed under this chapter, and for whom a  
7631 level 1 screening was conducted by the corporation or business  
7632 entity as a condition of initial or continued employment.

7633 Section 136. Section 400.5575, Florida Statutes, is  
7634 repealed.

7635 Section 137. Section 400.558, Florida Statutes, is  
7636 repealed.

7637 Section 138. Section 400.559, Florida Statutes, is amended  
7638 to read:

7639 400.559 Discontinuance of operation of adult day care  
7640 centers ~~Closing or change of owner or operator of center.--~~

7641 (1) Before operation of an adult day care center may be  
7642 voluntarily discontinued, the operator must ~~inform the agency in~~  
7643 ~~writing~~ at least 60 days prior to the discontinuance of  
7644 operation. ~~The operator must also, at such time, inform each~~  
7645 participant of the fact and the proposed date of ~~such~~  
7646 discontinuance of operation.

7647 ~~(2) Immediately upon discontinuance of the operation of a~~  
7648 ~~center, the owner or operator shall surrender the license for~~  
7649 ~~the center to the agency, and the license shall be canceled by~~  
7650 ~~the agency.~~

7651 ~~(3) If a center has a change of ownership, the new owner~~  
7652 ~~shall apply to the agency for a new license at least 60 days~~  
7653 ~~before the date of the change of ownership.~~

7654 ~~(4) If a center has a change of operator, the new operator~~  
7655 ~~shall notify the agency in writing within 30 days after the~~  
7656 ~~change of operator.~~

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7657 Section 139. Section 400.56, Florida Statutes, is amended  
7658 to read:

7659 400.56 Right of entry and inspection.--In accordance with  
7660 s. 408.811, ~~Any duly designated officer or employee of the~~  
7661 ~~agency or department has the right to enter the premises of any~~  
7662 ~~adult day care center licensed pursuant to this part, at any~~  
7663 ~~reasonable time, in order to determine the state of compliance~~  
7664 ~~with this part, part II of chapter 408, and applicable the rules~~  
7665 ~~or standards in force pursuant to this part. The right of entry~~  
7666 ~~and inspection also extends to any premises that the agency has~~  
7667 ~~reason to believe are being operated as a center without a~~  
7668 ~~license, but no entry or inspection of any unlicensed premises~~  
7669 ~~may be made without the permission of the owner or operator~~  
7670 ~~unless a warrant is first obtained from the circuit court~~  
7671 ~~authorizing entry or inspection. Any application for a center~~  
7672 ~~license or license renewal made pursuant to this part~~  
7673 ~~constitutes permission for, and complete acquiescence in, any~~  
7674 ~~entry or inspection of the premises for which the license is~~  
7675 ~~sought in order to facilitate verification of the information~~  
7676 ~~submitted on or in connection with the application.~~

7677 Section 140. Section 400.562, Florida Statutes, is amended  
7678 to read:

7679 400.562 Rules establishing standards.--

7680 (1) The agency ~~Department of Elderly Affairs~~, in  
7681 conjunction with the Department of Elderly Affairs ~~agency~~, shall  
7682 adopt rules to implement the provisions of this part and part II  
7683 of chapter 408. The rules must include reasonable and fair  
7684 standards. Any conflict between these standards and those that

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7685 | may be set forth in local, county, or municipal ordinances shall  
 7686 | be resolved in favor of those having statewide effect. Such  
 7687 | standards must relate to:

7688 |         (a) The maintenance of adult day care centers with respect  
 7689 | to plumbing, heating, lighting, ventilation, and other building  
 7690 | conditions, including adequate meeting space, to ensure the  
 7691 | health, safety, and comfort of participants and protection from  
 7692 | fire hazard. Such standards may not conflict with chapter 553  
 7693 | and must be based upon the size of the structure and the number  
 7694 | of participants.

7695 |         (b) The number and qualifications of all personnel  
 7696 | employed by adult day care centers who have responsibilities for  
 7697 | the care of participants.

7698 |         (c) All sanitary conditions within adult day care centers  
 7699 | and their surroundings, including water supply, sewage disposal,  
 7700 | food handling, and general hygiene, and maintenance of sanitary  
 7701 | conditions, to ensure the health and comfort of participants.

7702 |         (d) Basic services provided by adult day care centers.

7703 |         (e) Supportive and optional services provided by adult day  
 7704 | care centers.

7705 |         (f) Data and information relative to participants and  
 7706 | programs of adult day care centers, including, but not limited  
 7707 | to, the physical and mental capabilities and needs of the  
 7708 | participants, the availability, frequency, and intensity of  
 7709 | basic services and of supportive and optional services provided,  
 7710 | the frequency of participation, the distances traveled by  
 7711 | participants, the hours of operation, the number of referrals to  
 7712 | other centers or elsewhere, and the incidence of illness.

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7713 (g) Components of a comprehensive emergency management  
7714 plan, developed in consultation with the Department of Health,  
7715 the Department of Elderly Affairs Agency for Health Care  
7716 Administration, and the Department of Community Affairs.

7717 ~~(2) Pursuant to s. 119.07, the agency may charge a fee for~~  
7718 ~~furnishing a copy of this part, or of the rules adopted under~~  
7719 ~~this part, to any person upon request for the copy.~~

7720 ~~(2)(3)~~ Pursuant to this part, s. 408.811, and applicable  
7721 ~~rules adopted by the department~~, the agency may conduct an  
7722 abbreviated biennial inspection of key quality-of-care  
7723 standards, in lieu of a full inspection, of a center that has a  
7724 record of good performance. However, the agency must conduct a  
7725 full inspection of a center that has had one or more confirmed  
7726 complaints within the licensure period immediately preceding the  
7727 inspection or which has a serious problem identified during the  
7728 abbreviated inspection. The agency shall by rule develop the key  
7729 quality-of-care standards, taking into consideration the  
7730 comments and recommendations of the Department of Elderly  
7731 Affairs and of provider groups. ~~These standards shall be~~  
7732 ~~included in rules adopted by the Department of Elderly Affairs.~~

7733 Section 141. Section 400.564, Florida Statutes, is  
7734 repealed.

7735 Section 142. Section 400.602, Florida Statutes, is amended  
7736 to read:

7737 400.602 Licensure required; prohibited acts; exemptions;  
7738 display, transferability of license.--

7739 ~~(1)(a)~~ The requirements of part II of chapter 408 shall  
7740 apply to the provision of services that require licensure

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7741 pursuant to this part and part II of chapter 408 and to entities  
 7742 licensed by or applying for such licensure from the agency  
 7743 pursuant to this part. ~~It is unlawful to operate or maintain a~~  
 7744 ~~hospice without first obtaining a license from the agency.~~

7745 ~~(b) It is unlawful for~~ Any person or legal entity not  
 7746 licensed as a hospice under this part may not ~~to~~ use the word  
 7747 "hospice" in its name, or to offer or advertise hospice services  
 7748 or hospice-like services in such a way as to mislead a person to  
 7749 believe that the offeror is a hospice licensed under this part.

7750 (2) Services provided by a hospital, nursing home, or  
 7751 other health care facility, health care provider, or caregiver,  
 7752 or under the Community Care for the Elderly Act, do not  
 7753 constitute a hospice unless the facility, provider, or caregiver  
 7754 establishes a separate and distinct administrative program to  
 7755 provide home, residential, and homelike inpatient hospice  
 7756 services.

7757 (3)(a) A separately licensed hospice may not use a name  
 7758 which is substantially the same as the name of another hospice  
 7759 licensed under this part.

7760 (b) A licensed hospice which intends to change its name or  
 7761 address must notify the agency at least 60 days before making  
 7762 the change.

7763 ~~(4) The license shall be displayed in a conspicuous place~~  
 7764 ~~inside the hospice program office; shall be valid only in the~~  
 7765 ~~possession of the person or public agency to which it is issued;~~  
 7766 ~~shall not be subject to sale, assignment, or other transfer,~~  
 7767 ~~voluntary or involuntary; and shall not be valid for any hospice~~  
 7768 ~~other than the hospice for which originally issued.~~



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7769            (4)~~(5)~~ Notwithstanding s. 400.601(3), any hospice  
7770 operating in corporate form exclusively as a hospice,  
7771 incorporated on or before July 1, 1978, may be transferred to a  
7772 for-profit or not-for-profit entity, and may transfer the  
7773 license to that entity.

7774            (5)~~(6)~~ Notwithstanding s. 400.601(3), at any time after  
7775 July 1, 1995, any entity entitled to licensure under subsection  
7776 (5) may obtain a license for up to two additional hospices in  
7777 accordance with the other requirements of this part and upon  
7778 receipt of any certificate of need that may be required under  
7779 the provisions of part I of chapter 408 ~~ss. 408.031-408.045~~.

7780            Section 143. Section 400.605, Florida Statutes, is amended  
7781 to read:

7782            400.605 Administration; forms; fees; rules; inspections;  
7783 fines.--

7784            (1) The agency ~~department~~, in consultation with the  
7785 department ~~agency~~, shall by rule establish minimum standards and  
7786 procedures for a hospice pursuant to this part and part II of  
7787 chapter 408. The rules must include:

7788            ~~(a) License application procedures and requirements.~~

7789            (a)~~(b)~~ The qualifications of professional and ancillary  
7790 personnel to ensure the provision of appropriate and adequate  
7791 hospice care.

7792            (b)~~(e)~~ Standards and procedures for the administrative  
7793 management of a hospice.

7794            (c)~~(d)~~ Standards for hospice services that ensure the  
7795 provision of quality patient care.

7796            (d)~~(e)~~ Components of a patient plan of care.

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7797           ~~(e)(f)~~ Procedures relating to the implementation of  
 7798 advanced directives and do-not-resuscitate orders.  
 7799           ~~(f)(g)~~ Procedures for maintaining and ensuring  
 7800 confidentiality of patient records.  
 7801           ~~(g)(h)~~ Standards for hospice care provided in freestanding  
 7802 inpatient facilities that are not otherwise licensed medical  
 7803 facilities and in residential care facilities such as nursing  
 7804 homes, assisted living facilities, adult family care homes, and  
 7805 hospice residential units and facilities.  
 7806           ~~(h)(i)~~ Physical plant standards for hospice residential  
 7807 and inpatient facilities and units.  
 7808           ~~(i)(j)~~ Components of a comprehensive emergency management  
 7809 plan, developed in consultation with the Department of Health,  
 7810 the Department of Elderly Affairs, and the Department of  
 7811 Community Affairs.  
 7812           ~~(j)(k)~~ Standards and procedures relating to the  
 7813 establishment and activities of a quality assurance and  
 7814 utilization review committee.  
 7815           ~~(k)(l)~~ Components and procedures relating to the  
 7816 collection of patient demographic data and other information on  
 7817 the provision of hospice care in this state.  
 7818           (2) In accordance with s. 408.805, an applicant or  
 7819 licensee shall pay a fee for each license application submitted  
 7820 under this part, part II of chapter 408, and applicable rules.  
 7821 The amount of the fee shall be established by rule and may not  
 7822 exceed \$1,200 per biennium. ~~The agency shall:~~

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7823 ~~(a) Prepare and furnish all forms necessary under the~~  
 7824 ~~provisions of this part in relation to applications for~~  
 7825 ~~licensure or licensure renewals.~~

7826 ~~(b) Collect from the applicant at the time of filing an~~  
 7827 ~~application for a license or at the time of renewal of a license~~  
 7828 ~~a fee which must be reasonably calculated to cover the cost of~~  
 7829 ~~regulation under this part, but may not exceed \$600 per program.~~  
 7830 ~~All fees collected under this part shall be deposited in the~~  
 7831 ~~Health Care Trust Fund for the administration of this part.~~

7832 ~~(c) Issue hospice licenses to all applicants which meet~~  
 7833 ~~the provisions of this part and applicable rules.~~

7834 (3)(d) In accordance with s. 408.811, the agency shall  
 7835 conduct annual licensure inspections of all licensees, except  
 7836 that licensure inspections may be conducted biennially for  
 7837 hospices having a 3-year record of substantial compliance. The  
 7838 agency shall

7839 ~~(e)~~ conduct such inspections and investigations as are  
 7840 necessary in order to determine the state of compliance with the  
 7841 provisions of this part, part II of chapter 408, and applicable  
 7842 adopted rules. ~~The right of inspection also extends to any~~  
 7843 ~~program that the agency has reason to believe is offering or~~  
 7844 ~~advertising itself as a hospice without a license, but no~~  
 7845 ~~inspection may be made without the permission of the owner or~~  
 7846 ~~person in charge thereof unless a warrant is first obtained from~~  
 7847 ~~a circuit court authorizing such inspection. An application for~~  
 7848 ~~a license or license renewal made pursuant to this part~~  
 7849 ~~constitutes permission for an inspection of the hospice for~~  
 7850 ~~which the license is sought in order to facilitate verification~~

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7851 ~~of the information submitted on or in connection with the~~  
7852 ~~application.~~

7853 (4)(f) In accordance with part II of chapter 408, the  
7854 agency may impose an administrative fine for any violation of  
7855 the provisions of this part, part II of chapter 408, or  
7856 applicable rules.

7857 Section 144. Section 400.606, Florida Statutes, is amended  
7858 to read:

7859 400.606 License; application; renewal; conditional license  
7860 or permit; certificate of need.--

7861 ~~(1) A license application must be filed on a form provided~~  
7862 ~~by the agency and must be accompanied by the appropriate license~~  
7863 ~~fee as well as satisfactory proof that the hospice is in~~  
7864 ~~compliance with this part and any rules adopted by the~~  
7865 ~~department and proof of financial ability to operate and conduct~~  
7866 ~~the hospice in accordance with the requirements of this part.~~

7867 The initial application and change of ownership application must  
7868 be accompanied by a plan for the delivery of home, residential,  
7869 and homelike inpatient hospice services to terminally ill  
7870 persons and their families. Such plan must contain, but need not  
7871 be limited to:

7872 (a) The estimated average number of terminally ill persons  
7873 to be served monthly.

7874 (b) The geographic area in which hospice services will be  
7875 available.

7876 (c) A listing of services which are or will be provided,  
7877 either directly by the applicant or through contractual  
7878 arrangements with existing providers.

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7879 (d) Provisions for the implementation of hospice home care  
7880 within 3 months after licensure.

7881 (e) Provisions for the implementation of hospice homelike  
7882 inpatient care within 12 months after licensure.

7883 (f) The number and disciplines of professional staff to be  
7884 employed.

7885 (g) The name and qualifications of any existing or  
7886 potential contractee.

7887 (h) A plan for attracting and training volunteers.

7888 (i) The projected annual operating cost of the hospice.

7889 ~~(j) A statement of financial resources and personnel  
7890 available to the applicant to deliver hospice care.~~

7891  
7892 If the applicant is an existing licensed health care provider,  
7893 the application must be accompanied by a copy of the most recent  
7894 profit-loss statement and, if applicable, the most recent  
7895 licensure inspection report.

7896 ~~(2) Each applicant must submit to the agency with its  
7897 application a description and explanation of any exclusions,  
7898 permanent suspensions, or terminations from the Medicaid or  
7899 Medicare programs of the owner, if an individual; of any officer  
7900 or board member of the hospice, if the owner is a firm,  
7901 corporation, partnership, or association; or of any person  
7902 owning 5 percent or more of the hospice. Proof of compliance  
7903 with disclosure of ownership and control interest requirements  
7904 of the Medicaid or Medicare programs may be accepted in lieu of  
7905 this submission.~~

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7906        ~~(2)(3) A license issued for the operation of a hospice,~~  
 7907        ~~unless sooner suspended or revoked, shall expire automatically 1~~  
 7908        ~~year from the date of issuance. Sixty days prior to the~~  
 7909        ~~expiration date, a hospice wishing to renew its license shall~~  
 7910        ~~submit an application for renewal to the agency on forms~~  
 7911        ~~furnished by the agency. The agency shall renew the license if~~  
 7912        ~~the applicant has first met the requirements established under~~  
 7913        ~~this part and all applicable rules and has provided the~~  
 7914        ~~information described under this section in addition to the~~  
 7915        ~~application. However, The application for license renewal shall~~  
 7916        ~~be accompanied by an update of the plan for delivery of hospice~~  
 7917        ~~care only if information contained in the plan submitted~~  
 7918        ~~pursuant to subsection (1) is no longer applicable.~~

7919        ~~(4) A hospice against which a revocation or suspension~~  
 7920        ~~proceeding is pending at the time of license renewal may be~~  
 7921        ~~issued a conditional license by the agency effective until final~~  
 7922        ~~disposition of such proceeding. If judicial relief is sought~~  
 7923        ~~from the final agency action, the court having jurisdiction may~~  
 7924        ~~issue a conditional permit for the duration of the judicial~~  
 7925        ~~proceeding.~~

7926        ~~(3)(5)~~ The agency shall not issue a license to a hospice  
 7927        that fails to receive a certificate of need under the provisions  
 7928        of part I of chapter 408 ss. 408.031-408.045. A licensed hospice  
 7929        is a health care facility as that term is used in s. 408.039(5)  
 7930        and is entitled to initiate or intervene in an administrative  
 7931        hearing.

7932        ~~(4)(6)~~ A freestanding hospice facility that is primarily  
 7933        engaged in providing inpatient and related services and that is

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7934 | not otherwise licensed as a health care facility shall be  
 7935 | required to obtain a certificate of need. However, a  
 7936 | freestanding hospice facility with six or fewer beds shall not  
 7937 | be required to comply with institutional standards such as, but  
 7938 | not limited to, standards requiring sprinkler systems, emergency  
 7939 | electrical systems, or special lavatory devices.

7940 |       Section 145. Section 400.6065, Florida Statutes, is  
 7941 | amended to read:

7942 |           400.6065 Background screening.--

7943 |       ~~(1) Upon receipt of a completed application under s.~~  
 7944 | ~~400.606, the agency shall require level 2 background screening~~  
 7945 | ~~on each of the following persons, who shall be considered~~  
 7946 | ~~employees for the purposes of conducting screening under chapter~~  
 7947 | ~~435:~~

7948 |           ~~(a) The hospice administrator and financial officer.~~

7949 |           ~~(b) An officer or board member if the hospice is a firm,~~  
 7950 | ~~corporation, partnership, or association, or any person owning 5~~  
 7951 | ~~percent or more of the hospice if the agency has probable cause~~  
 7952 | ~~to believe that such officer, board member, or owner has been~~  
 7953 | ~~convicted of any offense prohibited by s. 435.04. For each~~  
 7954 | ~~officer, board member, or person owning 5 percent or more who~~  
 7955 | ~~has been convicted of any such offense, the hospice shall submit~~  
 7956 | ~~to the agency a description and explanation of the conviction at~~  
 7957 | ~~the time of license application. This paragraph does not apply~~  
 7958 | ~~to a board member of a not-for-profit corporation or~~  
 7959 | ~~organization if the board member serves solely in a voluntary~~  
 7960 | ~~capacity, does not regularly take part in the day-to-day~~  
 7961 | ~~operational decisions of the corporation or organization,~~

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7962 ~~receives no remuneration for his or her services, and has no~~  
 7963 ~~financial interest and has no family members with a financial~~  
 7964 ~~interest in the corporation or organization, provided that the~~  
 7965 ~~board member and the corporation or organization submit a~~  
 7966 ~~statement affirming that the board member's relationship to the~~  
 7967 ~~corporation or organization satisfies the requirements of this~~  
 7968 ~~paragraph.~~

7969 ~~(2) Proof of compliance with level 2 screening standards~~  
 7970 ~~which has been submitted within the previous 5 years to meet any~~  
 7971 ~~facility or professional licensure requirements of the agency or~~  
 7972 ~~the Department of Health satisfies the requirements of this~~  
 7973 ~~section.~~

7974 ~~(3) The agency may grant a provisional license to a~~  
 7975 ~~hospice applying for an initial license when each individual~~  
 7976 ~~required by this section to undergo screening has completed the~~  
 7977 ~~Department of Law Enforcement background check, but has not yet~~  
 7978 ~~received results from the Federal Bureau of Investigation.~~

7979 ~~(1)(4)~~ (4) The agency shall require employment or contractor  
 7980 screening as provided in chapter 435, using the level 1  
 7981 standards for screening set forth in that chapter, for hospice  
 7982 personnel.

7983 ~~(2)(5)~~ (5) The agency may grant exemptions from  
 7984 disqualification from employment under this section as provided  
 7985 in s. 435.07.

7986 ~~(6) The administration of each hospice must sign an~~  
 7987 ~~affidavit annually, under penalty of perjury, stating that all~~  
 7988 ~~personnel employed or contracted with on or after October 1,~~  
 7989 ~~1998, who provide hospice services in a facility, or who enter~~



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7990 ~~the home of a patient in their service capacity, have been~~  
7991 ~~screened.~~

7992 (3)~~(7)~~ Proof of compliance with the screening requirements  
7993 of chapter 435 shall be accepted in lieu of the requirements of  
7994 this section if the person has been continuously employed or  
7995 registered without a breach in service that exceeds 180 days,  
7996 the proof of compliance is not more than 2 years old, and the  
7997 person has been screened, at the discretion of the hospice.

7998 (4)~~(8)~~(a) It is a misdemeanor of the first degree,  
7999 punishable under s. 775.082 or s. 775.083, for any person  
8000 willfully, knowingly, or intentionally to:

8001 1. Fail, by false statement, misrepresentation,  
8002 impersonation, or other fraudulent means, to disclose in any  
8003 application for voluntary or paid employment a material fact  
8004 used in making a determination as to such person's  
8005 qualifications to be employed or contracted with under this  
8006 section;

8007 ~~2. Operate or attempt to operate an entity licensed under~~  
8008 ~~this part with persons who do not meet the minimum standards for~~  
8009 ~~good moral character as contained in this section; or~~

8010 2.3~~.~~ Use information from the criminal records obtained  
8011 under this section for any purpose other than screening as  
8012 specified in this section, or release such information to any  
8013 other person for any purpose other than screening under this  
8014 section.

8015 (b) It is a felony of the third degree, punishable under  
8016 s. 775.082, s. 775.083, or s. 775.084, for any person willfully,  
8017 knowingly, or intentionally to use information from the juvenile

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8018 records of a person obtained under this section for any purpose  
8019 other than screening for employment under this section.

8020 Section 146. Section 400.607, Florida Statutes, is amended  
8021 to read:

8022 400.607 Denial, suspension, ~~or~~ revocation of license;  
8023 emergency actions; imposition of administrative fine; grounds  
8024 ~~injunctions~~.--

8025 (1) The agency may deny, revoke, and ~~or~~ suspend a license,  
8026 impose an action under s. 408.814, and ~~or~~ impose an  
8027 administrative fine, which may not exceed \$5,000 per violation,  
8028 for the violation of any provision of this part, part II of  
8029 chapter 408, or applicable rules in the manner provided in  
8030 ~~chapter 120~~.

8031 (2) Any of the following actions by a licensed hospice or  
8032 any of its employees shall be grounds for action by the agency  
8033 against a hospice:

8034 (a) A violation of the provisions of this part or  
8035 applicable rules.

8036 (b) An intentional or negligent act materially affecting  
8037 the health or safety of a patient.

8038 ~~(3) The agency may deny or revoke a license upon a~~  
8039 ~~determination that:~~

8040 ~~(a) Persons subject to level 2 background screening under~~  
8041 ~~s. 400.6065 do not meet the screening standards of s. 435.04,~~  
8042 ~~and exemptions from disqualification have not been provided by~~  
8043 ~~the agency.~~

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8044 ~~(b) An officer, board member, or person owning 5 percent~~  
 8045 ~~or more of the hospice has been excluded, permanently suspended,~~  
 8046 ~~or terminated from the Medicare or Medicaid programs.~~

8047 (3)~~(4)~~ If, 3 months after the date of obtaining a license,  
 8048 or at any time thereafter, a hospice does not have in operation  
 8049 the home-care component of hospice care, the agency shall  
 8050 immediately revoke the license of such hospice.

8051 (4)~~(5)~~ If, 12 months after the date of obtaining a license  
 8052 pursuant to s. 400.606, or at any time thereafter, a hospice  
 8053 does not have in operation the inpatient components of hospice  
 8054 care, the agency shall immediately revoke the license of such  
 8055 hospice.

8056 ~~(6) The agency may institute a civil action in a court of~~  
 8057 ~~competent jurisdiction to seek injunctive relief to enforce~~  
 8058 ~~compliance with this part or any rule adopted pursuant to this~~  
 8059 ~~part.~~

8060 (5)~~(7)~~ The remedies set forth in this section are  
 8061 independent of and cumulative to other remedies provided by law.

8062 Section 147. Subsection (8) of section 400.6095, Florida  
 8063 Statutes, is amended to read:

8064 400.6095 Patient admission; assessment; plan of care;  
 8065 discharge; death.--

8066 (8) The hospice care team may withhold or withdraw  
 8067 cardiopulmonary resuscitation if presented with an order not to  
 8068 resuscitate executed pursuant to s. 401.45. The agency  
 8069 ~~department~~ shall adopt rules providing for the implementation of  
 8070 such orders. Hospice staff shall not be subject to criminal  
 8071 prosecution or civil liability, nor be considered to have

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8072 engaged in negligent or unprofessional conduct, for withholding  
 8073 or withdrawing cardiopulmonary resuscitation pursuant to such an  
 8074 order and applicable rules ~~adopted by the department~~. The  
 8075 absence of an order to resuscitate executed pursuant to s.  
 8076 401.45 does not preclude a physician from withholding or  
 8077 withdrawing cardiopulmonary resuscitation as otherwise permitted  
 8078 by law.

8079 Section 148. Subsection (5) of section 400.617, Florida  
 8080 Statutes, is amended to read:

8081 400.617 Legislative intent; purpose.--

8082 (5) Rules of the agency ~~department~~ relating to adult  
 8083 family-care homes shall be as minimal and flexible as possible  
 8084 to ensure the protection of residents while minimizing the  
 8085 obstacles that could inhibit the establishment of adult family-  
 8086 care homes.

8087 Section 149. Section 400.619, Florida Statutes, is amended  
 8088 to read:

8089 400.619 Licensure ~~application and renewal~~.--

8090 (1) The requirements of part II of chapter 408 shall apply  
 8091 to the provision of services that require licensure pursuant to  
 8092 this part and part II of chapter 408 and to entities licensed by  
 8093 or applying for such licensure from the Agency for Health Care  
 8094 Administration pursuant to this part. However, each applicant  
 8095 for licensure and each licensee is exempt from s. 408.810(7)-  
 8096 (10). Each person who intends to be an adult family-care home  
 8097 ~~provider must apply for a license from the agency at least 90~~  
 8098 ~~days before the applicant intends to operate the adult family-~~  
 8099 ~~care home.~~

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8100 (2) A person who intends to be an adult family-care home  
8101 provider must own or rent the adult family-care home that is to  
8102 be licensed and reside therein.

8103 (3) In accordance with s. 408.805, an applicant or  
8104 licensee shall pay a fee for each license application submitted  
8105 under this part, part II of chapter 408, and applicable rules.  
8106 The amount of the fee shall be \$200 per biennium. The agency  
8107 shall notify a licensee at least 120 days before the expiration  
8108 date that license renewal is required to continue operation. The  
8109 notification must be provided electronically or by mail  
8110 delivery. Application for a license or annual license renewal  
8111 must be made on a form provided by the agency, signed under  
8112 oath, and must be accompanied by a licensing fee of \$100 per  
8113 year.

8114 (4) Upon receipt of a completed license application or  
8115 license renewal, and the fee, the agency shall initiate a level  
8116 1 background screening as provided under chapter 435 on the  
8117 adult family-care home provider, the designated relief person,  
8118 all adult household members, and all staff members. The  
8119 applicant or licensee is responsible for paying the fees  
8120 associated with obtaining the required screening. The agency  
8121 shall conduct an onsite visit to the home that is to be  
8122 licensed.

8123 (a) Proof of compliance with level 1 screening standards  
8124 which has been submitted within the previous 5 years to meet any  
8125 facility or professional licensure requirements of the agency or  
8126 the Department of Health satisfies the requirements of this  
8127 subsection. Such proof must be accompanied, under penalty of

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8128 | perjury, by a copy of the person's current professional license  
8129 | and an affidavit of current compliance with the background  
8130 | screening requirements.

8131 |       (b) The person required to be screened must have been  
8132 | continuously employed in the same type of occupation for which  
8133 | the person is seeking employment without a breach in service  
8134 | that exceeds 180 days, and proof of compliance with the level 1  
8135 | screening requirement which is no more than 2 years old must be  
8136 | provided. Proof of compliance shall be provided directly from  
8137 | one employer or contractor to another, and not from the person  
8138 | screened. Upon request, a copy of screening results shall be  
8139 | provided to the person screened by the employer retaining  
8140 | documentation of the screening.

8141 |       ~~(5) The application must be accompanied by a description~~  
8142 | ~~and explanation of any exclusions, permanent suspensions, or~~  
8143 | ~~terminations of the applicant from participation in the Medicaid~~  
8144 | ~~or Medicare programs or any other governmental health care or~~  
8145 | ~~health insurance program.~~

8146 |       ~~(6) Unless the adult family care home is a community~~  
8147 | ~~residential home subject to chapter 419, the applicant must~~  
8148 | ~~provide documentation, signed by the appropriate governmental~~  
8149 | ~~official, that the home has met local zoning requirements for~~  
8150 | ~~the location for which the license is sought.~~

8151 |       (5)(7) Access to a licensed adult family-care home must be  
8152 | provided at reasonable times for the appropriate officials of  
8153 | the department, the Department of Health, the Department of  
8154 | Children and Family Services, the agency, and the State Fire  
8155 | Marshal, who are responsible for the development and maintenance

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8156 | of fire, health, sanitary, and safety standards, to inspect the  
8157 | facility to assure compliance with these standards. In addition,  
8158 | access to a licensed adult family-care home must be provided at  
8159 | reasonable times for the local long-term care ombudsman council.

8160 |       ~~(8) A license is effective for 1 year after the date of~~  
8161 | ~~issuance unless revoked sooner. Each license must state the name~~  
8162 | ~~of the provider, the address of the home to which the license~~  
8163 | ~~applies, and the maximum number of residents of the home.~~

8164 | ~~Failure to timely file a license renewal application shall~~  
8165 | ~~result in a late fee equal to 50 percent of the license fee.~~

8166 |       ~~(9) A license is not transferable or applicable to any~~  
8167 | ~~location or person other than the location and person indicated~~  
8168 | ~~on the license.~~

8169 |       (6)~~(10)~~ The licensed maximum capacity of each adult  
8170 | family-care home is based on the service needs of the residents  
8171 | and the capability of the provider to meet the needs of the  
8172 | residents. Any relative who lives in the adult family-care home  
8173 | and who is a disabled adult or frail elder must be included in  
8174 | that limitation.

8175 |       (7)~~(11)~~ Each adult family-care home must designate at  
8176 | least one licensed space for a resident receiving optional state  
8177 | supplementation. The Department of Children and Family Services  
8178 | shall specify by rule the procedures to be followed for  
8179 | referring residents who receive optional state supplementation  
8180 | to adult family-care homes. Those homes licensed as adult foster  
8181 | homes or assisted living facilities prior to January 1, 1994,  
8182 | that convert to adult family-care homes, are exempt from this  
8183 | requirement.

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8184            ~~(8)(12)~~ The agency may issue a conditional license to a  
 8185 provider for the purpose of bringing the adult family-care home  
 8186 into compliance with licensure requirements. A conditional  
 8187 license must be limited to a specific period, not exceeding 6  
 8188 months. The agency ~~department~~ shall, by rule, establish criteria  
 8189 for issuing conditional licenses.

8190            ~~(13) All moneys collected under this section must be~~  
 8191 ~~deposited into the Department of Elderly Affairs Administrative~~  
 8192 ~~Trust Fund.~~

8193            ~~(9)(14)~~ The agency ~~department~~ may adopt rules to establish  
 8194 procedures, identify forms, specify documentation, and clarify  
 8195 terms, as necessary, to administer this section and part II of  
 8196 chapter 408.

8197            Section 150. Section 400.6194, Florida Statutes, is  
 8198 amended to read:

8199            400.6194 Denial, revocation, ~~or~~ suspension of a  
 8200 license.--In addition to the requirements of part II of chapter  
 8201 408 the agency may deny, suspend, and ~~or~~ revoke a license for  
 8202 any of the following reasons:

8203            (1) Failure of any of the persons required to undergo  
 8204 background screening under s. 400.619 to meet the level 1  
 8205 screening standards of s. 435.03, unless an exemption from  
 8206 disqualification has been provided by the agency.

8207            (2) An intentional or negligent act materially affecting  
 8208 the health, safety, or welfare of the adult family-care home  
 8209 residents.



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8210 ~~(3) Submission of fraudulent information or omission of~~  
 8211 ~~any material fact on a license application or any other document~~  
 8212 ~~required by the agency.~~

8213 ~~(4) Failure to pay an administrative fine assessed under~~  
 8214 ~~this part.~~

8215 ~~(5) A violation of this part or adopted rules which~~  
 8216 ~~results in conditions or practices that directly threaten the~~  
 8217 ~~physical or emotional health, safety, or welfare of residents.~~

8218 ~~(3)(6)~~ Failure to correct cited fire code violations that  
 8219 threaten the health, safety, or welfare of residents.

8220 ~~(7) Failure to submit a completed initial license~~  
 8221 ~~application or to complete an application for license renewal~~  
 8222 ~~within the specified timeframes.~~

8223 ~~(8) Exclusion, permanent suspension, or termination of the~~  
 8224 ~~provider from the Medicare or Medicaid program.~~

8225 Section 151. Section 400.6196, Florida Statutes, is  
 8226 amended to read:

8227 400.6196 Classification of deficiencies; administrative  
 8228 fin ~~Violations; penalties.~~--

8229 (1) In accordance with part II of chapter 408 and in  
 8230 addition to any other liability or penalty provided by law, the  
 8231 agency may impose an administrative fine ~~a civil penalty~~ on a  
 8232 provider according to the following classification ~~for the~~  
 8233 violation of any provision of this part, part II of chapter 408,  
 8234 or applicable rules:

8235 (a) Class I violations are those conditions or practices  
 8236 related to the operation and maintenance of an adult family-care  
 8237 home or to the care of residents which the agency determines

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8238 present an imminent danger to the residents or guests of the  
 8239 facility or a substantial probability that death or serious  
 8240 physical or emotional harm would result therefrom. The condition  
 8241 or practice that constitutes a class I violation must be abated  
 8242 or eliminated within 24 hours, unless a fixed period, as  
 8243 determined by the agency, is required for correction. A class I  
 8244 deficiency is subject to an administrative fine in an amount not  
 8245 less than \$500 and not exceeding \$1,000 for each violation. A  
 8246 fine may be levied notwithstanding the correction of the  
 8247 deficiency.

8248 (b) Class II violations are those conditions or practices  
 8249 related to the operation and maintenance of an adult family-care  
 8250 home or to the care of residents which the agency determines  
 8251 directly threaten the physical or emotional health, safety, or  
 8252 security of the residents, other than class I violations. A  
 8253 class II violation is subject to an administrative fine in an  
 8254 amount not less than \$250 and not exceeding \$500 for each  
 8255 violation. A citation for a class II violation must specify the  
 8256 time within which the violation is required to be corrected. If  
 8257 a class II violation is corrected within the time specified, no  
 8258 civil penalty shall be imposed, unless it is a repeated offense.

8259 (c) Class III violations are those conditions or practices  
 8260 related to the operation and maintenance of an adult family-care  
 8261 home or to the care of residents which the agency determines  
 8262 indirectly or potentially threaten the physical or emotional  
 8263 health, safety, or security of residents, other than class I or  
 8264 class II violations. A class III violation is subject to an  
 8265 administrative fine in an amount not less than \$100 and not

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8266 | exceeding \$250 for each violation. A citation for a class III  
 8267 | violation shall specify the time within which the violation is  
 8268 | required to be corrected. If a class III violation is corrected  
 8269 | within the time specified, no civil penalty shall be imposed,  
 8270 | unless it is a repeated offense.

8271 |         (d) Class IV violations are those conditions or  
 8272 | occurrences related to the operation and maintenance of an adult  
 8273 | family-care home, or related to the required reports, forms, or  
 8274 | documents, which do not have the potential of negatively  
 8275 | affecting the residents. A provider that does not correct a  
 8276 | class IV violation within the time limit specified by the agency  
 8277 | is subject to an administrative fine in an amount not less than  
 8278 | \$50 and not exceeding \$100 for each violation. Any class IV  
 8279 | violation that is corrected during the time the agency survey is  
 8280 | conducted will be identified as an agency finding and not as a  
 8281 | violation.

8282 |         (2) The agency may impose an administrative fine for  
 8283 | violations which do not qualify as class I, class II, class III,  
 8284 | or class IV violations. The amount of the fine shall not exceed  
 8285 | \$250 for each violation or \$2,000 in the aggregate. Unclassified  
 8286 | violations include:

8287 |             (a) Violating any term or condition of a license.

8288 |             (b) Violating any provision of ~~rule adopted under~~ this  
 8289 | part, part II of chapter 408, or applicable rules.

8290 |             (c) Failure to follow the criteria and procedures provided  
 8291 | under part I of chapter 394 relating to the transportation,  
 8292 | voluntary admission, and involuntary examination of adult  
 8293 | family-care home residents.

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8294 (d) Exceeding licensed capacity.  
 8295 (e) Providing services beyond the scope of the license.  
 8296 (f) Violating a moratorium.  
 8297 ~~(3) Each day during which a violation occurs constitutes a~~  
 8298 ~~separate offense.~~  
 8299 (3)~~(4)~~ In determining whether a penalty is to be imposed,  
 8300 and in fixing the amount of any penalty to be imposed, the  
 8301 agency must consider:  
 8302 (a) The gravity of the violation.  
 8303 (b) Actions taken by the provider to correct a violation.  
 8304 (c) Any previous violation by the provider.  
 8305 (d) The financial benefit to the provider of committing or  
 8306 continuing the violation.  
 8307 (4)~~(5)~~ As an alternative to or in conjunction with an  
 8308 administrative action against a provider, the agency may request  
 8309 a plan of corrective action that demonstrates a good faith  
 8310 effort to remedy each violation by a specific date, subject to  
 8311 the approval of the agency.  
 8312 (5)~~(6)~~ The agency department shall set forth, by rule,  
 8313 notice requirements and procedures for correction of  
 8314 deficiencies.  
 8315 ~~(7) Civil penalties paid by a provider must be deposited~~  
 8316 ~~into the Department of Elderly Affairs Administrative Trust Fund~~  
 8317 ~~and used to offset the expenses of departmental training and~~  
 8318 ~~education for adult family care home providers.~~  
 8319 ~~(8) The agency may impose an immediate moratorium on~~  
 8320 ~~admissions to any adult family care home if the agency finds~~  
 8321 ~~that a condition in the home presents a threat to the health,~~

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8322 ~~safety, or welfare of its residents. The department may by rule~~  
 8323 ~~establish facility conditions that constitute grounds for~~  
 8324 ~~imposing a moratorium and establish procedures for imposing and~~  
 8325 ~~lifting a moratorium.~~

8326 Section 152. Section 400.621, Florida Statutes, is amended  
 8327 to read:

8328 400.621 Rules and standards relating to adult family-care  
 8329 homes.--

8330 (1) The agency ~~department~~, in consultation with the  
 8331 Department of Health, the Department of Children and Family  
 8332 Services, and the department ~~agency~~ shall, by rule, establish  
 8333 minimum standards to ensure the health, safety, and well-being  
 8334 of each resident in the adult family-care home pursuant to this  
 8335 part and part II of chapter 408. The rules must address:

8336 (a) Requirements for the physical site of the facility and  
 8337 facility maintenance.

8338 (b) Services that must be provided to all residents of an  
 8339 adult family-care home and standards for such services, which  
 8340 must include, but need not be limited to:

- 8341 1. Room and board.
- 8342 2. Assistance necessary to perform the activities of daily  
 8343 living.
- 8344 3. Assistance necessary to administer medication.
- 8345 4. Supervision of residents.
- 8346 5. Health monitoring.
- 8347 6. Social and leisure activities.

8348 (c) Standards and procedures for license application and  
 8349 annual license renewal, advertising, proper management of each

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8350 resident's funds and personal property and personal affairs,  
8351 financial ability to operate, medication management,  
8352 inspections, complaint investigations, and facility, staff, and  
8353 resident records.

8354 (d) Qualifications, training, standards, and  
8355 responsibilities for providers and staff.

8356 (e) Compliance with chapter 419, relating to community  
8357 residential homes.

8358 (f) Criteria and procedures for determining the  
8359 appropriateness of a resident's placement and continued  
8360 residency in an adult family-care home. A resident who requires  
8361 24-hour nursing supervision may not be retained in an adult  
8362 family-care home unless such resident is an enrolled hospice  
8363 patient and the resident's continued residency is mutually  
8364 agreeable to the resident and the provider.

8365 (g) Procedures for providing notice and assuring the least  
8366 possible disruption of residents' lives when residents are  
8367 relocated, an adult family-care home is closed, or the ownership  
8368 of an adult family-care home is transferred.

8369 (h) Procedures to protect the residents' rights as  
8370 provided in s. 400.628.

8371 (i) Procedures to promote the growth of adult family-care  
8372 homes as a component of a long-term care system.

8373 (j) Procedures to promote the goal of aging in place for  
8374 residents of adult family-care homes.

8375 (2) The agency ~~department~~ shall by rule provide minimum  
8376 standards and procedures for emergencies. Pursuant to s.  
8377 633.022, the State Fire Marshal, in consultation with the

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8378 | department and the agency, shall adopt uniform firesafety  
8379 | standards for adult family-care homes.

8380 |       (3) The agency ~~department~~ shall adopt rules providing for  
8381 | the implementation of orders not to resuscitate. The provider  
8382 | may withhold or withdraw cardiopulmonary resuscitation if  
8383 | presented with an order not to resuscitate executed pursuant to  
8384 | s. 401.45. The provider shall not be subject to criminal  
8385 | prosecution or civil liability, nor be considered to have  
8386 | engaged in negligent or unprofessional conduct, for withholding  
8387 | or withdrawing cardiopulmonary resuscitation pursuant to such an  
8388 | order and applicable rules ~~adopted by the department~~.

8389 |       ~~(4) The provider of any adult family-care home that is in  
8390 | operation at the time any rules are adopted or amended under  
8391 | this part may be given a reasonable time, not exceeding 6  
8392 | months, within which to comply with the new or revised rules and  
8393 | standards.~~

8394 |       Section 153. Subsection (3) of section 400.6211, Florida  
8395 | Statutes, is amended to read:

8396 |       400.6211 Training and education programs.--

8397 |       (3) Effective January 1, 2004, providers must complete the  
8398 | training and education program within a reasonable time  
8399 | determined by the agency ~~department~~. Failure to complete the  
8400 | training and education program within the time set by the agency  
8401 | ~~department~~ is a violation of this part and subjects the provider  
8402 | to revocation of the license.

8403 |       Section 154. Section 400.622, Florida Statutes, is  
8404 | repealed.

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8405 Section 155. Subsection (2) of section 400.625, Florida  
8406 Statutes, is amended to read:

8407 400.625 Residency agreements.--

8408 (2) Each residency agreement must specify the personal  
8409 care and accommodations to be provided by the adult family-care  
8410 home, the rates or charges, a requirement of at least 30 days'  
8411 notice before a rate increase, and any other provisions required  
8412 by rule of the agency ~~department~~.

8413 Section 156. Section 400.801, Florida Statutes, is amended  
8414 to read:

8415 400.801 Homes for special services.--

8416 (1) As used in this section, the term:

8417 (a) "Agency" means the "Agency for Health Care  
8418 Administration."

8419 (b) "Home for special services" means a site where  
8420 specialized health care services are provided, including  
8421 personal and custodial care, but not continuous nursing  
8422 services.

8423 (2) The requirements of part II of chapter 408 shall apply  
8424 to the provision of services that require licensure pursuant to  
8425 this section and part II of chapter 408 and entities licensed by  
8426 or applying for such licensure from the agency pursuant to this  
8427 section. However, each applicant for licensure and each licensee  
8428 is exempt from the provisions of s. 408.810(7)-(10). A person  
8429 ~~must obtain a license from the agency to operate a home for~~  
8430 ~~special services. A license is valid for 1 year.~~

8431 (3) In accordance with s. 408.805, an applicant or  
8432 licensee shall pay a fee for each license application submitted



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8433 under this part, part II of chapter 408, and applicable rules.  
 8434 The amount of the fee shall be established by rule and shall not  
 8435 be more than \$2,000 per biennium. ~~The application for a license~~  
 8436 ~~under this section must be made on a form provided by the~~  
 8437 ~~agency. A nonrefundable license fee of not more than \$1,000 must~~  
 8438 ~~be submitted with the license application.~~

8439 ~~(4) Each applicant for licensure must comply with the~~  
 8440 ~~following requirements:~~

8441 ~~(a) Upon receipt of a completed, signed, and dated~~  
 8442 ~~application, the agency shall require background screening, in~~  
 8443 ~~accordance with the level 2 standards for screening set forth in~~  
 8444 ~~chapter 435, of the managing employee, or other similarly titled~~  
 8445 ~~individual who is responsible for the daily operation of the~~  
 8446 ~~facility, and of the financial officer, or other similarly~~  
 8447 ~~titled individual who is responsible for the financial operation~~  
 8448 ~~of the facility, including billings for client care and~~  
 8449 ~~services, in accordance with the level 2 standards for screening~~  
 8450 ~~set forth in chapter 435. The applicant must comply with the~~  
 8451 ~~procedures for level 2 background screening as set forth in~~  
 8452 ~~chapter 435.~~

8453 ~~(b) The agency may require background screening of any~~  
 8454 ~~other individual who is an applicant if the agency has probable~~  
 8455 ~~cause to believe that he or she has been convicted of a crime or~~  
 8456 ~~has committed any other offense prohibited under the level 2~~  
 8457 ~~standards for screening set forth in chapter 435.~~

8458 ~~(c) Proof of compliance with the level 2 background~~  
 8459 ~~screening requirements of chapter 435 which has been submitted~~  
 8460 ~~within the previous 5 years in compliance with any other health~~

8461 ~~care or assisted living licensure requirements of this state is~~  
 8462 ~~acceptable in fulfillment of the requirements of paragraph (a).~~  
 8463 ~~(d) A provisional license may be granted to an applicant~~  
 8464 ~~when each individual required by this section to undergo~~  
 8465 ~~background screening has met the standards for the Department of~~  
 8466 ~~Law Enforcement background check, but the agency has not yet~~  
 8467 ~~received background screening results from the Federal Bureau of~~  
 8468 ~~Investigation, or a request for a disqualification exemption has~~  
 8469 ~~been submitted to the agency as set forth in chapter 435, but a~~  
 8470 ~~response has not yet been issued. A standard license may be~~  
 8471 ~~granted to the applicant upon the agency's receipt of a report~~  
 8472 ~~of the results of the Federal Bureau of Investigation background~~  
 8473 ~~screening for each individual required by this section to~~  
 8474 ~~undergo background screening which confirms that all standards~~  
 8475 ~~have been met, or upon the granting of a disqualification~~  
 8476 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 8477 ~~person who is required to undergo level 2 background screening~~  
 8478 ~~may serve in his or her capacity pending the agency's receipt of~~  
 8479 ~~the report from the Federal Bureau of Investigation. However,~~  
 8480 ~~the person may not continue to serve if the report indicates any~~  
 8481 ~~violation of background screening standards and a~~  
 8482 ~~disqualification exemption has not been requested of and granted~~  
 8483 ~~by the agency as set forth in chapter 435.~~

8484 ~~(e) Each applicant must submit to the agency, with its~~  
 8485 ~~application, a description and explanation of any exclusions,~~  
 8486 ~~permanent suspensions, or terminations of the applicant from the~~  
 8487 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 8488 ~~requirements for disclosure of ownership and control interests~~

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8489 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
8490 ~~of this submission.~~

8491 ~~(f) Each applicant must submit to the agency a description~~  
8492 ~~and explanation of any conviction of an offense prohibited under~~  
8493 ~~the level 2 standards of chapter 435 by a member of the board of~~  
8494 ~~directors of the applicant, its officers, or any individual~~  
8495 ~~owning 5 percent or more of the applicant. This requirement does~~  
8496 ~~not apply to a director of a not-for-profit corporation or~~  
8497 ~~organization if the director serves solely in a voluntary~~  
8498 ~~capacity for the corporation or organization, does not regularly~~  
8499 ~~take part in the day-to-day operational decisions of the~~  
8500 ~~corporation or organization, receives no remuneration for his or~~  
8501 ~~her services on the corporation or organization's board of~~  
8502 ~~directors, and has no financial interest and has no family~~  
8503 ~~members with a financial interest in the corporation or~~  
8504 ~~organization, provided that the director and the not-for-profit~~  
8505 ~~corporation or organization include in the application a~~  
8506 ~~statement affirming that the director's relationship to the~~  
8507 ~~corporation satisfies the requirements of this paragraph.~~

8508 ~~(g) A license may not be granted to an applicant if the~~  
8509 ~~applicant or managing employee has been found guilty of,~~  
8510 ~~regardless of adjudication, or has entered a plea of nolo~~  
8511 ~~contendere or guilty to, any offense prohibited under the level~~  
8512 ~~2 standards for screening set forth in chapter 435, unless an~~  
8513 ~~exemption from disqualification has been granted by the agency~~  
8514 ~~as set forth in chapter 435.~~

8515 ~~(h) The agency may deny or revoke licensure if the~~  
8516 ~~applicant:~~

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8517 | ~~1. Has falsely represented a material fact in the~~  
 8518 | ~~application required by paragraph (e) or paragraph (f), or has~~  
 8519 | ~~omitted any material fact from the application required by~~  
 8520 | ~~paragraph (e) or paragraph (f); or~~

8521 | ~~2. Has had prior action taken against the applicant under~~  
 8522 | ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

8523 | ~~(i) An application for license renewal must contain the~~  
 8524 | ~~information required under paragraphs (e) and (f).~~

8525 | ~~(5) Application for license renewal must be submitted 90~~  
 8526 | ~~days before the expiration of the license.~~

8527 | ~~(6) A change of ownership or control of a home for special~~  
 8528 | ~~services must be reported to the agency in writing at least 60~~  
 8529 | ~~days before the change is scheduled to take effect.~~

8530 | ~~(4)(7)~~ The agency may ~~shall~~ adopt rules for implementing  
 8531 | and enforcing this section and part II of chapter 408.

8532 | ~~(8)(a) It is unlawful for any person to establish,~~  
 8533 | ~~conduct, manage, or operate a home for special services without~~  
 8534 | ~~obtaining a license from the agency.~~

8535 | ~~(b) It is unlawful for any person to offer or advertise to~~  
 8536 | ~~the public, in any medium whatever, specialized health care~~  
 8537 | ~~services without obtaining a license from the agency.~~

8538 | ~~(c) It is unlawful for a holder of a license issued under~~  
 8539 | ~~this section to advertise or represent to the public that it~~  
 8540 | ~~holds a license for a type of facility other than the facility~~  
 8541 | ~~for which its license is issued.~~

8542 | ~~(5)(9)(a)~~ In accordance with part II of chapter 408, a  
 8543 | violation of any provision of this section, part II of chapter  
 8544 | 408, or applicable rules adopted by the agency for implementing

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8545 ~~this section~~ is punishable by payment of an administrative fine  
8546 not to exceed \$5,000.

8547 ~~(b) A violation of subsection (8) or rules adopted under~~  
8548 ~~that subsection is a misdemeanor of the first degree, punishable~~  
8549 ~~as provided in s. 775.082 or s. 775.083. Each day of continuing~~  
8550 ~~violation is a separate offense.~~

8551 Section 157. Section 400.805, Florida Statutes, is amended  
8552 to read:

8553 400.805 Transitional living facilities.--

8554 (1) As used in this section, the term:

8555 (a) "Agency" means the Agency for Health Care  
8556 Administration.

8557 (b) "Department" means the Department of Health.

8558 (c) "Transitional living facility" means a site where  
8559 specialized health care services are provided, including, but  
8560 not limited to, rehabilitative services, community reentry  
8561 training, aids for independent living, and counseling to spinal-  
8562 cord-injured persons and head-injured persons. This term does  
8563 not include a hospital licensed under chapter 395 or any  
8564 federally operated hospital or facility.

8565 (2)(a) The requirements of part II of chapter 408 shall  
8566 apply to the provision of services that require licensure  
8567 pursuant to this section and part II of chapter 408 and to  
8568 entities licensed by or applying for such licensure from the  
8569 agency pursuant to this section. However, each applicant for  
8570 licensure and each licensee is exempt from the provisions of s.  
8571 408.810(7)-(10). ~~A person must obtain a license from the agency~~

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8572 ~~to operate a transitional living facility. A license issued~~  
 8573 ~~under this section is valid for 1 year.~~

8574 (b) In accordance with this section, an applicant or a  
 8575 licensee shall pay a fee for each license application submitted  
 8576 under this part, part II of chapter 408, and applicable rules.  
 8577 The fee shall consist of a \$4,000 license fee and a \$78.50 per  
 8578 bed fee per biennium, unless modified by rule. The application  
 8579 for a license must be made on a form provided by the agency. A  
 8580 nonrefundable license fee of \$2,000 and a fee of up to \$39.25  
 8581 per bed must be submitted with the license application.

8582 (c) The agency may not issue a license to an applicant  
 8583 until the agency receives notice from the department as provided  
 8584 in paragraph (3)~~(6)~~(b).

8585 ~~(3) Each applicant for licensure must comply with the~~  
 8586 ~~following requirements:~~

8587 ~~(a) Upon receipt of a completed, signed, and dated~~  
 8588 ~~application, the agency shall require background screening, in~~  
 8589 ~~accordance with the level 2 standards for screening set forth in~~  
 8590 ~~chapter 435, of the managing employee, or other similarly titled~~  
 8591 ~~individual who is responsible for the daily operation of the~~  
 8592 ~~facility, and of the financial officer, or other similarly~~  
 8593 ~~titled individual who is responsible for the financial operation~~  
 8594 ~~of the facility, including billings for client care and~~  
 8595 ~~services. The applicant must comply with the procedures for~~  
 8596 ~~level 2 background screening as set forth in chapter 435.~~

8597 ~~(b) The agency may require background screening of any~~  
 8598 ~~other individual who is an applicant if the agency has probable~~  
 8599 ~~cause to believe that he or she has been convicted of a crime or~~

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8600 ~~has committed any other offense prohibited under the level 2~~  
8601 ~~standards for screening set forth in chapter 435.~~

8602 ~~(c) Proof of compliance with the level 2 background~~  
8603 ~~screening requirements of chapter 435 which has been submitted~~  
8604 ~~within the previous 5 years in compliance with any other health~~  
8605 ~~care or assisted living licensure requirements of this state is~~  
8606 ~~acceptable in fulfillment of the requirements of paragraph (a).~~

8607 ~~(d) A provisional license may be granted to an applicant~~  
8608 ~~when each individual required by this section to undergo~~  
8609 ~~background screening has met the standards for the Department of~~  
8610 ~~Law Enforcement background check, but the agency has not yet~~  
8611 ~~received background screening results from the Federal Bureau of~~  
8612 ~~Investigation, or a request for a disqualification exemption has~~  
8613 ~~been submitted to the agency as set forth in chapter 435, but a~~  
8614 ~~response has not yet been issued. A standard license may be~~  
8615 ~~granted to the applicant upon the agency's receipt of a report~~  
8616 ~~of the results of the Federal Bureau of Investigation background~~  
8617 ~~screening for each individual required by this section to~~  
8618 ~~undergo background screening which confirms that all standards~~  
8619 ~~have been met, or upon the granting of a disqualification~~  
8620 ~~exemption by the agency as set forth in chapter 435. Any other~~  
8621 ~~person who is required to undergo level 2 background screening~~  
8622 ~~may serve in his or her capacity pending the agency's receipt of~~  
8623 ~~the report from the Federal Bureau of Investigation. However,~~  
8624 ~~the person may not continue to serve if the report indicates any~~  
8625 ~~violation of background screening standards and a~~  
8626 ~~disqualification exemption has not been requested of and granted~~  
8627 ~~by the agency as set forth in chapter 435.~~

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

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8628       ~~(e) Each applicant must submit to the agency, with its~~  
8629       ~~application, a description and explanation of any exclusions,~~  
8630       ~~permanent suspensions, or terminations of the applicant from the~~  
8631       ~~Medicare or Medicaid programs. Proof of compliance with the~~  
8632       ~~requirements for disclosure of ownership and control interests~~  
8633       ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
8634       ~~of this submission.~~

8635       ~~(f) Each applicant must submit to the agency a description~~  
8636       ~~and explanation of any conviction of an offense prohibited under~~  
8637       ~~the level 2 standards of chapter 435 by a member of the board of~~  
8638       ~~directors of the applicant, its officers, or any individual~~  
8639       ~~owning 5 percent or more of the applicant. This requirement does~~  
8640       ~~not apply to a director of a not-for-profit corporation or~~  
8641       ~~organization if the director serves solely in a voluntary~~  
8642       ~~capacity for the corporation or organization, does not regularly~~  
8643       ~~take part in the day-to-day operational decisions of the~~  
8644       ~~corporation or organization, receives no remuneration for his or~~  
8645       ~~her services on the corporation or organization's board of~~  
8646       ~~directors, and has no financial interest and has no family~~  
8647       ~~members with a financial interest in the corporation or~~  
8648       ~~organization, provided that the director and the not-for-profit~~  
8649       ~~corporation or organization include in the application a~~  
8650       ~~statement affirming that the director's relationship to the~~  
8651       ~~corporation satisfies the requirements of this paragraph.~~

8652       ~~(g) A license may not be granted to an applicant if the~~  
8653       ~~applicant or managing employee has been found guilty of,~~  
8654       ~~regardless of adjudication, or has entered a plea of nolo~~  
8655       ~~contendere or guilty to, any offense prohibited under the level~~



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8656 | ~~2 standards for screening set forth in chapter 435, unless an~~  
 8657 | ~~exemption from disqualification has been granted by the agency~~  
 8658 | ~~as set forth in chapter 435.~~

8659 |       ~~(h) The agency may deny or revoke licensure if the~~  
 8660 | ~~applicant:~~

8661 |           ~~1. Has falsely represented a material fact in the~~  
 8662 | ~~application required by paragraph (e) or paragraph (f), or has~~  
 8663 | ~~omitted any material fact from the application required by~~  
 8664 | ~~paragraph (e) or paragraph (f); or~~

8665 |           ~~2. Has had prior action taken against the applicant under~~  
 8666 | ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

8667 |       ~~(i) An application for license renewal must contain the~~  
 8668 | ~~information required under paragraphs (e) and (f).~~

8669 |       ~~(4) An application for renewal of license must be~~  
 8670 | ~~submitted 90 days before the expiration of the license. Upon~~  
 8671 | ~~renewal of licensure, each applicant must submit to the agency,~~  
 8672 | ~~under penalty of perjury, an affidavit as set forth in paragraph~~  
 8673 | ~~(3)(d).~~

8674 |       ~~(5) A change of ownership or control of a transitional~~  
 8675 | ~~living facility must be reported to the agency in writing at~~  
 8676 | ~~least 60 days before the change is scheduled to take effect.~~

8677 |       (3)(6)(a) The agency shall adopt rules in consultation  
 8678 | with the department governing the physical plant of transitional  
 8679 | living facilities and the fiscal management of transitional  
 8680 | living facilities.

8681 |       (b) The department shall adopt rules in consultation with  
 8682 | the agency governing the services provided to clients of  
 8683 | transitional living facilities. The department shall enforce all

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8684 requirements for providing services to the facility's clients.  
 8685 The department must notify the agency when it determines that an  
 8686 applicant for licensure meets the service requirements adopted  
 8687 by the department.

8688 (c) The agency and the department shall enforce  
 8689 requirements under this section, as such requirements relate to  
 8690 them respectively, and their respective adopted rules.

8691 ~~(7)(a) It is unlawful for any person to establish,~~  
 8692 ~~conduct, manage, or operate a transitional living facility~~  
 8693 ~~without obtaining a license from the agency.~~

8694 ~~(b) It is unlawful for any person to offer or advertise to~~  
 8695 ~~the public, in any medium whatever, services or care defined in~~  
 8696 ~~paragraph (1)(c) without obtaining a license from the agency.~~

8697 ~~(c) It is unlawful for a holder of a license issued under~~  
 8698 ~~this section to advertise or represent to the public that it~~  
 8699 ~~holds a license for a type of facility other than the facility~~  
 8700 ~~for which its license is issued.~~

8701 (4)(8) Any designated officer or employee of the agency,  
 8702 of the state, or of the local fire marshal may enter unannounced  
 8703 upon and into the premises of any facility licensed under this  
 8704 section in order to determine the state of compliance with this  
 8705 section and the rules or standards in force under this section.  
 8706 The right of entry and inspection also extends to any premises  
 8707 that the agency has reason to believe are being operated or  
 8708 maintained as a facility without a license; but such an entry or  
 8709 inspection may not be made without the permission of the owner  
 8710 or person in charge of the facility unless a warrant that  
 8711 authorizes the entry is first obtained from the circuit court.

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8712 The warrant requirement extends only to a facility that the  
 8713 agency has reason to believe is being operated or maintained as  
 8714 a facility without a license. An application for a license or  
 8715 renewal thereof which is made under this section constitutes  
 8716 permission for, and acquiescence in, any entry or inspection of  
 8717 the premises for which the license is sought, in order to  
 8718 facilitate verification of the information submitted on or in  
 8719 connection with the application; to discover, investigate, and  
 8720 determine the existence of abuse or neglect; or to elicit,  
 8721 receive, respond to, and resolve complaints. A current valid  
 8722 license constitutes unconditional permission for, and  
 8723 acquiescence in, any entry or inspection of the premises by  
 8724 authorized personnel. The agency retains the right of entry and  
 8725 inspection of facilities that have had a license revoked or  
 8726 suspended within the previous 24 months, to ensure that the  
 8727 facility is not operating unlawfully. However, before the  
 8728 facility is entered, a statement of probable cause must be filed  
 8729 with the director of the agency, who must approve or disapprove  
 8730 the action within 48 hours. Probable cause includes, but is not  
 8731 limited to, evidence that the facility holds itself out to the  
 8732 public as a provider of personal assistance services, or the  
 8733 receipt by the advisory council on brain and spinal cord  
 8734 injuries of a complaint about the facility.

8735 (5)~~(9)~~ The agency may institute injunctive proceedings in  
 8736 a court of competent jurisdiction for temporary or permanent  
 8737 relief to:

8738 (a) Enforce this section or any minimum standard, rule, or  
 8739 order issued pursuant thereto if the agency's effort to correct

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8740 a violation through administrative fines has failed or when the  
8741 violation materially affects the health, safety, or welfare of  
8742 residents; or

8743 (b) Terminate the operation of a facility if a violation  
8744 of this section or of any standard or rule adopted pursuant  
8745 thereto exists which materially affects the health, safety, or  
8746 welfare of residents.

8747  
8748 The Legislature recognizes that, in some instances, action is  
8749 necessary to protect residents of facilities from immediately  
8750 life-threatening situations. If it appears by competent evidence  
8751 or a sworn, substantiated affidavit that a temporary injunction  
8752 should issue, the court, pending the determination on final  
8753 hearing, shall enjoin operation of the facility.

8754 ~~(10) The agency may impose an immediate moratorium on~~  
8755 ~~admissions to a facility when the agency determines that any~~  
8756 ~~condition in the facility presents a threat to the health,~~  
8757 ~~safety, or welfare of the residents in the facility. If a~~  
8758 ~~facility's license is denied, revoked, or suspended, the~~  
8759 ~~facility may be subject to the immediate imposition of a~~  
8760 ~~moratorium on admissions to run concurrently with licensure~~  
8761 ~~denial, revocation, or suspension.~~

8762 (6)(11)(a) In accordance with part II of chapter 408, a  
8763 violation of any provision of this section, part II of chapter  
8764 408, or applicable rules adopted by the agency or department  
8765 ~~under this section~~ is punishable by payment of an administrative  
8766 or a civil penalty fine not to exceed \$5,000.

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8767 ~~(b) A violation of subsection (7) or rules adopted under~~  
 8768 ~~that subsection is a misdemeanor of the first degree, punishable~~  
 8769 ~~as provided in s. 775.082 or s. 775.083. Each day of a~~  
 8770 ~~continuing violation is a separate offense.~~

8771 Section 158. Subsection (4) of section 400.902, Florida  
 8772 Statutes, is amended to read:

8773 400.902 Definitions.--As used in this part, the term:

8774 (4) "Owner or operator" means a licensee ~~any individual~~  
 8775 ~~who has general administrative charge of a PPEC center.~~

8776 Section 159. Subsection (3) is added to section 400.903,  
 8777 Florida Statutes, to read:

8778 400.903 PPEC centers to be licensed; exemptions.--

8779 (3) The requirements of part II of chapter 408 shall apply  
 8780 to the provision of services that require licensure pursuant to  
 8781 this part and part II of chapter 408 and to entities licensed by  
 8782 or applying for such licensure from the agency pursuant to this  
 8783 part. However, each applicant for licensure and each licensee is  
 8784 exempt from the provisions of s. 408.810(10).

8785 Section 160. Section 400.905, Florida Statutes, is amended  
 8786 to read:

8787 400.905 License required; fee; exemption; ~~display~~.--

8788 ~~(1)(a) It is unlawful to operate or maintain a PPEC center~~  
 8789 ~~without first obtaining from the agency a license authorizing~~  
 8790 ~~such operation. The agency is responsible for licensing PPEC~~  
 8791 ~~centers in accordance with the provisions of this part.~~

8792 ~~(b) Any person who violates paragraph (a) is guilty of a~~  
 8793 ~~felony of the third degree, punishable as provided in s.~~  
 8794 ~~775.082, s. 775.083, or s. 775.084.~~

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8795        (1)(2) Separate licenses are required for PPEC centers  
 8796 maintained on separate premises, even though they are operated  
 8797 under the same management. Separate licenses are not required  
 8798 for separate buildings on the same grounds.

8799        (2)(3) In accordance with s. 408.805, an applicant or  
 8800 licensee shall pay a fee for each license application submitted  
 8801 under this part, part II of chapter 408, and applicable rules.  
 8802 The amount of the fee shall be established by rule and shall not  
 8803 be less than \$1,000 or more than \$3,000 per biennium. ~~The annual~~  
 8804 ~~license fee required of a PPEC center shall be in an amount~~  
 8805 ~~determined by the agency to be sufficient to cover the agency's~~  
 8806 ~~costs in carrying out its responsibilities under this part, but~~  
 8807 ~~shall not be less than \$500 or more than \$1,500.~~

8808        (3)(4) County-operated or municipally operated PPEC  
 8809 centers applying for licensure under this part are exempt from  
 8810 the payment of license fees.

8811        ~~(5) The license shall be displayed in a conspicuous place~~  
 8812 ~~inside the PPEC center.~~

8813        ~~(6) A license shall be valid only in the possession of the~~  
 8814 ~~individual, firm, partnership, association, or corporation to~~  
 8815 ~~whom it is issued and shall not be subject to sale, assignment,~~  
 8816 ~~or other transfer, voluntary or involuntary; nor shall a license~~  
 8817 ~~be valid for any premises other than that for which originally~~  
 8818 ~~issued.~~

8819        ~~(7) Any license granted by the agency shall state the~~  
 8820 ~~maximum capacity of the facility, the date the license was~~  
 8821 ~~issued, the expiration date of the license, and any other~~  
 8822 ~~information deemed necessary by the agency.~~

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8823 Section 161. Section 400.906, Florida Statutes, is  
8824 repealed.

8825 Section 162. Section 400.907, Florida Statutes, is amended  
8826 to read:

8827 400.907 Denial, suspension, revocation of licensure;  
8828 administrative fines; grounds.--

8829 (1) In accordance with part II of chapter 408, the agency  
8830 may deny, revoke, and ~~or~~ suspend a license and ~~or~~ impose an  
8831 administrative fine for the violation of any provision of this  
8832 part, part II of chapter 408, or applicable rules in the manner  
8833 provided in chapter 120.

8834 (2) Any of the following actions by a PPEC center or its  
8835 employee is grounds for action by the agency against a PPEC  
8836 center or its employee:

8837 (a) An intentional or negligent act materially affecting  
8838 the health or safety of children in the PPEC center.

8839 (b) A violation of the provisions of this part, part II of  
8840 chapter 408, or applicable rules ~~or of any standards or rules~~  
8841 adopted pursuant to this part.

8842 (c) Multiple and repeated violations of this part or of  
8843 minimum standards or rules adopted pursuant to this part.

8844 ~~(3) The agency shall be responsible for all investigations~~  
8845 ~~and inspections conducted pursuant to this part.~~

8846 Section 163. Section 400.908, Florida Statutes, is amended  
8847 to read:

8848 400.908 Administrative fines; disposition of fees and  
8849 fines.--

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8850 (1)(a) If the agency determines that a PPEC center is  
 8851 ~~being operated without a license or is otherwise~~ not in  
 8852 compliance with ~~rules adopted under~~ this part, part II of  
 8853 chapter 408, or applicable rules, the agency, ~~notwithstanding~~  
 8854 ~~any other administrative action it takes,~~ shall make a  
 8855 ~~reasonable attempt to discuss each violation and recommended~~  
 8856 ~~corrective action with the owner of the PPEC center prior to~~  
 8857 ~~written notification thereof.~~ The agency may request that the  
 8858 PPEC center submit a corrective action plan which demonstrates a  
 8859 good faith effort to remedy each violation by a specific date,  
 8860 subject to the approval of the agency.

8861 (b) In accordance with part II of chapter 408, the agency  
 8862 may fine a PPEC center or employee found in violation of ~~rules~~  
 8863 ~~adopted pursuant to~~ this part, part II of chapter 408, or  
 8864 applicable rules, in an amount not to exceed \$500 for each  
 8865 violation. Such fine may not exceed \$5,000 in the aggregate.

8866 (c) The failure to correct a violation by the date set by  
 8867 the agency, or the failure to comply with an approved corrective  
 8868 action plan, is a separate violation for each day such failure  
 8869 continues, unless the agency approves an extension to a specific  
 8870 date.

8871 ~~(d) If a PPEC center desires to appeal any agency action~~  
 8872 ~~under this section and the fine is upheld, the violator shall~~  
 8873 ~~pay the fine, plus interest at the legal rate specified in s.~~  
 8874 ~~687.01, for each day beyond the date set by the agency for~~  
 8875 ~~payment of the fine.~~



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8876 (2) In determining if a fine is to be imposed and in  
8877 fixing the amount of any fine, the agency shall consider the  
8878 following factors:

8879 (a) The gravity of the violation, including the  
8880 probability that death or serious physical or emotional harm to  
8881 a child will result or has resulted, the severity of the actual  
8882 or potential harm, and the extent to which the provisions of the  
8883 applicable statutes or rules were violated.

8884 (b) Actions taken by the owner or operator to correct  
8885 violations.

8886 (c) Any previous violations.

8887 (d) The financial benefit to the PPEC center of committing  
8888 or continuing the violation.

8889 ~~(3) Fees and fines received by the agency under this part~~  
8890 ~~shall be deposited in the Health Care Trust Fund created in s.~~  
8891 ~~408.16.~~

8892 Section 164. Section 400.910, Florida Statutes, is  
8893 repealed.

8894 Section 165. Section 400.911, Florida Statutes, is  
8895 repealed.

8896 Section 166. Section 400.912, Florida Statutes, is amended  
8897 to read:

8898 400.912 Closing of a PPEC center.--

8899 ~~(1)~~ Whenever a PPEC center voluntarily discontinues  
8900 operation, it shall, inform the agency in writing at least 30  
8901 days before the discontinuance of operation. ~~The PPEC center~~  
8902 ~~shall also, at such time,~~ inform each child's legal guardian of  
8903 the fact and the proposed time of such discontinuance.

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8904 ~~(2) Immediately upon discontinuance of the operation of a~~  
 8905 ~~PPEC center, the owner or operator shall surrender the license~~  
 8906 ~~therefor to the agency and the license shall be canceled.~~

8907 Section 167. Section 400.913, Florida Statutes, is  
 8908 repealed.

8909 Section 168. Subsection (1) of section 400.914, Florida  
 8910 Statutes, is amended to read:

8911 400.914 Rules establishing standards.--

8912 (1) Pursuant to the intention of the Legislature to  
 8913 provide safe and sanitary facilities and healthful programs, the  
 8914 agency in conjunction with the Division of Children's Medical  
 8915 Services Prevention and Intervention of the Department of Health  
 8916 shall adopt and publish rules to implement the provisions of  
 8917 this part and part II of chapter 408, which shall include  
 8918 reasonable and fair standards. Any conflict between these  
 8919 standards and those that may be set forth in local, county, or  
 8920 city ordinances shall be resolved in favor of those having  
 8921 statewide effect. Such standards shall relate to:

8922 (a) The assurance that PPEC services are family centered  
 8923 and provide individualized medical, developmental, and family  
 8924 training services.

8925 (b) The maintenance of PPEC centers, not in conflict with  
 8926 the provisions of chapter 553 and based upon the size of the  
 8927 structure and number of children, relating to plumbing, heating,  
 8928 lighting, ventilation, and other building conditions, including  
 8929 adequate space, which will ensure the health, safety, comfort,  
 8930 and protection from fire of the children served.

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8931 (c) The appropriate provisions of the most recent edition  
8932 of the "Life Safety Code" (NFPA-101) shall be applied.

8933 (d) The number and qualifications of all personnel who  
8934 have responsibility for the care of the children served.

8935 (e) All sanitary conditions within the PPEC center and its  
8936 surroundings, including water supply, sewage disposal, food  
8937 handling, and general hygiene, and maintenance thereof, which  
8938 will ensure the health and comfort of children served.

8939 (f) Programs and basic services promoting and maintaining  
8940 the health and development of the children served and meeting  
8941 the training needs of the children's legal guardians.

8942 (g) Supportive, contracted, other operational, and  
8943 transportation services.

8944 (h) Maintenance of appropriate medical records, data, and  
8945 information relative to the children and programs. Such records  
8946 shall be maintained in the facility for inspection by the  
8947 agency.

8948 Section 169. Subsection (3) of section 400.915, Florida  
8949 Statutes, is amended to read:

8950 400.915 Construction and renovation; requirements.--The  
8951 requirements for the construction or renovation of a PPEC center  
8952 shall comply with:

8953 (3) The standards or rules adopted pursuant to this part  
8954 and part II of chapter 408.

8955 Section 170. Section 400.916, Florida Statutes, is  
8956 repealed.

8957 Section 171. Section 400.917, Florida Statutes, is  
8958 repealed.

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8959 Section 172. Section 400.925, Florida Statutes, is amended  
8960 to read:

8961 400.925 Definitions.--As used in this part, the term:

8962 (1) "Accrediting organizations" means the Joint Commission  
8963 on Accreditation of Healthcare Organizations or other national  
8964 accreditation agencies whose standards for accreditation are  
8965 comparable to those required by this part for licensure.

8966 ~~(2) "Affiliated person" means any person who directly or~~  
8967 ~~indirectly manages, controls, or oversees the operation of a~~  
8968 ~~corporation or other business entity that is a licensee,~~  
8969 ~~regardless of whether such person is a partner, shareholder,~~  
8970 ~~owner, officer, director, agent, or employee of the entity.~~

8971 (2)~~(3)~~ "Agency" means the Agency for Health Care  
8972 Administration.

8973 ~~(4) "Applicant" means an individual applicant in the case~~  
8974 ~~of a sole proprietorship, or any officer, director, agent,~~  
8975 ~~managing employee, general manager, or affiliated person, or any~~  
8976 ~~partner or shareholder having an ownership interest equal to 5~~  
8977 ~~percent or greater in the corporation, partnership, or other~~  
8978 ~~business entity.~~

8979 (3)~~(5)~~ "Consumer" or "patient" means any person who uses  
8980 home medical equipment in his or her place of residence.

8981 (4)~~(6)~~ "Department" means the Department of Children and  
8982 Family Services.

8983 (5)~~(7)~~ "General manager" means the individual who has the  
8984 general administrative charge of the premises of a licensed home  
8985 medical equipment provider.

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8986        (6)~~(8)~~ "Home medical equipment" includes any product as  
 8987 defined by the Federal Drug Administration's Drugs, Devices and  
 8988 Cosmetics Act, any products reimbursed under the Medicare Part B  
 8989 Durable Medical Equipment benefits, or any products reimbursed  
 8990 under the Florida Medicaid durable medical equipment program.  
 8991 Home medical equipment includes oxygen and related respiratory  
 8992 equipment; manual, motorized, or customized wheelchairs and  
 8993 related seating and positioning, but does not include  
 8994 prosthetics or orthotics or any splints, braces, or aids custom  
 8995 fabricated by a licensed health care practitioner; motorized  
 8996 scooters; personal transfer systems; and specialty beds, for use  
 8997 by a person with a medical need.

8998        (7)~~(9)~~ "Home medical equipment provider" means any person  
 8999 or entity that sells or rents or offers to sell or rent to or  
 9000 for a consumer:

- 9001            (a) Any home medical equipment and services; or
- 9002            (b) Home medical equipment that requires any home medical  
 9003 equipment services.

9004        (8)~~(10)~~ "Home medical equipment provider personnel" means  
 9005 persons who are employed by or under contract with a home  
 9006 medical equipment provider.

9007        (9)~~(11)~~ "Home medical equipment services" means equipment  
 9008 management and consumer instruction, including selection,  
 9009 delivery, setup, and maintenance of equipment, and other related  
 9010 services for the use of home medical equipment in the consumer's  
 9011 regular or temporary place of residence.

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9012            ~~(12)~~ (10) "Licensee" means the person or entity to whom a  
 9013 license to operate as a home medical equipment provider is  
 9014 issued by the agency.

9015            ~~(13)~~ (11) "Moratorium" has the same meaning as in s.  
 9016 408.803, except that ~~means a mandated temporary cessation or~~  
 9017 ~~suspension of the sale, rental, or offering of equipment after~~  
 9018 ~~the imposition of the moratorium.~~ services related to equipment  
 9019 sold or rented prior to the moratorium must be continued without  
 9020 interruption, unless deemed otherwise by the agency.

9021            ~~(14)~~ (12) "Person" means any individual, firm, partnership,  
 9022 corporation, or association.

9023            ~~(15)~~ (13) "Premises" means those buildings and equipment  
 9024 which are located at the address of the licensed home medical  
 9025 equipment provider for the provision of home medical equipment  
 9026 services, which are in such reasonable proximity as to appear to  
 9027 the public to be a single provider location, and which comply  
 9028 with zoning ordinances.

9029            ~~(16)~~ (14) "Residence" means the consumer's home or place of  
 9030 residence, which may include nursing homes, assisted living  
 9031 facilities, transitional living facilities, adult family-care  
 9032 homes, or other congregate residential facilities.

9033            Section 173. Subsection (3) and paragraphs (b), (d), and  
 9034 (e) of subsection (6) of section 400.93, Florida Statutes, are  
 9035 amended to read:

9036            400.93 Licensure required; exemptions; unlawful acts;  
 9037 penalties.--

9038            (3) The requirements of part II of chapter 408 shall apply  
 9039 to the provision of services that require licensure pursuant to

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9040 this part and part II of chapter 408 and to entities licensed by  
 9041 or applying for such licensure from the agency pursuant to this  
 9042 part. However, each applicant for licensure and each licensee is  
 9043 exempt from the provisions of s. 408.810(10). A home medical  
 9044 equipment provider must be licensed by the agency to operate in  
 9045 this state or to provide home medical equipment and services to  
 9046 consumers in this state. A standard license issued to a home  
 9047 medical equipment provider, unless sooner suspended or revoked,  
 9048 expires 2 years after its effective date.

9049 (6)

9050 (b) A person who violates paragraph (a) is subject to an  
 9051 injunctive proceeding under this part, part II of chapter 408,  
 9052 or applicable rules s. 400.956. A violation of paragraph (a) is  
 9053 a deceptive and unfair trade practice and constitutes a  
 9054 violation of the Florida Deceptive and Unfair Trade Practices  
 9055 Act.

9056 ~~(d) The following penalties shall be imposed for operating~~  
 9057 ~~an unlicensed home medical equipment provider:~~

9058 1. ~~Any person or entity who operates an unlicensed~~  
 9059 ~~provider commits a felony of the third degree.~~

9060 2. ~~For any person or entity who has received government~~  
 9061 ~~reimbursement for services provided by an unlicensed provider,~~  
 9062 ~~the agency shall make a fraud referral to the appropriate~~  
 9063 ~~government reimbursement program.~~

9064 3. ~~For any licensee found to be concurrently operating~~  
 9065 ~~licensed and unlicensed provider premises, the agency may impose~~  
 9066 ~~a fine or moratorium, or revoke existing licenses of any or all~~

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9067 ~~of the licensee's licensed provider locations until such time as~~  
 9068 ~~the unlicensed provider premises is licensed.~~

9069 ~~(c) A provider found to be operating without a license may~~  
 9070 ~~apply for licensure, and must cease operations until a license~~  
 9071 ~~is awarded by the agency.~~

9072 Section 174. Section 400.931, Florida Statutes, is amended  
 9073 to read:

9074 400.931 Application for license; fee; provisional license;  
 9075 temporary permit.--

9076 ~~(1) Application for an initial license or for renewal of~~  
 9077 ~~an existing license must be made under oath to the agency on~~  
 9078 ~~forms furnished by it and must be accompanied by the appropriate~~  
 9079 ~~license fee as provided in subsection (12).~~

9080 (1)~~(2)~~ The applicant must file with the application  
 9081 satisfactory proof that the home medical equipment provider is  
 9082 in compliance with this part and applicable rules, including:

9083 (a) A report, by category, of the equipment to be  
 9084 provided, indicating those offered either directly by the  
 9085 applicant or through contractual arrangements with existing  
 9086 providers. Categories of equipment include:

- 9087 1. Respiratory modalities.
- 9088 2. Ambulation aids.
- 9089 3. Mobility aids.
- 9090 4. Sickroom setup.
- 9091 5. Disposables.

9092 (b) A report, by category, of the services to be provided,  
 9093 indicating those offered either directly by the applicant or



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9094 through contractual arrangements with existing providers.

9095 Categories of services include:

- 9096 1. Intake.
- 9097 2. Equipment selection.
- 9098 3. Delivery.
- 9099 4. Setup and installation.
- 9100 5. Patient training.
- 9101 6. Ongoing service and maintenance.
- 9102 7. Retrieval.

9103 (c) A listing of those with whom the applicant contracts,  
 9104 both the providers the applicant uses to provide equipment or  
 9105 services to its consumers and the providers for whom the  
 9106 applicant provides services or equipment.

9107 ~~(2)(3)~~ As an alternative to submitting proof of financial  
 9108 ability to operate as required in s. 408.810(8) ~~The applicant~~  
 9109 ~~for initial licensure must demonstrate financial ability to~~  
 9110 ~~operate, the applicant may submit which may be accomplished by~~  
 9111 ~~the submission of a \$50,000 surety bond to the agency.~~

9112 ~~(4) An applicant for renewal who has demonstrated~~  
 9113 ~~financial inability to operate must demonstrate financial~~  
 9114 ~~ability to operate.~~

9115 ~~(5) Each applicant for licensure must comply with the~~  
 9116 ~~following requirements:~~

9117 ~~(a) Upon receipt of a completed, signed, and dated~~  
 9118 ~~application, the agency shall require background screening of~~  
 9119 ~~the applicant, in accordance with the level 2 standards for~~  
 9120 ~~screening set forth in chapter 435. As used in this subsection,~~  
 9121 ~~the term "applicant" means the general manager and the financial~~

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9122 ~~officer or similarly titled individual who is responsible for~~  
 9123 ~~the financial operation of the licensed facility.~~

9124 ~~(b) The agency may require background screening for a~~  
 9125 ~~member of the board of directors of the licensee or an officer~~  
 9126 ~~or an individual owning 5 percent or more of the licensee if the~~  
 9127 ~~agency has probable cause to believe that such individual has~~  
 9128 ~~been convicted of an offense prohibited under the level 2~~  
 9129 ~~standards for screening set forth in chapter 435.~~

9130 ~~(c) Proof of compliance with the level 2 background~~  
 9131 ~~screening requirements of chapter 435 which has been submitted~~  
 9132 ~~within the previous 5 years in compliance with any other health~~  
 9133 ~~care licensure requirements of this state is acceptable in~~  
 9134 ~~fulfillment of paragraph (a).~~

9135 ~~(d) Each applicant must submit to the agency, with its~~  
 9136 ~~application, a description and explanation of any exclusions,~~  
 9137 ~~permanent suspensions, or terminations of the applicant from the~~  
 9138 ~~Medicare or Medicaid programs. Proof of compliance with~~  
 9139 ~~disclosure of ownership and control interest requirements of the~~  
 9140 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
 9141 ~~submission.~~

9142 ~~(e) Each applicant must submit to the agency a description~~  
 9143 ~~and explanation of any conviction of an offense prohibited under~~  
 9144 ~~the level 2 standards of chapter 435 by a member of the board of~~  
 9145 ~~directors of the applicant, its officers, or any individual~~  
 9146 ~~owning 5 percent or more of the applicant. This requirement does~~  
 9147 ~~not apply to a director of a not-for-profit corporation or~~  
 9148 ~~organization if the director serves solely in a voluntary~~  
 9149 ~~capacity for the corporation or organization, does not regularly~~

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9150 ~~take part in the day-to-day operational decisions of the~~  
 9151 ~~corporation or organization, receives no remuneration for his or~~  
 9152 ~~her services on the corporation's or organization's board of~~  
 9153 ~~directors, and has no financial interest and has no family~~  
 9154 ~~members with a financial interest in the corporation or~~  
 9155 ~~organization, provided that the director and the not-for-profit~~  
 9156 ~~corporation or organization include in the application a~~  
 9157 ~~statement affirming that the director's relationship to the~~  
 9158 ~~corporation satisfies the requirements of this provision.~~

9159 ~~(f) A license may not be granted to any potential licensee~~  
 9160 ~~if any applicant, administrator, or financial officer has been~~  
 9161 ~~found guilty of, regardless of adjudication, or has entered a~~  
 9162 ~~plea of nolo contendere or guilty to, any offense prohibited~~  
 9163 ~~under the level 2 standards for screening set forth in chapter~~  
 9164 ~~435, unless an exemption from disqualification has been granted~~  
 9165 ~~by the agency as set forth in chapter 435.~~

9166 ~~(g) The agency may deny or revoke licensure to any~~  
 9167 ~~potential licensee if any applicant:~~

9168 ~~1. Has falsely represented a material fact in the~~  
 9169 ~~application required by paragraphs (d) and (e), or has omitted~~  
 9170 ~~any material fact from the application required by paragraphs~~  
 9171 ~~(d) and (e); or~~

9172 ~~2. Has had prior Medicaid or Medicare action taken against~~  
 9173 ~~the applicant as set forth in paragraph (d).~~

9174 ~~(h) Upon licensure renewal, each applicant must submit to~~  
 9175 ~~the agency, under penalty of perjury, an affidavit of compliance~~  
 9176 ~~with the background screening provisions of this section.~~

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9177        (3)~~(6)~~ As specified in part II of chapter 408, the home  
 9178 medical equipment provider must also obtain and maintain  
 9179 professional and commercial liability insurance. Proof of  
 9180 liability insurance, as defined in s. 624.605, must be submitted  
 9181 with the application. The agency shall set the required amounts  
 9182 of liability insurance by rule, but the required amount must not  
 9183 be less than \$250,000 per claim. In the case of contracted  
 9184 services, it is required that the contractor have liability  
 9185 insurance not less than \$250,000 per claim.

9186        ~~(7) A provisional license shall be issued to an approved  
 9187 applicant for initial licensure for a period of 90 days, during  
 9188 which time a survey must be conducted demonstrating substantial  
 9189 compliance with this section. A provisional license shall also  
 9190 be issued pending the results of an applicant's Federal Bureau  
 9191 of Investigation report of background screening confirming that  
 9192 all standards have been met. If substantial compliance is  
 9193 demonstrated, a standard license shall be issued to expire 2  
 9194 years after the effective date of the provisional license.~~

9195        ~~(8) Ninety days before the expiration date, an application  
 9196 for license renewal must be submitted to the agency under oath  
 9197 on forms furnished by the agency, and a license shall be renewed  
 9198 if the applicant has met the requirements established under this  
 9199 part and applicable rules. The home medical equipment provider  
 9200 must file with the application satisfactory proof that it is in  
 9201 compliance with this part and applicable rules. The home medical  
 9202 equipment provider must submit satisfactory proof of its  
 9203 financial ability to comply with the requirements of this part.~~

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9204       ~~(9) When a change of ownership of a home medical equipment~~  
 9205 ~~provider occurs, the prospective owner must submit an initial~~  
 9206 ~~application for a license at least 15 days before the effective~~  
 9207 ~~date of the change of ownership. An application for change of~~  
 9208 ~~ownership of a license is required when ownership, a majority of~~  
 9209 ~~the ownership, or controlling interest of a licensed home~~  
 9210 ~~medical equipment provider is transferred or assigned and when a~~  
 9211 ~~licensee agrees to undertake or provide services to the extent~~  
 9212 ~~that legal liability for operation of the home medical equipment~~  
 9213 ~~provider rests with the licensee. A provisional license shall be~~  
 9214 ~~issued to the new owner for a period of 90 days, during which~~  
 9215 ~~time all required documentation must be submitted and a survey~~  
 9216 ~~must be conducted demonstrating substantial compliance with this~~  
 9217 ~~section. If substantial compliance is demonstrated, a standard~~  
 9218 ~~license shall be issued to expire 2 years after the issuance of~~  
 9219 ~~the provisional license.~~

9220       (4)~~(10)~~ When a change of the general manager of a home  
 9221 medical equipment provider occurs, the licensee must notify the  
 9222 agency of the change within 45 days. ~~thereof and must provide~~  
 9223 ~~evidence of compliance with the background screening~~  
 9224 ~~requirements in subsection (5); except that a general manager~~  
 9225 ~~who has met the standards for the Department of Law Enforcement~~  
 9226 ~~background check, but for whom background screening results from~~  
 9227 ~~the Federal Bureau of Investigation have not yet been received,~~  
 9228 ~~may be employed pending receipt of the Federal Bureau of~~  
 9229 ~~Investigation background screening report. An individual may not~~  
 9230 ~~continue to serve as general manager if the Federal Bureau of~~

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9231 ~~Investigation background screening report indicates any~~  
 9232 ~~violation of background screening standards.~~

9233 (5)(11) In accordance with s. 408.805, an applicant or a  
 9234 licensee shall pay a fee for each license application submitted  
 9235 under this part, part II of chapter 408, and applicable rules.  
 9236 The amount of the fee shall be established by rule and shall not  
 9237 exceed \$300 per biennium. All licensure fees required of a home  
 9238 medical equipment provider are nonrefundable. The agency shall  
 9239 set the fees in an amount that is sufficient to cover its costs  
 9240 in carrying out its responsibilities under this part. However,  
 9241 state, county, or municipal governments applying for licenses  
 9242 under this part are exempt from the payment of license fees. ~~All~~  
 9243 ~~fees collected under this part must be deposited in the Health~~  
 9244 ~~Care Trust Fund for the administration of this part.~~

9245 (6)(12) An applicant for initial licensure, renewal, or  
 9246 change of ownership shall also pay a license processing fee not  
 9247 to exceed \$300, to be paid by all applicants, and an inspection  
 9248 fee not to exceed \$400, which shall ~~to~~ be paid by all applicants  
 9249 except those not subject to licensure inspection by the agency  
 9250 as described in s. 400.933(2).

9251 ~~(13) When a change is reported which requires issuance of~~  
 9252 ~~a license, a fee must be assessed. The fee must be based on the~~  
 9253 ~~actual cost of processing and issuing the license.~~

9254 ~~(14) When a duplicate license is issued, a fee must be~~  
 9255 ~~assessed, not to exceed the actual cost of duplicating and~~  
 9256 ~~mailing.~~

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9257 ~~(15) When applications are mailed out upon request, a fee~~  
 9258 ~~must be assessed, not to exceed the cost of the printing,~~  
 9259 ~~preparation, and mailing.~~

9260 ~~(16) The license must be displayed in a conspicuous place~~  
 9261 ~~in the administrative office of the home medical equipment~~  
 9262 ~~provider and is valid only while in the possession of the person~~  
 9263 ~~or entity to which it is issued. The license may not be sold,~~  
 9264 ~~assigned, or otherwise transferred, voluntarily or~~  
 9265 ~~involuntarily, and is valid only for the home medical equipment~~  
 9266 ~~provider and location for which originally issued.~~

9267 ~~(17) A home medical equipment provider against whom a~~  
 9268 ~~proceeding for revocation or suspension, or for denial of a~~  
 9269 ~~renewal application, is pending at the time of license renewal~~  
 9270 ~~may be issued a provisional license effective until final~~  
 9271 ~~disposition by the agency of such proceedings. If judicial~~  
 9272 ~~relief is sought from the final disposition, the court that has~~  
 9273 ~~jurisdiction may issue a temporary permit for the duration of~~  
 9274 ~~the judicial proceeding.~~

9275 Section 175. Section 400.932, Florida Statutes, is amended  
 9276 to read:

9277 400.932 Administrative penalties; injunctions; ~~emergency~~  
 9278 ~~orders; moratoriums.--~~

9279 (1) The agency may deny, revoke, and ~~or~~ suspend a license,  
 9280 and ~~or~~ impose an administrative fine not to exceed \$5,000 per  
 9281 violation, per day, or initiate injunctive proceedings under s.  
 9282 408.816 ~~400.956~~.

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9283 (2) Any of the following actions by an employee of a home  
 9284 medical equipment provider ~~or any of its employees~~ is grounds  
 9285 for administrative action or penalties by the agency:

9286 (a) Violation of this part or of applicable rules.

9287 (b) An intentional, reckless, or negligent act that  
 9288 materially affects the health or safety of a patient.

9289 (3) The agency may deny and ~~or~~ revoke the license of any  
 9290 applicant that:

9291 ~~(a) Made a false representation or omission of any~~  
 9292 ~~material fact in making the application, including the~~  
 9293 ~~submission of an application that conceals the controlling or~~  
 9294 ~~ownership interest or any officer, director, agent, managing~~  
 9295 ~~employee, affiliated person, partner, or shareholder who may not~~  
 9296 ~~be eligible to participate;~~

9297 (a)(b) Has been previously found by any professional  
 9298 licensing, certifying, or standards board or agency to have  
 9299 violated the standards or conditions relating to licensure or  
 9300 certification or the quality of services provided. "Professional  
 9301 licensing, certifying, or standards board or agency" shall  
 9302 include, but is not limited to, practitioners, health care  
 9303 facilities, programs, or services, or residential care,  
 9304 treatment programs, or other human services; or

9305 (b)(e) Has been or is currently excluded, suspended, or  
 9306 terminated from, or has involuntarily withdrawn from,  
 9307 ~~participation in Florida's Medicaid program or any other state's~~  
 9308 ~~Medicaid program, or participation in the Medicare program or~~  
 9309 any ~~other~~ governmental or private health care or health  
 9310 insurance program.



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9311 ~~(4) The agency may issue an emergency order immediately~~  
 9312 ~~suspending or revoking a license when it determines that any~~  
 9313 ~~condition within the responsibility of the home medical~~  
 9314 ~~equipment provider presents a clear and present danger to public~~  
 9315 ~~health and safety.~~

9316 ~~(5) The agency may impose an immediate moratorium on any~~  
 9317 ~~licensed home medical equipment provider when the agency~~  
 9318 ~~determines that any condition within the responsibility of the~~  
 9319 ~~home medical equipment provider presents a threat to public~~  
 9320 ~~health or safety.~~

9321 Section 176. Section 400.933, Florida Statutes, is amended  
 9322 to read:

9323 400.933 Licensure inspections; alternatives and  
 9324 investigations.--

9325 ~~(1) The agency shall make or cause to be made such~~  
 9326 ~~inspections and investigations as it considers necessary,~~  
 9327 ~~including:~~

9328 ~~(a) Licensure inspections.~~

9329 ~~(b) Inspections directed by the federal Health Care~~  
 9330 ~~Financing Administration.~~

9331 ~~(c) Licensure complaint investigations, including full~~  
 9332 ~~licensure investigations with a review of all licensure~~  
 9333 ~~standards as outlined in the administrative rules. Complaints~~  
 9334 ~~received by the agency from individuals, organizations, or other~~  
 9335 ~~sources are subject to review and investigation by the agency.~~

9336 ~~(2) The agency shall accept, in lieu of its own periodic~~  
 9337 ~~inspections for licensure, submission of the following:~~

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9338            (1)~~(a)~~ The survey or inspection of an accrediting  
 9339 organization, provided the accreditation of the licensed home  
 9340 medical equipment provider is not provisional and provided the  
 9341 licensed home medical equipment provider authorizes release of,  
 9342 and the agency receives the report of, the accrediting  
 9343 organization; or

9344            (2)~~(b)~~ A copy of a valid medical oxygen retail  
 9345 establishment permit issued by the Department of Health,  
 9346 pursuant to chapter 499.

9347            Section 177. Section 400.935, Florida Statutes, is amended  
 9348 to read:

9349            400.935 Rules establishing minimum standards.--The agency  
 9350 shall adopt, publish, and enforce rules to implement this part  
 9351 and part II of chapter 408, which must provide reasonable and  
 9352 fair minimum standards relating to:

9353            (1) The qualifications and minimum training requirements  
 9354 of all home medical equipment provider personnel.

9355            ~~(2) License application and renewal.~~

9356            ~~(3) License and inspection fees.~~

9357            (2)~~(4)~~ Financial ability to operate.

9358            (3)~~(5)~~ The administration of the home medical equipment  
 9359 provider.

9360            (4)~~(6)~~ Procedures for maintaining patient records.

9361            (5)~~(7)~~ Ensuring that the home medical equipment and  
 9362 services provided by a home medical equipment provider are in  
 9363 accordance with the plan of treatment established for each  
 9364 patient, when provided as a part of a plan of treatment.

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9365 |        ~~(6)(8)~~ Contractual arrangements for the provision of home  
9366 | medical equipment and services by providers not employed by the  
9367 | home medical equipment provider providing for the consumer's  
9368 | needs.

9369 |        ~~(7)(9)~~ Physical location and zoning requirements.

9370 |        ~~(8)(10)~~ Home medical equipment requiring home medical  
9371 | equipment services.

9372 |        Section 178. Section 400.95, Florida Statutes, is  
9373 | repealed.

9374 |        Section 179. Subsections (3) through (7) of section  
9375 | 400.953, Florida Statutes, are renumbered as subsections (2)  
9376 | through (6), respectively, and present subsection (2) is amended  
9377 | to read:

9378 |        400.953 Background screening of home medical equipment  
9379 | provider personnel.--The agency shall require employment  
9380 | screening as provided in chapter 435, using the level 1  
9381 | standards for screening set forth in that chapter, for home  
9382 | medical equipment provider personnel.

9383 |        ~~(2) The general manager of each home medical equipment~~  
9384 | ~~provider must sign an affidavit annually, under penalty of~~  
9385 | ~~perjury, stating that all home medical equipment provider~~  
9386 | ~~personnel hired on or after July 1, 1999, who enter the home of~~  
9387 | ~~a patient in the capacity of their employment have been screened~~  
9388 | ~~and that its remaining personnel have worked for the home~~  
9389 | ~~medical equipment provider continuously since before July 1,~~  
9390 | ~~1999.~~

9391 |        Section 180. Subsection (4) of section 400.955, Florida  
9392 | Statutes, is amended to read:

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9393 | 400.955 Procedures for screening of home medical equipment  
9394 | provider personnel.--

9395 | ~~(4) The general manager of each home medical equipment~~  
9396 | ~~provider must sign an affidavit annually, under penalty of~~  
9397 | ~~perjury, stating that all personnel hired on or after July 1,~~  
9398 | ~~1999, have been screened and that its remaining personnel have~~  
9399 | ~~worked for the home medical equipment provider continuously~~  
9400 | ~~since before July 1, 1999.~~

9401 | Section 181. Section 400.956, Florida Statutes, is  
9402 | repealed.

9403 | Section 182. Section 400.960, Florida Statutes, is amended  
9404 | to read:

9405 | 400.960 Definitions.--As used in this part, the term:

9406 | (1) "Active treatment" means the provision of services by  
9407 | an interdisciplinary team which are necessary to maximize a  
9408 | resident's ~~client's~~ individual independence or prevent  
9409 | regression or loss of functional status.

9410 | (2) "Agency" means the Agency for Health Care  
9411 | Administration.

9412 | (3) "Autism" means a pervasive, neurologically based  
9413 | developmental disability of extended duration which causes  
9414 | severe learning, communication, and behavior disorders with age  
9415 | of onset during infancy or childhood. Individuals with autism  
9416 | exhibit impairment in reciprocal social interaction, impairment  
9417 | in verbal and nonverbal communication and imaginative ability,  
9418 | and a markedly restricted repertoire of activities and  
9419 | interests.

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9420 (4) "Cerebral palsy" means a group of disabling symptoms  
 9421 of extended duration which results from damage to the developing  
 9422 brain occurring before, during, or after birth and resulting in  
 9423 the loss or impairment of control over voluntary muscles. The  
 9424 term does not include those symptoms or impairments resulting  
 9425 solely from a stroke.

9426 ~~(5) "Client" means any person determined by the department~~  
 9427 ~~to be eligible for developmental services.~~

9428 ~~(6) "Client advocate" means a friend or relative of the~~  
 9429 ~~client, or of the client's immediate family, who advocates for~~  
 9430 ~~the best interests of the client in any proceedings under this~~  
 9431 ~~part in which the client or his or her family has the right or~~  
 9432 ~~duty to participate.~~

9433 (5)~~(7)~~ "Department" means the Department of Children and  
 9434 Family Services.

9435 (6)~~(8)~~ "Developmental disability" means a disorder or  
 9436 syndrome that is attributable to retardation, cerebral palsy,  
 9437 autism, spina bifida, or Prader-Willi syndrome and that  
 9438 constitutes a substantial handicap that can reasonably be  
 9439 expected to continue indefinitely.

9440 (7)~~(9)~~ "Direct service provider" means a person 18 years  
 9441 of age or older who has direct contact with individuals with  
 9442 developmental disabilities and who is unrelated to the  
 9443 individuals with developmental disabilities.

9444 (8)~~(10)~~ "Epilepsy" means a chronic brain disorder of  
 9445 various causes which is characterized by recurrent seizures due  
 9446 to excessive discharge of cerebral neurons. When found  
 9447 concurrently with retardation, autism, or cerebral palsy,

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9448 epilepsy is considered a secondary disability for which the  
 9449 resident ~~client~~ is eligible to receive services to ameliorate  
 9450 this condition according to the provisions of this part.

9451 ~~(9)(11)~~ "Guardian advocate" means a person appointed by  
 9452 the circuit court to represent a person with developmental  
 9453 disabilities in any proceedings brought pursuant to s. 393.12,  
 9454 and is distinct from a guardian advocate for mentally ill  
 9455 persons under chapter 394.

9456 ~~(10)(12)~~ "Intermediate care facility for the  
 9457 developmentally disabled" means a ~~residential~~ facility licensed  
 9458 and certified in accordance with state law, and certified by the  
 9459 Federal Government, pursuant to the Social Security Act, as a  
 9460 provider of Medicaid services to persons who are developmentally  
 9461 disabled.

9462 ~~(11)(13)~~ "Prader-Willi syndrome" means an inherited  
 9463 condition typified by neonatal hypotonia with failure to thrive,  
 9464 hyperphagia, or an excessive drive to eat which leads to  
 9465 obesity, usually at 18 to 36 months of age, mild to moderate  
 9466 retardation, hypogonadism, short stature, mild facial  
 9467 dysmorphism, and a characteristic neurobehavior.

9468 (12) "Resident" means any person receiving services in an  
 9469 intermediate care facility.

9470 (13) "Resident advocate" means a friend or relative of the  
 9471 resident, or of the resident's immediate family, who advocates  
 9472 for the best interests of the resident in any proceedings under  
 9473 this part in which the resident or his or her family has the  
 9474 right or duty to participate.

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9475 (14) "Retardation" means significantly subaverage general  
 9476 intellectual functioning existing concurrently with deficits in  
 9477 adaptive behavior and manifested during the period from  
 9478 conception to age 18. "Significantly subaverage general  
 9479 intellectual functioning," for the purpose of this definition,  
 9480 means performance that is two or more standard deviations from  
 9481 the mean score on a standardized intelligence test specified in  
 9482 rules of the department. "Deficits in adaptive behavior," for  
 9483 the purpose of this definition, means deficits in the  
 9484 effectiveness or degree with which an individual meets the  
 9485 standards of personal independence and social responsibility  
 9486 expected of his or her age, cultural group, and community.

9487 (15) "Spina bifida" means a medical diagnosis of spina  
 9488 bifida cystica or myelomeningocele.

9489 Section 183. Section 400.962, Florida Statutes, is amended  
 9490 to read:

9491 400.962 License required; license application.--

9492 (1) The requirements of part II of chapter 408 shall apply  
 9493 to the provision of services that require licensure pursuant to  
 9494 this part and part II of chapter 408 and to entities licensed by  
 9495 or applying for such licensure from the Agency for Health Care  
 9496 Administration pursuant to this part. However, each applicant  
 9497 for licensure and each licensee is exempt from s. 408.810(7). ~~It~~  
 9498 is unlawful to operate an intermediate care facility for the  
 9499 developmentally disabled without a license.

9500 (2) Separate licenses are required for facilities  
 9501 maintained on separate premises even if operated under the same

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9502 management. However, a separate license is not required for  
 9503 separate buildings on the same grounds.

9504 (3) In accordance with s. 408.805, an applicant or  
 9505 licensee shall pay a fee for each license application submitted  
 9506 under this part, part II of chapter 408, and applicable rules.  
 9507 The amount of the fee shall be \$234 per bed unless modified by  
 9508 rule.

9509 ~~(3) The basic license fee collected shall be deposited in~~  
 9510 ~~the Health Care Trust Fund, established for carrying out the~~  
 9511 ~~purposes of this chapter.~~

9512 ~~(4) The license must be conspicuously displayed inside the~~  
 9513 ~~facility.~~

9514 ~~(5) A license is valid only in the hands of the~~  
 9515 ~~individual, firm, partnership, association, or corporation to~~  
 9516 ~~whom it is issued. A license is not valid for any premises other~~  
 9517 ~~than those for which it was originally issued and may not be~~  
 9518 ~~sold, assigned, or otherwise transferred, voluntarily or~~  
 9519 ~~involuntarily.~~

9520 ~~(6) An application for a license shall be made to the~~  
 9521 ~~agency on forms furnished by it and must be accompanied by the~~  
 9522 ~~appropriate license fee.~~

9523 ~~(7) The application must be under oath and must contain~~  
 9524 ~~the following:~~

9525 ~~(a) The name, address, and social security number of the~~  
 9526 ~~applicant if an individual; if the applicant is a firm,~~  
 9527 ~~partnership, or association, its name, address, and employer~~  
 9528 ~~identification number (EIN), and the name and address of every~~  
 9529 ~~member; if the applicant is a corporation, its name, address,~~



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9530 ~~and employer identification number (EIN), and the name and~~  
 9531 ~~address of its director and officers and of each person having~~  
 9532 ~~at least a 5 percent interest in the corporation; and the name~~  
 9533 ~~by which the facility is to be known.~~

9534 ~~(b) The name of any person whose name is required on the~~  
 9535 ~~application under paragraph (a) and who owns at least a 10~~  
 9536 ~~percent interest in any professional service, firm, association,~~  
 9537 ~~partnership, or corporation providing goods, leases, or services~~  
 9538 ~~to the facility for which the application is made, and the name~~  
 9539 ~~and address of the professional service, firm, association,~~  
 9540 ~~partnership, or corporation in which such interest is held.~~

9541 ~~(c) The location of the facility for which a license is~~  
 9542 ~~sought and an indication that such location conforms to the~~  
 9543 ~~local zoning ordinances.~~

9544 ~~(d) The name of the persons under whose management or~~  
 9545 ~~supervision the facility will be operated.~~

9546 ~~(e) The total number of beds.~~

9547 (4)(8) The applicant must demonstrate that sufficient  
 9548 numbers of staff, qualified by training or experience, will be  
 9549 employed to properly care for the type and number of residents  
 9550 who will reside in the facility.

9551 ~~(9) The applicant must submit evidence that establishes~~  
 9552 ~~the good moral character of the applicant, manager, supervisor,~~  
 9553 ~~and administrator. An applicant who is an individual or a member~~  
 9554 ~~of a board of directors or officer of an applicant that is a~~  
 9555 ~~firm, partnership, association, or corporation must not have~~  
 9556 ~~been convicted, or found guilty, regardless of adjudication, of~~

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9557 ~~a crime in any jurisdiction which affects or may potentially~~  
 9558 ~~affect residents in the facility.~~

9559 ~~(10)(a) Upon receipt of a completed, signed, and dated~~  
 9560 ~~application, the agency shall require background screening of~~  
 9561 ~~the applicant, in accordance with the level 2 standards for~~  
 9562 ~~screening set forth in chapter 435. As used in this subsection,~~  
 9563 ~~the term "applicant" means the facility administrator, or~~  
 9564 ~~similarly titled individual who is responsible for the day-to-~~  
 9565 ~~day operation of the licensed facility, and the facility~~  
 9566 ~~financial officer, or similarly titled individual who is~~  
 9567 ~~responsible for the financial operation of the licensed~~  
 9568 ~~facility.~~

9569 ~~(b) The agency may require background screening for a~~  
 9570 ~~member of the board of directors of the licensee or an officer~~  
 9571 ~~or an individual owning 5 percent or more of the licensee if the~~  
 9572 ~~agency has probable cause to believe that such individual has~~  
 9573 ~~been convicted of an offense prohibited under the level 2~~  
 9574 ~~standards for screening set forth in chapter 435.~~

9575 ~~(c) Proof of compliance with the level 2 background~~  
 9576 ~~screening requirements of chapter 435 which has been submitted~~  
 9577 ~~within the previous 5 years in compliance with any other~~  
 9578 ~~licensure requirements under this chapter satisfies the~~  
 9579 ~~requirements of paragraph (a). Proof of compliance with~~  
 9580 ~~background screening which has been submitted within the~~  
 9581 ~~previous 5 years to fulfill the requirements of the Financial~~  
 9582 ~~Services Commission and the Office of Insurance Regulation under~~  
 9583 ~~chapter 651 as part of an application for a certificate of~~  
 9584 ~~authority to operate a continuing care retirement community~~

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9585 ~~satisfies the requirements for the Department of Law Enforcement~~  
 9586 ~~and Federal Bureau of Investigation background checks.~~

9587 ~~(d) A provisional license may be granted to an applicant~~  
 9588 ~~when each individual required by this section to undergo~~  
 9589 ~~background screening has met the standards for the Department of~~  
 9590 ~~Law Enforcement background check, but the agency has not yet~~  
 9591 ~~received background screening results from the Federal Bureau of~~  
 9592 ~~Investigation, or a request for a disqualification exemption has~~  
 9593 ~~been submitted to the agency as set forth in chapter 435, but a~~  
 9594 ~~response has not yet been issued. A license may be granted to~~  
 9595 ~~the applicant upon the agency's receipt of a report of the~~  
 9596 ~~results of the Federal Bureau of Investigation background~~  
 9597 ~~screening for each individual required by this section to~~  
 9598 ~~undergo background screening which confirms that all standards~~  
 9599 ~~have been met, or upon the granting of a disqualification~~  
 9600 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 9601 ~~person who is required to undergo level 2 background screening~~  
 9602 ~~may serve in his or her capacity pending the agency's receipt of~~  
 9603 ~~the report from the Federal Bureau of Investigation; however,~~  
 9604 ~~the person may not continue to serve if the report indicates any~~  
 9605 ~~violation of background screening standards and a~~  
 9606 ~~disqualification exemption has not been granted by the agency as~~  
 9607 ~~set forth in chapter 435.~~

9608 ~~(e) Each applicant must submit to the agency, with its~~  
 9609 ~~application, a description and explanation of any exclusions,~~  
 9610 ~~permanent suspensions, or terminations of the applicant from the~~  
 9611 ~~Medicare or Medicaid programs. Proof of compliance with~~  
 9612 ~~disclosure of ownership and control interest requirements of the~~

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9613 ~~Medicaid or Medicare programs shall be accepted in lieu of this~~  
 9614 ~~submission.~~

9615 ~~(f) Each applicant must submit to the agency a description~~  
 9616 ~~and explanation of any conviction of an offense prohibited under~~  
 9617 ~~the level 2 standards of chapter 435 by a member of the board of~~  
 9618 ~~directors of the applicant, its officers, or any individual~~  
 9619 ~~owning 5 percent or more of the applicant. This requirement does~~  
 9620 ~~not apply to a director of a not-for-profit corporation or~~  
 9621 ~~organization if the director serves solely in a voluntary~~  
 9622 ~~capacity for the corporation or organization, does not regularly~~  
 9623 ~~take part in the day-to-day operational decisions of the~~  
 9624 ~~corporation or organization, receives no remuneration for his or~~  
 9625 ~~her services on the corporation's or organization's board of~~  
 9626 ~~directors, and has no financial interest and has no family~~  
 9627 ~~members with a financial interest in the corporation or~~  
 9628 ~~organization, provided that the director and the not-for-profit~~  
 9629 ~~corporation or organization include in the application a~~  
 9630 ~~statement affirming that the director's relationship to the~~  
 9631 ~~corporation satisfies the requirements of this paragraph.~~

9632 ~~(g) An application for license renewal must contain the~~  
 9633 ~~information required under paragraphs (e) and (f).~~

9634 ~~(11) The applicant must furnish satisfactory proof of~~  
 9635 ~~financial ability to operate and conduct the facility in~~  
 9636 ~~accordance with the requirements of this part and all rules~~  
 9637 ~~adopted under this part, and the agency shall establish~~  
 9638 ~~standards for this purpose.~~

9639 Section 184. Section 400.963, Florida Statutes, is  
 9640 repealed.

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9641           Section 185. Section 400.965, Florida Statutes, is  
9642 repealed.

9643           Section 186. Section 400.967, Florida Statutes, is amended  
9644 to read:

9645           400.967 Rules and classification of deficiencies.--

9646           (1) It is the intent of the Legislature that rules adopted  
9647 and enforced under this part and part II of chapter 408 include  
9648 criteria by which a reasonable and consistent quality of  
9649 resident care may be ensured, the results of such resident care  
9650 can be demonstrated, and safe and sanitary facilities can be  
9651 provided.

9652           (2) Pursuant to the intention of the Legislature, the  
9653 agency, in consultation with the Agency for Persons with  
9654 Disabilities ~~Department of Children and Family Services and the~~  
9655 ~~Department of Elderly Affairs~~, shall adopt ~~and enforce~~ rules to  
9656 administer this part, which shall include reasonable and fair  
9657 criteria governing:

9658           (a) The location and construction of the facility;  
9659 including fire and life safety, plumbing, heating, cooling,  
9660 lighting, ventilation, and other housing conditions that will  
9661 ensure the health, safety, and comfort of residents. The agency  
9662 shall establish standards for facilities and equipment to  
9663 increase the extent to which new facilities and a new wing or  
9664 floor added to an existing facility after July 1, 2000, are  
9665 structurally capable of serving as shelters only for residents,  
9666 staff, and families of residents and staff, and equipped to be  
9667 self-supporting during and immediately following disasters. The  
9668 Agency for Health Care Administration shall work with facilities

9669 | licensed under this part and report to the Governor and the  
 9670 | Legislature by April 1, 2000, its recommendations for cost-  
 9671 | effective renovation standards to be applied to existing  
 9672 | facilities. In making such rules, the agency shall be guided by  
 9673 | criteria recommended by nationally recognized, reputable  
 9674 | professional groups and associations having knowledge concerning  
 9675 | such subject matters. The agency shall update or revise such  
 9676 | criteria as the need arises. All facilities must comply with  
 9677 | those lifesafety code requirements and building code standards  
 9678 | applicable at the time of approval of their construction plans.  
 9679 | The agency may require alterations to a building if it  
 9680 | determines that an existing condition constitutes a distinct  
 9681 | hazard to life, health, or safety. The agency shall adopt fair  
 9682 | and reasonable rules setting forth conditions under which  
 9683 | existing facilities undergoing additions, alterations,  
 9684 | conversions, renovations, or repairs are required to comply with  
 9685 | the most recent updated or revised standards.

9686 |       (b) The number and qualifications of all personnel,  
 9687 | including management, medical nursing, and other personnel,  
 9688 | having responsibility for any part of the care given to  
 9689 | residents.

9690 |       (c) All sanitary conditions within the facility and its  
 9691 | surroundings, including water supply, sewage disposal, food  
 9692 | handling, and general hygiene, which will ensure the health and  
 9693 | comfort of residents.

9694 |       (d) The equipment essential to the health and welfare of  
 9695 | the residents.

9696 |       (e) A uniform accounting system.

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9697 (f) The care, treatment, and maintenance of residents and  
9698 measurement of the quality and adequacy thereof.

9699 (g) The preparation and annual update of a comprehensive  
9700 emergency management plan. The agency shall adopt rules  
9701 establishing minimum criteria for the plan after consultation  
9702 with the Department of Community Affairs. At a minimum, the  
9703 rules must provide for plan components that address emergency  
9704 evacuation transportation; adequate sheltering arrangements;  
9705 postdisaster activities, including emergency power, food, and  
9706 water; postdisaster transportation; supplies; staffing;  
9707 emergency equipment; individual identification of residents and  
9708 transfer of records; and responding to family inquiries. The  
9709 comprehensive emergency management plan is subject to review and  
9710 approval by the local emergency management agency. During its  
9711 review, the local emergency management agency shall ensure that  
9712 the following agencies, at a minimum, are given the opportunity  
9713 to review the plan: the Department of Elderly Affairs, the  
9714 Department of Children and Family Services, the Agency for  
9715 Health Care Administration, and the Department of Community  
9716 Affairs. Also, appropriate volunteer organizations must be given  
9717 the opportunity to review the plan. The local emergency  
9718 management agency shall complete its review within 60 days and  
9719 either approve the plan or advise the facility of necessary  
9720 revisions.

9721 ~~(h) Each licensee shall post its license in a prominent~~  
9722 ~~place that is in clear and unobstructed public view at or near~~  
9723 ~~the place where residents are being admitted to the facility.~~

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9724           (3) In accordance with part II of chapter 408, the agency  
 9725 shall adopt rules to provide that, when the criteria established  
 9726 under this part and part II of chapter 408 ~~subsection (2)~~ are  
 9727 not met, such deficiencies shall be classified according to the  
 9728 nature of the deficiency. The agency shall indicate the  
 9729 classification on the face of the notice of deficiencies as  
 9730 follows:

9731           (a) Class I deficiencies are those which the agency  
 9732 determines present an ~~and~~ imminent danger to the residents or  
 9733 guests of the facility or a substantial probability that death  
 9734 or serious physical harm would result therefrom. The condition  
 9735 or practice constituting a class I violation must be abated or  
 9736 eliminated immediately, unless a fixed period of time, as  
 9737 determined by the agency, is required for correction.

9738 ~~Notwithstanding s. 400.121(2),~~ A class I deficiency is subject  
 9739 to a civil penalty in an amount not less than \$5,000 and not  
 9740 exceeding \$10,000 for each deficiency. A fine may be levied  
 9741 notwithstanding the correction of the deficiency.

9742           (b) Class II deficiencies are those which the agency  
 9743 determines have a direct or immediate relationship to the  
 9744 health, safety, or security of the facility residents, other  
 9745 than class I deficiencies. A class II deficiency is subject to a  
 9746 civil penalty in an amount not less than \$1,000 and not  
 9747 exceeding \$5,000 for each deficiency. A citation for a class II  
 9748 deficiency shall specify the time within which the deficiency  
 9749 must be corrected. If a class II deficiency is corrected within  
 9750 the time specified, no civil penalty shall be imposed, unless it  
 9751 is a repeated offense.



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9752 (c) Class III deficiencies are those which the agency  
 9753 determines to have an indirect or potential relationship to the  
 9754 health, safety, or security of the facility residents, other  
 9755 than class I or class II deficiencies. A class III deficiency is  
 9756 subject to a civil penalty of not less than \$500 and not  
 9757 exceeding \$1,000 for each deficiency. A citation for a class III  
 9758 deficiency shall specify the time within which the deficiency  
 9759 must be corrected. If a class III deficiency is corrected within  
 9760 the time specified, no civil penalty shall be imposed, unless it  
 9761 is a repeated offense.

9762 ~~(4) Civil penalties paid by any licensee under subsection~~  
 9763 ~~(3) shall be deposited in the Health Care Trust Fund and~~  
 9764 ~~expended as provided in s. 400.063.~~

9765 (4)~~(5)~~ The agency shall approve or disapprove the plans  
 9766 and specifications within 60 days after receipt of the final  
 9767 plans and specifications. The agency may be granted one 15-day  
 9768 extension for the review period, if the secretary of the agency  
 9769 so approves. If the agency fails to act within the specified  
 9770 time, it is deemed to have approved the plans and  
 9771 specifications. When the agency disapproves plans and  
 9772 specifications, it must set forth in writing the reasons for  
 9773 disapproval. Conferences and consultations may be provided as  
 9774 necessary.

9775 (5)~~(6)~~ The agency may charge an initial fee of \$2,000 for  
 9776 review of plans and construction on all projects, no part of  
 9777 which is refundable. The agency may also collect a fee, not to  
 9778 exceed 1 percent of the estimated construction cost or the  
 9779 actual cost of review, whichever is less, for the portion of the

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9780 review which encompasses initial review through the initial  
 9781 revised construction document review. The agency may collect its  
 9782 actual costs on all subsequent portions of the review and  
 9783 construction inspections. Initial fee payment must accompany the  
 9784 initial submission of plans and specifications. Any subsequent  
 9785 payment that is due is payable upon receipt of the invoice from  
 9786 the agency. Notwithstanding any other provision of law, all  
 9787 money received by the agency under this section shall be deemed  
 9788 to be trust funds, to be held and applied solely for the  
 9789 operations required under this section.

9790 (6) Each licensee of an intermediate care facility for  
 9791 persons with developmental disabilities shall adhere to all  
 9792 rights specified in s. 393.13, the Bill of Rights of Persons Who  
 9793 are Developmentally Disabled.

9794 Section 187. Section 400.968, Florida Statutes, is amended  
 9795 to read:

9796 400.968 Right of entry; ~~protection of health, safety, and~~  
 9797 ~~welfare.~~--

9798 ~~(1)~~ Any designated officer or employee of the agency, of  
 9799 the state, or of the local fire marshal may enter unannounced  
 9800 the premises of any facility licensed under this part in order  
 9801 to determine the state of compliance with this part and the  
 9802 rules or standards in force under this part. The right of entry  
 9803 and inspection also extends to any premises that the agency has  
 9804 reason to believe are being operated or maintained as a facility  
 9805 without a license; but such an entry or inspection may not be  
 9806 made without the permission of the owner or person in charge of  
 9807 the facility unless a warrant that authorizes the entry is first

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9808 | obtained from the circuit court. The warrant requirement extends  
 9809 | only to a facility that the agency has reason to believe is  
 9810 | being operated or maintained as a facility without a license. An  
 9811 | application for a license or renewal thereof which is made under  
 9812 | this section constitutes permission for, and acquiescence in,  
 9813 | any entry or inspection of the premises for which the license is  
 9814 | sought, in order to facilitate verification of the information  
 9815 | submitted in connection with the application; to discover,  
 9816 | investigate, and determine the existence of abuse or neglect; or  
 9817 | to elicit, receive, respond to, and resolve complaints. A  
 9818 | current valid license constitutes unconditional permission for,  
 9819 | and acquiescence in, any entry or inspection of the premises by  
 9820 | authorized personnel. The agency retains the right of entry and  
 9821 | inspection of facilities that have had a license revoked or  
 9822 | suspended within the previous 24 months, to ensure that the  
 9823 | facility is not operating unlawfully. However, before the  
 9824 | facility is entered, a statement of probable cause must be filed  
 9825 | with the director of the agency, who must approve or disapprove  
 9826 | the action within 48 hours.

9827 | ~~(2) The agency may institute injunctive proceedings in a~~  
 9828 | ~~court of competent jurisdiction for temporary or permanent~~  
 9829 | ~~relief to:~~

9830 | ~~(a) Enforce this section or any minimum standard, rule, or~~  
 9831 | ~~order issued pursuant thereto if the agency's effort to correct~~  
 9832 | ~~a violation through administrative fines has failed or when the~~  
 9833 | ~~violation materially affects the health, safety, or welfare of~~  
 9834 | ~~residents; or~~

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9835 | ~~(b) Terminate the operation of a facility if a violation~~  
 9836 | ~~of this section or of any standard or rule adopted pursuant~~  
 9837 | ~~thereto exists which materially affects the health, safety, or~~  
 9838 | ~~welfare of residents.~~

9839 |  
 9840 | ~~The Legislature recognizes that, in some instances, action is~~  
 9841 | ~~necessary to protect residents of facilities from immediately~~  
 9842 | ~~life-threatening situations. If it appears by competent evidence~~  
 9843 | ~~or a sworn, substantiated affidavit that a temporary injunction~~  
 9844 | ~~should issue, the court, pending the determination on final~~  
 9845 | ~~hearing, shall enjoin operation of the facility.~~

9846 | ~~(3) The agency may impose an immediate moratorium on~~  
 9847 | ~~admissions to a facility when the agency determines that any~~  
 9848 | ~~condition in the facility presents a threat to the health,~~  
 9849 | ~~safety, or welfare of the residents in the facility. If a~~  
 9850 | ~~facility's license is denied, revoked, or suspended, the~~  
 9851 | ~~facility may be subject to the immediate imposition of a~~  
 9852 | ~~moratorium on admissions to run concurrently with licensure~~  
 9853 | ~~denial, revocation, or suspension.~~

9854 | Section 188. Section 400.9685, Florida Statutes, is  
 9855 | amended to read:

9856 | 400.9685 Administration of medication.--

9857 | (1) Notwithstanding the provisions of the Nurse Practice  
 9858 | Act, part I of chapter 464, unlicensed direct care services  
 9859 | staff who are providing services to residents ~~clients~~ in  
 9860 | intermediate care facilities for the developmentally disabled,  
 9861 | licensed pursuant to this part, may administer prescribed,  
 9862 | prepackaged, premeasured medications under the general

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9863 supervision of a registered nurse as provided in this section  
 9864 and applicable rules. Training required by this section and  
 9865 applicable rules must be conducted by a registered nurse  
 9866 licensed pursuant to chapter 464 or a physician licensed  
 9867 pursuant to chapter 458 or chapter 459.

9868 (2) Each facility that allows unlicensed direct care  
 9869 service staff to administer medications pursuant to this section  
 9870 must:

9871 (a) Develop and implement policies and procedures that  
 9872 include a plan to ensure the safe handling, storage, and  
 9873 administration of prescription medication.

9874 (b) Maintain written evidence of the expressed and  
 9875 informed consent for each resident ~~client~~.

9876 (c) Maintain a copy of the written prescription including  
 9877 the name of the medication, the dosage, and administration  
 9878 schedule.

9879 (d) Maintain documentation regarding the prescription  
 9880 including the name, dosage, and administration schedule, reason  
 9881 for prescription, and the termination date.

9882 (e) Maintain documentation of compliance with required  
 9883 training.

9884 (3) Agency rules shall specify the following as it relates  
 9885 to the administration of medications by unlicensed staff:

9886 (a) Medications authorized and packaging required.

9887 (b) Acceptable methods of administration.

9888 (c) A definition of "general supervision."

9889 (d) Minimum educational requirements of staff.

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9890 (e) Criteria of required training and competency that must  
9891 be demonstrated prior to the administration of medications by  
9892 unlicensed staff including inservice training.

9893 (f) Requirements for safe handling, storage, and  
9894 administration of medications.

9895 Section 189. Subsection (1) of section 400.969, Florida  
9896 Statutes, is amended to read:

9897 400.969 Violation of part; penalties.--

9898 (1) In accordance with part II of chapter 408, and except  
9899 as provided in s. 400.967(3), a violation of any provision of  
9900 this part, part II of chapter 408, or applicable rules adopted  
9901 ~~by the agency under this part~~ is punishable by payment of an  
9902 administrative or civil penalty not to exceed \$5,000.

9903 Section 190. Section 400.980, Florida Statutes, is amended  
9904 to read:

9905 400.980 Health care services pools.--

9906 (1) As used in this section, the term:

9907 (a) "Agency" means the Agency for Health Care  
9908 Administration.

9909 (b) "Health care services pool" means any person, firm,  
9910 corporation, partnership, or association engaged for hire in the  
9911 business of providing temporary employment in health care  
9912 facilities, residential facilities, and agencies for licensed,  
9913 certified, or trained health care personnel including, without  
9914 limitation, nursing assistants, nurses' aides, and orderlies.  
9915 However, the term does not include nursing registries, a  
9916 facility licensed under chapter 400, a health care services pool  
9917 established within a health care facility to provide services

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9918 | only within the confines of such facility, or any individual  
 9919 | contractor directly providing temporary services to a health  
 9920 | care facility without use or benefit of a contracting agent.

9921 |       (2) The requirements of part II of chapter 408 shall apply  
 9922 | to the provision of services that require licensure or  
 9923 | registration pursuant to this part and part II of chapter 408  
 9924 | and to entities registered by or applying for such registration  
 9925 | from the agency pursuant to this part. However, each applicant  
 9926 | for licensure and each licensee is exempt from ss.

9927 | 408.806(1)(e)2. and 408.810(6)-(10). Each person who operates a  
 9928 | health care services pool must register each separate business  
 9929 | location with the agency. The agency shall adopt rules and  
 9930 | provide forms required for such registration and shall impose a  
 9931 | registration fee in an amount sufficient to cover the cost of  
 9932 | administering this section. In addition, the registrant must  
 9933 | provide the agency with any change of information contained on  
 9934 | the original registration application within 14 days prior to  
 9935 | the change. The agency may inspect the offices of any health  
 9936 | care services pool at any reasonable time for the purpose of  
 9937 | determining compliance with this section or the rules adopted  
 9938 | under this section.

9939 |       ~~(3) Each application for registration must include:~~

9940 |       ~~(a) The name and address of any person who has an~~  
 9941 | ~~ownership interest in the business, and, in the case of a~~  
 9942 | ~~corporate owner, copies of the articles of incorporation,~~  
 9943 | ~~bylaws, and names and addresses of all officers and directors of~~  
 9944 | ~~the corporation.~~

9945 |       ~~(b) Any other information required by the agency.~~

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9946 |        ~~(3)(4) Each applicant for registration must comply with~~  
 9947 | ~~the following requirements:~~

9948 |        ~~(a) Upon receipt of a completed, signed, and dated~~  
 9949 | ~~application, the agency shall require background screening, in~~  
 9950 | ~~accordance with the level 1 standards for screening set forth in~~  
 9951 | ~~chapter 435, of every individual who will have contact with~~  
 9952 | ~~patients. The agency shall require background screening of the~~  
 9953 | ~~managing employee or other similarly titled individual who is~~  
 9954 | ~~responsible for the operation of the entity, and of the~~  
 9955 | ~~financial officer or other similarly titled individual who is~~  
 9956 | ~~responsible for the financial operation of the entity, including~~  
 9957 | ~~billings for services in accordance with the level 2 standards~~  
 9958 | ~~for background screening as set forth in chapter 435.~~

9959 |        ~~(b) The agency may require background screening of any~~  
 9960 | ~~other individual who is affiliated with the applicant if the~~  
 9961 | ~~agency has a reasonable basis for believing that he or she has~~  
 9962 | ~~been convicted of a crime or has committed any other offense~~  
 9963 | ~~prohibited under the level 2 standards for screening set forth~~  
 9964 | ~~in chapter 435.~~

9965 |        ~~(c) Proof of compliance with the level 2 background~~  
 9966 | ~~screening requirements of chapter 435 which has been submitted~~  
 9967 | ~~within the previous 5 years in compliance with any other health~~  
 9968 | ~~care or assisted living licensure requirements of this state is~~  
 9969 | ~~acceptable in fulfillment of paragraph (a).~~

9970 |        ~~(d) A provisional registration may be granted to an~~  
 9971 | ~~applicant when each individual required by this section to~~  
 9972 | ~~undergo background screening has met the standards for the~~  
 9973 | ~~Department of Law Enforcement background check but the agency~~



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9974 | ~~has not yet received background screening results from the~~  
 9975 | ~~Federal Bureau of Investigation. A standard registration may be~~  
 9976 | ~~granted to the applicant upon the agency's receipt of a report~~  
 9977 | ~~of the results of the Federal Bureau of Investigation background~~  
 9978 | ~~screening for each individual required by this section to~~  
 9979 | ~~undergo background screening which confirms that all standards~~  
 9980 | ~~have been met, or upon the granting of a disqualification~~  
 9981 | ~~exemption by the agency as set forth in chapter 435. Any other~~  
 9982 | ~~person who is required to undergo level 2 background screening~~  
 9983 | ~~may serve in his or her capacity pending the agency's receipt of~~  
 9984 | ~~the report from the Federal Bureau of Investigation. However,~~  
 9985 | ~~the person may not continue to serve if the report indicates any~~  
 9986 | ~~violation of background screening standards and if a~~  
 9987 | ~~disqualification exemption has not been requested of and granted~~  
 9988 | ~~by the agency as set forth in chapter 435.~~

9989 | ~~(e) Each applicant must submit to the agency, with its~~  
 9990 | ~~application, a description and explanation of any exclusions,~~  
 9991 | ~~permanent suspensions, or terminations of the applicant from the~~  
 9992 | ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 9993 | ~~requirements for disclosure of ownership and controlling~~  
 9994 | ~~interests under the Medicaid or Medicare programs may be~~  
 9995 | ~~accepted in lieu of this submission.~~

9996 | ~~(f) Each applicant must submit to the agency a description~~  
 9997 | ~~and explanation of any conviction of an offense prohibited under~~  
 9998 | ~~the level 2 standards of chapter 435 which was committed by a~~  
 9999 | ~~member of the board of directors of the applicant, its officers,~~  
 10000 | ~~or any individual owning 5 percent or more of the applicant.~~  
 10001 | ~~This requirement does not apply to a director of a not-for-~~

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10002 ~~profit corporation or organization who serves solely in a~~  
 10003 ~~voluntary capacity for the corporation or organization, does not~~  
 10004 ~~regularly take part in the day-to-day operational decisions of~~  
 10005 ~~the corporation or organization, receives no remuneration for~~  
 10006 ~~his or her services on the corporation's or organization's board~~  
 10007 ~~of directors, and has no financial interest and no family~~  
 10008 ~~members having a financial interest in the corporation or~~  
 10009 ~~organization, if the director and the not-for-profit corporation~~  
 10010 ~~or organization include in the application a statement affirming~~  
 10011 ~~that the director's relationship to the corporation satisfies~~  
 10012 ~~the requirements of this paragraph.~~

10013 ~~(g) A registration may not be granted to an applicant if~~  
 10014 ~~the applicant or managing employee has been found guilty of,~~  
 10015 ~~regardless of adjudication, or has entered a plea of nolo~~  
 10016 ~~contendere or guilty to, any offense prohibited under the level~~  
 10017 ~~2 standards for screening set forth in chapter 435, unless an~~  
 10018 ~~exemption from disqualification has been granted by the agency~~  
 10019 ~~as set forth in chapter 435.~~

10020 ~~(h) Failure to provide all required documentation within~~  
 10021 ~~30 days after a written request from the agency will result in~~  
 10022 ~~denial of the application for registration.~~

10023 ~~(i) The agency must take final action on an application~~  
 10024 ~~for registration within 60 days after receipt of all required~~  
 10025 ~~documentation.~~

10026 ~~(j) The agency may deny, revoke, or suspend the~~  
 10027 ~~registration of any applicant or registrant who:~~

10028 ~~1. Has falsely represented a material fact in the~~  
 10029 ~~application required by paragraph (e) or paragraph (f), or has~~

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10030 | ~~omitted any material fact from the application required by~~  
 10031 | ~~paragraph (e) or paragraph (f); or~~  
 10032 |       ~~2. Has had prior action taken against the applicant under~~  
 10033 | ~~the Medicaid or Medicare program as set forth in paragraph (e).~~  
 10034 |       ~~3. Fails to comply with this section or applicable rules.~~  
 10035 |       ~~4. Commits an intentional, reckless, or negligent act that~~  
 10036 | ~~materially affects the health or safety of a person receiving~~  
 10037 | ~~services.~~  
 10038 |       (4)~~(5)~~ It is a misdemeanor of the first degree, punishable  
 10039 | under s. 775.082 or s. 775.083, for any person willfully,  
 10040 | knowingly, or intentionally to:  
 10041 |       (a) Fail, by false statement, misrepresentation,  
 10042 | impersonation, or other fraudulent means, to disclose in any  
 10043 | application for voluntary or paid employment a material fact  
 10044 | used in making a determination as to an applicant's  
 10045 | qualifications to be a contractor under this section;  
 10046 |       (b) Operate or attempt to operate an entity registered  
 10047 | under this part with persons who do not meet the minimum  
 10048 | standards of chapter 435 as contained in this section; or  
 10049 |       (c) Use information from the criminal records obtained  
 10050 | under this section for any purpose other than screening an  
 10051 | applicant for temporary employment as specified in this section,  
 10052 | or release such information to any other person for any purpose  
 10053 | other than screening for employment under this section.  
 10054 |       (5)~~(6)~~ It is a felony of the third degree, punishable  
 10055 | under s. 775.082, s. 775.083, or s. 775.084, for any person  
 10056 | willfully, knowingly, or intentionally to use information from  
 10057 | the juvenile records of a person obtained under this section for

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10058 any purpose other than screening for employment under this  
10059 section.

10060 ~~(7) It is unlawful for a person to offer or advertise~~  
10061 ~~services, as defined by rule, to the public without obtaining a~~  
10062 ~~certificate of registration from the Agency for Health Care~~  
10063 ~~Administration. It is unlawful for any holder of a certificate~~  
10064 ~~of registration to advertise or hold out to the public that he~~  
10065 ~~or she holds a certificate of registration for other than that~~  
10066 ~~for which he or she actually holds a certificate of~~  
10067 ~~registration. Any person who violates this subsection is subject~~  
10068 ~~to injunctive proceedings under s. 400.515.~~

10069 ~~(8) Each registration shall be for a period of 2 years.~~  
10070 ~~The application for renewal must be received by the agency at~~  
10071 ~~least 30 days before the expiration date of the registration. An~~  
10072 ~~application for a new registration is required within 30 days~~  
10073 ~~prior to the sale of a controlling interest in a health care~~  
10074 ~~services pool.~~

10075 (6)(9) A health care services pool may not require an  
10076 employee to recruit new employees from persons employed at a  
10077 health care facility to which the health care services pool  
10078 employee is assigned. Nor shall a health care facility to which  
10079 employees of a health care services pool are assigned recruit  
10080 new employees from the health care services pool.

10081 (7)(10) A health care services pool shall document that  
10082 each temporary employee provided to a health care facility has  
10083 met the licensing, certification, training, or continuing  
10084 education requirements, as established by the appropriate

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10085 regulatory agency, for the position in which he or she will be  
10086 working.

10087 (8)~~(11)~~ When referring persons for temporary employment in  
10088 health care facilities, a health care services pool shall comply  
10089 with all pertinent state and federal laws, rules, and  
10090 regulations relating to health, background screening, and other  
10091 qualifications required of persons working in a facility of that  
10092 type.

10093 (9)~~(12)~~(a) As a condition of registration and prior to the  
10094 issuance or renewal of a certificate of registration, a health  
10095 care services pool applicant must prove financial responsibility  
10096 to pay claims, and costs ancillary thereto, arising out of the  
10097 rendering of services or failure to render services by the pool  
10098 or by its employees in the course of their employment with the  
10099 pool. The agency shall promulgate rules establishing minimum  
10100 financial responsibility coverage amounts which shall be  
10101 adequate to pay potential claims and costs ancillary thereto.

10102 (b) Each health care services pool shall give written  
10103 notification to the agency within 20 days after any change in  
10104 the method of assuring financial responsibility or upon  
10105 cancellation or nonrenewal of professional liability insurance.  
10106 Unless the pool demonstrates that it is otherwise in compliance  
10107 with the requirements of this section, the agency shall suspend  
10108 the registration of the pool pursuant to ss. 120.569 and 120.57.  
10109 Any suspension under this section shall remain in effect until  
10110 the pool demonstrates compliance with the requirements of this  
10111 section.

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10112 (c) Proof of financial responsibility must be demonstrated  
 10113 to the satisfaction of the agency, through one of the following  
 10114 methods:

10115 1. Establishing and maintaining an escrow account  
 10116 consisting of cash or assets eligible for deposit in accordance  
 10117 with s. 625.52;

10118 2. Obtaining and maintaining an unexpired irrevocable  
 10119 letter of credit established pursuant to chapter 675. Such  
 10120 letters of credit shall be nontransferable and nonassignable and  
 10121 shall be issued by any bank or savings association organized and  
 10122 existing under the laws of this state or any bank or savings  
 10123 association organized under the laws of the United States that  
 10124 has its principal place of business in this state or has a  
 10125 branch office which is authorized under the laws of this state  
 10126 or of the United States to receive deposits in this state; or

10127 3. Obtaining and maintaining professional liability  
 10128 coverage from one of the following:

10129 a. An authorized insurer as defined under s. 624.09;

10130 b. An eligible surplus lines insurer as defined under s.  
 10131 626.918(2);

10132 c. A risk retention group or purchasing group as defined  
 10133 under s. 627.942; or

10134 d. A plan of self-insurance as provided in s. 627.357.

10135 (d) If financial responsibility requirements are met by  
 10136 maintaining an escrow account or letter of credit, as provided  
 10137 in this section, upon the entry of an adverse final judgment  
 10138 arising from a medical malpractice arbitration award from a  
 10139 claim of medical malpractice either in contract or tort, or from

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10140 noncompliance with the terms of a settlement agreement arising  
 10141 from a claim of medical malpractice either in contract or tort,  
 10142 the financial institution holding the escrow account or the  
 10143 letter of credit shall pay directly to the claimant the entire  
 10144 amount of the judgment together with all accrued interest or the  
 10145 amount maintained in the escrow account or letter of credit as  
 10146 required by this section, whichever is less, within 60 days  
 10147 after the date such judgment became final and subject to  
 10148 execution, unless otherwise mutually agreed to in writing by the  
 10149 parties. If timely payment is not made, the agency shall suspend  
 10150 the registration of the pool pursuant to procedures set forth by  
 10151 the agency through rule. Nothing in this paragraph shall  
 10152 abrogate a judgment debtor's obligation to satisfy the entire  
 10153 amount of any judgment.

10154 (e) Each health care services pool carrying claims-made  
 10155 coverage must demonstrate proof of extended reporting coverage  
 10156 through either tail or nose coverage, in the event the policy is  
 10157 canceled, replaced, or not renewed. Such extended coverage shall  
 10158 provide coverage for incidents that occurred during the claims-  
 10159 made policy period but were reported after the policy period.

10160 (f) The financial responsibility requirements of this  
 10161 section shall apply to claims for incidents that occur on or  
 10162 after January 1, 1991, or the initial date of registration in  
 10163 this state, whichever is later.

10164 (g) Meeting the financial responsibility requirements of  
 10165 this section must be established at the time of issuance or  
 10166 renewal of a certificate of registration.

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10167            ~~(10)(13)~~ The agency shall adopt rules to implement this  
 10168 section and part II of chapter 408, including rules providing  
 10169 for the establishment of:

10170            (a) Minimum standards for the operation and administration  
 10171 of health care personnel pools, including procedures for  
 10172 recordkeeping and personnel.

10173            (b) In accordance with part II of chapter 408, fines for  
 10174 the violation of this part, part II of chapter 408, or  
 10175 applicable rules ~~section~~ in an amount not to exceed \$2,500 ~~and~~  
 10176 ~~suspension or revocation of registration.~~

10177            ~~(c) Disciplinary sanctions for failure to comply with this~~  
 10178 ~~section or the rules adopted under this section.~~

10179            Section 191. Section 400.991, Florida Statutes, is amended  
 10180 to read:

10181            400.991 License requirements; background screenings;  
 10182 prohibitions.--

10183            (1)(a) The requirements of part II of chapter 408 shall  
 10184 apply to the provision of services that require licensure  
 10185 pursuant to this part and part II of chapter 408 and to entities  
 10186 licensed by or applying for such licensure from the agency  
 10187 pursuant to this part. However, each applicant for licensure and  
 10188 each licensee is exempt from the provisions of s. 408.810(6),  
 10189 (7), and (10). ~~Each clinic, as defined in s. 400.9905, must be~~  
 10190 ~~licensed and shall at all times maintain a valid license with~~  
 10191 ~~the agency.~~ Each clinic location shall be licensed separately  
 10192 regardless of whether the clinic is operated under the same  
 10193 business name or management as another clinic.



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10194 (b) Each mobile clinic must obtain a separate health care  
 10195 clinic license and must provide to the agency, at least  
 10196 quarterly, its projected street location to enable the agency to  
 10197 locate and inspect such clinic. A portable equipment provider  
 10198 must obtain a health care clinic license for a single  
 10199 administrative office and is not required to submit quarterly  
 10200 projected street locations.

10201 (2) The initial clinic license application shall be filed  
 10202 with the agency by all clinics, as defined in s. 400.9905, on or  
 10203 before July 1, 2004. ~~A clinic license must be renewed~~  
 10204 ~~biennially.~~

10205 (3) Applicants that submit an application on or before  
 10206 July 1, 2004, which meets all requirements for initial licensure  
 10207 as specified in this section shall receive a temporary license  
 10208 until the completion of an initial inspection verifying that the  
 10209 applicant meets all requirements in rules authorized in s.  
 10210 400.9925. However, a clinic engaged in magnetic resonance  
 10211 imaging services may not receive a temporary license unless it  
 10212 presents evidence satisfactory to the agency that such clinic is  
 10213 making a good faith effort and substantial progress in seeking  
 10214 accreditation required under s. 400.9935.

10215 ~~(4) Application for an initial clinic license or for~~  
 10216 ~~renewal of an existing license shall be notarized on forms~~  
 10217 ~~furnished by the agency and must be accompanied by the~~  
 10218 ~~appropriate license fee as provided in s. 400.9925. The agency~~  
 10219 ~~shall take final action on an initial license application within~~  
 10220 ~~60 days after receipt of all required documentation.~~

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10221        (4)~~(5)~~ The application shall contain information that  
 10222 includes, but need not be limited to, information pertaining to  
 10223 the name, residence and business address, phone number, social  
 10224 security number, and license number of the medical or clinic  
 10225 director, of the licensed medical providers employed or under  
 10226 contract with the clinic, ~~and of each person who, directly or~~  
 10227 ~~indirectly, owns or controls 5 percent or more of an interest in~~  
 10228 ~~the clinic, or general partners in limited liability~~  
 10229 ~~partnerships.~~

10230        (5)~~(6)~~ The applicant must file with the application  
 10231 satisfactory proof that the clinic is in compliance with this  
 10232 part and applicable rules, including:

10233            (a) A listing of services to be provided either directly  
 10234 by the applicant or through contractual arrangements with  
 10235 existing providers;

10236            (b) The number and discipline of each professional staff  
 10237 member to be employed; and

10238            ~~(c) Proof of financial ability to operate. An applicant~~  
 10239 ~~must demonstrate financial ability to operate a clinic by~~  
 10240 ~~submitting a balance sheet and an income and expense statement~~  
 10241 ~~for the first year of operation which provide evidence of the~~  
 10242 ~~applicant's having sufficient assets, credit, and projected~~  
 10243 ~~revenues to cover liabilities and expenses. The applicant shall~~  
 10244 ~~have demonstrated financial ability to operate if the~~  
 10245 ~~applicant's assets, credit, and projected revenues meet or~~  
 10246 ~~exceed projected liabilities and expenses. All documents~~  
 10247 ~~required under this subsection must be prepared in accordance~~  
 10248 ~~with generally accepted accounting principles, may be in a~~

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10249 ~~compilation form, and the financial statement must be signed by~~  
 10250 ~~a certified public accountant.~~ As an alternative to submitting  
 10251 proof of financial ability to operate as required under s.  
 10252 408.810(8) a balance sheet and an income and expense statement  
 10253 ~~for the first year of operation,~~ the applicant may file a surety  
 10254 bond of at least \$500,000 which guarantees that the clinic will  
 10255 act in full conformity with all legal requirements for operating  
 10256 a clinic, payable to the agency. The agency may adopt rules to  
 10257 specify related requirements for such surety bond.

10258 (6)(7) Background screening required under s. 408.809  
 10259 shall apply to licensed health care practitioners at the clinic.  
 10260 ~~Each applicant for licensure shall comply with the following~~  
 10261 ~~requirements:~~

10262 ~~(a) As used in this subsection, the term "applicant" means~~  
 10263 ~~individuals owning or controlling, directly or indirectly, 5~~  
 10264 ~~percent or more of an interest in a clinic; the medical or~~  
 10265 ~~clinic director, or a similarly titled person who is responsible~~  
 10266 ~~for the day-to-day operation of the licensed clinic; the~~  
 10267 ~~financial officer or similarly titled individual who is~~  
 10268 ~~responsible for the financial operation of the clinic; and~~  
 10269 ~~licensed health care practitioners at the clinic.~~

10270 ~~(b) Upon receipt of a completed, signed, and dated~~  
 10271 ~~application, the agency shall require background screening of~~  
 10272 ~~the applicant, in accordance with the level 2 standards for~~  
 10273 ~~screening set forth in chapter 435. Proof of compliance with the~~  
 10274 ~~level 2 background screening requirements of chapter 435 which~~  
 10275 ~~has been submitted within the previous 5 years in compliance~~  
 10276 ~~with any other health care licensure requirements of this state~~

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10277 ~~is acceptable in fulfillment of this paragraph. Applicants who~~  
 10278 ~~own less than 10 percent of a health care clinic are not~~  
 10279 ~~required to submit fingerprints under this section.~~

10280 ~~(c) Each applicant must submit to the agency, with the~~  
 10281 ~~application, a description and explanation of any exclusions,~~  
 10282 ~~permanent suspensions, or terminations of an applicant from the~~  
 10283 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 10284 ~~requirements for disclosure of ownership and control interest~~  
 10285 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
 10286 ~~of this submission. The description and explanation may indicate~~  
 10287 ~~whether such exclusions, suspensions, or terminations were~~  
 10288 ~~voluntary or not voluntary on the part of the applicant.~~

10289 ~~(d) A license may not be granted to a clinic if the~~  
 10290 ~~applicant has been found guilty of, regardless of adjudication,~~  
 10291 ~~or has entered a plea of nolo contendere or guilty to, any~~  
 10292 ~~offense prohibited under the level 2 standards for screening set~~  
 10293 ~~forth in chapter 435, or a violation of insurance fraud under s.~~  
 10294 ~~817.234, within the past 5 years. If the applicant has been~~  
 10295 ~~convicted of an offense prohibited under the level 2 standards~~  
 10296 ~~or insurance fraud in any jurisdiction, the applicant must show~~  
 10297 ~~that his or her civil rights have been restored prior to~~  
 10298 ~~submitting an application.~~

10299 ~~(e) The agency may deny or revoke licensure if the~~  
 10300 ~~applicant has falsely represented any material fact or omitted~~  
 10301 ~~any material fact from the application required by this part.~~

10302 ~~(8) Requested information omitted from an application for~~  
 10303 ~~licensure, license renewal, or transfer of ownership must be~~  
 10304 ~~filed with the agency within 21 days after receipt of the~~

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10305 ~~agency's request for omitted information, or the application~~  
 10306 ~~shall be deemed incomplete and shall be withdrawn from further~~  
 10307 ~~consideration.~~

10308 ~~(9) The failure to file a timely renewal application shall~~  
 10309 ~~result in a late fee charged to the facility in an amount equal~~  
 10310 ~~to 50 percent of the current license fee.~~

10311 Section 192. Section 400.9915, Florida Statutes, is  
 10312 amended to read:

10313 400.9915 ~~Clinic inspections;~~ Emergency suspension;  
 10314 costs.--

10315 ~~(1) Any authorized officer or employee of the agency shall~~  
 10316 ~~make inspections of the clinic as part of the initial license~~  
 10317 ~~application or renewal application. The application for a clinic~~  
 10318 ~~license issued under this part or for a renewal license~~  
 10319 ~~constitutes permission for an appropriate agency inspection to~~  
 10320 ~~verify the information submitted on or in connection with the~~  
 10321 ~~application or renewal.~~

10322 ~~(2) An authorized officer or employee of the agency may~~  
 10323 ~~make unannounced inspections of clinics licensed pursuant to~~  
 10324 ~~this part as are necessary to determine that the clinic is in~~  
 10325 ~~compliance with this part and with applicable rules. A licensed~~  
 10326 ~~elinic shall allow full and complete access to the premises and~~  
 10327 ~~to billing records or information to any representative of the~~  
 10328 ~~agency who makes an inspection to determine compliance with this~~  
 10329 ~~part and with applicable rules.~~

10330 (1)~~(3) Failure by a clinic licensed under this part to~~  
 10331 ~~allow full and complete access to the premises and to billing~~  
 10332 ~~records or information to any representative of the agency who~~

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10333 | ~~makes a request to inspect the clinic to determine compliance~~  
 10334 | ~~with this part or failure~~ by a clinic to employ a qualified  
 10335 | medical director or clinic director constitutes a ground for  
 10336 | emergency suspension of the license by the agency pursuant to s.  
 10337 | 120.60(6) and part II of chapter 408.

10338 | ~~(2)(4)~~ In addition to any administrative fines imposed,  
 10339 | the agency may assess a fee equal to the cost of conducting a  
 10340 | complaint investigation.

10341 | Section 193. Section 400.992, Florida Statutes, is  
 10342 | repealed.

10343 | Section 194. Section 400.9925, Florida Statutes, is  
 10344 | amended to read:

10345 | 400.9925 Rulemaking authority; license fees.--

10346 | (1) The agency shall adopt rules necessary to administer  
 10347 | the clinic administration, regulation, and licensure program,  
 10348 | including rules pursuant to this part and part II of chapter  
 10349 | 408, establishing the specific licensure requirements,  
 10350 | procedures, forms, and fees. It shall adopt rules establishing a  
 10351 | procedure for the biennial renewal of licenses. The agency may  
 10352 | issue initial licenses for less than the full 2-year period by  
 10353 | charging a prorated licensure fee and specifying a different  
 10354 | renewal date than would otherwise be required for biennial  
 10355 | licensure. The rules shall specify the expiration dates of  
 10356 | licenses, the process of tracking compliance with financial  
 10357 | responsibility requirements, and any other conditions of renewal  
 10358 | required by law or rule.

10359 | (2) The agency shall adopt rules specifying limitations on  
 10360 | the number of licensed clinics and licensees for which a medical

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10361 director or a clinic director may assume responsibility for  
 10362 purposes of this part. In determining the quality of supervision  
 10363 a medical director or a clinic director can provide, the agency  
 10364 shall consider the number of clinic employees, the clinic  
 10365 location, and the health care services provided by the clinic.

10366 (3) In accordance with s. 408.805, an applicant or a  
 10367 licensee shall pay a fee for each license application submitted  
 10368 under this part, part II of chapter 408, and applicable rules.  
 10369 The amount of the fee shall be established by rule and shall not  
 10370 exceed \$2,000 per biennium. License application and renewal fees  
 10371 must be reasonably calculated by the agency to cover its costs  
 10372 in carrying out its responsibilities under this part, including  
 10373 the cost of licensure, inspection, and regulation of clinics,  
 10374 and must be of such amount that the total fees collected do not  
 10375 exceed the cost of administering and enforcing compliance with  
 10376 this part. Clinic licensure fees are nonrefundable and may not  
 10377 exceed \$2,000. The agency shall adjust the license fee annually  
 10378 by not more than the change in the Consumer Price Index based on  
 10379 the 12 months immediately preceding the increase. All fees  
 10380 collected under this part must be deposited in the Health Care  
 10381 Trust Fund for the administration of this part.

10382 Section 195. Section 400.993, Florida Statutes, is amended  
 10383 to read:

10384 400.993 Unlicensed clinics; reporting penalties; fines;  
 10385 verification of licensure status.--

10386 ~~(1) It is unlawful to own, operate, or maintain a clinic~~  
 10387 ~~without obtaining a license under this part.~~

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10388           ~~(2) Any person who owns, operates, or maintains an~~  
 10389 ~~unlicensed clinic commits a felony of the third degree,~~  
 10390 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~  
 10391 ~~Each day of continued operation is a separate offense.~~

10392           ~~(3) Any person found guilty of violating subsection (2) a~~  
 10393 ~~second or subsequent time commits a felony of the second degree,~~  
 10394 ~~punishable as provided under s. 775.082, s. 775.083, or s.~~  
 10395 ~~775.084. Each day of continued operation is a separate offense.~~

10396           ~~(4) Any person who owns, operates, or maintains an~~  
 10397 ~~unlicensed clinic due to a change in this part or a modification~~  
 10398 ~~in agency rules within 6 months after the effective date of such~~  
 10399 ~~change or modification and who, within 10 working days after~~  
 10400 ~~receiving notification from the agency, fails to cease operation~~  
 10401 ~~or apply for a license under this part commits a felony of the~~  
 10402 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~  
 10403 ~~or s. 775.084. Each day of continued operation is a separate~~  
 10404 ~~offense.~~

10405           ~~(5) Any clinic that fails to cease operation after agency~~  
 10406 ~~notification may be fined for each day of noncompliance pursuant~~  
 10407 ~~to this part.~~

10408           ~~(6) When a person has an interest in more than one clinic,~~  
 10409 ~~and fails to obtain a license for any one of these clinics, the~~  
 10410 ~~agency may revoke the license, impose a moratorium, or impose a~~  
 10411 ~~fine pursuant to this part on any or all of the licensed clinics~~  
 10412 ~~until such time as the unlicensed clinic is licensed or ceases~~  
 10413 ~~operation.~~

10414           ~~(7) Any person aware of the operation of an unlicensed~~  
 10415 ~~clinic must report that facility to the agency.~~



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10416        ~~(8)~~ In addition to the requirements of part II of chapter  
 10417 408, any health care provider who is aware of the operation of  
 10418 an unlicensed clinic shall report that facility to the agency.  
 10419 Failure to report a clinic that the provider knows or has  
 10420 reasonable cause to suspect is unlicensed shall be reported to  
 10421 the provider's licensing board.

10422        ~~(9) The agency may not issue a license to a clinic that~~  
 10423 ~~has any unpaid fines assessed under this part.~~

10424        Section 196. Section 400.9935, Florida Statutes, is  
 10425 amended to read:

10426        400.9935 Clinic responsibilities.--

10427        (1) Each clinic shall appoint a medical director or clinic  
 10428 director who shall agree in writing to accept legal  
 10429 responsibility for the following activities on behalf of the  
 10430 clinic. The medical director or the clinic director shall:

10431        (a) Have signs identifying the medical director or clinic  
 10432 director posted in a conspicuous location within the clinic  
 10433 readily visible to all patients.

10434        (b) Ensure that all practitioners providing health care  
 10435 services or supplies to patients maintain a current active and  
 10436 unencumbered Florida license.

10437        (c) Review any patient referral contracts or agreements  
 10438 executed by the clinic.

10439        (d) Ensure that all health care practitioners at the  
 10440 clinic have active appropriate certification or licensure for  
 10441 the level of care being provided.

10442        (e) Serve as the clinic records owner as defined in s.  
 10443 456.057.

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10444 (f) Ensure compliance with the recordkeeping, office  
 10445 surgery, and adverse incident reporting requirements of chapter  
 10446 456, the respective practice acts, and rules adopted under this  
 10447 part and part II of chapter 408.

10448 (g) Conduct systematic reviews of clinic billings to  
 10449 ensure that the billings are not fraudulent or unlawful. Upon  
 10450 discovery of an unlawful charge, the medical director or clinic  
 10451 director shall take immediate corrective action. If the clinic  
 10452 performs only the technical component of magnetic resonance  
 10453 imaging, static radiographs, computed tomography, or positron  
 10454 emission tomography, and provides the professional  
 10455 interpretation of such services, in a fixed facility that is  
 10456 accredited by the Joint Commission on Accreditation of  
 10457 Healthcare Organizations or the Accreditation Association for  
 10458 Ambulatory Health Care, and the American College of Radiology;  
 10459 and if, in the preceding quarter, the percentage of scans  
 10460 performed by that clinic which was billed to all personal injury  
 10461 protection insurance carriers was less than 15 percent, the  
 10462 chief financial officer of the clinic may, in a written  
 10463 acknowledgment provided to the agency, assume the responsibility  
 10464 for the conduct of the systematic reviews of clinic billings to  
 10465 ensure that the billings are not fraudulent or unlawful.

10466 ~~(2) Any business that becomes a clinic after commencing~~  
 10467 ~~operations must, within 5 days after becoming a clinic, file a~~  
 10468 ~~license application under this part and shall be subject to all~~  
 10469 ~~provisions of this part applicable to a clinic.~~

10470 (2)~~(3)~~ Any contract to serve as a medical director or a  
 10471 clinic director entered into or renewed by a physician or a

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10472 licensed health care practitioner in violation of this part is  
 10473 void as contrary to public policy. This subsection shall apply  
 10474 to contracts entered into or renewed on or after March 1, 2004.

10475 (3)~~(4)~~ All charges or reimbursement claims made by or on  
 10476 behalf of a clinic that is required to be licensed under this  
 10477 part, but that is not so licensed, or that is otherwise  
 10478 operating in violation of this part, are unlawful charges, and  
 10479 therefore are noncompensable and unenforceable.

10480 (4)~~(5)~~ Any person establishing, operating, or managing an  
 10481 unlicensed clinic otherwise required to be licensed under this  
 10482 part, or any person who knowingly files a false or misleading  
 10483 license application or license renewal application, or false or  
 10484 misleading information related to such application or department  
 10485 rule, commits a felony of the third degree, punishable as  
 10486 provided in s. 775.082, s. 775.083, or s. 775.084.

10487 (5)~~(6)~~ Any licensed health care provider who violates this  
 10488 part is subject to discipline in accordance with this chapter  
 10489 and his or her respective practice act.

10490 ~~(7) The agency may fine, or suspend or revoke the license~~  
 10491 ~~of, any clinic licensed under this part for operating in~~  
 10492 ~~violation of the requirements of this part or the rules adopted~~  
 10493 ~~by the agency.~~

10494 ~~(8) The agency shall investigate allegations of~~  
 10495 ~~noncompliance with this part and the rules adopted under this~~  
 10496 ~~part.~~

10497 (6)~~(9)~~ Any person or entity providing health care services  
 10498 which is not a clinic, as defined under s. 400.9905, may  
 10499 voluntarily apply for a certificate of exemption from licensure

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10500 | under its exempt status with the agency on a form that sets  
 10501 | forth its name or names and addresses, a statement of the  
 10502 | reasons why it cannot be defined as a clinic, and other  
 10503 | information deemed necessary by the agency. An exemption is not  
 10504 | transferable. The agency may charge an applicant for a  
 10505 | certificate of exemption in an amount equal to \$100 or the  
 10506 | actual cost of processing the certificate, whichever is less.

10507 | ~~(10) The clinic shall display its license in a conspicuous~~  
 10508 | ~~location within the clinic readily visible to all patients.~~

10509 | (7)~~(11)~~(a) Each clinic engaged in magnetic resonance  
 10510 | imaging services must be accredited by the Joint Commission on  
 10511 | Accreditation of Healthcare Organizations, the American College  
 10512 | of Radiology, or the Accreditation Association for Ambulatory  
 10513 | Health Care, within 1 year after licensure. However, a clinic  
 10514 | may request a single, 6-month extension if it provides evidence  
 10515 | to the agency establishing that, for good cause shown, such  
 10516 | clinic can not be accredited within 1 year after licensure, and  
 10517 | that such accreditation will be completed within the 6-month  
 10518 | extension. After obtaining accreditation as required by this  
 10519 | subsection, each such clinic must maintain accreditation as a  
 10520 | condition of renewal of its license.

10521 | (b) The agency may deny the application or revoke the  
 10522 | license of any entity formed for the purpose of avoiding  
 10523 | compliance with the accreditation provisions of this subsection  
 10524 | and whose principals were previously principals of an entity  
 10525 | that was unable to meet the accreditation requirements within  
 10526 | the specified timeframes. The agency may adopt rules as to the  
 10527 | accreditation of magnetic resonance imaging clinics.

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10528        ~~(8)(12)~~ The agency shall give full faith and credit  
 10529        pertaining to any past variance and waiver granted to a magnetic  
 10530        resonance imaging clinic from rule 64-2002, Florida  
 10531        Administrative Code, by the Department of Health, until  
 10532        September 2004. After that date, such clinic must request a  
 10533        variance and waiver from the agency under s. 120.542.

10534        Section 197. Section 400.994, Florida Statutes, is  
 10535        repealed.

10536        Section 198. Section 400.9945, Florida Statutes, is  
 10537        repealed.

10538        Section 199. Section 400.995, Florida Statutes, is amended  
 10539        to read:

10540        400.995 Agency administrative penalties.--

10541        (1) The agency may deny the application for a license  
 10542        renewal, revoke or suspend the license, and impose  
 10543        administrative fines of up to \$5,000 per violation for  
 10544        violations of the requirements of this part or rules of the  
 10545        agency. In determining if a penalty is to be imposed and in  
 10546        fixing the amount of the fine, the agency shall consider the  
 10547        following factors:

10548        (a) The gravity of the violation, including the  
 10549        probability that death or serious physical or emotional harm to  
 10550        a patient will result or has resulted, the severity of the  
 10551        action or potential harm, and the extent to which the provisions  
 10552        of the applicable laws or rules were violated.

10553        (b) Actions taken by the owner, medical director, or  
 10554        clinic director to correct violations.

10555        (c) Any previous violations.

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10556 (d) The financial benefit to the clinic of committing or  
10557 continuing the violation.

10558 ~~(2) Each day of continuing violation after the date fixed~~  
10559 ~~for termination of the violation, as ordered by the agency,~~  
10560 ~~constitutes an additional, separate, and distinct violation.~~

10561 (2)~~(3)~~ Any action taken to correct a violation shall be  
10562 documented in writing by the owner, medical director, or clinic  
10563 director of the clinic and verified through followup visits by  
10564 agency personnel. The agency may impose a fine and, in the case  
10565 of an owner-operated clinic, revoke and ~~or~~ deny a clinic's  
10566 license when a clinic medical director or clinic director  
10567 knowingly misrepresents actions taken to correct a violation.

10568 ~~(4) For fines that are upheld following administrative or~~  
10569 ~~judicial review, the violator shall pay the fine, plus interest~~  
10570 ~~at the rate as specified in s. 55.03, for each day beyond the~~  
10571 ~~date set by the agency for payment of the fine.~~

10572 ~~(5) Any unlicensed clinic that continues to operate after~~  
10573 ~~agency notification is subject to a \$1,000 fine per day.~~

10574 (3)~~(6)~~ Any licensed clinic whose owner, medical director,  
10575 or clinic director concurrently operates an unlicensed clinic  
10576 shall be subject to an administrative fine of \$5,000 per day.

10577 ~~(7) Any clinic whose owner fails to apply for a change of~~  
10578 ~~ownership license in accordance with s. 400.992 and operates the~~  
10579 ~~clinic under the new ownership is subject to a fine of \$5,000.~~

10580 (4)~~(8)~~ The agency, as an alternative to or in conjunction  
10581 with an administrative action against a clinic for violations of  
10582 this part, part II of chapter 408, and adopted rules, shall make  
10583 a reasonable attempt to discuss each violation and recommended

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10584 corrective action with the owner, medical director, or clinic  
 10585 director of the clinic, prior to written notification. The  
 10586 agency, instead of fixing a period within which the clinic shall  
 10587 enter into compliance with standards, may request a plan of  
 10588 corrective action from the clinic which demonstrates a good  
 10589 faith effort to remedy each violation by a specific date,  
 10590 subject to the approval of the agency.

10591 ~~(9) Administrative fines paid by any clinic under this~~  
 10592 ~~section shall be deposited into the Health Care Trust Fund.~~

10593 ~~(5)(10)~~ If the agency issues a notice of intent to deny a  
 10594 license application after a temporary license has been issued  
 10595 pursuant to s. 400.991(3), the temporary license shall expire on  
 10596 the date of the notice and may not be extended during any  
 10597 proceeding for administrative or judicial review pursuant to  
 10598 chapter 120.

10599 Section 200. Subsection (2) of section 401.265, Florida  
 10600 Statutes, is amended to read:

10601 401.265 Medical directors.--

10602 (2) Each licensee ~~medical director~~ shall establish a  
 10603 quality assurance committee to provide for quality assurance  
 10604 review of all emergency medical technicians and paramedics  
 10605 providing basic life support or advanced life support services  
 10606 for that licensee. The medical director employed by the licensee  
 10607 or with whom the licensee has a contract shall provide medical  
 10608 direction and oversight of the licensee's quality assurance  
 10609 committee ~~operating under his or her supervision~~. If the medical  
 10610 director has reasonable belief that conduct by an emergency  
 10611 medical technician or paramedic may constitute one or more

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10612 grounds for discipline as provided by this part, he or she shall  
 10613 document facts and other information related to the alleged  
 10614 violation. The medical director shall report to the department  
 10615 any emergency medical technician or paramedic whom the medical  
 10616 director reasonably believes to have acted in a manner which  
 10617 might constitute grounds for disciplinary action. Such a report  
 10618 of disciplinary concern must include a statement and  
 10619 documentation of the specific acts of the disciplinary concern.  
 10620 Within 7 days after receipt of such a report, the department  
 10621 shall provide the emergency medical technician or paramedic a  
 10622 copy of the report of the disciplinary concern and documentation  
 10623 of the specific acts related to the disciplinary concern. If the  
 10624 department determines that the report is insufficient for  
 10625 disciplinary action against the emergency medical technician or  
 10626 paramedic pursuant to s. 401.411, the report shall be expunged  
 10627 from the record of the emergency medical technician or  
 10628 paramedic.

10629 Section 201. Paragraph (b) of subsection (2) of section  
 10630 402.164, Florida Statutes, is amended to read:

10631 402.164 Legislative intent; definitions.--

10632 (2) As used in ss. 402.164-402.167, the term:

10633 (b) "Client" means a client as defined in s. 393.063, s.  
 10634 394.67, or s. 397.311, ~~or s. 400.960~~, a forensic client or  
 10635 client as defined in s. 916.106, a child or youth as defined in  
 10636 s. 39.01, a child as defined in s. 827.01, a family as defined  
 10637 in s. 414.0252, a participant as defined in s. 400.551, a  
 10638 resident as defined in s. 400.402 or s. 400.960, a Medicaid  
 10639 recipient or recipient as defined in s. 409.901, a child



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10640 receiving child care as defined in s. 402.302, a disabled adult  
 10641 as defined in s. 410.032 or s. 410.603, or a victim as defined  
 10642 in s. 39.01 or s. 415.102 as each definition applies within its  
 10643 respective chapter.

10644 Section 202. Section 408.831, Florida Statutes, is amended  
 10645 to read:

10646 408.831 Denial, suspension, or revocation of a license,  
 10647 ~~registration, certificate, or application.--~~

10648 (1) In addition to any other remedies provided by law, the  
 10649 agency may deny each application or suspend or revoke each  
 10650 license, ~~registration, or certificate~~ of entities regulated or  
 10651 licensed by it:

10652 (a) If the applicant, the licensee, or a licensee subject  
 10653 to this part that shares a common controlling interest with the  
 10654 applicant registrant, or certificateholder, or, in the case of a  
 10655 corporation, partnership, or other business entity, if any  
 10656 officer, director, agent, or managing employee of that business  
 10657 entity or any affiliated person, partner, or shareholder having  
 10658 an ownership interest equal to 5 percent or greater in that  
 10659 business entity, has failed to pay all outstanding fines, liens,  
 10660 or overpayments assessed by final order of the agency or final  
 10661 order of the Centers for Medicare and Medicaid Services, not  
 10662 subject to further appeal, unless a repayment plan is approved  
 10663 by the agency; or

10664 (b) For failure to comply with any repayment plan.

10665 (2) In reviewing any application requesting a change of  
 10666 ownership or change of the licensee, ~~registrant, or~~  
 10667 ~~certificateholder,~~ the transferor shall, prior to agency

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10668 approval of the change, repay or make arrangements to repay any  
 10669 amounts owed to the agency. Should the transferor fail to repay  
 10670 or make arrangements to repay the amounts owed to the agency,  
 10671 the issuance of a license, ~~registration, or certificate~~ to the  
 10672 transferee shall be delayed until repayment or until  
 10673 arrangements for repayment are made.

10674 (3) This section provides standards of enforcement  
 10675 applicable to all entities licensed or regulated by the Agency  
 10676 for Health Care Administration. This section controls over any  
 10677 conflicting provisions of chapters 39, ~~381~~, 383, 390, 391, 393,  
 10678 394, 395, 400, 408, 468, 483, ~~and~~ 641, and 765 or rules adopted  
 10679 pursuant to those chapters.

10680 Section 203. Paragraph (g) of subsection (2) of section  
 10681 409.815, Florida Statutes, is amended to read:

10682 409.815 Health benefits coverage; limitations.--

10683 (2) BENCHMARK BENEFITS.--In order for health benefits  
 10684 coverage to qualify for premium assistance payments for an  
 10685 eligible child under ss. 409.810-409.820, the health benefits  
 10686 coverage, except for coverage under Medicaid and Medikids, must  
 10687 include the following minimum benefits, as medically necessary.

10688 (g) Behavioral health services.--

10689 1. Mental health benefits include:

10690 a. Inpatient services, limited to not more than 30  
 10691 inpatient days per contract year for psychiatric admissions, or  
 10692 residential services in facilities licensed under s.  
 10693 394.875 (6) ~~(8)~~ or s. 395.003 in lieu of inpatient psychiatric  
 10694 admissions; however, a minimum of 10 of the 30 days shall be

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10695 | available only for inpatient psychiatric services when  
 10696 | authorized by a physician; and  
 10697 |       b. Outpatient services, including outpatient visits for  
 10698 | psychological or psychiatric evaluation, diagnosis, and  
 10699 | treatment by a licensed mental health professional, limited to a  
 10700 | maximum of 40 outpatient visits each contract year.

10701 |       2. Substance abuse services include:

10702 |       a. Inpatient services, limited to not more than 7  
 10703 | inpatient days per contract year for medical detoxification only  
 10704 | and 30 days of residential services; and

10705 |       b. Outpatient services, including evaluation, diagnosis,  
 10706 | and treatment by a licensed practitioner, limited to a maximum  
 10707 | of 40 outpatient visits per contract year.

10708 |       Section 204. Subsection (8) of section 409.905, Florida  
 10709 | Statutes, is amended to read:

10710 |       409.905 Mandatory Medicaid services.--The agency may make  
 10711 | payments for the following services, which are required of the  
 10712 | state by Title XIX of the Social Security Act, furnished by  
 10713 | Medicaid providers to recipients who are determined to be  
 10714 | eligible on the dates on which the services were provided. Any  
 10715 | service under this section shall be provided only when medically  
 10716 | necessary and in accordance with state and federal law.

10717 | Mandatory services rendered by providers in mobile units to  
 10718 | Medicaid recipients may be restricted by the agency. Nothing in  
 10719 | this section shall be construed to prevent or limit the agency  
 10720 | from adjusting fees, reimbursement rates, lengths of stay,  
 10721 | number of visits, number of services, or any other adjustments  
 10722 | necessary to comply with the availability of moneys and any

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10723 | limitations or directions provided for in the General  
10724 | Appropriations Act or chapter 216.

10725 |       (8) NURSING FACILITY SERVICES.--The agency shall pay for  
10726 | 24-hour-a-day nursing and rehabilitative services for a  
10727 | recipient in a nursing facility licensed under part II of  
10728 | chapter 400 or in a rural hospital, as defined in s. 395.602, or  
10729 | in a Medicare certified skilled nursing facility operated by a  
10730 | hospital, as defined by s. 395.002(10)(~~11~~), that is licensed  
10731 | under part I of chapter 395, and in accordance with provisions  
10732 | set forth in s. 409.908(2)(a), which services are ordered by and  
10733 | provided under the direction of a licensed physician. However,  
10734 | if a nursing facility has been destroyed or otherwise made  
10735 | uninhabitable by natural disaster or other emergency and another  
10736 | nursing facility is not available, the agency must pay for  
10737 | similar services temporarily in a hospital licensed under part I  
10738 | of chapter 395 provided federal funding is approved and  
10739 | available. The agency shall pay only for bed-hold days if the  
10740 | facility has an occupancy rate of 95 percent or greater. The  
10741 | agency is authorized to seek any federal waivers to implement  
10742 | this policy.

10743 |       Section 205. Subsection (7) of section 409.907, Florida  
10744 | Statutes, is amended to read:

10745 |       409.907 Medicaid provider agreements.--The agency may make  
10746 | payments for medical assistance and related services rendered to  
10747 | Medicaid recipients only to an individual or entity who has a  
10748 | provider agreement in effect with the agency, who is performing  
10749 | services or supplying goods in accordance with federal, state,  
10750 | and local law, and who agrees that no person shall, on the

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10751 grounds of handicap, race, color, or national origin, or for any  
 10752 other reason, be subjected to discrimination under any program  
 10753 or activity for which the provider receives payment from the  
 10754 agency.

10755 (7) The agency may require, as a condition of  
 10756 participating in the Medicaid program and before entering into  
 10757 the provider agreement, that the provider submit information, in  
 10758 an initial and any required renewal applications, concerning the  
 10759 professional, business, and personal background of the provider  
 10760 and permit an onsite inspection of the provider's service  
 10761 location by agency staff or other personnel designated by the  
 10762 agency to perform this function. The agency shall perform a  
 10763 random onsite inspection, within 60 days after receipt of a  
 10764 fully complete new provider's application, of the provider's  
 10765 service location prior to making its first payment to the  
 10766 provider for Medicaid services to determine the applicant's  
 10767 ability to provide the services that the applicant is proposing  
 10768 to provide for Medicaid reimbursement. The agency is not  
 10769 required to perform an onsite inspection of a provider or  
 10770 program that is licensed by the agency, that provides services  
 10771 under waiver programs for home and community-based services, or  
 10772 that is licensed as a medical foster home by the Department of  
 10773 Children and Family Services. As a continuing condition of  
 10774 participation in the Medicaid program, a provider shall  
 10775 immediately notify the agency of any current or pending  
 10776 bankruptcy filing. Before entering into the provider agreement,  
 10777 or as a condition of continuing participation in the Medicaid  
 10778 program, the agency may also require that Medicaid providers

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10779 reimbursed on a fee-for-services basis or fee schedule basis  
 10780 which is not cost-based, post a surety bond not to exceed  
 10781 \$50,000 or the total amount billed by the provider to the  
 10782 program during the current or most recent calendar year,  
 10783 whichever is greater. For new providers, the amount of the  
 10784 surety bond shall be determined by the agency based on the  
 10785 provider's estimate of its first year's billing. If the  
 10786 provider's billing during the first year exceeds the bond  
 10787 amount, the agency may require the provider to acquire an  
 10788 additional bond equal to the actual billing level of the  
 10789 provider. A provider's bond shall not exceed \$50,000 if a  
 10790 physician or group of physicians licensed under chapter 458,  
 10791 chapter 459, or chapter 460 has a 50 percent or greater  
 10792 ownership interest in the provider or if the provider is an  
 10793 assisted living facility licensed under part III of chapter 400.  
 10794 The bonds permitted by this section are in addition to the bonds  
 10795 referenced in s. 400.179(2)~~(4)~~(d). If the provider is a  
 10796 corporation, partnership, association, or other entity, the  
 10797 agency may require the provider to submit information concerning  
 10798 the background of that entity and of any principal of the  
 10799 entity, including any partner or shareholder having an ownership  
 10800 interest in the entity equal to 5 percent or greater, and any  
 10801 treating provider who participates in or intends to participate  
 10802 in Medicaid through the entity. The information must include:  
 10803       (a) Proof of holding a valid license or operating  
 10804 certificate, as applicable, if required by the state or local  
 10805 jurisdiction in which the provider is located or if required by  
 10806 the Federal Government.

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10807 (b) Information concerning any prior violation, fine,  
 10808 suspension, termination, or other administrative action taken  
 10809 under the Medicaid laws, rules, or regulations of this state or  
 10810 of any other state or the Federal Government; any prior  
 10811 violation of the laws, rules, or regulations relating to the  
 10812 Medicare program; any prior violation of the rules or  
 10813 regulations of any other public or private insurer; and any  
 10814 prior violation of the laws, rules, or regulations of any  
 10815 regulatory body of this or any other state.

10816 (c) Full and accurate disclosure of any financial or  
 10817 ownership interest that the provider, or any principal, partner,  
 10818 or major shareholder thereof, may hold in any other Medicaid  
 10819 provider or health care related entity or any other entity that  
 10820 is licensed by the state to provide health or residential care  
 10821 and treatment to persons.

10822 (d) If a group provider, identification of all members of  
 10823 the group and attestation that all members of the group are  
 10824 enrolled in or have applied to enroll in the Medicaid program.

10825 Section 206. Subsections (9) and (10) of section 440.102,  
 10826 Florida Statutes, are amended to read:

10827 440.102 Drug-free workplace program requirements.--The  
 10828 following provisions apply to a drug-free workplace program  
 10829 implemented pursuant to law or to rules adopted by the Agency  
 10830 for Health Care Administration:

10831 (9) DRUG-TESTING STANDARDS FOR LABORATORIES.--

10832 (a) The requirements of part II of chapter 408 shall apply  
 10833 to the provision of services that require licensure pursuant to  
 10834 this section and part II of chapter 408 and to entities licensed

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10835 | by or applying for such licensure from the agency pursuant to  
10836 | this section.

10837 |       (b)(a) A laboratory may analyze initial or confirmation  
10838 | test specimens only if:

10839 |           1. The laboratory obtains a license under part II of  
10840 | chapter 408 and s. 112.0455(17). Each applicant for licensure  
10841 | and each licensee must comply with all requirements of this  
10842 | section, part II of chapter 408, and applicable rules, except s.  
10843 | 408.810(5)-(10). ~~is licensed and approved by the Agency for~~  
10844 | ~~Health Care Administration using criteria established by the~~  
10845 | ~~United States Department of Health and Human Services as general~~  
10846 | ~~guidelines for modeling the state drug testing program pursuant~~  
10847 | ~~to this section or the laboratory is certified by the United~~  
10848 | ~~States Department of Health and Human Services.~~

10849 |           2. The laboratory has written procedures to ensure the  
10850 | chain of custody.

10851 |           3. The laboratory follows proper quality control  
10852 | procedures, including, but not limited to:

10853 |           a. The use of internal quality controls, including the use  
10854 | of samples of known concentrations which are used to check the  
10855 | performance and calibration of testing equipment, and periodic  
10856 | use of blind samples for overall accuracy.

10857 |           b. An internal review and certification process for drug  
10858 | test results, conducted by a person qualified to perform that  
10859 | function in the testing laboratory.

10860 |           c. Security measures implemented by the testing laboratory  
10861 | to preclude adulteration of specimens and drug test results.



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10862 d. Other necessary and proper actions taken to ensure  
10863 reliable and accurate drug test results.

10864 (c)~~(b)~~ A laboratory shall disclose to the medical review  
10865 officer a written positive confirmed test result report within 7  
10866 working days after receipt of the sample. All laboratory reports  
10867 of a drug test result must, at a minimum, state:

10868 1. The name and address of the laboratory that performed  
10869 the test and the positive identification of the person tested.

10870 2. Positive results on confirmation tests only, or  
10871 negative results, as applicable.

10872 3. A list of the drugs for which the drug analyses were  
10873 conducted.

10874 4. The type of tests conducted for both initial tests and  
10875 confirmation tests and the minimum cutoff levels of the tests.

10876 5. Any correlation between medication reported by the  
10877 employee or job applicant pursuant to subparagraph (5)(b)2. and  
10878 a positive confirmed drug test result.

10879  
10880 A report must not disclose the presence or absence of any drug  
10881 other than a specific drug and its metabolites listed pursuant  
10882 to this section.

10883 (d)~~(e)~~ The laboratory shall submit to the Agency for  
10884 Health Care Administration a monthly report with statistical  
10885 information regarding the testing of employees and job  
10886 applicants. The report must include information on the methods  
10887 of analysis conducted, the drugs tested for, the number of  
10888 positive and negative results for both initial tests and  
10889 confirmation tests, and any other information deemed appropriate

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10890 | by the Agency for Health Care Administration. A monthly report  
10891 | must not identify specific employees or job applicants.

10892 |       (10) RULES.--The Agency for Health Care Administration  
10893 | shall adopt rules pursuant to s. 112.0455, part II of chapter  
10894 | 408, and criteria established by the United States Department of  
10895 | Health and Human Services as general guidelines for modeling  
10896 | drug-free workplace laboratories ~~the state drug testing program~~,  
10897 | concerning, but not limited to:

10898 |       (a) Standards for licensing drug-testing laboratories and  
10899 | suspension and revocation of such licenses.

10900 |       (b) Urine, hair, blood, and other body specimens and  
10901 | minimum specimen amounts that are appropriate for drug testing.

10902 |       (c) Methods of analysis and procedures to ensure reliable  
10903 | drug-testing results, including standards for initial tests and  
10904 | confirmation tests.

10905 |       (d) Minimum cutoff detection levels for each drug or  
10906 | metabolites of such drug for the purposes of determining a  
10907 | positive test result.

10908 |       (e) Chain-of-custody procedures to ensure proper  
10909 | identification, labeling, and handling of specimens tested.

10910 |       (f) Retention, storage, and transportation procedures to  
10911 | ensure reliable results on confirmation tests and retests.

10912 |       Section 207. Subsections (5), (6), and (7) of section  
10913 | 464.015, Florida Statutes, are renumbered as subsections (6),  
10914 | (7), and (8), respectively, present subsection (6) is amended,  
10915 | and a new subsection (5) is added to said section, to read:

10916 |       464.015 Titles and abbreviations; restrictions; penalty.--

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10917           (5) Only persons who hold valid certificates to practice  
 10918 as certified registered nurse anesthetists in this state shall  
 10919 have the right to use the title "Certified Registered Nurse  
 10920 Anesthetist," the term "anesthetist," and the abbreviation  
 10921 "C.R.N.A."

10922           ~~(7)(6)~~ No person shall practice or advertise as, or assume  
 10923 the title of, "Registered nurse," "Licensed Practical Nurse,"  
 10924 "Certified Registered Nurse Anesthetist," "anesthetist," or  
 10925 "Advanced Registered Nurse Practitioner" or use the abbreviation  
 10926 "R.N.," "L.P.N.," "C.R.N.A.," or "A.R.N.P." or take any other  
 10927 action that would lead the public to believe that person was  
 10928 certified as such or is performing nursing services pursuant to  
 10929 the exception set forth in s. 464.022(8), unless that person is  
 10930 licensed or certified to practice as such.

10931           Section 208. Paragraph (a) of subsection (2) of section  
 10932 464.016, Florida Statutes, is amended to read:

10933           464.016 Violations and penalties.--

10934           (2) Each of the following acts constitutes a misdemeanor  
 10935 of the first degree, punishable as provided in s. 775.082 or s.  
 10936 775.083:

10937           (a) Using the name or title "Nurse," "Registered Nurse,"  
 10938 "Licensed Practical Nurse," "Certified Registered Nurse  
 10939 Anesthetist," "Advanced Registered Nurse Practitioner," or any  
 10940 other name or title which implies that a person was licensed or  
 10941 certified as same, unless such person is duly licensed or  
 10942 certified.

10943           Section 209. Paragraph (1) of subsection (1) of section  
 10944 468.505, Florida Statutes, is amended to read:

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10945 | 468.505 Exemptions; exceptions.--

10946 | (1) Nothing in this part may be construed as prohibiting  
10947 | or restricting the practice, services, or activities of:

10948 | (1) A person employed by a nursing facility exempt from  
10949 | licensing under s. 395.002(12)(13), or a person exempt from  
10950 | licensing under s. 464.022.

10951 | Section 210. Subsection (3) is added to section 483.035,  
10952 | Florida Statutes, to read:

10953 | 483.035 Clinical laboratories operated by practitioners  
10954 | for exclusive use; licensure and regulation.--

10955 | (3) The requirements of part II of chapter 408 shall apply  
10956 | to the provision of services that require licensure pursuant to  
10957 | this part and part II of chapter 408 and to entities licensed by  
10958 | or applying for such licensure from the agency pursuant to this  
10959 | part. However, each applicant for licensure and each licensee is  
10960 | exempt from s. 408.810(5)-(10).

10961 | Section 211. Subsection (1) of section 483.051, Florida  
10962 | Statutes, is amended to read:

10963 | 483.051 Powers and duties of the agency.--The agency shall  
10964 | adopt rules to implement this part, which rules must include,  
10965 | but are not limited to, the following:

10966 | (1) LICENSING; QUALIFICATIONS.--The agency shall provide  
10967 | for biennial licensure of all clinical laboratories meeting the  
10968 | requirements of this part and shall prescribe the qualifications  
10969 | necessary for such licensure. ~~A license issued for operating a~~  
10970 | ~~clinical laboratory, unless sooner suspended or revoked, expires~~  
10971 | ~~on the date set forth by the agency on the face of the license.~~

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10972 Section 212. Section 483.061, Florida Statutes, is amended  
10973 to read:

10974 483.061 Inspection of clinical laboratories.--

10975 (1) The agency shall ensure that each clinical laboratory  
10976 subject to this part is inspected either onsite or offsite when  
10977 deemed necessary by the agency, but at least every 2 years, for  
10978 the purpose of evaluating the operation, supervision, and  
10979 procedures of the facility to ensure compliance with this part.  
10980 Collection stations and branch offices may be inspected either  
10981 onsite or offsite, when deemed necessary by the agency. The  
10982 agency may conduct or cause to be conducted ~~the following~~  
10983 ~~announced or unannounced inspections at any reasonable time:~~

10984 ~~(a) An inspection conducted at the direction of the~~  
10985 ~~Federal Health Care Financing Administration.~~

10986 ~~(b) A licensure inspection.~~

10987 ~~(c) A validation inspection.~~

10988 ~~(d)~~ a complaint investigation, including a full licensure  
10989 investigation with a review of all licensure standards as  
10990 outlined in rule. Complaints received by the agency from  
10991 individuals, organizations, or other sources are subject to  
10992 review and investigation by the agency. If a complaint has been  
10993 filed against a laboratory or if a laboratory has a substantial  
10994 licensure deficiency, the agency may inspect the laboratory  
10995 annually or as the agency considers necessary.

10996 (2) ~~However,~~ For laboratories operated under s. 483.035,  
10997 biennial licensure inspections shall be scheduled so as to cause  
10998 the least disruption to the practitioner's scheduled patients.

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10999 | ~~(2) The right of entry and inspection is extended to any~~  
 11000 | ~~premises that is maintained as a laboratory without a license,~~  
 11001 | ~~but such entry or inspection may not be made without the~~  
 11002 | ~~permission of the owner or person in charge of the laboratory,~~  
 11003 | ~~unless an inspection warrant as defined in s. 933.20 is first~~  
 11004 | ~~obtained.~~

11005 | (3) The agency may ~~shall~~ inspect an out-of-state clinical  
 11006 | laboratory under this section at the expense of the out-of-state  
 11007 | clinical laboratory to determine whether the laboratory meets  
 11008 | the requirements of this part and part II of chapter 408.

11009 | (4) The agency shall accept, in lieu of its own periodic  
 11010 | inspections for licensure, the survey of or inspection by  
 11011 | private accrediting organizations that perform inspections of  
 11012 | clinical laboratories accredited by such organizations,  
 11013 | including postinspection activities required by the agency.

11014 | (a) The agency shall accept inspections performed by such  
 11015 | organizations if the accreditation is not provisional, if such  
 11016 | organizations perform postinspection activities required by the  
 11017 | agency and provide the agency with all necessary inspection and  
 11018 | postinspection reports and information necessary for  
 11019 | enforcement, if such organizations apply standards equal to or  
 11020 | exceeding standards established and approved by the agency, and  
 11021 | if such accrediting organizations are approved by the federal  
 11022 | Health Care Financing Administration to perform such  
 11023 | inspections.

11024 | (b) The agency may conduct complaint investigations made  
 11025 | against laboratories inspected by accrediting organizations.

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11026 (c) The agency may conduct sample validation inspections  
 11027 of laboratories inspected by accrediting organizations to  
 11028 evaluate the accreditation process used by an accrediting  
 11029 organization.

11030 (d) The agency may conduct a full inspection if an  
 11031 accrediting survey has not been conducted within the previous 24  
 11032 months, and the laboratory must pay the appropriate inspection  
 11033 fee under s. 483.172.

11034 (e) The agency shall develop, and adopt, by rule, criteria  
 11035 for accepting inspection and postinspection reports of  
 11036 accrediting organizations in lieu of conducting a state  
 11037 licensure inspection.

11038 Section 213. Section 483.091, Florida Statutes, is amended  
 11039 to read:

11040 483.091 Clinical laboratory license.--~~A person may not~~  
 11041 ~~conduct, maintain, or operate a clinical laboratory in this~~  
 11042 ~~state, except a laboratory that is exempt under s. 483.031,~~  
 11043 ~~unless the clinical laboratory has obtained a license from the~~  
 11044 ~~agency.~~ A clinical laboratory may not send a specimen drawn  
 11045 within this state to any clinical laboratory outside the state  
 11046 for examination unless the out-of-state laboratory has obtained  
 11047 a license from the agency. ~~A license is valid only for the~~  
 11048 ~~person or persons to whom it is issued and may not be sold,~~  
 11049 ~~assigned, or transferred, voluntarily or involuntarily, and is~~  
 11050 ~~not valid for any premises other than those for which the~~  
 11051 ~~license is issued.~~ However, A new license may be secured for the  
 11052 new location before the actual change, if the contemplated  
 11053 change complies with this part, part II of chapter 408, and the

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11054 applicable rules ~~adopted under this part. Application for a new~~  
 11055 ~~clinical laboratory license must be made 60 days before a change~~  
 11056 ~~in the ownership of the clinical laboratory.~~

11057 Section 214. Section 483.101, Florida Statutes, is amended  
 11058 to read:

11059 483.101 ~~Application for~~ Clinical laboratory license.--

11060 ~~(1) An application for a clinical laboratory license must~~  
 11061 ~~be made under oath by the owner or director of the clinical~~  
 11062 ~~laboratory or by the public official responsible for operating a~~  
 11063 ~~state, municipal, or county clinical laboratory or institution~~  
 11064 ~~that contains a clinical laboratory, upon forms provided by the~~  
 11065 ~~agency.~~

11066 ~~(2) Each applicant for licensure must comply with the~~  
 11067 ~~following requirements:~~

11068 ~~(a) Upon receipt of a completed, signed, and dated~~  
 11069 ~~application, the agency shall require background screening, in~~  
 11070 ~~accordance with the level 2 standards for screening set forth in~~  
 11071 ~~chapter 435, of the managing director or other similarly titled~~  
 11072 ~~individual who is responsible for the daily operation of the~~  
 11073 ~~laboratory and of the financial officer, or other similarly~~  
 11074 ~~titled individual who is responsible for the financial operation~~  
 11075 ~~of the laboratory, including billings for patient services. The~~  
 11076 ~~applicant must comply with the procedures for level 2 background~~  
 11077 ~~screening as set forth in chapter 435, as well as the~~  
 11078 ~~requirements of s. 435.03(3).~~

11079 ~~(b) The agency may require background screening of any~~  
 11080 ~~other individual who is an applicant if the agency has probable~~  
 11081 ~~cause to believe that he or she has been convicted of a crime or~~



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11082 ~~has committed any other offense prohibited under the level 2~~  
 11083 ~~standards for screening set forth in chapter 435.~~

11084 ~~(c) Proof of compliance with the level 2 background~~  
 11085 ~~screening requirements of chapter 435 which has been submitted~~  
 11086 ~~within the previous 5 years in compliance with any other health~~  
 11087 ~~care licensure requirements of this state is acceptable in~~  
 11088 ~~fulfillment of the requirements of paragraph (a).~~

11089 ~~(d) A provisional license may be granted to an applicant~~  
 11090 ~~when each individual required by this section to undergo~~  
 11091 ~~background screening has met the standards for the Department of~~  
 11092 ~~Law Enforcement background check but the agency has not yet~~  
 11093 ~~received background screening results from the Federal Bureau of~~  
 11094 ~~Investigation, or a request for a disqualification exemption has~~  
 11095 ~~been submitted to the agency as set forth in chapter 435 but a~~  
 11096 ~~response has not yet been issued. A license may be granted to~~  
 11097 ~~the applicant upon the agency's receipt of a report of the~~  
 11098 ~~results of the Federal Bureau of Investigation background~~  
 11099 ~~screening for each individual required by this section to~~  
 11100 ~~undergo background screening which confirms that all standards~~  
 11101 ~~have been met, or upon the granting of a disqualification~~  
 11102 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 11103 ~~person who is required to undergo level 2 background screening~~  
 11104 ~~may serve in his or her capacity pending the agency's receipt of~~  
 11105 ~~the report from the Federal Bureau of Investigation. However,~~  
 11106 ~~the person may not continue to serve if the report indicates any~~  
 11107 ~~violation of background screening standards and a~~  
 11108 ~~disqualification exemption has not been requested of and granted~~  
 11109 ~~by the agency as set forth in chapter 435.~~

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11110       ~~(e) Each applicant must submit to the agency, with its~~  
 11111       ~~application, a description and explanation of any exclusions,~~  
 11112       ~~permanent suspensions, or terminations of the applicant from the~~  
 11113       ~~Medicare or Medicaid programs. Proof of compliance with the~~  
 11114       ~~requirements for disclosure of ownership and control interests~~  
 11115       ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
 11116       ~~of this submission.~~

11117       ~~(f) Each applicant must submit to the agency a description~~  
 11118       ~~and explanation of any conviction of an offense prohibited under~~  
 11119       ~~the level 2 standards of chapter 435 by a member of the board of~~  
 11120       ~~directors of the applicant, its officers, or any individual~~  
 11121       ~~owning 5 percent or more of the applicant. This requirement does~~  
 11122       ~~not apply to a director of a not-for-profit corporation or~~  
 11123       ~~organization if the director serves solely in a voluntary~~  
 11124       ~~capacity for the corporation or organization, does not regularly~~  
 11125       ~~take part in the day-to-day operational decisions of the~~  
 11126       ~~corporation or organization, receives no remuneration for his or~~  
 11127       ~~her services on the corporation or organization's board of~~  
 11128       ~~directors, and has no financial interest and has no family~~  
 11129       ~~members with a financial interest in the corporation or~~  
 11130       ~~organization, provided that the director and the not-for-profit~~  
 11131       ~~corporation or organization include in the application a~~  
 11132       ~~statement affirming that the director's relationship to the~~  
 11133       ~~corporation satisfies the requirements of this paragraph.~~

11134       ~~(g) A license may not be granted to an applicant if the~~  
 11135       ~~applicant or managing employee has been found guilty of,~~  
 11136       ~~regardless of adjudication, or has entered a plea of nolo~~  
 11137       ~~contendere or guilty to, any offense prohibited under the level~~

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11138 ~~2 standards for screening set forth in chapter 435, unless an~~  
 11139 ~~exemption from disqualification has been granted by the agency~~  
 11140 ~~as set forth in chapter 435.~~

11141 ~~(h) The agency may deny or revoke licensure if the~~  
 11142 ~~applicant:~~

11143 ~~1. Has falsely represented a material fact in the~~  
 11144 ~~application required by paragraph (e) or paragraph (f), or has~~  
 11145 ~~omitted any material fact from the application required by~~  
 11146 ~~paragraph (e) or paragraph (f); or~~

11147 ~~2. Has had prior action taken against the applicant under~~  
 11148 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

11149 ~~(i) An application for license renewal must contain the~~  
 11150 ~~information required under paragraphs (e) and (f).~~

11151 ~~(3) A license must be issued authorizing the performance~~  
 11152 ~~of one or more clinical laboratory procedures or one or more~~  
 11153 ~~tests on each specialty or subspecialty. A separate license is~~  
 11154 ~~required of all laboratories maintained on separate premises~~  
 11155 ~~even if the laboratories are operated under the same management.~~  
 11156 ~~Upon receipt of a request for an application for a clinical~~  
 11157 ~~laboratory license, the agency shall provide to the applicant a~~  
 11158 ~~copy of the rules relating to licensure and operations~~  
 11159 ~~applicable to the laboratory for which licensure is sought.~~

11160 Section 215. Section 483.106, Florida Statutes, is amended  
 11161 to read:

11162 483.106 Application for a certificate of exemption.--An  
 11163 application for a certificate of exemption must be made under  
 11164 oath by the owner or director of a clinical laboratory that  
 11165 performs only waived tests as defined in s. 483.041. A

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11166 certificate of exemption authorizes a clinical laboratory to  
 11167 perform waived tests. Laboratories maintained on separate  
 11168 premises and operated under the same management may apply for a  
 11169 single certificate of exemption or multiple certificates of  
 11170 exemption. The agency shall, by rule, specify the process for  
 11171 biennially issuing certificates of exemption. Sections 483.011,  
 11172 483.021, 483.031, 483.041, 483.172, and 483.23, ~~and 483.25~~ apply  
 11173 to a clinical laboratory that obtains a certificate of exemption  
 11174 under this section.

11175 Section 216. Section 483.111, Florida Statutes, is amended  
 11176 to read:

11177 483.111 Limitations on licensure.--A license may be issued  
 11178 to a clinical laboratory to perform only those clinical  
 11179 laboratory procedures and tests that are within the specialties  
 11180 or subspecialties in which the clinical laboratory personnel are  
 11181 qualified. A license may not be issued unless the agency  
 11182 determines that the clinical laboratory is adequately staffed  
 11183 and equipped to operate in conformity with the requirements of  
 11184 this part, part II of chapter 408, and applicable ~~the~~ rules  
 11185 ~~adopted under this part.~~

11186 Section 217. Section 483.131, Florida Statutes, is  
 11187 repealed.

11188 Section 218. Subsections (1) and (2) of section 483.172,  
 11189 Florida Statutes, are amended to read:

11190 483.172 License fees.--

11191 (1) In accordance with s. 408.805, an applicant or a  
 11192 licensee shall pay a fee for each license application submitted  
 11193 under this part, part II of chapter 408, and applicable rules.

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11194 ~~The agency shall collect fees for all licenses issued under this~~  
 11195 ~~part. Each fee is due at the time of application and must be~~  
 11196 ~~payable to the agency to be deposited in the Health Care Trust~~  
 11197 ~~Fund administered by the agency.~~

11198 (2) The biennial license fee schedule is as follows,  
 11199 unless modified by rule:

11200 (a) If a laboratory performs not more than 2,000 tests  
 11201 annually, the fee is \$400.

11202 (b) If a laboratory performs not more than 3 categories of  
 11203 procedures with a total annual volume of more than 2,000 but no  
 11204 more than 10,000 tests, the license fee is \$965.

11205 (c) If a laboratory performs at least 4 categories of  
 11206 procedures with a total annual volume of not more than 10,000  
 11207 tests, the license fee is \$1,294.

11208 (d) If a laboratory performs not more than 3 categories of  
 11209 procedures with a total annual volume of more than 10,000 but  
 11210 not more than 25,000 tests, the license fee is \$1,592.

11211 (e) If a laboratory performs at least 4 categories of  
 11212 procedures with a total annual volume of more than 10,000 but  
 11213 not more than 25,000 tests, the license fee is \$2,103.

11214 (f) If a laboratory performs a total of more than 25,000  
 11215 but not more than 50,000 tests annually, the license fee is  
 11216 \$2,364.

11217 (g) If a laboratory performs a total of more than 50,000  
 11218 but not more than 75,000 tests annually, the license fee is  
 11219 \$2,625.

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11220 (h) If a laboratory performs a total of more than 75,000  
11221 but not more than 100,000 tests annually, the license fee is  
11222 \$2,886.

11223 (i) If a laboratory performs a total of more than 100,000  
11224 but not more than 500,000 tests annually, the license fee is  
11225 \$3,397.

11226 (j) If a laboratory performs a total of more than 500,000  
11227 but not more than 1 million tests annually, the license fee is  
11228 \$3,658.

11229 (k) If a laboratory performs a total of more than 1  
11230 million tests annually, the license fee is \$3,919.

11231 Section 219. Section 483.201, Florida Statutes, is amended  
11232 to read:

11233 483.201 Grounds for disciplinary action against clinical  
11234 laboratories.--In addition to the requirements of part II of  
11235 chapter 408, the following acts constitute grounds for which a  
11236 disciplinary action specified in s. 483.221 may be taken against  
11237 a clinical laboratory:

11238 ~~(1) Making a fraudulent statement on an application for a~~  
11239 ~~clinical laboratory license or any other document required by~~  
11240 ~~the agency.~~

11241 (1)(2) Permitting unauthorized persons to perform  
11242 technical procedures or to issue reports.

11243 (2)(3) Demonstrating incompetence or making consistent  
11244 errors in the performance of clinical laboratory examinations  
11245 and procedures or erroneous reporting.

11246 (3)(4) Performing a test and rendering a report thereon to  
11247 a person not authorized by law to receive such services.

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11248           ~~(4)(5)~~ Knowingly having professional connection with or  
11249 knowingly lending the use of the name of the licensed clinical  
11250 laboratory or its director to an unlicensed clinical laboratory.

11251           ~~(5)(6)~~ Violating or aiding and abetting in the violation  
11252 of any provision of this part or the rules adopted under this  
11253 part.

11254           ~~(6)(7)~~ Failing to file any report required by the  
11255 provisions of this part or the rules adopted under this part.

11256           ~~(7)(8)~~ Reporting a test result for a clinical specimen if  
11257 the test was not performed on the clinical specimen.

11258           ~~(8)(9)~~ Performing and reporting tests in a specialty or  
11259 subspecialty in which the laboratory is not licensed.

11260           ~~(9)(10)~~ Knowingly advertising false services or  
11261 credentials.

11262           ~~(10)(11)~~ Failing to correct deficiencies within the time  
11263 required by the agency.

11264           Section 220. Section 483.221, Florida Statutes, is amended  
11265 to read:

11266           483.221 Administrative fines ~~penalties~~.--

11267           (1)~~(a)~~ In accordance with part II of chapter 408, the  
11268 agency may ~~deny, suspend, revoke, annul, limit, or deny renewal~~  
11269 ~~of a license or~~ impose an administrative fine, not to exceed  
11270 \$1,000 per violation, for the violation of any provision of this  
11271 part or rules adopted under this part. ~~Each day of violation~~  
11272 ~~constitutes a separate violation and is subject to a separate~~  
11273 ~~fine.~~

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11274        (2)~~(b)~~ In determining the penalty to be imposed for a  
 11275 violation, as provided in subsection (1) ~~paragraph (a)~~, the  
 11276 following factors must be considered:

11277        (a)1. The severity of the violation, including the  
 11278 probability that death or serious harm to the health or safety  
 11279 of any person will result or has resulted; the severity of the  
 11280 actual or potential harm; and the extent to which the provisions  
 11281 of this part were violated.

11282        (b)2. Actions taken by the licensee to correct the  
 11283 violation or to remedy complaints.

11284        (c)3. Any previous violation by the licensee.

11285        (d)4. The financial benefit to the licensee of committing  
 11286 or continuing the violation.

11287        ~~(e) All amounts collected under this section must be  
 11288 deposited into the Health Care Trust Fund administered by the  
 11289 agency.~~

11290        ~~(2) The agency may issue an emergency order immediately  
 11291 suspending, revoking, annulling, or limiting a license if it  
 11292 determines that any condition in the licensed facility presents  
 11293 a clear and present danger to public health or safety.~~

11294        Section 221. Section 483.23, Florida Statutes, is amended  
 11295 to read:

11296        483.23 Offenses; criminal penalties.--

11297        (1)(a) It is unlawful for any person to:

11298        1. ~~Operate, maintain, direct, or engage in the business of  
 11299 operating a clinical laboratory unless she or he has obtained a  
 11300 clinical laboratory license from the agency or is exempt under  
 11301 s. 483.031.~~



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11302        ~~1.2-~~ Conduct, maintain, or operate a clinical laboratory,  
11303 other than an exempt laboratory or a laboratory operated under  
11304 s. 483.035, unless the clinical laboratory is under the direct  
11305 and responsible supervision and direction of a person licensed  
11306 under part III of this chapter.

11307        ~~2.3-~~ Allow any person other than an individual licensed  
11308 under part III of this chapter to perform clinical laboratory  
11309 procedures, except in the operation of a laboratory exempt under  
11310 s. 483.031 or a laboratory operated under s. 483.035.

11311        ~~3.4-~~ Violate or aid and abet in the violation of any  
11312 provision of this part or the rules adopted under this part.

11313            (b) The performance of any act specified in paragraph (a)  
11314 constitutes a misdemeanor of the second degree, punishable as  
11315 provided in s. 775.082 or s. 775.083.

11316            (2) Any use or attempted use of a forged license under  
11317 this part or part IV ~~III~~ of this chapter constitutes the crime  
11318 of forgery.

11319            Section 222. Section 483.25, Florida Statutes, is  
11320 repealed.

11321            Section 223. Section 483.291, Florida Statutes, is amended  
11322 to read:

11323            483.291 Powers and duties of the agency; rules.--The  
11324 agency shall adopt rules to implement this part and part II of  
11325 chapter 408, which rules must include the following:

11326            (1) LICENSING STANDARDS.--The agency ~~shall license all~~  
11327 ~~multiphasic health testing centers meeting the requirements of~~  
11328 ~~this part and~~ shall prescribe standards necessary for licensure.

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11329           (2) FEES.-- In accordance with s. 408.805, an applicant or  
 11330 a licensee shall pay a fee for each license application  
 11331 submitted under this part, part II of chapter 408, and  
 11332 applicable rules. The agency shall establish annual fees, which  
 11333 shall be reasonable in amount, for licensing of centers. The  
 11334 fees must be sufficient in amount to cover the cost of licensing  
 11335 and inspecting centers.

11336           (a) ~~The annual licensure fee is due at the time of~~  
 11337 ~~application and is payable to the agency to be deposited in the~~  
 11338 ~~Health Care Trust Fund administered by the agency. The license~~  
 11339 ~~fee must be not less than \$600 \$300 or more than \$2,000 per~~  
 11340 ~~biennium \$1,000.~~

11341           (b) ~~The fee for late filing of an application for license~~  
 11342 ~~renewal is \$200 and is in addition to the licensure fee due for~~  
 11343 ~~renewing the license.~~

11344           (3) ~~ANNUAL LICENSING.-- The agency shall provide for annual~~  
 11345 ~~licensing of centers. Any center that fails to pay the proper~~  
 11346 ~~fee or otherwise fails to qualify by the date of expiration of~~  
 11347 ~~its license is delinquent, and its license is automatically~~  
 11348 ~~canceled without notice or further proceeding. Upon cancellation~~  
 11349 ~~of its license under this subsection, a center may have its~~  
 11350 ~~license reinstated only upon application and qualification as~~  
 11351 ~~provided for initial applicants and upon payment of all~~  
 11352 ~~delinquent fees.~~

11353           (3)(4) STANDARDS OF PERFORMANCE.--The agency shall  
 11354 prescribe standards for the performance of health testing  
 11355 procedures.

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11356        (4)~~(5)~~ CONSTRUCTION OF CENTERS.--The agency may adopt  
 11357 rules to ensure that centers comply with all local, county,  
 11358 state, and federal standards for the construction, renovation,  
 11359 maintenance, or repair of centers, which standards must ensure  
 11360 the conduct and operation of the centers in a manner that will  
 11361 protect the public health.

11362        (5)~~(6)~~ SAFETY AND SANITARY CONDITIONS WITHIN THE CENTER  
 11363 AND ITS SURROUNDINGS.--The agency shall establish standards  
 11364 relating to safety and sanitary conditions within the center and  
 11365 its surroundings, including water supply; sewage; the handling  
 11366 of specimens; identification, segregation, and separation of  
 11367 biohazardous waste as required by s. 381.0098; storage of  
 11368 chemicals; workspace; firesafety; and general measures, which  
 11369 standards must ensure the protection of the public health. The  
 11370 agency shall determine compliance by a multiphasic health  
 11371 testing center with the requirements of s. 381.0098 by verifying  
 11372 that the center has obtained all required permits.

11373        (6)~~(7)~~ EQUIPMENT.--The agency shall establish minimum  
 11374 standards for center equipment essential to the proper conduct  
 11375 and operation of the center.

11376        (7)~~(8)~~ PERSONNEL.--The agency shall prescribe minimum  
 11377 qualifications for center personnel. A center may employ as a  
 11378 medical assistant a person who has at least one of the following  
 11379 qualifications:

11380            (a) Prior experience of not less than 6 months as a  
 11381 medical assistant in the office of a licensed medical doctor or  
 11382 osteopathic physician or in a hospital, an ambulatory surgical

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11383 center, a home health agency, or a health maintenance  
11384 organization.

11385 (b) Certification and registration by the American Medical  
11386 Technologists Association or other similar professional  
11387 association approved by the agency.

11388 (c) Prior employment as a medical assistant in a licensed  
11389 center for at least 6 consecutive months at some time during the  
11390 preceding 2 years.

11391 Section 224. Section 483.294, Florida Statutes, is amended  
11392 to read:

11393 483.294 Inspection of centers.--The agency shall, at least  
11394 once annually, inspect the premises and operations of all  
11395 centers subject to licensure under this part, ~~without prior~~  
11396 ~~notice to the centers, for the purpose of studying and~~  
11397 ~~evaluating the operation, supervision, and procedures of such~~  
11398 ~~facilities, to determine their compliance with agency standards~~  
11399 ~~and to determine their effect upon the health and safety of the~~  
11400 ~~people of this state.~~

11401 Section 225. Section 483.30, Florida Statutes, is amended  
11402 to read:

11403 483.30 Licensing of centers.--The requirements of part II  
11404 of chapter 408 shall apply to the provision of services that  
11405 require licensure pursuant to this part and part II of chapter  
11406 408 and to entities licensed by or applying for such licensure  
11407 from the agency pursuant to this part. However, each applicant  
11408 for licensure and each licensee is exempt from s. 408.810(5)-  
11409 (10).

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11410           ~~(1) A person may not conduct, maintain, or operate a~~  
 11411 ~~multiphasic health testing center in this state without~~  
 11412 ~~obtaining a multiphasic health testing center license from the~~  
 11413 ~~agency. The license is valid only for the person or persons to~~  
 11414 ~~whom it is issued and may not be sold, assigned, or transferred,~~  
 11415 ~~voluntarily or involuntarily. A license is not valid for any~~  
 11416 ~~premises other than the center for which it is issued. However,~~  
 11417 ~~a new license may be secured for the new location for a fixed~~  
 11418 ~~center before the actual change, if the contemplated change is~~  
 11419 ~~in compliance with this part and the rules adopted under this~~  
 11420 ~~part. A center must be relicensed if a change of ownership~~  
 11421 ~~occurs. Application for relicensure must be made 60 days before~~  
 11422 ~~the change of ownership.~~

11423           ~~(2) Each applicant for licensure must comply with the~~  
 11424 ~~following requirements:~~

11425           ~~(a) Upon receipt of a completed, signed, and dated~~  
 11426 ~~application, the agency shall require background screening, in~~  
 11427 ~~accordance with the level 2 standards for screening set forth in~~  
 11428 ~~chapter 435, of the managing employee, or other similarly titled~~  
 11429 ~~individual who is responsible for the daily operation of the~~  
 11430 ~~center, and of the financial officer, or other similarly titled~~  
 11431 ~~individual who is responsible for the financial operation of the~~  
 11432 ~~center, including billings for patient services. The applicant~~  
 11433 ~~must comply with the procedures for level 2 background screening~~  
 11434 ~~as set forth in chapter 435, as well as the requirements of s.~~  
 11435 ~~435.03(3).~~

11436           ~~(b) The agency may require background screening of any~~  
 11437 ~~other individual who is an applicant if the agency has probable~~

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11438 ~~cause to believe that he or she has been convicted of a crime or~~  
 11439 ~~has committed any other offense prohibited under the level 2~~  
 11440 ~~standards for screening set forth in chapter 435.~~

11441 ~~(c) Proof of compliance with the level 2 background~~  
 11442 ~~screening requirements of chapter 435 which has been submitted~~  
 11443 ~~within the previous 5 years in compliance with any other health~~  
 11444 ~~care licensure requirements of this state is acceptable in~~  
 11445 ~~fulfillment of the requirements of paragraph (a).~~

11446 ~~(d) A provisional license may be granted to an applicant~~  
 11447 ~~when each individual required by this section to undergo~~  
 11448 ~~background screening has met the standards for the Department of~~  
 11449 ~~Law Enforcement background check, but the agency has not yet~~  
 11450 ~~received background screening results from the Federal Bureau of~~  
 11451 ~~Investigation, or a request for a disqualification exemption has~~  
 11452 ~~been submitted to the agency as set forth in chapter 435 but a~~  
 11453 ~~response has not yet been issued. A license may be granted to~~  
 11454 ~~the applicant upon the agency's receipt of a report of the~~  
 11455 ~~results of the Federal Bureau of Investigation background~~  
 11456 ~~screening for each individual required by this section to~~  
 11457 ~~undergo background screening which confirms that all standards~~  
 11458 ~~have been met, or upon the granting of a disqualification~~  
 11459 ~~exemption by the agency as set forth in chapter 435. Any other~~  
 11460 ~~person who is required to undergo level 2 background screening~~  
 11461 ~~may serve in his or her capacity pending the agency's receipt of~~  
 11462 ~~the report from the Federal Bureau of Investigation. However,~~  
 11463 ~~the person may not continue to serve if the report indicates any~~  
 11464 ~~violation of background screening standards and a~~

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11465 ~~disqualification exemption has not been requested of and granted~~  
11466 ~~by the agency as set forth in chapter 435.~~

11467 ~~(e) Each applicant must submit to the agency, with its~~  
11468 ~~application, a description and explanation of any exclusions,~~  
11469 ~~permanent suspensions, or terminations of the applicant from the~~  
11470 ~~Medicare or Medicaid programs. Proof of compliance with the~~  
11471 ~~requirements for disclosure of ownership and control interests~~  
11472 ~~under the Medicaid or Medicare programs may be accepted in lieu~~  
11473 ~~of this submission.~~

11474 ~~(f) Each applicant must submit to the agency a description~~  
11475 ~~and explanation of any conviction of an offense prohibited under~~  
11476 ~~the level 2 standards of chapter 435 by a member of the board of~~  
11477 ~~directors of the applicant, its officers, or any individual~~  
11478 ~~owning 5 percent or more of the applicant. This requirement does~~  
11479 ~~not apply to a director of a not-for-profit corporation or~~  
11480 ~~organization if the director serves solely in a voluntary~~  
11481 ~~capacity for the corporation or organization, does not regularly~~  
11482 ~~take part in the day-to-day operational decisions of the~~  
11483 ~~corporation or organization, receives no remuneration for his or~~  
11484 ~~her services on the corporation or organization's board of~~  
11485 ~~directors, and has no financial interest and has no family~~  
11486 ~~members with a financial interest in the corporation or~~  
11487 ~~organization, provided that the director and the not-for-profit~~  
11488 ~~corporation or organization include in the application a~~  
11489 ~~statement affirming that the director's relationship to the~~  
11490 ~~corporation satisfies the requirements of this paragraph.~~

11491 ~~(g) A license may not be granted to an applicant if the~~  
11492 ~~applicant or managing employee has been found guilty of,~~

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11493 ~~regardless of adjudication, or has entered a plea of nolo~~  
 11494 ~~contendere or guilty to, any offense prohibited under the level~~  
 11495 ~~2 standards for screening set forth in chapter 435, unless an~~  
 11496 ~~exemption from disqualification has been granted by the agency~~  
 11497 ~~as set forth in chapter 435.~~

11498 ~~(h) The agency may deny or revoke licensure if the~~  
 11499 ~~applicant:~~

11500 ~~1. Has falsely represented a material fact in the~~  
 11501 ~~application required by paragraph (e) or paragraph (f), or has~~  
 11502 ~~omitted any material fact from the application required by~~  
 11503 ~~paragraph (e) or paragraph (f); or~~

11504 ~~2. Has had prior action taken against the applicant under~~  
 11505 ~~the Medicaid or Medicare program as set forth in paragraph (e).~~

11506 ~~(i) An application for license renewal must contain the~~  
 11507 ~~information required under paragraphs (e) and (f).~~

11508 Section 226. Section 483.302, Florida Statutes, is amended  
 11509 to read:

11510 483.302 Application for license.--

11511 ~~(1) Application for a license as required by s. 483.30~~  
 11512 ~~must be made to the agency on forms furnished by it and must be~~  
 11513 ~~accompanied by the appropriate license fee.~~

11514 ~~(2) The application for a license must shall contain:~~

11515 ~~(1)(a) A determination as to whether the facility will be~~  
 11516 ~~fixed or mobile and the location for a fixed facility.~~

11517 ~~(b) The name and address of the owner if an individual; if~~  
 11518 ~~the owner is a firm, partnership, or association, the name and~~  
 11519 ~~address of every member thereof; if the owner is a corporation,~~  
 11520 ~~its name and address and the name and address of its medical~~



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11521 ~~director and officers and of each person having at least a 10~~  
11522 ~~percent interest in the corporation.~~

11523 ~~(2)(e)~~ The name of any person ~~whose name is required on~~  
11524 ~~the application under the provisions of paragraph (b) and who~~  
11525 owns at least a 10 percent interest in any professional service,  
11526 firm, association, partnership, or corporation providing goods,  
11527 leases, or services to the center for which the application is  
11528 made, and the name and address of the professional service,  
11529 firm, association, partnership, or corporation in which such  
11530 interest is held.

11531 ~~(d) The name by which the facility is to be known.~~

11532 ~~(3)(e)~~ The name, address, and Florida physician's license  
11533 number of the medical director.

11534 Section 227. Section 483.311, Florida Statutes, is  
11535 repealed.

11536 Section 228. Subsections (2) through (8) of section  
11537 483.317, Florida Statutes, are renumbered as subsections (1)  
11538 through (7), respectively, and present subsection (1) is amended  
11539 to read:

11540 483.317 Grounds for disciplinary action against  
11541 centers.--The following acts constitute grounds for which a  
11542 disciplinary action specified in s. 483.32 may be taken against  
11543 a center:

11544 ~~(1) Making a fraudulent statement on an application for a~~  
11545 ~~license or on any other document required by the agency pursuant~~  
11546 ~~to this part.~~

11547 Section 229. Section 483.32, Florida Statutes, is amended  
11548 to read:

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11549           483.32 Administrative fines ~~penalties~~.--  
 11550           (1)(a) The agency may ~~deny, suspend, revoke, annul, limit,~~  
 11551 ~~or deny renewal of a license or~~ impose an administrative fine,  
 11552 not to exceed \$500 per violation, for the violation of any  
 11553 provision of this part, part II of chapter 408, or applicable  
 11554 ~~rules adopted under this part. Each day of violation constitutes~~  
 11555 ~~a separate violation and is subject to a separate fine.~~  
 11556           (2)(b) In determining the amount of the fine to be levied  
 11557 for a violation, as provided in subsection (1) ~~paragraph (a),~~  
 11558 the following factors shall be considered:  
 11559           (a)1. The severity of the violation, including the  
 11560 probability that death or serious harm to the health or safety  
 11561 of any person will result or has resulted; the severity of the  
 11562 actual or potential harm; and the extent to which the provisions  
 11563 of this part were violated.  
 11564           (b)2. Actions taken by the licensee to correct the  
 11565 violation or to remedy complaints.  
 11566           (c)3. Any previous violation by the licensee.  
 11567           (d)4. The financial benefit to the licensee of committing  
 11568 or continuing the violation.  
 11569           ~~(e) All amounts collected under this section must be~~  
 11570 ~~deposited into the Health Care Trust Fund administered by the~~  
 11571 ~~agency.~~  
 11572           ~~(2) The agency may issue an emergency order immediately~~  
 11573 ~~suspending, revoking, annulling, or limiting a license when it~~  
 11574 ~~determines that any condition in the licensed facility presents~~  
 11575 ~~a clear and present danger to public health and safety.~~

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11576 Section 230. Subsections (2) and (3) of section 483.322,  
11577 Florida Statutes, are renumbered as subsections (1) and (2),  
11578 respectively, and present subsection (1) of said section is  
11579 amended to read:

11580 483.322 Offenses.--It is unlawful for any person to:  
11581 ~~(1) Operate, maintain, direct, or engage in the business~~  
11582 ~~of operating a multiphasic health testing center unless the~~  
11583 ~~person has obtained a license for the center.~~

11584 Section 231. Section 483.328, Florida Statutes, is  
11585 repealed.

11586 Section 232. Subsection (2) of section 765.541, Florida  
11587 Statutes, is amended to read:

11588 765.541 Certification of organizations engaged in the  
11589 practice of cadaveric organ and tissue procurement.--The Agency  
11590 for Health Care Administration shall:

11591 (2) Adopt rules that set forth appropriate standards and  
11592 guidelines for the program in accordance with ss. 765.541-  
11593 765.546 and part II of chapter 408. These standards and  
11594 guidelines must be substantially based on the existing laws of  
11595 the Federal Government and this state and the existing standards  
11596 and guidelines of the United Network for Organ Sharing (UNOS),  
11597 the American Association of Tissue Banks (AATB), the South-  
11598 Eastern Organ Procurement Foundation (SEOPF), the North American  
11599 Transplant Coordinators Organization (NATCO), and the Eye Bank  
11600 Association of America (EBAA). In addition, the Agency for  
11601 Health Care Administration shall, before adopting these  
11602 standards and guidelines, seek input from all organ procurement  
11603 organizations, tissue banks, and eye banks based in this state;

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11604 Section 233. Subsection (1) of section 765.542, Florida  
11605 Statutes, is amended to read:

11606 765.542 Certification of organ procurement organizations,  
11607 tissue banks, and eye banks.--

11608 (1) The requirements of part II of chapter 408 shall apply  
11609 to the provision of services that require licensure pursuant to  
11610 ss. 765.541-765.546 and part II of chapter 408 and to entities  
11611 licensed or certified by or applying for such licensure or  
11612 certification from the Agency for Health Care Administration  
11613 pursuant to ss. 765.541-765.546. However, each applicant for  
11614 licensure or certification and each certificateholder is exempt  
11615 from s. 408.810(5)-(10). An organization, agency, or other  
11616 entity may not engage in the practice of organ procurement in  
11617 this state without being designated as an organ procurement  
11618 organization by the secretary of the United States Department of  
11619 Health and Human Services and being appropriately certified by  
11620 the Agency for Health Care Administration. As used in this  
11621 subsection, the term "procurement" includes the retrieval,  
11622 processing, or distribution of human organs. A physician or  
11623 organ procurement organization based outside this state is  
11624 exempt from these certification requirements if:

11625 (a) The organs are procured for an out-of-state patient  
11626 who is listed on, or referred through, the United Network for  
11627 Organ Sharing System; and

11628 (b) The organs are procured through an agreement of an  
11629 organ procurement organization certified by the state.

11630 Section 234. Section 765.544, Florida Statutes, is amended  
11631 to read:

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11632           765.544 Fees; Florida Organ and Tissue Donor Education and  
11633 Procurement Trust Fund.--

11634           (1) In accordance with s. 408.805, an applicant or a  
11635 certificateholder shall pay a fee for each application submitted  
11636 under this part, part II of chapter 408, and applicable rules.

11637 The amount of the fee shall be as follows unless modified by  
11638 rule: The Agency for Health Care Administration shall collect

11639           (a) An initial application fee of \$1,000 from organ  
11640 procurement organizations and tissue banks and \$500 from eye  
11641 banks. ~~The fee must be submitted with each application for~~  
11642 ~~initial certification and is nonrefundable.~~

11643           ~~(b)(2) The Agency for Health Care Administration shall~~  
11644 ~~assess~~ Annual fees to be used, in the following order of  
11645 priority, for the certification program, the advisory board,  
11646 maintenance of the organ and tissue donor registry, and the  
11647 organ and tissue donor education program in the following  
11648 amounts, which may not exceed \$35,000 per organization:

11649           1.(a) Each general organ procurement organization shall  
11650 pay the greater of \$1,000 or 0.25 percent of its total revenues  
11651 produced from procurement activity in this state by the  
11652 certificateholder during its most recently completed fiscal year  
11653 or operational year.

11654           2.(b) Each bone and tissue procurement agency or bone and  
11655 tissue bank shall pay the greater of \$1,000 or 0.25 percent of  
11656 its total revenues from procurement and processing activity in  
11657 this state by the certificateholder during its most recently  
11658 completed fiscal year or operational year.

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11659            3.~~(e)~~ Each eye bank shall pay the greater of \$500 or 0.25  
11660 percent of its total revenues produced from procurement activity  
11661 in this state by the certificateholder during its most recently  
11662 completed fiscal year or operational year.

11663            (2)~~(3)~~ The Agency for Health Care Administration shall  
11664 specify ~~provide~~ by rule the ~~for~~ administrative penalties for the  
11665 purpose of ensuring adherence to the standards of quality and  
11666 practice required by this chapter, part II of chapter 408, and  
11667 applicable rules of the agency for continued certification.

11668            (3)~~(4)~~(a) Proceeds from fees, administrative penalties,  
11669 and surcharges collected pursuant to this section ~~subsections~~  
11670 ~~(2) and (3)~~ must be deposited into the Florida Organ and Tissue  
11671 Donor Education and Procurement Trust Fund created by s.  
11672 765.52155.

11673            (b) Moneys deposited in the trust fund pursuant to this  
11674 section must be used exclusively for the implementation,  
11675 administration, and operation of the certification program and  
11676 the advisory board, for maintaining the organ and tissue donor  
11677 registry, and for organ and tissue donor education.

11678            (4)~~(5)~~ As used in this section, the term "procurement  
11679 activity in this state" includes the bringing into this state  
11680 for processing, storage, distribution, or transplantation of  
11681 organs or tissues that are initially procured in another state  
11682 or country.

11683            Section 235. Subsection (4) of section 766.118, Florida  
11684 Statutes, is amended to read:

11685            766.118 Determination of noneconomic damages.--

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11686 (4) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF  
 11687 PRACTITIONERS PROVIDING EMERGENCY SERVICES AND  
 11688 CARE.--Notwithstanding subsections (2) and (3), with respect to  
 11689 a cause of action for personal injury or wrongful death arising  
 11690 from medical negligence of practitioners providing emergency  
 11691 services and care, as defined in s. 395.002(9)~~(10)~~, or providing  
 11692 services as provided in s. 401.265, or providing services  
 11693 pursuant to obligations imposed by 42 U.S.C. s. 1395dd to  
 11694 persons with whom the practitioner does not have a then-existing  
 11695 health care patient-practitioner relationship for that medical  
 11696 condition:

11697 (a) Regardless of the number of such practitioner  
 11698 defendants, noneconomic damages shall not exceed \$150,000 per  
 11699 claimant.

11700 (b) Notwithstanding paragraph (a), the total noneconomic  
 11701 damages recoverable by all claimants from all such practitioners  
 11702 shall not exceed \$300,000.

11703  
 11704 The limitation provided by this subsection applies only to  
 11705 noneconomic damages awarded as a result of any act or omission  
 11706 of providing medical care or treatment, including diagnosis that  
 11707 occurs prior to the time the patient is stabilized and is  
 11708 capable of receiving medical treatment as a nonemergency  
 11709 patient, unless surgery is required as a result of the emergency  
 11710 within a reasonable time after the patient is stabilized, in  
 11711 which case the limitation provided by this subsection applies to  
 11712 any act or omission of providing medical care or treatment which

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11713 | occurs prior to the stabilization of the patient following the  
11714 | surgery.

11715 |       Section 236. Section 766.316, Florida Statutes, is amended  
11716 | to read:

11717 |       766.316 Notice to obstetrical patients of participation in  
11718 | the plan.--Each hospital with a participating physician on its  
11719 | staff and each participating physician, other than residents,  
11720 | assistant residents, and interns deemed to be participating  
11721 | physicians under s. 766.314(4)(c), under the Florida Birth-  
11722 | Related Neurological Injury Compensation Plan shall provide  
11723 | notice to the obstetrical patients as to the limited no-fault  
11724 | alternative for birth-related neurological injuries. Such notice  
11725 | shall be provided on forms furnished by the association and  
11726 | shall include a clear and concise explanation of a patient's  
11727 | rights and limitations under the plan. The hospital or the  
11728 | participating physician may elect to have the patient sign a  
11729 | form acknowledging receipt of the notice form. Signature of the  
11730 | patient acknowledging receipt of the notice form raises a  
11731 | rebuttable presumption that the notice requirements of this  
11732 | section have been met. Notice need not be given to a patient  
11733 | when the patient has an emergency medical condition as defined  
11734 | in s. 395.002(8)~~(9)~~(b) or when notice is not practicable.

11735 |       Section 237. Paragraph (b) of subsection (2) of section  
11736 | 812.014, Florida Statutes, is amended to read:

11737 |       812.014 Theft.--

11738 |       (2)

11739 |       (b)1. If the property stolen is valued at \$20,000 or more,  
11740 | but less than \$100,000;



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11741           2. The property stolen is cargo valued at less than  
11742 \$50,000 that has entered the stream of interstate or intrastate  
11743 commerce from the shipper's loading platform to the consignee's  
11744 receiving dock; or

11745           3. The property stolen is emergency medical equipment,  
11746 valued at \$300 or more, that is taken from a facility licensed  
11747 under chapter 395 or from an aircraft or vehicle permitted under  
11748 chapter 401,

11749  
11750 the offender commits grand theft in the second degree,  
11751 punishable as a felony of the second degree, as provided in s.  
11752 775.082, s. 775.083, or s. 775.084. Emergency medical equipment  
11753 means mechanical or electronic apparatus used to provide  
11754 emergency services and care as defined in s. 395.002~~(9)~~~~(10)~~ or  
11755 to treat medical emergencies.

11756           Section 238. In case of conflict between the provisions of  
11757 part II of chapter 408, Florida Statutes, and the authorizing  
11758 statutes governing the licensure of health care providers by the  
11759 Agency for Health Care Administration found in chapter 112,  
11760 chapter 383, chapter 390, chapter 394, chapter 395, chapter 400,  
11761 chapter 440, chapter 483, and chapter 765, Florida Statutes, the  
11762 provisions of part II of chapter 408, Florida Statutes, shall  
11763 prevail.

11764           Section 239. Rules adopted by the Department of Elderly  
11765 Affairs under parts III, V, VI, and VII of chapter 400, Florida  
11766 Statutes, shall be transferred by a type two transfer, as  
11767 defined in s. 20.06, Florida Statutes, to the Agency for Health  
11768 Care Administration.

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11769           Section 240. Between October 1, 2005, and September 30,  
 11770 2006, inclusive, the Agency for Health Care Administration may  
 11771 issue any license for less than a 2-year period by charging a  
 11772 prorated licensure fee and specifying a different renewal date  
 11773 than would otherwise be required for biennial licensure.

11774           Section 241. This act shall take effect October 1, 2005.