

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Care Committee

BILL: SB 2608

SPONSOR: Senator Fasano

SUBJECT: Licensure of Health Care Providers

DATE: April 11, 2005

REVISED: 04/12/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HE</u>	Fav/1 amendment
2.	<u> </u>	<u> </u>	<u>CF</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>CJ</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>GA</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u>HA</u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill divides ch. 408, F.S., into parts I-IV and consolidates core licensure requirements for health care providers licensed by the Agency for Health Care Administration (AHCA or Agency) in pt. II of ch. 408, F.S., consisting of newly created ss. 408.801-408.819, F.S. The bill defines common terminology and provides standardized minimum licensure requirements, including timeframes for license application processing, definition of a change of ownership, background screening, notice of exclusions from Medicare or Medicaid, compliance with local zoning requirements, notice of closure, record retention, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation. Under this bill, the licensure period would be two years, and, accordingly, fees would be double the current amounts.

Health care providers that would be subject to the core licensure requirements of pt. II of ch. 408, F.S., include drug free workplace laboratories, birth centers, abortion clinics, crisis stabilization units, short term residential treatment units, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, mobile surgical facilities, private review agents, health care risk managers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment

providers, intermediate care facilities for the developmentally disabled, health care services pools, health care clinics, clinical laboratories, multiphasic health testing centers, and organ and tissue procurement agencies.

The bill also streamlines consumer information regarding nursing homes by combining AHCA's Guide to Nursing Homes with the Nursing Home Watch List and transfers primary rule writing authority from the Department of Elderly Affairs (DOEA) to AHCA for the assisted living facility, adult family-care home, adult day care center, and hospice programs.

This bill amends ss. 112.0455, 383.301, 383.305, 383.309, 383.315, 383.324, 383.33, 383.335, 390.011, 390.012, 390.014, 390.018, 394.455, 394.67, 394.875, 394.877, 394.878, 394.879, 394.90, 394.907, 395.003, 395.004, 395.0161, 395.0163, 395.0193, 395.0199, 395.1046, 395.1055, 395.1065, 395.10973, 395.10974, 400.022, 400.051, 400.062, 400.063, 400.071, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.179, 400.18, 400.19, 400.191, 400.20, 400.23, 400.402, 400.407, 400.4075, 400.408, 400.411, 400.412, 400.414, 400.417, 400.4174, 400.4176, 400.418, 400.419, 400.423, 400.424, 400.4255, 400.4256, 400.427, 400.4275, 400.431, 400.434, 400.441, 400.442, 400.444, 400.452, 400.454, 400.464, 400.471, 400.474, 400.484, 400.487, 400.494, 400.495, 400.497, 400.506, 400.509, 400.512, 400.551, 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5572, 400.559, 400.56, 400.562, 400.602, 400.605, 400.606, 400.6065, 400.607, 400.6095, 400.617, 400.619, 400.6194, 400.6196, 400.621, 400.6211, 400.625, 400.801, 400.805, 400.902, 400.903, 400.905, 400.907, 400.908, 400.912, 400.914, 400.915, 400.925, 400.93, 400.931, 400.932, 400.933, 400.935, 400.960, 400.962, 400.967, 400.968, 400.9685, 400.969, 400.980, 400.991, 400.9915, 400.9925, 400.993, 400.9935, 400.995, 408.831, 440.102, , 483.035, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172, 483.201, 483.221, 483.23, 483.291, 483.294, 483.30, 483.302, 483.32, 765.541, 765.542, and 765.544, F.S.

The bill creates ss. 408.801, 408.802, 408.803, 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818, and 408.819, F.S.

The bill repeals ss. 383.304, 383.325, 383.331, 383.332, 390.013, 390.015, 390.016, 390.017, 390.019, 390.021, 394.876, 394.902, 395.002(4), 395.0055, 395.0162, 400.021(5) and (20), 400.0712(3), 400.125, 400.241(1) and (2), 400.415, 400.4178(7), 400.421, 400.435(1), 400.447(1), (2), and (3), 400.451, 400.515, 400.5575, 400.558, 400.564, 400.622, 400.906, 400.910, 400.911, 400.913, 400.916, 400.917, 400.95, 400.953(2), 400.955(4), 400.956, 400.963, 400.965, 400.992, 400.994, 400.9945, 483.131, 483.25, 483.311, 483.317(1), 483.322(1), and 483.328, F.S.

The bill creates three undesignated sections of law.

II. Present Situation:

Chapter 408, F.S., is titled "Health Care Administration" and contains the general statutory provisions assigned to the Agency. AHCA is created in s. 20.42, F.S., and is responsible for:

- Health facility licensure, inspection, and regulatory enforcement;

- Investigation of consumer complaints related to health care facilities and managed care plans;
- Implementation of the certificate-of-need program;
- Operation of the State Center for Health Statistics;
- Administration of the Medicaid program;
- Administration of the contracts with the Florida Healthy Kids Corporation;
- Certification of health maintenance organizations and prepaid health clinics as set forth in pt. III of chapter 641, F.S.; and
- Any other duties prescribed by statute or agreement.

The licensure statutes for the various health care providers regulated by AHCA contain duplication and variation of certain basic licensing standards. These standards include the application process, changes of ownership, licensure categories, background screening, changes of administrator, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation. The majority of licenses are required to be renewed annually, although some programs call for biennial licensure. Each of these regulatory statutes has evolved independently and, as such, they vary in how similar requirements are defined. Licensure processing occurs within the broad requirements of licensure under the Administrative Procedure Act, s. 120.60, F.S., and many unique requirements within each specific provider's statutes or rules.

Consumers seeking information about nursing homes have many different tools available to review specific information about these facilities. AHCA publishes the Guide to Nursing Homes in Florida (Guide) and the Nursing Home Watch List (Watch List). Both are required by s. 400.191, F.S., and are published quarterly. The Guide presents a 45-month review of regulatory compliance and demographic information for each nursing home licensed in Florida, while the Watch List reflects only those nursing homes that were issued a conditional license or were under bankruptcy protection during a quarter. A conditional license can be used both for serious deficiencies and for the failure to correct relatively minor deficiencies. Therefore, a nursing home can appear on a Watch List but may have a high ranking in the Guide, thereby confusing consumers.

The Department of Elderly Affairs currently has the rule-writing authority for the assisted living facility, adult family care home, adult day care center, and hospice programs. AHCA has rule-writing authority for the majority of other programs it licenses including hospitals, nursing homes, home health agencies, and others.

III. Effect of Proposed Changes:

This bill divides ch. 408, F.S., into parts I-IV and consolidates core licensure requirements for health care providers licensed by AHCA in pt. II of ch. 408, F.S., consisting of newly created ss. 408.801-408.819, F.S. The bill defines common terminology and provides standardized minimum licensure requirements, including timeframes for license application processing, definition of a change of ownership, background screening, notice of exclusions from Medicare or Medicaid, compliance with local zoning requirements, notice of closure, record retention, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation.

Dividing Ch. 408, F.S., Into Parts

Section 1. Creates pt. I of ch. 408, F.S., consisting of ss. 408.031, 408.032, 408.033, 408.034, 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039, 408.040, 408.041, 408.042, 408.043, 408.044, 408.045, 408.0455, 408.05, 408.061, 408.062, 408.063, 408.07, 408.08, 408.09, 408.10, 408.15, 408.16, 408.18, 408.185, 408.20, 408.301, 408.302, 408.40, 408.50, 408.70, 408.7056, 408.7057, and 408.7071, F.S., entitled “Health Facility and Services Planning.”

Section 2. Creates pt. II of ch. 408, F.S., consisting of ss. 408.801, 408.802, 408.803, 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818, 408.819, and 408.831, F.S., entitled “Health Care Licensing: General Provisions.”

Section 3. Creates pt. III of ch. 408, F.S., consisting of ss. 408.90, 408.901, 408.902, 408.903, 408.904, 408.905, 408.906, 408.907, 408.908, and 408.909, F.S., entitled “Health Insurance Access.”

Section 4. Creates pt. IV of ch. 408, F.S., consisting of ss. 408.911, 408.913, 408.914, 408.915, 408.916, 408.917, and 408.918, F.S., entitled “Health and Human Services Eligibility Access System.”

Health Care Licensing Procedures Act

Section 5. Creates ss. 408.801 408.819, F.S., to consolidate licensing requirements for facilities and services licensed by AHCA.

Section 408.801, F.S., provides that pt. II of ch. 408, F.S., may be cited as the “Health Care Licensing Procedures Act” and specifies the legislative intent to eliminate unnecessary duplication and variation of licensure requirements for health care providers regulated by AHCA. The purpose of this act is to create streamlined and consistent licensing requirements for all providers regulated by AHCA by standardizing terminology and basic licensure requirements.

Section 408.802, F.S., specifies the facilities and services requiring licensure by, or registration with, AHCA, under pt. II of ch. 408, F.S., as described in chs. 112, 383, 390, 394, 395, 400, 440, 483, and 765, F.S. The facilities and services include drug free workplace laboratories, birth centers, abortion clinics, crisis stabilization units, short term residential treatment units, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, mobile surgical facilities, private review agents, health care risk managers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment providers, intermediate care facilities for the developmentally disabled, health care services pools, health care clinics, clinical laboratories, multiphasic health testing centers, and organ and tissue procurement agencies.

Section 408.803, F.S., defines standardized terms to be used by AHCA and applicants for licensure or registration, including:

- *Authorizing statute* means the statute authorizing the licensed operation of a provider listed in s. 408.802, including chs. 112, 383, 390, 394, 395, 400, 440, 483, and 765, F.S.;
- *Certification* means certification as a Medicare or Medicaid provider of the services that necessitate licensure, or certification pursuant to the federal Clinical Laboratory Improvement Amendments (CLIA);
- *Change in Ownership* means an event in which the licensee changes to a different legal entity or in which 45 percent or more of the ownership, voting shares, or controlling interest in a corporation that is not publicly traded is transferred or assigned, including the final transfer or assignment of multiple transfers or assignments over a two-year period which cumulatively total 45 percent or greater. However, a change solely in the management company is not a change of ownership;
- *Controlling interest* means (a) the applicant or a licensee, or (b) a person or entity that serves as an officer of, is on the board of directors of, or has a five percent or greater ownership interest in the applicant or licensee, or (c) a person or entity that serves as an officer of, is on the board of directors of, or has a five percent or greater ownership interest in the management company or other entity, related or unrelated, which the applicant or licensee contracts with to operate the provider. The term does not include a voluntary board member.
- *Moratorium* means a prohibition on the acceptance of new clients.
- *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. AHCA must recognize a person as a voluntary board member following submission of a statement to AHCA by the board member and the not-for-profit corporation or organization, which affirms that the board member conforms to this definition. The statement affirming the status of the board member must be submitted to AHCA on a form provided by AHCA.

Section 408.804, F.S., prohibits the provision of services requiring licensure without first obtaining a license from AHCA. The license must be displayed in a conspicuous place that is readily visible to clients at the address notated on the license. The bill specifies that a license is valid only for the entity to which it is issued and the location for which issued, and is not subject to sale, assignment or transfer.

Section 408.805, F.S., requires AHCA to collect license fees that cover the cost of regulation and enforcement unless otherwise limited by authorizing statutes. The bill:

- Requires the adjustment of licensure fees for biennial licensure in agency rule;
- Requires annual licensure fee adjustments, including fees paid per bed, not to exceed the change in the consumer price index;
- Allows AHCA to adopt rules to adjust licensure fees;

- Requires payment of inspection fees as required in authorizing statutes;
- Specifies that fees are nonrefundable;
- Allows fee assessment for changes resulting in the issuance of a license by AHCA;
- Allows fee assessment for issuance of a duplicate license not to exceed duplication and postage costs; and
- Provides that fees may not exceed the cost of administering the licensure provisions.

Section 408.806, F.S., requires an applicant to submit a licensure application under oath on forms provided by AHCA with the appropriate fee; and information required under authorizing statutes and rules. The application must contain:

- The name, address, and social security number of the applicant and each controlling interest if the applicant or controlling interest is an individual;
- The name, address, federal employer identification number or taxpayer identification number of the applicant and each controlling interest if the applicant or controlling interest is not an individual;
- The provider name;
- The requested number of beds or capacity;
- A zoning approval report from the local zoning authority;
- Compliance with zoning pursuant to ch. 419, F.S., if the applicant meets the definition of a community residential home;
- A satisfactory fire safety report;
- The name of the person or persons managing the operation of the provider and the administrator's name if required;
- A certificate of authority as required under ch. 651, F.S., if the applicant offers continuing care agreements; and
- Other necessary information under pt. II of ch. 408, F.S., authorizing statutes, and applicable rules, including satisfactory inspection results.

This section requires an applicant to submit:

- A licensure renewal application which must be received by AHCA at least 60 days prior to license expiration;
- A change of ownership application which must be received by AHCA at least 60 days prior to the change of ownership date; and
- All other applications or requests which must be received by AHCA at least 60 days prior to the requested effective date, unless otherwise specified by authorizing statutes or rules.

This bill requires AHCA to review licensure applications and notify the applicant in writing of errors or omitted information within 30 days of receipt. Information that was omitted from a licensure, renewal, or change of ownership application must be filed with AHCA within 21 days of AHCA's request, or the application will be deemed incomplete with no further consideration.

Licenses are issued for a two-year period, unless the conditions of licensure specify a shorter period, such as the issuance of a provisional license. Applicant failure to apply for re-licensure prior to license expiration shall render the license null and void. A licensee shall be assessed a

late fee of 50 percent of the license fee for failure to file a timely application and fee. AHCA must notify providers of the late fee within 10 days after a renewal application is due and will serve as a reminder that the license must be renewed prior to the expiration date. License applications must be approved or denied within 60 days of a complete application. As provided in s. 199 of the bill, between October 1, 2005, and September 30, 2006, AHCA may issue licenses for less than two years, charging a prorated fee, and adjusting the renewal date for the purpose of transitioning affected providers from an one-year to two-year licensure cycle.

The bill requires that licenses include the licensee's name, the provider type or service authorized to operate or offer, the effective and expiration dates, maximum capacity of licensed premises if applicable, and other information required or deemed necessary by AHCA.

In accordance with authorizing statutes and applicable rules, proof of compliance with minimum licensure requirements as specified in s. 408.810, F.S., must be submitted with a licensure application. AHCA may not issue an initial license to a health care provider that is subject to certificate-of-need review under pt. I of ch. 408, F.S., unless the provider has been issued a certificate of need.

The bill requires that an applicant demonstrate compliance with pt. II of ch. 408, F.S., authorizing statutes and applicable rules during an inspection if one is required by authorizing statutes. An initial survey is not required for companion services or homemaker services providers, or health care services pools. All inspections other than initial inspections are unannounced except for inspections of birth centers under s. 383.324(3), F.S.; hospitals, ambulatory surgical centers, and mobile surgical facilities under s. 395.0161(4), F.S.; and clinical laboratories under s. 483.061(2), F.S. Hospitals, ambulatory surgery centers, birth centers and mobile surgical facilities are exempt from unannounced inspections because AHCA is required under current law to coordinate inspections to minimize disruption of services for these providers. If the provider is unavailable at the time of inspection the application will be denied.

The bill authorizes AHCA to develop, by rule, requirements for electronic submission of applications, required signatures, payment of fees, application notarization, and of any other required documents or information required by pt. II of ch. 408, F.S., or authorizing statutes.

Section 408.807, F.S., specifies that during changes of ownership the transferor (licensee/seller) must notify AHCA in writing a minimum of 60 days before the transfer of ownership date and the transferee (applicant/buyer) must submit a change of ownership application to AHCA at least 60 days prior to the change of ownership date. The transferor is responsible for the lawful operation of the provider and the welfare of the clients served until the date the transferee is licensed by AHCA. The transferor is also responsible for all penalties imposed against the transferor before the change of ownership date. License restrictions, such as a conditional license during change of ownership, remain in place until removed by AHCA. The new owner must maintain required records of the previous owner including all client records, inspection reports, and all records required to be maintained on Medicaid recipients, if applicable.

Section 408.808, F.S., identifies licensure categories, conditions for issuance, and licensure time periods. AHCA may issue a standard license to an applicant at the time of initial, renewal, or

change of ownership when the applicant is in compliance with all statutory requirements and agency rules. Standard licenses must be issued for a two-year period, unless sooner revoked.

The bill allows AHCA to issue a provisional license to an applicant when individuals required to undergo background screening have met screening requirements through the Florida Department of Law Enforcement and are pending the results with the Federal Bureau of Investigation. Pending a licensure denial or revocation proceeding, a provisional license may be issued until final agency decision.

The bill allows for the issuance of an inactive license to a health care provider under the certificate-of-need provisions in ss. 408.031 – 408.045, F.S. (defined as pt. I of ch. 408, F.S., in the bill), when the provider is currently licensed, does not have a provisional license, and is temporarily unable to provide services, but will resume services within 12 months. Inactive licenses are not to exceed 12 months but can be renewed for up to six months based on the provider's progress toward reopening. Written submissions to AHCA from the licensee for inactive license status or to extend the inactive period must include justification, beginning and ending dates of inactivity, plan for transferring clients to other providers, and required licensure fees. Inactive license requests received by AHCA after the provider has initiated closure, suspension of service, or client notification of closure or suspension cannot be accepted. Providers approved for inactive license status must notify each client of discharge or transfer pursuant to authorizing statutes or applicable rules. The inactive license begins the date the provider ceases operation. The provider's license expires at the end of the inactive license period, and all licensure fees must be paid, and may be prorated. To reactivate an inactive license, a renewal application must be submitted with appropriate fees, and agency inspections indicating that all requirements of pt. II of ch. 408, F.S., authorizing statutes, and applicable rules are met.

The bill allows the issuance of other licensure types pursuant to authorizing statutes and applicable rules.

Section 408.809, F.S., requires employee background screening standards pursuant to ch. 435, F.S. The bill states that level 2 background screening must be conducted through AHCA on the following:

- The licensee, if an individual;
- The administrator or similar person responsible for day-to-day operation of the provider;
- The financial officer or similar person responsible for financial operation of the licensee or provider; and
- Any person who is a controlling interest if AHCA has reason to believe such person has been convicted of any offense prohibited by s. 435.04, F.S. The licensee must submit a description and explanation of the conviction with the license application.

The bill provides that documentation submitted of a satisfactory level 2 background screening conducted within the previous 5 years to meet AHCA, Department of Health, or Department of Children and Family Services provider or professional licensure requirements satisfies the background screening requirements, if such proof is accompanied by an affidavit of current compliance with ch. 435, F.S., using forms provided by AHCA. Proof of compliance with

background screening requirements submitted within the last five years to operate a continuing care retirement community under ch. 651, F.S., satisfies the level 2 background check.

This bill authorizes AHCA to issue a provisional license upon satisfactory compliance with the Florida Department of Law Enforcement background check for persons required to be screened pending the screening results of the Federal Bureau of Investigation. A standard license may be issued when AHCA receives a satisfactory Federal Bureau of Investigation background screening report, or upon AHCA granting a disqualification exemption pursuant to ch. 435, F.S.

When a change of any person required to undergo level 2 background screening occurs, the licensee must report the change to AHCA within the timeframe specified in authorizing statutes or rules, and must submit to AHCA information necessary to conduct Level 2 screening, or provide evidence of background screening compliance. The person may serve in his or her capacity pending AHCA's receipt of the report from the Federal Bureau of Investigation, if he or she has met the standards for the Department of Law Enforcement background check. However, the person may not continue to serve if the report indicates any violation of background screening standards unless an exemption from disqualification has been granted by AHCA as set forth in ch. 435, F.S.

Background screening is not required to obtain a Certificate of Exemption authorizing a clinical lab to perform waived tests, issued under s. 483.106, F.S.

Section 408.810, F.S., specifies requirements for obtaining and maintaining a license issued by AHCA. In addition to the licensure requirements in pt. II of ch. 408, F.S., authorizing statutes, and applicable rules, each applicant and licensee must comply with requirements for background screening and disclosure of exclusion, suspensions, or terminations from Medicare, Medicaid, or CLIA programs. Unless specified differently in pt. II of ch. 408, F.S., authorizing statutes, or rules, any information required to be reported must be submitted to AHCA within 10 calendar days after the report period or effective date of information.

When a licensee discontinues operation of a provider, the licensee must inform AHCA at least 30 days before discontinuance of operation, inform clients of discharge in accordance with authorizing statutes, and surrender the license to AHCA for cancellation. Upon closure of a provider, the licensee is responsible for retention and distribution of all records within timeframes specified in authorizing statutes and rules. Upon a licensee's death or dissolution of a licensee, the estate or agent of the licensee must provide copies of records to clients or their representative, physician, or health care provider, or publish a notice in the newspaper of greatest general circulation in the county where the provider was located, which notifies clients of the death or dissolution. The notice must advise clients that copies of their records may be obtained and must include the name, address and telephone number of the person from whom the copies may be obtained. The notice shall appear at least once a week for four consecutive weeks. Failure to comply is a second degree misdemeanor.

The bill requires that, on or before the first day of services, each licensure applicant must provide clients notice of the right to report complaints to AHCA, and to report abuse, neglect, or exploitation to the central abuse hotline. The applicant must provide notice of toll-free telephone numbers for reporting and must publish changes in toll-free telephone numbers at least 90 days

before the change occurs. A licensee must establish policies and procedures for notifying clients of the changes in toll-free telephone numbers.

The bill requires applicants to submit proof of their legal right to occupy the property. If proof of liability insurance is required, the insurance must be in compliance with chs. 624, 626, 627, or 628, F.S. The applicant must provide proof of financial ability to operate for initial licensure or change of ownership applications in accordance with authorizing statutes and applicable rules. AHCA must establish standards for determining financial ability to operate, including information concerning the applicant's controlling interests, documentation showing anticipated revenues and expenditures, the basis for financing anticipated cash-flow, and access to contingency financing. A current certificate of authority under ch. 651, F.S., may be submitted to AHCA as proof of financial ability to operate. The bill allows AHCA to require the licensee to submit proof of financial stability when evidence of financial instability exists.

The bill prohibits a controlling interest from withholding from AHCA evidence of financial instability and provides that it is a second-degree misdemeanor to do so.

The bill prohibits AHCA from issuing a license to a provider that is subject to CON review unless the licensee has obtained a CON or an exemption from CON review. Upon initial licensure, the authorization contained in the CON will be considered fully implemented and merged into the license, and the authorization in the CON will have no effect upon the termination of the license for any reason. Those health care facilities required to obtain a CON include hospitals, nursing homes, hospices, and intermediate care facilities for the developmentally disabled.

Section 408.811, F.S., authorizes AHCA to conduct inspections and investigations to determine compliance with pt. II of ch. 408, F.S., authorizing statutes and rules. The right of inspection extends to businesses AHCA believes are being operated without the appropriate license, but such inspection of a suspected unlicensed entity requires permission of the owner or person in charge unless a warrant is obtained from circuit court. An application for a license gives AHCA the right to conduct appropriate inspections in connection with the application. Inspections will be unannounced except for initial licensure inspections and inspections of birth centers, hospitals, ambulatory surgical centers, mobile surgical facilities, and clinical laboratories, as provided in s. 408.806, F.S., which is created in this bill. Re-licensure inspections must be conducted biennially unless otherwise specified in authorizing statutes or applicable rules.

The bill allows for certification inspections in lieu of complete licensure inspections. If certain licensure requirements are not included in the certification inspection, a licensure inspection may also be conducted. AHCA must have access to all required records, and the licensee must provide copies of required records to AHCA at no cost.

A licensee must maintain and make available to the public all inspection reports filed with, or issued by, any governmental agency unless those reports are exempt from, or contain information that is exempt from, s. 119.07(1), F.S., or is otherwise made confidential by law. Effective October 1, 2005, such reports must be retained in the provider's records for at least five years from the date the reports were filed and issued. At the request of any person who has completed an admissions application to the provider or anyone who is a client of the provider, a

licensee must provide that person or that person's relative, spouse, or guardian, a copy of the last inspection report issued by AHCA or an accrediting organization whichever is most recent.

Section 408.812, F.S., prohibits persons or entities from offering or advertising services that require licensure without first obtaining a valid license from AHCA. A licensee is prohibited from advertising or holding out to the public a license other than the license actually held.

The bill specifies that operating or maintaining an unlicensed provider or providing services necessitating licensure without such licensure is unlawful. Unlicensed activity constitutes harm materially affecting clients' health, safety and welfare. The bill allows AHCA, or any state attorney, to file an injunction to cease unlicensed activity, or enjoin future operation, maintenance, or provision of services until compliance with licensure requirements has been determined by AHCA.

An unlicensed provider owner or operator failing to cease operation and apply for licensure after agency notification commits a third-degree felony. Each day the provider continues to operate is a separate offense. A second or subsequent unlicensed provider violation is a second degree felony. AHCA may fine an unlicensed provider who fails to cease operation \$1,000 for each day of noncompliance.

When a licensee or controlling interest has an interest in more than one provider and fails to license any of the providers requiring licensure, AHCA can revoke all licenses, impose a moratorium, and impose fines pursuant to the authorizing statutes, until such time as the appropriate license is obtained for the unlicensed operation. In addition to an injunction, an owner of an unlicensed provider is subject to the same actions and fines imposed against a licensed provider if AHCA determines that a condition exists that poses a threat to client health, safety, or welfare. Persons aware of the operation of an unlicensed provider must report that provider and operator to AHCA.

Section 408.813, F.S., authorizes AHCA to impose an administrative fine for any violations of pt. II of ch. 408, F.S., authorizing statutes and rules. Fines may be imposed both in lieu of, and in addition to, other penalties provided for in pt. II, ch. 408, F.S. The fine amount imposed must be in accordance with authorizing statutes or applicable rules. If the fine amount is not specified in authorizing statutes or applicable rules, AHCA may establish criteria for the fine amount. Each day of violation constitutes a separate violation and is subject to a separate fine. If fines are imposed by final agency action, the violator must pay the fine plus interest for each day beyond the original date for payment.

Section 408.814, F.S., authorizes AHCA to impose an immediate moratorium or emergency suspension on a provider or licensee if conditions present a threat to clients' health, safety, or welfare. A provider whose license is denied or revoked may be subject to moratorium or emergency suspension to run concurrent with licensure denial, revocation, or injunction. A moratorium or emergency suspension will remain in effect during a change of ownership unless AHCA determines that conditions resulting in the moratorium or emergency suspension or denial have been corrected. Moratorium or emergency suspension notices must be posted and visible to the public at the provider's location until the moratorium or emergency suspension has been removed by AHCA.

Section 408.815, F.S., authorizes AHCA to deny and revoke a license or application for violations and actions by a controlling interest that includes:

- False representation, or omission of material fact in the application;
- An intentional or negligent act affecting client health, safety, or welfare;
- A violation of pt. II of ch. 408, F.S., authorizing statutes and rules;
- A pattern of deficient performance; and
- Exclusion, suspension, termination, or involuntary withdrawal of an applicant, licensee, or controlling interest from Medicaid or Medicare, or other governmental or private health care or health insurance program.

A licensee must continue to meet licensure requirements including submission of a license renewal application and fee while lawfully operating pending litigation for license denial or revocation. The bill allows AHCA to withhold final decisions on any application or request filed with AHCA pending final agency action in pending litigation.

A moratorium, emergency suspension, or license denial against a transferor may be grounds for license denial of a change of ownership to the transferee.

Section 408.816, F.S., authorizes AHCA to seek injunctive proceedings in court to restrain or prevent operation or establishment of an unlicensed provider or a provider that is in violation of regulations. AHCA may seek injunctive relief when violations result in an emergency immediately affecting clients' health, safety, or welfare. An injunction may be sought by AHCA when AHCA's imposition of administrative sanctions against the provider have failed to correct a violation or when the violation materially affects client health, safety, or welfare or involves any operation of an unlicensed provider. Injunctions may be temporary or permanent.

If action is necessary to protect clients of a provider from a life-threatening situation, the court may allow a temporary injunction without bond, upon proper proof being made.

Section 408.817, F.S., requires that administrative proceedings challenging agency actions must be reviewed on the facts and conditions resulting in agency action.

Section 408.818, F.S., requires all fees and fines collected under pt. II of ch. 408, F.S., to be deposited into the Health Care Trust Fund and used to offset agency regulatory costs, unless otherwise specified in authorizing statutes.

Section 408.819, F.S., authorizes AHCA to adopt rules to implement pt. II of ch. 408, F.S., and requires that licensed providers operating at the time of rule adoption be given reasonable time not to exceed six months after the effective date of the rule to comply with such rule, unless otherwise specified by rule.

Conforming Amendments to Related Statutes

Section 6. Amends the Drug-Free Workplace licensure requirements in s. 112.0455, F.S., to conform to the provisions of "Health Care Licensing Procedures Act" in pt. II of ch. 408, F.S.,

and deletes requirements that are now found in the “Health Care Licensing Procedures Act.” Deleted language includes background screening of owner/operator, basic grounds for agency action, and standard requirements for license renewal. Current annual fees of between \$8,000 and \$10,000 are modified to be between \$16,000 and \$20,000 for a two-year license. These providers remain exempt from the requirement to notify clients of AHCA’s complaint hotline number and the Florida Abuse Registry hotline number, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need. The bill also changes the phrase “state drug-testing program” to “drug-free workplace laboratories,” to clarify AHCA’s rulemaking authority for drug-free workplace laboratory licensure.

(Sections 7 through 16 refer to birth centers.)

Section 7. Amends birth center licensure requirements in s. 383.301, F.S., to conform to the provisions of the “Health Care Licensing Procedures Act” in pt. II of ch. 408, F.S.

Section 8. Repeals s. 383.304, F.S.; the requirements of that statute are now found in the “Health Care Licensing Procedures Act” in pt. II of ch. 408, F.S. Deleted language includes the requirement to be licensed and prohibition of unlicensed operation.

Section 9. Amends s. 383.305, F.S., removing requirements for birth center licensure and background screening requirements; those requirements are now found in the “Health Care Licensing Procedures Act” in pt. II of ch. 408, F.S. The bill authorizes licensure fee to be established by rule. These providers remain exempt from the requirements to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 10. Amends s. 383.309, F.S., to require AHCA to adopt rules to administer the “Health Care Licensing Procedures Act” in pt. II of ch. 408, F.S., in relation to birth centers. The bill deletes subsection (2) which provides existing facilities one year to meet the requirements of newly adopted rules; this standard is now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 11. Amends s. 383.315, F.S., to modify the time period for facility consultant agreements for birth centers to be consistent with the new two-year licensure period.

Section 12. Amends s. 383.324, F.S., to remove language regarding inspections and investigations of birth centers; this standard is now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 13. Repeals s. 383.325, F.S., to remove language regarding the maintaining of inspection reports, and the provision of copies in birth centers; this standard is now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 14. Amends s. 383.33, F.S., to remove language regarding penalties, emergency orders, and moratoria on admissions, and inserting references to the “Health Care Licensing Procedures

Act,” pt. II of ch. 408, F.S., in their place; these standards are now in the core licensure requirements of pt. II of ch. 408, F.S.

Section 15. Repeals ss. 383.331 and 383.332, F.S., removing language regarding agency injunctive relief and unlicensed operation of birth centers; these standards are now in the core licensure requirements of pt. II of ch. 408, F.S.

Section 16. Amends s. 383.335, F.S., inserting references to the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S., in this section which provides partial exemptions for certain facilities from birth center facility licensing requirements.

(Sections 17 through 23 refer to abortion clinics.)

Section 17. Amends s. 390.011(5), F.S., providing a cross-reference for the definition of “hospital” as used in relation to abortion clinics.

Section 18. Amends abortion clinic licensure requirements in s. 390.012, F.S., to insert references to the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S., as additional requirements regarding the development and enforcement of rules related to abortion clinics.

Section 19. Repeals s. 390.013, F.S., to delete a provision that gives existing providers one year to meet the requirements of newly adopted rules; this standard is now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 20. Amends s. 390.014, F.S., to remove language regarding licensing procedure requirements for display of a license in an abortion clinic, and inserting references to the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S.; these requirements are now in the core licensure requirements of pt. II of ch. 408, F.S. Current annual fees of between \$35 and \$250 are modified to be between \$70 and \$500 for a two-year license. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 21. Repeals ss. 390.015, 390.016, and 390.017, F.S., to remove language regarding licensing procedures for abortion clinics and suspension or revocation of abortion clinic licenses; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 22. Amends s. 390.018, F.S., to remove language regarding the agency’s imposition of penalties on facilities, and to insert references to the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S.; this standard is now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 23. Repeals ss. 390.019, and 390.021, F.S., to remove language regarding inspections and investigations of abortion clinics and agency injunctive relief regarding abortion clinics; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

(Sections 24 through 33 refer to community mental health facilities, including crisis stabilization units, short-term residential treatment units, residential treatment facilities, and residential treatment centers for children and adolescents.)

Section 24. Amends s. 394.455(13), F.S., to clarify the definition of “hospital” as used in relation to community mental health facilities.

Section 25. Amends s. 394.67(2), F.S., to delete language defining “applicant”; this definition is now in the core licensure requirements of pt. II of ch. 408, F.S. The bill adds a definition of “short-term residential treatment facility” as a program that provides an alternative to inpatient hospitalization and that provides brief, intensive services 24 hours per day, 7 days per week, for mentally ill individuals who are temporarily in need of a 24-hour-per-day structured therapeutic setting in a less restrictive, but longer-stay alternative to hospitalization.

Section 26. Amends s. 394.875, F.S., removing language regarding licensing and background screening requirements for community mental health facilities, and inserting references to the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S.; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S. The bill adds a statement that the purpose for short-term residential treatment units is to provide intense services in a 24-hour-a-day structured therapeutic setting as a less restrictive, but longer-stay alternative to hospitalization. The bill exempts hospitals licensed under ch. 395, F.S., from the licensure requirements for community mental health facilities. The bill deletes a licensure exemption for homes for special services that are licensed under ch. 400, F.S. Providers of community mental health facilities remain exempt from the requirements to provide proof of financial ability to operate, to report evidence of financial instability, and certificate of need.

Section 27. Repeals s. 394.876, F.S., to delete licensing application requirements for community mental health facilities; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 28. Amends s. 394.877, F.S., to remove language regarding licensing fees, insert references to the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S., and authorize fees to be determined by rule.

Section 29. Amends s. 394.878, F.S., to remove language regarding licensing procedures for community mental health facilities; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 30. Amends s. 394.879, F.S., to authorize AHCA to adopt rules to administer the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S., in regard to community mental health facilities.

Section 31. Amends s. 394.90, F.S., to authorize AHCA to inspect licensed community mental health facilities as required in s. 408.811, F.S., of the “Health Care Licensing Procedures Act.”

Section 32. Repeals s. 394.902, F.S., to delete procedures for denial, suspension and revocation of a community mental health facility's license; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 33. Amends s. 394.907, F.S., to replace the term "agency" with "licensee" to avoid confusion in use of the term "agency" to describe AHCA in reference to quality assurance programs of community mental health centers.

(Sections 34 through 45 refer to hospitals, ambulatory surgical centers, private review agents, and mobile surgical facilities.)

Section 34. Repeals s. 395.002(4), F.S., to delete language defining "applicant" as related to the licensure of hospitals, ambulatory surgical centers, and mobile surgical facilities; this definition is now in the core licensure requirements of pt. II of ch. 408, F.S.

Section 35. Amends s. 395.003, F.S., deleting language regarding licensing procedures for hospitals, ambulatory surgical centers, and mobile surgical facilities, and inserting references to the "Health Care Licensing Procedures Act," pt. II of ch. 408, F.S.; these standards are now in the core licensure requirements of pt. II of ch. 408, F.S. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, and the requirement to report evidence of financial instability, and ambulatory surgical centers and mobile surgical facilities remain exempt from certificate of need.

Section 36. Amends s. 395.004, F.S., to delete language regarding licensing fees for hospitals, ambulatory surgical centers and mobile surgical facilities, and to insert a reference to the "Health Care Licensing Procedures Act," pt. II of ch. 408, F.S. The bill authorizes AHCA to determine licensing fees by rule.

Section 37. Repeals s. 395.0055, F.S., to delete background screening requirements for licensed hospitals, ambulatory surgical centers, and mobile surgical facilities; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 38. Amends s. 395.0161, F.S., to delete requirements for inspections of licensed hospitals, ambulatory surgical centers, and mobile surgical facilities by AHCA; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S. The bill provides that licensure inspection and inspection fees for hospitals, ambulatory surgical centers, and mobile surgical facilities must be submitted in accordance with pt. II of ch. 408, F.S. The bill retains the fee exemption for state licensed facilities.

Section 39. Repeals s. 395.0162, F.S., to delete language regarding inspection reports for hospitals, ambulatory surgical centers, and mobile surgical facilities. This standard is now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 40. Amends s. 395.0163, F.S., to require AHCA's inspection of mobile surgical facilities to be in accordance with the requirements of s. 408.811, F.S., of the "Health Care Licensing Procedures Act." This section repeals s. 395.0163(2)(b), F.S., to delete an obsolete reference to the Planning and Regulation Trust Fund.

Section 41. Amends s. 395.0193(4), F.S., to update statutory references corresponding to the move of the Division of Medical Quality Assurance from AHCA to the Department of Health. The bill requires that final disciplinary actions of peer review panels in licensed facilities must be sent monthly to AHCA's Division of Health Quality Assurance.

The bill deletes a requirement that "the division" must review reports of disciplinary actions taken under the peer review process and determine whether the conduct described in the report could potentially be subject to disciplinary action. It is unclear whether "the division" referred to is the Division of Health Quality Assurance in AHCA or the Division of Medical Quality Assurance in the Department of Health. Therefore, it is not clear whether this deleted provision is obsolete, or whether it should remain in statute with a cross-reference to the duties of the Division of Medical Quality Assurance in the Department of Health.

Section 42. Amends s. 395.0199, F.S., removing language regarding licensing and background screening requirements for, and discipline of, utilization review agents; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S. The bill requires fees to be established by rule and retains the current maximum fee amount of \$250. These providers remain exempt from the requirement to notify clients of AHCA's complaint hotline number and the Florida Abuse Registry hotline number, the requirement to provide a fire-safety report to AHCA, the requirement for proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability, and certificate of need. These providers also remain exempt from requirements regarding right of inspection.

Section 43. Amends s. 395.1046, F.S., regarding AHCA's investigation of complaints involving hospitals, to provide a cross-reference to s. 408.811, F.S., created by this bill, which gives AHCA the right to inspect licensed facilities. The bill deletes a requirement that AHCA must inform a person or facility in writing when an investigation is undertaken unless the investigation is a criminal offense.

Section 44. Amends s. 395.1055, F.S., to require AHCA to adopt rules to implement the "Health Care Licensing Procedures Act," pt. II of ch. 408, F.S., regarding hospitals, ambulatory surgical centers and mobile surgical facilities. The bill deletes subsection (7) which provides existing facilities one year to meet the requirements of newly adopted rules; this standard is now in the core licensure requirements of pt. II of ch. 408, F.S. The bill adds, as a condition of licensure, a requirement that hospitals comply with s. 381.005(2), F.S., which requires hospitals to offer the immunization against the influenza virus and pneumococcal bacteria to all patients age 65 or older between October 1 and February 1, if the vaccinations are available.

Section 45. Amends s. 395.1065, F.S., to delete provisions regarding facility penalties, emergency orders, and moratoria on admissions for hospitals, ambulatory surgical centers, and mobile surgical facilities; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

(Sections 46 and 47 refer to risk managers.)

Section 46. Amends s. 395.10973, F.S., regarding the development and enforcement of rules related to health care risk managers, to add a cross-reference to pt. II of ch. 408, F.S., the “Health Care Licensing Procedures Act”.

Section 47. Amends s. 395.10974, F.S., to remove language regarding licensing requirements for health care risk managers and inserting references to the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S. These providers remain exempt from minimum requirements of licensure in s. 408.810, F.S., inspections in s. 408.810, F.S., , as well as physical plant requirements of zoning and fire safety.

(Sections 48 through 67 refer to nursing homes.)

Section 48. Repeals subsections (5) and (20) of s. 400.021, F.S., defining “controlling interest” and “voluntary board member”; these terms are now defined in the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S.

Section 49. Amends s. 400.022(3), F.S., regarding grounds for agency action for nursing home violations of residents’ rights under the provisions of s. 400.102, F.S., to add cross-references to s. 400.121, F.S., and pt. II of ch. 408, F.S.

Section 50. Amends s. 400.051(1)(b), F.S., to correct a cross-reference in the definition of hospital used in pt. II of ch. 408, F.S.

Section 51. Amends s. 400.062, F.S., to reference pt. II of ch. 408, F.S., which establishes the requirements for obtaining and maintaining a nursing home license. The bill establishes a biennial licensure period; current annual per bed fees of \$50 are modified to be \$100 for a two-year license, unless modified by rule. The bill deletes reference to adjustment of a per-bed licensure fee by the Consumer Price Index to cover costs of regulation. The current resident protection fee of 25 cents per bed is modified to be 50 cents per bed for a two-year license, and the current Resident Protection Fund rate of \$10 per bed is modified to be \$20 per bed for a two-year license. The bill authorizes AHCA to prorate the biennial license fee for any license issued for less than two years. The bill deletes language regarding fee deposits; display of license; and the sale, transfer, or assignment of a facility license; these standards are addressed in the “Health Care Licensing Procedures Act,” pt. II of ch. 408, F.S.

Section 52. Amends s. 400.063(1), F.S., to correct a cross-reference to s. 400.062(3), F.S, and to delete a reference to s. 400.111(1), F.S., thereby updating the list of statutes governing funds to be deposited into the Resident Protection Trust Fund.

Section 53. Amends s. 400.071, F.S., to delete sections related to the application and licensure processes, including background screening, certain documentation requirements, providing proof of property ownership or the legal right to occupy the property, and in the case of applicants offering continuing care the need to provide proof of a certificate of authority; these standards are provided in pt. II of ch. 408, F.S. The bill adds a cross-reference to the definition of controlling interests in pt. II of ch. 408, F.S.

Section 54. Repeals s. 400.0712(3), F.S., regarding the procedure for AHCA's issuance of an inactive license; this procedure is in pt. II of ch. 408, F.S.

Section 55. Amends s. 400.102, F.S., regarding grounds for action by AHCA against a nursing home licensee to delete grounds that are listed in pt. II of ch. 408, F.S. This section contains additional grounds relating to treatment of nursing home residents.

Section 56. Amends s. 400.111, F.S., regarding renewal of a license, to delete references to the expiration, revocation, non-renewal, and suspension of licenses, and the issuance of temporary licenses; these standards are in pt. II of ch. 408, F.S.

Section 57. Amends s. 400.1183(2), F.S., regarding procedures for reporting the total number of resident grievances handled by the facility, to replace the term "annually" with "at the time of relicensure" in keeping with biennial licensure required in pt. II of ch. 408, F.S. The bill deletes subsection (5) regarding the imposition of an administrative fine for noncompliance with this section; such action is already authorized under requirements for general compliance with pt. II of ch. 400, F.S.

Section 58. Amends s. 400.121, F.S., relating to AHCA's ability to deny an application, revoke or suspend a license, and impose an administrative fine, to delete failure to pay any outstanding fines assessed by final order, exclusion from the Medicare or Medicaid program and execution of a moratorium as grounds for such actions by AHCA; these standards are in pt. II of ch. 408, F.S. This section further eliminates reference to the suspension of the nursing home's management company, where one exists, and the requirement of AHCA to take the nursing home into receivership during suspension.

Section 59. Repeals s. 400.125, F.S., regarding injunctive authority; this authority is in pt. II of ch. 408, F.S.

Section 60. Amends s. 400.141(14), (15), (16), and (20), F.S., regarding the administration and management of nursing home facilities to conform a cross-reference to s. 400.071, F.S., to amendments to that section made by this bill. The bill requires reports of staff-to-resident ratios, staff turnover, and staff stability to be submitted to AHCA quarterly instead of semiannually. The bill clarifies that when a nursing home has a conditional license, the nursing home must be in compliance with staffing standards until a standard license is issued. The bill requires a nursing home to report vacant beds on the last day of the month by the 10th of the month.

Section 61. Amends s. 400.179, F.S., to delete subsections (2), (3), and (4), regarding the sale or transfer of ownership of a nursing facility; these standards are in pt. II of ch. 408, F.S. The bill deletes an obsolete reference to a 2003 collaborative study of Medicaid overpayments.

Section 62. Amends s. 400.18(1) and (4), F.S., to delete requirements for at least 90 days notification to each resident or next of kin before closing a nursing facility, and for surrender of a license to AHCA immediately upon discontinuing operation; these standards are in pt. II of ch. 408, F.S.

Section 63. Amends s. 400.19(1), (2), and (3), F.S., to delete references to AHCA’s right to enter and inspect premises; the distribution of rules promulgated by AHCA, the payment of fines in installments, and the annual license cycle; these standards are in pt. II of ch. 408, F.S. The bill eliminates AHCA’s ability to correct a Class III deficiency without an onsite visit; this is consistent with federal nursing home certification requirements.

Section 64. Amends s. 400.191, F.S., regarding the availability, distribution and posting of reports and records, to authorize AHCA to provide electronic access to inspection reports as a substitute for sending copies. In addition, the bill deletes a reference to “additional information” and specifies the publication of the Guide to Nursing Homes in Florida. The bill provides that the Guide will include any prior name a facility was known by during the previous 12-month period and the most recently available facility occupancy data. The bill reduces the time period for supplying survey and deficiency information in the Guide from the previous 45 months to 30 months. The bill replaces the reference to the Health Care Financing Administration with a generic reference to the federal government.

The bill revises requirements for AHCA’s publication of the “Nursing Home Guide Watch List” and requires the watch list to be published within the Guide to Nursing Homes. The watch list history information would be changed from the number of times a facility has appeared on a watch list to the number and percentage of days a facility had a conditional license in the past 30 months; a more accurate representation of the duration of problems. AHCA must post a copy of the Nursing Home guide on the agency’s website by the 25th of each month, and each nursing home must retrieve the most recent version of the guide from AHCA’s website. The bill requires each nursing home to submit required information electronically when such option is available.

Section 65. Amends s. 400.20, F.S., to clarify that a facility may not operate except under the supervision of a licensed nursing home administrator. This is not a new requirement. but a rewording of the current statute.

Section 66. Amends s. 400.23(2), (7), and (8), F.S., to delete a reference to the requirement that each licensee must post its license in a prominent place and to replace “annual inspection” with the word “licensure inspection”; these standards are in pt. II of ch. 408, F.S. The bill requires AHCA to adopt rules pursuant to pt. II of ch. 408, F.S., concerning evaluations, deficiencies, and licensure status.

Section 67. Repeals 400.241(1) and (2), F.S., regarding the unlawful act of operating a nursing home without a valid license and to advertise or hold out to the public that it holds a license for a facility other than that for which it actually holds a license; these standards are in pt. II of ch. 408, F.S.

(Sections 68 through 97 refer to assisted living facilities.)

Section 68. Amends s. 400.402, F.S, to repeal subsection (5), definition of applicant, which is now defined in the core licensure requirements of pt. II of ch. 408, F.S. The bill amends the definition of resident in subsection (19), to include those persons only receiving services during the day pursuant to s. 400.553(2), F.S. The bill deletes “department” and inserts “agency” for purposes of moving rule development authority from DOEA to AHCA.

Section 69. Amends s. 400.407, F.S., by deleting the requirement that an ALF must have a license to operate, certain licensure requirements, and certain fee requirements; these standards are in pt. II of ch. 408, F.S. ALFs remain exempt from certificate-of-need review.

The bill strikes “department” for purposes of rule development; this bill transfers DOEA rules for ALFs to AHCA. The bill makes AHCA rather than the department responsible for the annual extended congregate care report to the Governor and Legislature. The bill inserts a reference to s. 408.806 F.S., because that section will govern AHCA’s approval or denial of a limited nursing services (LNS) license.

Section 70. Amends s. 400.4075(1), F.S., to require that AHCA’s designation of a limited mental health (LMH) license for an ALF must be in accordance with pt. II of ch. 408, F.S. The designation must be made at the time of initial licensure or relicensure or upon request in writing by the licensee.

Section 71. Amends s. 400.408(1), F.S., to delete the prohibition of owning, operating, or maintaining an unlicensed ALF; AHCA’s authority to revoke the license, impose a moratorium, or impose fines; the provision that owners of unlicensed ALFs in which conditions exist threatening resident health, safety or welfare are subject to the same adverse actions and fines of licensed facilities; the requirement for persons to report unlicensed ALFs to AHCA; and the requirement for AHCA to provide DOEA information and referral providers a county list of licensed ALFs for persons considering placement; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 72. Amends s. 400.411, F.S., to delete certain requirements for ALF licensure applications, including personally identifying information about the applicant; proof of financial ability to operate; submission of continuing care retirement community certificate of authority; proof of liability insurance; proof of meeting community residential home requirements of ch. 419, F.S.; proof of legal right to occupy property; proof of a satisfactory fire safety inspection; and compliance with level 2 background screening for owners/operators. These standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 73. Amends s. 400.412, F.S., to delete requirements relating to the transfer of ownership of an ALF; these standards are in pt. II of ch. 408, F.S.

Section 74. Amends s. 400.414, F.S., to delete provisions governing AHCA’s ability to impose a moratorium and to suspend a license; these standards are in pt. II of ch. 408, F.S.

Section 75. Repeals s. 400.415, F.S., regarding AHCA’s ability to impose a moratorium on ALF admissions; these standards are in pt. II of ch. 408, F.S.

Section 76. Amends s. 400.417, F.S., to delete certain requirements for license renewal; these standards are in pt. II of ch. 408, F.S. The bill deletes “department” and inserts “agency” for purposes of moving rule development authority from DOEA to AHCA.

Section 77. Amends s. 400.4174, F.S., to delete requirements for level 2 background screening; these standards are now in pt. II of ch. 408, F.S.

Section 78. Amends s. 400.4176, F.S., to delete a requirement that background screening be completed on any new administrator; this standard is now addressed in pt. II of ch. 408, F.S.

Section 79. Repeals s. 400.4178(7), F.S., to delete an obsolete exemption from Alzheimer's disease training for ALFs that serve a large proportion of Optional State Supplement (OSS) residents. Training has been privatized and the exemption is not applicable to fees charged by private entities.

Section 80. Amends s. 400.418, F.S., to delete requirements relating to fees; these standards are in pt. II of ch. 408, F.S.

Section 81. Amends s. 400.419(1), F.S., to delete language regarding the payment of a fine with interest for agency actions upheld following administrative or judicial review; these standards are in pt. II of ch. 408, F.S.

Section 82. Repeals s. 400.421, F.S., regarding injunctive proceedings; these standards are in pt. II of ch. 408, F.S.

Section 83. Amends s. 400.423(10), F.S., to delete "department" and insert "agency" for purposes of moving rule development authority from DOEA to AHCA.

Section 84. Amends s. 400.424(3) and (8), F.S., to specify that fines for failure to comply with refund provisions of s. 400.424(3)(a), F.S., will not be subject to the mitigation provisions of s. 400.419(3), F.S. The bill deletes "department" and inserts "agency" for purposes of moving rule development authority from DOEA to AHCA.

Section 85. Amends s. 400.4255(3), F.S., to delete "department" and insert "agency" for purposes of moving rule development authority from DOEA to AHCA.

Section 86. Amends s. 400.4256(6), F.S., to delete "department" and insert "agency" for purposes of moving rule development authority from DOEA to AHCA.

Section 87. Amends s. 400.427(8), F.S., to delete "department" and insert "agency" for purposes of moving rule development authority from DOEA to AHCA.

Section 88. Amends s. 400.4275(4), F.S., to delete "department" and insert "agency" for purposes of moving rule development authority from DOEA to AHCA.

Section 89. Amends s. 400.431, F.S., to delete requirements regarding a facility's voluntary closure; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 90. Amends s. 400.434, F.S., to delete requirements regarding AHCA's authority for inspection; these standards are now addressed in pt. II of ch. 408, F.S.

Section 91. Repeals s. 400.435(1), F.S., regarding requirements for a facility to retain and make available to the public all inspection reports; these standards are now addressed in pt. II of ch. 408, F.S.

Section 92. Amends s. 400.441, F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA. The bill deletes requirements relating to the adoption of rules by DOEA; standards for rules required in s. 400.441, F.S., are in pt. II of ch. 408, F.S.

Section 93. Amends s. 400.442(4), F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

Section 94. Amends s. 400.444(3), F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

Section 95. Repeals s. 400.447(1), (2), and (3), F.S., and s. 400.451, F.S. to delete prohibitions against unlawful advertising and withholding evidence of financial instability, and the penalties for doing so, and the requirement that facilities be given reasonable time to comply with rules and standards; these requirements are in pt. II of ch. 408, F.S.

Section 96. Amends s. 400.452(1), F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

Section 97. Amends s. 400.454(1), F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

(Sections 98 through 105 refer to home health agencies.)

Section 98. Amends s. 400.464, F.S., to delete certain requirements for home health agency licensure; these standards are in pt. II of ch. 408, F.S. These providers remain exempt from certificate-of-need review.

Section 99. Amends s. 400.471, F.S., to delete certain requirements for home health agency licensure, including the requirement that an application be made under oath on forms provided by AHCA, proof of financial ability to operate, background screening compliance, and information on exclusions from Medicare or Medicaid; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S. Current annual fees which may not exceed \$1,000 are modified to not exceed \$2,000 for a two-year license.

Section 100. Amends s. 400.474, F.S., to delete authority for AHCA to deny, revoke or suspend a home health agency’s license or impose an administrative fine on home health agencies for specified violations; these standards are now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 101. Amends s. 400.484, F.S., to delete requirements relating to AHCA’s authority to inspect home health agencies; these standards are now in pt. II of ch. 408, F.S.

Section 102. Amends s. 400.487, F.S., by adding that physician's assistants and advanced registered nurse practitioners may sign treatment orders and review plans of care; by replacing the requirement that orders be signed within 30 days after the start of care with a requirement for signatures prior to submitting claims to a managed care organization; and by permitting the sources of payment, such as Medicare and Medicaid, to be included in the agreement instead of the method of payment.

Section 103. Amends s. 400.494, F.S., regarding confidentiality of patient information by changing the reference to the Medicaid Fraud Control Unit as being in the Office of the Attorney General and not the Department of Legal Affairs. The bill provides that this section does not apply to information requested for inspections by AHCA under s. 408.811, F.S., which is created in this bill.

Section 104. Amends s. 400.495, F.S., to delete the requirement for distribution of the central abuse hotline number and to give advance notification if the hotline number changes; these standards are in pt. II of ch. 408, F.S.

Section 105. Amends s. 400.497, F.S., to require AHCA to adopt rules to implement pt. II of ch. 408, F.S., for purposes of home health agency licensure.

(Sections 106 through 109 refer to nurse registries and homemaker services providers.)

Section 106. Amends s. 400.506, F.S., to delete requirements for licensure of nurse registries including requirements for background screening and information on any exclusions from Medicare or Medicaid and any convictions of prohibited offenses; these standards are in pt. II of ch. 408, F.S. Nurse registries remain exempt from the requirement to provide proof of right to occupy property and certificate-of-need review. Current annual fees which may not exceed \$1,000 are modified to not exceed \$2,000 for a two-year license. Fees are established by rule.

The bill deletes the requirement for monthly visits by registered nurses to patients being cared for by certified nursing assistants and home health aides and requires instead that a nurse registry must advise the patient of the availability of registered nurses to make visits to the patient's home at an additional cost.

The bill permits physician's assistants and advanced registered nurse practitioners, as well as physicians, to review and sign medical plans of treatment and prepare additional orders or changes in orders. This is similar to the amended language for home health agencies in section 107 of the bill.

The bill requires AHCA to adopt rules to implement pt. II of ch. 408, F.S., for purposes of nurse registry licensure.

(Section 107 refers to companion or homemaker services.)

Section 107. Amends s. 400.509, F.S., to delete certain requirements for registration of homemaker or companion service providers; these standards are in pt. II of ch. 408, F.S.

Companion or homemaker services providers remain exempt from the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability, and certificate-of-need review. The current annual fee of \$25 is modified to \$50 for a two-year registration.

(Sections 108 and 109 refer to home health agencies.)

Section 108. Amends s. 400.512, F.S., to delete the requirement that the administrator of each home health agency, the managing employee of each nurse registry and homemaker companion service must sign an affidavit annually that all personnel have been background screened. This is no longer necessary since all direct care staff must be screened.

Section 109. Repeals s. 400.515, F.S., regarding injunctions; this standard is in pt. II of ch. 408, F.S.

(Sections 110 through 121 refer to adult day care centers (ADCC).)

Section 110. Amends s. 400.551, F.S., by adding “licensee” to the definitions of operator and owner.

Section 111. Amends s. 400.554, F.S., to delete requirements for ADCC licensure; these standards are in pt. II of ch. 408, F.S. These providers remain exempt from certificate-of-need review.

Section 112. Amends s. 400.555, F.S., to delete requirements for applying for an ADCC license; these standards are in pt. II of ch. 408, F.S.

Section 113. Amends s. 400.556, F.S., to delete certain standards for AHCA’s denial, or revocation of an ADCC license; these standards are in pt. II of ch. 408, F.S.

Section 114. Amends s. 400.5565, F.S., to delete provisions regarding administrative fines; this standard is in pt. II of ch. 408, F.S.

Section 115. Amends s. 400.557, F.S., to delete procedures for licensure renewal; these standards are in pt. II of ch. 408, F.S.

Section 116. Amends s. 400.5572, F.S., to delete background screening requirements; these standards are in pt. II of ch. 408, F.S.

Section 117. Repeals ss. 400.5575 and 400.558, F.S., regarding disposition of fees and injunctive relief; these standards are in pt. II of ch. 408, F.S.

Section 118. Amends s. 400.559, F.S., to delete a requirement regarding an adult day care center’s voluntary closure or a change of ownership; these standards are in pt. II of ch. 408, F.S.

Section 119. Amends s. 400.56, F.S., to delete provisions regarding AHCA’s right of inspection; these standards are in pt. II of ch. 408, F.S.

Section 120. Amends s. 400.562, F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

Section 121. Repeals s. 400.564, F.S., which prohibits unlawful advertising and unlicensed activity; this standard is in pt. II of ch. 408, F.S.

(Sections 122 through 127 refer to hospices.)

Section 122. Amends s. 400.602, F.S., to delete certain requirements for hospice licensure; these standards are in pt. II of ch. 408, F.S.

Section 123. Amends s. 400.605, F.S., to require AHCA to write hospice rules in consultation with DOEA. Certain licensure application procedures are deleted; these standards are in pt. II of ch. 408, F.S.

Section 124. Amends s. 400.606, F.S., to delete certain requirements relating to licensure applications; these deleted standards are in pt. II of ch. 408, F.S.

Section 125. Amends s. 400.6065, F.S., to delete background screening requirements for hospice owners and operators; these standards are in pt. II of ch. 408, F.S.

Section 126. Amends s. 400.607, F.S., to delete certain provisions for denial or revocation of a hospice license and injunctive relief to enforce compliance; these standards are in pt. II of ch. 408, F.S.

Section 127. Amends s. 400.6095(8), F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

(Sections 128 through 135 refer to adult family-care homes.)

Section 128. Amends s. 400.617(5), F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

Section 129. Amends s. 400.619, F.S., to delete certain requirements for licensure; these standards are in pt. II of ch. 408, F.S. The current annual licensure fee of \$100 is modified to be \$200 for a two-year license. These providers remain exempt from requirements for proof of financial ability to operate, liability insurance, reporting evidence of financial instability, and certificate-of-need review.

Section 130. Amends s. 400.6194, F.S., to delete requirements for denial, revocation, or suspension of a license; these standards are in pt. II of ch. 408, F.S.

Section 131. Amends s. 400.6196, F.S., to delete provisions concerning civil penalties and moratoria on admissions; these standards are in pt. II of ch. 408, F.S.

Section 132. Amends s. 400.621, F.S., to require AHCA to consult with DOEA regarding rules for adult family-care homes. AHCA is required to adopt rules for emergencies and for do-not-resuscitate orders.

Section 133. Amends s. 400.6211(3), F.S., by deleting “department” and inserting “agency” for the development of a reasonable time period for providers to complete adult family-care home basic training.

Section 134. Repeals s. 400.622, F.S., regarding injunctive proceedings. This standard is now addressed in pt. II of ch. 408, F.S.

Section 135. Amends s. 400.625(2), F.S., to delete “department” and insert “agency” for purposes of moving rule development authority from DOEA to AHCA.

(Sections 136 and 137 refer to homes for special services and transitional living facilities.)

Section 136. Amends s. 400.801, F.S., to delete the current licensure and fee requirements for homes for special services; these standards are now addressed in pt. II of ch. 408, F.S. Current annual fees of no more than \$1,000 are modified to be no more than \$2,000 for a two-year license. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability, and certificate-of-need review.

Section 137. Amends s. 400.805, F.S., to delete current licensure and fee requirements for transitional living facilities; these standards are in pt. II of ch. 408, F.S. Current annual fees of \$2,000 per facility and \$39.25 per bed are modified to be \$4,000 per facility and \$78.50 per bed for a two-year license, unless modified by rule. These providers remain exempt from the requirement to provide proof of liability insurance, proof of financial ability to operate, the requirement to report evidence of financial instability, and certificate-of-need review.

(Sections 138 through 149 refer to prescribed pediatric extended care centers (PPEC).)

Section 138. Amends s. 400.902(4), F.S., to modify the definition of “owner or operator” to mean a licensee.

Section 139. Adds subsection (3) to s. 400.903, F.S., to require PPEC facilities to be licensed under pt. II of ch. 408, F.S. These providers are exempt from certificate-of-need review.

Section 140. Amends s. 400.905, F.S., to delete certain requirements for licensure of a PPEC facility; these standards are in pt. II of ch. 408, F.S., Current annual fees of between \$500 and \$1,500 are modified to be between \$1,000 and \$3,000 for a two-year license.

Section 141. Repeals s. 400.906, F.S., regarding initial application processing for licensure of PPEC facilities. This standard is now addressed in the core licensure requirements of pt. II of ch. 408, F.S.

Section 142. Amends s. 400.907, F.S., to delete requirements for agency investigations and inspections; these standards are in pt. II of ch. 408, F.S.

Section 143. Amends s. 400.908, F.S., to delete certain requirements for administrative fines; these standards are in pt. II of ch. 408, F.S.

Section 144. Repeals ss. 400.910 and 400.911, F.S., regarding the expiration of a license, license renewal, issuance of a conditional license, and injunction proceedings; these standards are in pt. II of ch. 408, F.S.

Section 145. Amends s. 400.912, F.S., to delete certain requirements regarding the closing of a PPEC facility; these standards are in pt. II of ch. 408, F.S.

Section 146. Repeals s. 400.913, F.S., regarding AHCA's right to enter and inspect facilities; these standards are in pt. II of ch. 408, F.S.

Section 147. Amends s. 400.914(1), F.S., to require AHCA to adopt rules pursuant to pt. II of ch. 408, F.S.

Section 148. Amends s. 400.915, F.S., to reference the requirements of pt. II of ch. 408, F.S., regarding construction and renovation of PPEC facilities.

Section 149. Repeals ss. 400.916 and 400.917, F.S., regarding prohibited acts, such as operating without a license, the subsequent penalties, and the disposition of moneys from fines and fees; these standards are in pt. II of ch. 408, F.S.

(Sections 150 through 156 refer to home medical equipment providers.)

Section 150. Amends s. 400.925, F.S., by deleting the definitions of affiliated person and applicant; in keeping with pt. II of ch. 408, F.S. Moratorium has the same meaning as in s. 408.803, F.S., except that home medical equipment sold prior to the moratorium must continue to be serviced unless deemed otherwise by AHCA.

Section 151. Amends s. 400.93, F.S., to delete requirements for the licensure of home medical equipment providers; these standards are in pt. II of ch. 408, F.S. These providers remain exempt from certificate-of-need review.

Section 152. Amends s. 400.931, F.S., to delete certain requirements for licensure of home medical equipment providers; these standards are in pt. II of ch. 408, F.S. The bill clarifies that the current surety bond may be submitted as an alternative to submitting proof of financial ability to operate as required in s. 408.810(8), F.S. Current annual licensure fees of no more than \$150 are modified to be no more than \$300 for a two-year license.

Section 153. Amends s. 400.932, F.S., to delete provisions regarding grounds for denial or revocation of a license, the issuance of emergency orders to suspend or revoke licenses, and imposing moratoria; these standards are in pt. II of ch. 408, F.S.

Section 154. Amends s. 400.933, F.S., to delete provisions for inspections and complaint investigations; these standards are in pt. II of ch. 408, F.S.

Section 155. Amends s. 400.935, F.S., to require AHCA to adopt rules to administer pt. II of ch. 408, F.S., concerning minimum standards for home medical equipment providers.

Section 156. Repeals s. 400.95, 400.953(2), 400.955(4), and 400.956, F.S., concerning requirements for notice of the central abuse toll-free telephone number; the signing of an affidavit of compliance with background screening of personnel by the general manager; and injunction proceedings; these standards are in pt. II of ch. 408, F.S.

(Sections 157 through 163 refer to intermediate care facilities for the developmentally disabled (ICF-DD).)

Section 157. Amends s. 400.960, F.S., to delete definitions of “client” and “client advocate” and to add definitions of “resident” and “resident advocate”.

Section 158. Amends s. 400.962, F.S., to delete licensure requirements for intermediate care facilities for the developmentally disabled; these standards are in pt. II of ch. 408, F.S. Current annual fees of \$117 per bed are modified to be \$234 per bed for a two-year license, unless modified by rule. The bill allows these providers to remain exempt from the requirement to provide proof of liability insurance.

Section 159. Repeals ss. 400.963 and 400.965, F.S., regarding injunctive proceedings and grounds for agency action against an ICF-DD; these standards are in pt. II of ch. 408, F.S.

Section 160. Amends s. 400.967, F.S., to require AHCA to adopt rules to administer pt. II of ch. 408, F.S., in consultation with the Agency for Persons with Disabilities. The bill adds, as a condition of licensure, that each licensee of an ICF-DD comply with s. 393.13, F.S., regarding The Bill of Rights of Persons who are Developmentally Disabled.

Section 161. Amends s. 400.968, F.S., to delete provisions regarding injunctive proceedings and imposing a moratorium on admissions when conditions in a facility present a threat to the health, safety, or welfare of the residents; these standards are in pt. II of ch. 408, F.S.

Section 162. Amends s. 400.9685, F.S., to change “client” to “resident” in keeping with changes this bill makes in definitions in s. 400.960, F.S.

Section 163. Amends s. 400.969(1), F.S., concerning the imposition of an administrative or civil penalty, to insert a reference to pt. II of ch. 408, F.S., as statutes providing grounds for such a penalty.

(Section 164 refers to health care services pools.)

Section 164. Amends s. 400.980, F.S., to delete requirements for applications for health care services pool registration; these standards are in pt. II of ch. 408, F.S. These providers remain

exempt from the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, and evidence of financial instability, and certificate-of-need review.

(Sections 165 through 172 refer to health care clinics.)

Section 165. Amends health care clinic licensure in s. 400.991, F.S., to delete requirements for health care clinic licensure; these standards are in pt. II of ch. 408, F.S. These providers remain exempt from the requirement to provide proof of right to occupy property and liability insurance, and certificate-of-need review.

Section 166. Amends s. 400.9915, F.S., to delete requirements relating to clinic inspections; these standards are in pt. II of ch. 408, F.S.

Section 167. Repeals s. 400.992, F.S., regarding license renewal, transfer of ownership, and provisional licenses; these standards are in pt. II of ch. 408, F.S.

Section 168. Amends s. 400.9925, F.S., to require AHCA to adopt rules to administer pt. II of ch. 408, F.S. concerning health care clinic licenses. The bill establishes a maximum licensure fee of \$2,000 per biennium.

Section 169. Amends s. 400.993, F.S., to delete provisions concerning unlicensed activity and penalties; these standards are in pt. II of ch. 408, F.S.

Section 170. Amends s. 400.9935, F.S., to delete requirements concerning fines, investigations and display of a clinic license; these standards are in pt. II of ch. 408, F.S.

Section 171. Repeals ss. 400.994 and 400.9945, F.S., to delete requirements for injunctions and agency administrative proceedings; these standards are in pt. II of ch. 408, F.S.

Section 172. Amends s. 400.995, F.S., to delete requirements concerning administrative fines; these standards are in pt. II of ch. 408, F.S.

Section 173. Amends s. 408.831, F.S., which currently gives AHCA authority to take action against any entity it regulates or deny any submission that requires agency review and approval for failure to pay all outstanding monies due to AHCA. The term “affiliated business entity” is added to clarify that if an affiliated entity of an applicant owes monies, an application may be denied or a license or registration revoked. The bill adds ch. 765, F.S., which governs health care advance directives, to the list of statutes over which this section prevails in the event of conflict. The bill deletes from that list ch. 381, F.S., which governs public health.

Section 174. Amends s. 440.102, F.S., to change the phrase “state drug-testing program” to “drug-free workplace laboratories,” and to require the laboratories to be licensed under pt. II of ch. 408, F.S. These providers remain exempt from the requirement to notify clients of AHCA’s complaint hotline number and the Florida Abuse Registry hotline number; to provide proof of right to occupy property, liability insurance, and financial ability to operate; the requirement to report evidence of financial instability; and certificate-of-need review.

(Sections 175 through 186 refer to clinical laboratories.)

Section 175. Amends s. 483.035, F.S., to conform to the provisions of pt. II of ch. 408, F.S. These providers remain exempt from the requirement to notify clients of AHCA's complaint hotline number and the Florida Abuse Registry hotline number; the requirement to provide proof of right to occupy property, liability insurance, and financial ability to operate; the requirement to report evidence of financial instability; and certificate-of-need review.

Section 176. Amends s. 483.051(1), F.S., to delete requirements concerning expiration of a license; these standards are in pt. II of ch. 408, F.S.

Section 177. Amends s. 483.061, F.S., to delete requirements for AHCA's inspection of clinical laboratories; these standards are in pt. II of ch. 408, F.S. The bill deletes a requirement for AHCA to inspect an out-of-state clinical laboratory and instead authorizes the agency to inspect such a lab.

Section 178. Amends s. 483.091, F.S., to delete requirements for clinical laboratory licensure; these standards are in pt. II of ch. 408, F.S.

Section 179. Amends s. 483.101, F.S., to delete requirements for clinical laboratory licensure; these standards are in pt. II of ch. 408, F.S.

Section 180. Amends s. 483.111, F.S., to provide a cross-reference to pt. II of ch. 408, F.S.

Section 181. Repeals s. 483.131, F.S., to delete a requirement for display of a license; this standard is in pt. II of ch. 408, F.S.

Section 182. Amends s. 483.172(1) and (2), F.S., regarding licensure fees; these standards are in pt. II of ch. 408, F.S. No change is made to fee amounts; fees may be modified by rule.

Section 183. Amends s. 483.201, F.S., to delete making false application as grounds for agency disciplinary action; this standard is in pt. II of ch. 408, F.S.

Section 184. Amends s. 483.221, F.S., to delete provisions relating to actions against licenses imposed by AHCA; these standards are in pt. II of ch. 408, F.S.

Section 185. Amends s. 483.23, F.S., to delete a prohibition against unlicensed activity; these standards are in pt. II of ch. 408, F.S.

Section 186. Repeals s. 483.25, F.S., to delete agency injunctive authority; these standards are in pt. II of ch. 408, F.S.

(Sections 187 through 193 refer to multiphasic health testing centers.)

Section 187. Amends s. 483.291, F.S., to delete an annual licensing requirement; standards for biennial licensure are in pt. II of ch. 408, F.S. Current annual fees of between \$300 and \$1,000 are modified to be between \$600 and \$2,000 for a two-year license.

Section 188. Amends s. 483.294, F.S., to delete requirements for inspections by AHCA; these standards are in pt. II of ch. 408, F.S. The bill retains the requirement for annual inspections.

Section 189. Amends s. 483.30, F.S., to delete requirements for licensure; these standards are in pt. II of ch. 408, F.S. These providers remain exempt from the requirement to notify clients of AHCA's complaint hotline number and the Florida Abuse Registry hotline number; the requirement to provide proof of right to occupy property, liability insurance, and financial ability to operate; the requirement to report evidence of financial instability; and certificate-of-need review.

Section 190. Amends s. 483.302, F.S., to delete requirements for licensure application information; these standards are in pt. II of ch. 408, F.S.

Section 191. Repeals s. 483.311 and 483.317(1), F.S., regarding display of license and grounds for action based on fraudulent statements; these standards are in pt. II of ch. 408, F.S.

Section 192. Amends s. 483.32, F.S., to delete requirements concerning actions against licenses; these standards are in pt. II of ch. 408, F.S.

Section 193. Repeals s. 483.322(1) and 483.328, F.S., to delete prohibitions against unlicensed activity and AHCA's injunctive authority; these standards are in pt. II of ch. 408, F.S.

(Sections 194 through 196 refer to certification of organizations engaged in the practice of cadaveric organ and tissue procurement and certification of organ procurement organizations, tissue banks and eye banks.)

Section 194. Amends s. 765.541, F.S., to add a cross-reference to pt. II of ch. 408, F.S.

Section 195. Amends s. 765.542(1), F.S., to require organ procurement organizations, tissue banks and eye banks to comply with standards addressed in the core licensure requirements of pt. II of ch. 408, F.S. These organizations remain exempt from the requirement to report complaints; provide proof of right to occupy premises; to have insurance; demonstrate proof of financial ability to operate; and certificate-of-need review.

Section 196. Amends s. 765.542, F.S., to require compliance with the standards addressed in the core licensure requirements of pt. II of ch. 408, F.S., related to fees. These fees will remain unchanged unless modified by rule.

(Sections 197 through 199 establish general provisions.)

Section 197. Provides that in case of a conflict between the provisions of pt. II of ch. 408, F.S., and the provisions of chs. 112, 383, 390, 394, 395, 400, 440, 483, or 765, F.S., the provisions of pt. II of ch. 408, F.S., will prevail. The cited chapters govern public employees and the facilities and services licensed by AHCA.

Section 198. This section transfers rules for assisted living facilities, adult family-care homes, adult day care centers, and hospice licensure from DOEA to AHCA.

Section 199. This section allows AHCA between October 1, 2005 and September 30, 2006, to issue any license for less than two years by charging a prorated fee and specifying a different renewal date. This will allow for staggering of expiration dates as providers change from annual to biennial licensure.

Section 200. Provides an effective date of October 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Licensure fees will double because license will be effective for 2 years instead of 1.

C. Government Sector Impact:

AHCA does not anticipate an immediate impact. Licensure fees may be adjusted annually based on the change in the consumer price index within existing maximum levels if increases are necessary to support the actual cost of regulation.

VI. Technical Deficiencies:

On page 214, in s. 400.494, F.S., the bill changes a reference to the Medicaid Fraud Control Unit of the Department of Legal Affairs to "Office of the Attorney General". In s. 16.59, F.S., the Medicaid Fraud Control Unit is established in the Department of Legal Affairs.

VII. Related Issues:

Under section 197 of the bill, the core licensure provisions of pt. II of ch. 408, F.S., would prevail over the provisions of ch. 112, F.S., in the event of a conflict between the two. Ch. 112, F.S., governs public officers and employees, including employment, ethics, retirement, interchange of personnel between governments, removal of public officers, the soundness of the retirement system, law enforcement and correctional officers and firefighters. The licensure of health care facilities and services should not prevail over all of ch. 112, F.S., in the event of a conflict. It is unclear what part of ch. 112, F.S., might be in conflict with the core licensure standards and why those standards should prevail in that instance.

On page 116, lines 26-29, the bill requires a nursing home to report vacant beds on the last day of the month by the 10th of the month. The bill does not specify that the report would be on the 10th day of the following month. Without this specification, the bill appears to require nursing homes to report in advance.

Section 42 of the bill deletes a requirement that “the division” must review reports of disciplinary actions taken under the peer review process and determine whether the conduct described in the report could potentially be subject to disciplinary action. It is unclear whether “the division” referred to is the Division of Health Quality Assurance in AHCA or the Division of Medical Quality Assurance in the Department of Health. Therefore, it is not clear whether this deleted provision is obsolete or whether it should remain in statute with a cross-reference to the duties of the Division of Medical Quality Assurance in the Department of Health.

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

VIII. Summary of Amendments:

Barcode 082074 by Health Care:

Removes an editorial comment regarding current licensure statutes.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
