

By the Committee on Children and Families; and Senator Saunders

586-2311-06

1 A bill to be entitled
 2 An act relating to the licensure of health care
 3 providers; amending s. 383.335, F.S.; exempting
 4 certain facilities from a provision prohibiting
 5 a birth center from providing conduction
 6 anesthesia; requiring that the Agency for
 7 Health Care Administration review patient
 8 safety data for purposes of determining the
 9 viability of statewide application of the
 10 exemption; creating parts I, II, III, and IV of
 11 ch. 408, F.S.; amending s. 408.036, F.S.;
 12 exempting a nursing home that is created by
 13 combining certain licensed beds from
 14 requirements for obtaining a certificate of
 15 need from the Agency for Health Care
 16 Administration; providing for future repeal;
 17 creating s. 408.801, F.S.; designating part II
 18 of ch. 408, F.S., consisting of ss.
 19 408.801-408.820, F.S., as the "Health Care
 20 Licensing Procedures Act"; providing
 21 legislative findings and purpose; creating s.
 22 408.802, F.S.; providing applicability;
 23 creating s. 408.803, F.S.; providing
 24 definitions; creating s. 408.804, F.S.;
 25 requiring providers to have and display a
 26 license from the Agency for Health Care
 27 Administration; providing limitations; creating
 28 s. 408.805, F.S.; establishing license fees;
 29 providing a method for calculating annual
 30 adjustment of fees; creating s. 408.806, F.S.;
 31 providing a license application process;

1 requiring specified information to be included
2 on the application; requiring payment of late
3 fees under certain circumstances; requiring
4 inspections; providing an exception;
5 authorizing the Agency for Health Care
6 Administration to establish procedures and
7 rules for the electronic transmission of
8 required information; creating s. 408.807,
9 F.S.; providing procedures for a change of
10 ownership by a licensee; requiring the
11 transferor to notify the agency in writing
12 within a specified period; providing for duties
13 and liability of the transferor; providing for
14 maintenance of records; creating s. 408.808,
15 F.S.; providing license categories and
16 requirements therefor; creating s. 408.809,
17 F.S.; requiring background screening of
18 specified employees; providing for submission
19 of proof of compliance, under certain
20 circumstances; providing conditions for
21 granting provisional and standard licenses;
22 providing an exception to screening
23 requirements; creating s. 408.810, F.S.;
24 providing minimum licensure requirements;
25 providing procedures for discontinuance of
26 operation and surrender of a license; requiring
27 forwarding of client records; requiring
28 publication of a notice of discontinuance of
29 operation by a provider; providing penalties;
30 providing for statewide toll-free telephone
31 numbers for reporting complaints and abusive,

1 neglectful, or exploitative practices;
2 requiring that a provider provide proof of a
3 legal right to occupy property, proof of
4 insurance, and proof of financial viability,
5 under certain circumstances; requiring
6 disclosure of information relating to financial
7 instability; providing a penalty; prohibiting
8 the agency from licensing a health care
9 provider that does not have a certificate of
10 need or an exemption; creating s. 408.811,
11 F.S.; providing for inspections and
12 investigations by the agency to determine
13 compliance; providing that inspection reports
14 are public records; requiring retention of
15 records for a specified period; creating s.
16 408.812, F.S.; prohibiting certain unlicensed
17 activity by a provider; requiring unlicensed
18 providers to cease activity; providing
19 penalties; requiring the reporting of
20 unlicensed providers; creating s. 408.813,
21 F.S.; authorizing the agency to impose
22 administrative fines; creating s. 408.814,
23 F.S.; providing conditions for the agency to
24 impose a moratorium or emergency suspension
25 against a provider; requiring notice; creating
26 s. 408.815, F.S.; providing grounds for denial
27 or revocation of a license or
28 change-of-ownership application; providing
29 conditions for continuing operation; exempting
30 renewal applications from provisions requiring
31 the agency to approve or deny an application

1 within a specified period, under certain
2 circumstances; creating s. 408.816, F.S.;
3 authorizing the agency to institute injunction
4 proceedings, under certain circumstances;
5 creating s. 408.817, F.S.; providing a basis
6 for review of administrative proceedings
7 challenging licensure enforcement action by the
8 agency; creating s. 408.818, F.S.; requiring
9 fees and fines related to health care licensing
10 to be deposited into the Health Care Trust
11 Fund; creating s. 408.819, F.S.; authorizing
12 the agency to adopt rules; providing a
13 timeframe for compliance; creating s. 408.820,
14 F.S.; providing exemptions from specified
15 requirements of part II of ch. 408, F.S.;
16 amending s. 400.801, F.S.; providing that the
17 definition of the term "homes for special
18 services" applies to sites licensed by the
19 agency after a certain date; amending s.
20 400.9905, F.S.; providing that the term
21 "clinic" does not include certain employee
22 stock ownership plans for purposes of the
23 Health Care Clinic Act; revising the types of
24 entities providing oncology or radiation
25 therapy services which are included within the
26 definition of the word "entities" for purposes
27 of the Health Care Clinic Act; excluding
28 certain entities providing emergency department
29 staff or anesthesia services in facilities
30 licensed under ch. 395, F.S., from the
31 definition of "clinic"; amending s. 408.831,

1 F.S.; revising provisions relating to agency
2 action to deny, suspend, or revoke a license,
3 registration, certificate, or application;
4 conforming cross-references; amending s.
5 400.991, F.S.; prohibiting licensure of health
6 care clinics when owned by specified entities
7 licensed under the insurance code; providing
8 for priority of application in case of
9 conflict; authorizing the agency to adjust
10 annual licensure fees to provide biennial
11 licensure fees; requiring the Division of
12 Statutory Revision to assist in preparing
13 conforming legislation; authorizing the agency
14 to issue licenses for less than a specified
15 time period and providing conditions therefor;
16 providing an effective date.

17

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

19

20 Section 1. Subsection (3) is added to section 383.335,
21 Florida Statutes, to read:

22 383.335 Partial exemptions.--

23 (3) Any facility that is located in trauma district
24 17, owned and operated by a board-eligible obstetrician as of
25 June 15, 2006, and subject to licensure under ss.
26 383.30-383.335 is exempt from the prohibition against
27 providing conduction anesthesia contained in s. 383.313(3) for
28 3 years. The facility must be located within 1 mile of a
29 hospital that has a neonatal intensive care unit and must have
30 a written transfer agreement with such hospital. Within the
31 first 24 months of operation, the agency shall review the

1 safety and outcome data for patients served in order to
2 determine the viability of statewide application of the
3 exemption.

4 Section 2. Part I of chapter 408, Florida Statutes,
5 consisting of sections 408.031, 408.032, 408.033, 408.034,
6 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039,
7 408.040, 408.041, 408.042, 408.043, 408.044, 408.045,
8 408.0455, 408.05, 408.061, 408.062, 408.063, 408.07, 408.08,
9 408.09, 408.10, 408.15, 408.16, 408.18, 408.185, 408.20,
10 408.301, 408.302, 408.40, 408.50, 408.70, 408.7056, 408.7057,
11 and 408.7071, Florida Statutes, is created and entitled
12 "Health Facility and Services Planning."

13 Section 3. Part II of chapter 408, Florida Statutes,
14 consisting of sections 408.801, 408.802, 408.803, 408.804,
15 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811,
16 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818,
17 408.819, 408.820, and 408.831, Florida Statutes, is created
18 and entitled "Health Care Licensing: General Provisions."

19 Section 4. Part III of chapter 408, Florida Statutes,
20 consisting of sections 408.90, 408.901, 408.902, 408.903,
21 408.904, 408.905, 408.906, 408.907, 408.908, and 408.909,
22 Florida Statutes, is created and entitled "Health Insurance
23 Access."

24 Section 5. Part IV of chapter 408, Florida Statutes,
25 consisting of sections 408.911, 408.913, 408.914, 408.915,
26 408.916, 408.917, and 408.918, Florida Statutes, is created
27 and entitled "Health and Human Services Eligibility Access
28 System."

29 Section 6. Present paragraphs (f) through (s) of
30 subsection (3) of section 408.036, Florida Statutes, are
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1 redesignated as paragraphs (g) through (t), respectively, and
2 a new paragraph (f) is added to that subsection, to read:

3 408.036 Projects subject to review; exemptions.--

4 (3) EXEMPTIONS.--Upon request, the following projects
5 are subject to exemption from the provisions of subsection
6 (1):

7 (f) For the creation of a single nursing home within a
8 district by combining licensed beds from two or more licensed
9 nursing homes within such district, regardless of subdistrict
10 boundaries, if 50 percent of the beds in the created nursing
11 home are transferred from the only nursing home in a county
12 and its utilization data demonstrate that it had an occupancy
13 rate of less than 75 percent for the 12-month period ending 90
14 days before the request for the exemption. This paragraph
15 shall be repealed upon the expiration of the moratorium
16 established in s. 651.1185(1).

17 Section 7. Sections 408.801, 408.802, 408.803,
18 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810,
19 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817,
20 408.818, 408.819, and 408.820, Florida Statutes, are created
21 to read:

22 408.801 Short title; purpose.--

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

25 (2) The Legislature finds that there is unnecessary
26 duplication and variation in the requirements for licensure by
27 the Agency for Health Care Administration. It is the intent of
28 the Legislature to provide a streamlined and consistent set of
29 basic licensing requirements for all such providers in order
30 to minimize confusion, standardize terminology, and include
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1 issues that are not otherwise adequately addressed in the
2 Florida Statutes pertaining to specific providers.

3 408.802 Applicability.--The provisions of this part
4 apply to the provision of services that require licensure as
5 defined in this part and to the following entities licensed,
6 registered, or certified by the Agency for Health Care
7 Administration, as described in chapters 112, 383, 390, 394,
8 395, 400, 440, 483, and 765:

9 (1) Laboratories authorized to perform testing under
10 the Drug-Free Workplace Act, as provided under ss. 112.0455
11 and 440.102.

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

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

14 (4) Crisis-stabilization units, as provided under
15 parts I and IV of chapter 394.

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

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

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

22 (8) Hospitals, as provided under part I of chapter
23 395.

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

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

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

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

- 1 (13) Nursing homes, as provided under part II of
2 chapter 400.
- 3 (14) Assisted living facilities, as provided under
4 part III of chapter 400.
- 5 (15) Home health agencies, as provided under part IV
6 of chapter 400.
- 7 (16) Nurse registries, as provided under part IV of
8 chapter 400.
- 9 (17) Companion services or homemaker services
10 providers, as provided under part IV of chapter 400.
- 11 (18) Adult day care centers, as provided under part V
12 of chapter 400.
- 13 (19) Hospices, as provided under part VI of chapter
14 400.
- 15 (20) Adult family-care homes, as provided under part
16 VII of chapter 400.
- 17 (21) Homes for special services, as provided under
18 part VIII of chapter 400.
- 19 (22) Transitional living facilities, as provided under
20 part VIII of chapter 400.
- 21 (23) Prescribed pediatric extended care centers, as
22 provided under part IX of chapter 400.
- 23 (24) Home medical equipment providers, as provided
24 under part X of chapter 400.
- 25 (25) Intermediate care facilities for persons with
26 developmental disabilities, as provided under part XI of
27 chapter 400.
- 28 (26) Health care services pools, as provided under
29 part XII of chapter 400.
- 30 (27) Health care clinics, as provided under part XIII
31 of chapter 400.

1 (28) Clinical laboratories, as provided under part I
2 of chapter 483.

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

5 (30) Organ and tissue procurement agencies, as
6 provided under chapter 765.

7 408.803 Definitions.--As used in this part, the term:

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

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

13 (3) "Authorizing statute" means the statute
14 authorizing the licensed operation of a provider listed in s.
15 408.802, including chapters 112, 383, 390, 394, 395, 400, 440,
16 483, and 765.

17 (4) "Certification" means certification as a Medicare
18 or Medicaid provider of the services that require licensure or
19 certification pursuant to the federal Clinical Laboratory
20 Improvement Amendment (CLIA).

21 (5) "Change of ownership" means an event in which the
22 licensee changes to a different legal entity or in which 45
23 percent or more of the ownership, voting shares, or
24 controlling interest in a corporation whose shares are not
25 publicly traded on a recognized stock exchange is transferred
26 or assigned, including the final transfer or assignment of
27 multiple transfers or assignments over a 2-year period which
28 cumulatively total 45 percent or greater. A change solely in
29 the management company or the board of directors is not a
30 change of ownership.

31

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

3 (7) "Controlling interest" means:

4 (a) The applicant or licensee;

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

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

13
14 The term does not include a voluntary board member.

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

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

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

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

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

30 (13) "Voluntary board member" means a board member of
31 a not-for-profit corporation or organization who serves solely

1 in a voluntary capacity, does not receive any remuneration for
2 his or her services on the board of directors, and has no
3 financial interest in the corporation or organization. The
4 agency shall recognize a person as a voluntary board member
5 following submission of a statement to the agency by the board
6 member and the not-for-profit corporation or organization that
7 affirms that the board member conforms to this definition. The
8 statement affirming the status of the board member must be
9 submitted to the agency on a form provided by the agency.

10 408.804 License required; display.--

11 (1) It is unlawful to provide services that require
12 licensure, or operate or maintain a provider that offers or
13 provides services that require licensure, without first
14 obtaining from the agency a license authorizing the provision
15 of such services or the operation or maintenance of such
16 provider.

17 (2) A license must be displayed in a conspicuous place
18 readily visible to clients who enter at the address that
19 appears on the license and is valid only in the hands of the
20 licensee to whom it is issued and may not be sold, assigned,
21 or otherwise transferred, voluntarily or involuntarily. The
22 license is valid only for the licensee, provider, and location
23 for which the license is issued.

24 408.805 Fees required; adjustments.--Unless otherwise
25 limited by authorizing statutes, license fees must be
26 reasonably calculated by the agency to cover its costs in
27 carrying out its responsibilities under this part, authorizing
28 statutes, and applicable rules, including the cost of
29 licensure, inspection, and the regulation of providers.

30 (1) Licensure fees shall be adjusted to provide for
31 biennial licensure under agency rules.

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

5 (3) An inspection fee must be paid as required in
6 authorizing statutes.

7 (4) Fees are nonrefundable.

8 (5) When a change is reported that requires issuance
9 of a license, a fee may be assessed. The fee must be based on
10 the actual cost of processing and issuing the license.

11 (6) A fee may be charged to a licensee requesting a
12 duplicate license. The fee may not exceed the actual cost of
13 duplication and postage.

14 (7) Total fees collected may not exceed the cost of
15 administering this part, authorizing statutes, and applicable
16 rules.

17 408.806 License application process.--

18 (1) An application for licensure must be made to the
19 agency on forms furnished by the agency, submitted under oath,
20 and accompanied by the appropriate fee in order to be accepted
21 and considered timely. The application must contain
22 information required by authorizing statutes and applicable
23 rules and must include:

24 (a) The name, address, and social security number of
25 the applicant and each controlling interest if the applicant
26 or controlling interest is an individual.

27 (b) The name, address, and federal employer
28 identification number or taxpayer identification number of the
29 applicant and each controlling interest if the applicant or
30 controlling interest is not an individual.

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

1 (d) The total number of beds or capacity requested, as
2 applicable.

3 (e) The name of the person or persons under whose
4 management or supervision the provider will be operated and
5 the name of the administrator, if required.

6 (f) If the applicant offers continuing care agreements
7 as defined in chapter 651, proof that the applicant has
8 obtained a certificate of authority as required for operation
9 under chapter 651.

10 (g) Other information, including satisfactory
11 inspection results, which the agency finds necessary to
12 determine the ability of the applicant to carry out its
13 responsibilities under this part, authorizing statutes, and
14 applicable rules.

15 (2)(a) The applicant for a renewal license must submit
16 an application that must be received by the agency at least 60
17 days before the expiration of the current license. If the
18 renewal application and fee are received before the license
19 expiration date, the license shall not be deemed to have
20 expired if the license expiration date occurs during the
21 agency's review of the renewal application.

22 (b) The applicant for initial licensure due to a
23 change of ownership must submit an application that must be
24 received by the agency at least 60 days before the date of
25 change of ownership.

26 (c) For any other application or request, the
27 applicant must submit an application or request that must be
28 received by the agency at least 60 days before the requested
29 effective date, unless otherwise specified in authorizing
30 statutes or rules.

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1 (d) The agency shall notify the licensee by mail or
2 electronically at least 90 days before the expiration of a
3 license that a renewal license is necessary to continue
4 operation. The failure to timely submit a renewal application
5 and license fee shall result in a late fee of \$50 per day
6 charged to the licensee by the agency; however, the aggregate
7 amount of the late fee may not exceed 50 percent of the
8 licensure fee or \$500, whichever is less. If a renewal
9 application is received after the required filing date and
10 exhibits a hand-canceled postmark obtained from a United
11 States Post Office dated on or before the required filing
12 date, a fine may not be levied.

13 (3)(a) Upon receipt of an application for a license,
14 the agency shall examine the application and, within 30 days
15 after receipt, notify the applicant in writing of any apparent
16 errors or omissions and request any additional information
17 required.

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

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

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

29 (b) Each license issued must indicate the name of the
30 licensee, the type of provider or service that the licensee is
31 required or authorized to operate or offer, the date the

1 license is effective, the expiration date of the license, the
2 maximum capacity of the licensed premises, if applicable, and
3 any other information required or deemed necessary by the
4 agency.

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

8 (6) The agency may not issue an initial license to a
9 health care provider subject to the certificate-of-need
10 provisions in part I of this chapter if the licensee has not
11 been issued a certificate of need or certificate-of-need
12 exemption, when applicable. Failure to apply for the renewal
13 of a license before the expiration date renders the license
14 void.

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

19 (b) An initial inspection is not required for
20 companion services or homemaker services providers, as
21 provided under part IV of chapter 400, or for health care
22 services pools, as provided under part XII of chapter 400.

23 (c) If an inspection is required by the authorizing
24 statute for a license application other than an initial
25 application, the inspection must be unannounced. This
26 paragraph does not apply to inspections required pursuant to
27 ss. 383.324, 395.0161(4), and 483.061(2).

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

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1 (8) The agency may establish procedures for the
2 electronic notification and submission of required
3 information, including, but not limited to:

4 (a) Licensure applications.

5 (b) Required signatures.

6 (c) Payment of fees.

7 (d) Notarization of applications.

8
9 Requirements for electronic submission of any documents
10 required by this part or authorizing statutes may be
11 established by rule.

12 408.807 Change of ownership.--Whenever a change of
13 ownership occurs:

14 (1) The transferor shall notify the agency in writing
15 at least 60 days before the anticipated date of the change of
16 ownership.

17 (2) The transferee shall make application to the
18 agency for a license within the timeframes required in s.
19 408.806.

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

22 (a) The lawful operation of the provider and the
23 welfare of the clients served until the date the transferee is
24 licensed by the agency.

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

28 (4) Any restriction on licensure, including a
29 conditional license existing at the time of a change of
30 ownership, shall remain in effect until the agency determines
31 that the grounds for the restriction are corrected.

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

4 (a) All client records.

5 (b) Inspection reports.

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

8 408.808 License categories.--

9 (1) STANDARD LICENSE.--A standard license may be
10 issued to an applicant at the time of initial licensure,
11 license renewal, or change of ownership. A standard license
12 shall be issued when the applicant is in compliance with all
13 statutory requirements and agency rules. Unless sooner
14 revoked, a standard license expires 2 years after the date of
15 issue.

16 (2) PROVISIONAL LICENSE.--A provisional license may be
17 issued to an applicant pursuant to s. 408.809(3). An applicant
18 against whom a proceeding denying or revoking a license is
19 pending at the time of license renewal may be issued a
20 provisional license that is effective until final action but
21 is not subject to further appeal.

22 (3) INACTIVE LICENSE.--An inactive license may be
23 issued to a health care provider subject to the
24 certificate-of-need provisions in part I of this chapter when
25 the provider is currently licensed, does not have a
26 provisional license, and will be temporarily unable to provide
27 services but is reasonably expected to resume services within
28 12 months. Such designation may be made for a period not to
29 exceed 12 months, but may be renewed by the agency for up to
30 12 additional months upon demonstration by the licensee of the
31 provider's progress toward reopening. A request by a licensee

1 for an inactive license or to extend the previously approved
2 inactive period must be submitted to the agency and must
3 include a written justification for the inactive license with
4 the beginning and ending dates of inactivity specified, a plan
5 for the transfer of any clients to other providers, and the
6 appropriate licensure fees. The agency may not accept a
7 request that is submitted after initiating closure, after any
8 suspension of service, or after notifying clients of closure
9 or suspension of service unless the action is the result of a
10 disaster at the licensed premises. For the purposes of this
11 section, the term "disaster" means a sudden emergency
12 occurrence beyond the control of the licensee, whether
13 natural, technological, or manmade, which renders the provider
14 inoperable at the premises. Upon agency approval, the provider
15 shall notify clients of any necessary discharge or transfer as
16 required by authorizing statutes or applicable rules. The
17 beginning of the inactive license period is the date the
18 provider ceases operations. The end of the inactive license
19 period shall become the license-expiration date. All licensure
20 fees must be current, must be paid in full, and may be
21 prorated. Reactivation of an inactive license requires the
22 approval of a renewal application, including payment of
23 licensure fees and agency inspections indicating compliance
24 with all requirements of this part, authorizing statutes, and
25 applicable rules.

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

29 408.809 Background screening; prohibited offenses.--

30 (1) Level 2 background screening pursuant to chapter
31 435 must be conducted through the agency for each of the

1 following persons, who shall be considered an employee for the
2 purposes of conducting screening under chapter 435:

3 (a) The licensee, if an individual.

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

6 (c) The financial officer or similarly titled
7 individual who is responsible for the financial operation of
8 the licensee or provider.

9 (d) Any person who is a controlling interest if the
10 agency has reason to believe that such person has been
11 convicted of any offense prohibited by s. 435.04. For each
12 controlling interest who has been convicted of any such
13 offense, the licensee shall submit to the agency a description
14 and explanation of the conviction at the time of license
15 application.

16 (2) Proof of compliance with level 2 screening
17 standards submitted within the previous 5 years to meet any
18 provider or professional licensure requirements of the agency,
19 the Department of Health, the Agency for Persons with
20 Disabilities, or the Department of Children and Family
21 Services satisfies the requirements of this section, if such
22 proof is accompanied, under penalty of perjury, by an
23 affidavit of compliance with the provisions of chapter 435
24 using forms provided by the agency. Proof of compliance with
25 the background screening requirements of the Department of
26 Financial Services submitted within the previous 5 years for
27 an applicant for a certificate of authority to operate a
28 continuing care retirement community under chapter 651
29 satisfies the Department of Law Enforcement and Federal Bureau
30 of Investigation portions of a level 2 background check.

1 (3) A provisional license may be granted to an
2 applicant when each individual required by this section to
3 undergo background screening has met the standards for the
4 Department of Law Enforcement background check but the agency
5 has not yet received background screening results from the
6 Federal Bureau of Investigation. A standard license may be
7 granted to the licensee upon the agency's receipt of a report
8 of the results of the Federal Bureau of Investigation
9 background screening for each individual required by this
10 section to undergo background screening which confirms that
11 all standards have been met or upon the granting of an
12 exemption from disqualification by the agency as set forth in
13 chapter 435.

14 (4) When a person is newly employed in a capacity that
15 requires screening under this section, the licensee must
16 notify the agency of the change within the time period
17 specified in the authorizing statute or rules and must submit
18 to the agency information necessary to conduct level 2
19 screening or provide evidence of compliance with background
20 screening requirements of this section. The person may serve
21 in his or her capacity pending the agency's receipt of the
22 report from the Federal Bureau of Investigation if he or she
23 has met the standards for the Department of Law Enforcement
24 background check. However, the person may not continue to
25 serve in his or her capacity if the report indicates any
26 violation of background screening standards unless an
27 exemption from disqualification has been granted by the agency
28 as set forth in chapter 435.

29 (5) Background screening is not required in order to
30 obtain a certificate of exemption issued under s. 483.106.
31

1 408.810 Minimum licensure requirements.--In addition
2 to the licensure requirements specified in this part,
3 authorizing statutes, and applicable rules, each applicant and
4 licensee must comply with the requirements of this section in
5 order to obtain and maintain a license.

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

8 (2) An applicant for licensure must provide a
9 description and explanation of any exclusions, suspensions, or
10 terminations of the applicant from the Medicare, Medicaid, or
11 federal Clinical Laboratory Improvement Amendment (CLIA)
12 programs.

13 (3) Unless otherwise specified in this part,
14 authorizing statutes, or applicable rules, any information
15 required to be reported to the agency must be submitted within
16 21 calendar days after the report period or effective date of
17 the information.

18 (4) Whenever a licensee discontinues operation of a
19 provider:

20 (a) The licensee must inform the agency not less than
21 30 days before discontinuance of operation and inform clients
22 as required by authorizing statutes. Immediately upon
23 discontinuance of operation of a provider, the licensee shall
24 surrender the license to the agency and the license shall be
25 canceled.

26 (b) The licensee shall remain responsible for
27 retaining and appropriately distributing all records within
28 the timeframes prescribed in authorizing statutes and
29 applicable rules. In addition, the licensee or, in the event
30 of death or dissolution of a licensee, the estate or agent of
31 the licensee shall:

1 1. Make arrangements to forward records for each
2 client to one of the following, based upon the client's
3 choice: the client or the client's legal representative, the
4 client's attending physician, or the health care provider
5 where the client currently receives services; or
6 2. Cause a notice to be published in the newspaper of
7 greatest general circulation in the county in which the
8 provider was located which advises clients of the
9 discontinuance of the provider operation. The notice must
10 inform clients that they may obtain copies of their records
11 and specify the name, address, and telephone number of the
12 person from whom the copies of records may be obtained. The
13 notice must appear at least once a week for 4 consecutive
14 weeks.
15 (5)(a) On or before the first day services are
16 provided to a client, a licensee must inform the client and
17 his or her immediate family or representative, if appropriate,
18 of the right to report:
19 1. Complaints. The statewide toll-free telephone
20 number for reporting complaints to the agency must be provided
21 to clients in a manner that is clearly legible and must
22 include the words: "To report a complaint regarding the
23 services you receive, please call toll-free (phone number)."
24 2. Abusive, neglectful, or exploitative practices. The
25 statewide toll-free telephone number for the central abuse
26 hotline must be provided to clients in a manner that is
27 clearly legible and must include the words: "To report abuse,
28 neglect, or exploitation, please call toll-free (phone
29 number)." The agency shall publish a minimum of a 90-day
30 advance notice of a change in the toll-free telephone numbers.
31

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

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

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

13 (8) Upon application for initial licensure or
14 change-of-ownership licensure, the applicant shall furnish
15 satisfactory proof of the applicant's financial ability to
16 operate in accordance with the requirements of this part,
17 authorizing statutes, and applicable rules. The agency shall
18 establish standards for this purpose, including information
19 concerning the applicant's controlling interests. The agency
20 shall also establish documentation requirements, to be
21 completed by each applicant, which show anticipated provider
22 revenues and expenditures, the basis for financing, the
23 anticipated cash-flow requirements of the provider, and the
24 applicant's access to contingency financing. A current
25 certificate of authority, pursuant to chapter 651, may be
26 provided as proof of financial ability to operate. The agency
27 may require a licensee to provide proof of financial ability
28 to operate at any time if there is evidence of financial
29 instability, including, but not limited to, unpaid expenses
30 necessary for the basic operations of the provider.

31

1 (9) A controlling interest may not withhold from the
2 agency any evidence of financial instability, including, but
3 not limited to, checks returned due to insufficient funds,
4 delinquent accounts, nonpayment of withholding taxes, unpaid
5 utility expenses, nonpayment for essential services, or
6 adverse court action concerning the financial viability of the
7 provider or any other provider licensed under this part which
8 is under the control of the controlling interest. Any person
9 who violates this subsection commits a misdemeanor of the
10 second degree, punishable as provided in s. 775.082 or s.
11 775.083. Each day of continuing violation is a separate
12 offense.

13 (10) The agency may not issue a license to a health
14 care provider subject to the certificate-of-need provisions in
15 part I of this chapter if the health care provider has not
16 been issued a certificate of need or an exemption. Upon
17 initial licensure of any such provider, the authorization
18 contained in the certificate of need shall be considered fully
19 implemented and merged into the license and shall have no
20 force and effect upon termination of the license for any
21 reason.

22 408.811 Right of inspection; copies; inspection
23 reports.--

24 (1) An authorized officer or employee of the agency
25 may make or cause to be made any inspection or investigation
26 deemed necessary by the agency to determine the state of
27 compliance with this part, authorizing statutes, and
28 applicable rules. The right of inspection extends to any
29 business that the agency has reason to believe is being
30 operated as a provider without a license, but inspection of
31 any business suspected of being operated without the

1 appropriate license may not be made without the permission of
2 the owner or person in charge unless a warrant is first
3 obtained from a circuit court. Any application for a license
4 issued under this part, authorizing statutes, or applicable
5 rules constitutes permission for an appropriate inspection to
6 verify the information submitted on or in connection with the
7 application.

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

10 (b) Inspections for relicensure shall be conducted
11 biennially unless otherwise specified by authorizing statutes
12 or applicable rules.

13 (2) Inspections conducted in conjunction with
14 certification may be accepted in lieu of a complete licensure
15 inspection. However, a licensure inspection may also be
16 conducted to review any licensure requirements that are not
17 also requirements for certification.

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

21 (4)(a) Each licensee shall maintain as public
22 information, available upon request, records of all inspection
23 reports pertaining to that provider which have been filed by
24 the agency unless those reports are exempt from or contain
25 information that is exempt from s. 119.07(1) and s. 24(a),
26 Art. I of the State Constitution or otherwise made
27 confidential by law. Effective October 1, 2006, copies of such
28 reports shall be retained in the records of the provider for
29 at least 3 years following the date the reports are filed and
30 issued, regardless of a change of ownership.

31

1 (b) A licensee shall, upon the request of any person
2 who has completed a written application with intent to be
3 admitted by such provider, any person who is a client of such
4 provider, or any relative, spouse, or guardian of any such
5 person, furnish to the requester a copy of the last inspection
6 report pertaining to the licensed provider which was issued by
7 the agency or by an accrediting organization if such report is
8 used in lieu of a licensure inspection.

9 408.812 Unlicensed activity.--

10 (1) A person or entity may not offer or advertise
11 services that require licensure as defined by this part,
12 authorizing statutes, or applicable rules to the public
13 without obtaining a valid license from the agency. A
14 licenseholder may not advertise or hold out to the public that
15 he or she holds a license for other than that for which he or
16 she actually holds the license.

17 (2) The operation or maintenance of an unlicensed
18 provider or the performance of any services that require
19 licensure without proper licensure is a violation of this part
20 and authorizing statutes. Unlicensed activity constitutes harm
21 that materially affects the health, safety, and welfare of
22 clients. The agency or any state attorney may, in addition to
23 other remedies provided in this part, bring an action for an
24 injunction to restrain such violation or to enjoin the future
25 operation or maintenance of the unlicensed provider or the
26 performance of any services in violation of this part and
27 authorizing statutes, until compliance with this part,
28 authorizing statutes, and agency rules has been demonstrated
29 to the satisfaction of the agency.

30 (3) It is unlawful for any person or entity to own,
31 operate, or maintain an unlicensed provider. If, after

1 receiving notification from the agency, such person or entity
2 fails to cease operation and apply for a license under this
3 part and authorizing statutes, that person or entity is
4 subject to penalties as prescribed by authorizing statutes and
5 applicable rules. Each day of continued operation is a
6 separate offense.

7 (4) Any person or entity that fails to cease operation
8 after agency notification may be fined \$1,000 for each day of
9 noncompliance.

10 (5) When a controlling interest or licensee has an
11 interest in more than one provider and fails to license a
12 provider rendering services that require licensure, the agency
13 may revoke all licenses, impose actions under s. 408.814 and a
14 fine of \$1,000 per day, unless otherwise specified by
15 authorizing statutes, against each licensee until such time as
16 the appropriate license is obtained for the unlicensed
17 operation.

18 (6) In addition to granting injunctive relief pursuant
19 to subsection (2), if the agency determines that a person or
20 entity is operating or maintaining a provider without
21 obtaining a license and determines that a condition exists
22 that poses a threat to the health, safety, or welfare of a
23 client of the provider, the person or entity is subject to the
24 same actions and fines imposed against a licensee as specified
25 in this part, authorizing statutes, and agency rules.

26 (7) Any person who is aware of the operation of an
27 unlicensed provider must report that provider to the agency.

28 408.813 Administrative fines.--As a penalty for any
29 violation of this part, authorizing statutes, or applicable
30 rules, the agency may impose an administrative fine. Unless
31 the amount or aggregate limitation of the fine is prescribed

1 by authorizing statutes or applicable rules, the agency may
2 establish criteria by rule for the amount or aggregate
3 limitation of administrative fines applicable to this part,
4 authorizing statutes, and applicable rules. Each day of
5 violation constitutes a separate violation and is subject to a
6 separate fine. For fines that are imposed by final order of
7 the agency and that are not subject to further appeal, the
8 violator shall pay the fine plus interest at the rate
9 specified in s. 55.03 for each day beyond the date set by the
10 agency for payment of the fine.

11 408.814 Moratoriums; emergency suspensions.--

12 (1) The agency may impose an immediate moratorium or
13 emergency suspension as defined in s. 120.60 on any provider
14 if the agency determines that any condition related to the
15 provider or licensee presents a threat to the health, safety,
16 or welfare of a client.

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

21 (3) A moratorium or emergency suspension remains in
22 effect after a change of ownership, unless the agency has
23 determined that the conditions that created the moratorium,
24 emergency suspension, or denial of licensure have been
25 corrected.

26 (4) When a moratorium or emergency suspension is
27 placed on a provider or licensee, notice of the action shall
28 be posted and visible to the public at the location of the
29 provider until the action is lifted.

30 408.815 License or application denial; revocation.--
31

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

6 (a) False representation of a material fact in the
7 license application or omission of any material fact from the
8 application.

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

11 (c) A violation of this part, authorizing statutes, or
12 applicable rules.

13 (d) A demonstrated pattern of deficient performance.

14 (e) The applicant, licensee, or controlling interest
15 has been or is currently excluded, suspended, terminated from
16 participation in the state Medicaid program, the Medicaid
17 program of any other state, or the Medicare program.

18 (2) If a licensee lawfully continues to operate while
19 a denial or revocation is pending in litigation, the licensee
20 must continue to meet all other requirements of this part,
21 authorizing statutes, and applicable rules and must file
22 subsequent renewal applications for licensure and pay all
23 licensure fees. The provisions of ss. 120.60(1) and
24 408.806(3)(c) do not apply to renewal applications filed
25 during the time period in which the litigation of the denial
26 or revocation is pending until that litigation is final.

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

30 408.816 Injunctions.--
31

1 (1) In addition to the other powers provided by this
2 part, authorizing statutes, and applicable rules, the agency
3 may institute injunction proceedings in a court of competent
4 jurisdiction to:

5 (a) Restrain or prevent the establishment or operation
6 of a provider that does not have a license or is in violation
7 of any provision of this part, authorizing statutes, or
8 applicable rules. The agency may also institute injunction
9 proceedings in a court of competent jurisdiction when a
10 violation of this part, authorizing statutes, or applicable
11 rules constitutes an emergency affecting the immediate health
12 and safety of a client.

13 (b) Enforce the provisions of this part, authorizing
14 statutes, or any minimum standard, rule, or order issued or
15 entered into pursuant thereto when the attempt by the agency
16 to correct a violation through administrative sanctions has
17 failed or when the violation materially affects the health,
18 safety, or welfare of clients or involves any operation of an
19 unlicensed provider.

20 (c) Terminate the operation of a provider when a
21 violation of any provision of this part, authorizing statutes,
22 or any rule adopted pursuant thereto exists which materially
23 affects the health, safety, or welfare of a client.

24
25 Such injunctive relief may be temporary or permanent.

26 (2) If action is necessary to protect clients of
27 providers from immediate, life-threatening situations, the
28 court may allow a temporary injunction without bond upon
29 proper proof being made. If it appears by competent evidence
30 or a sworn, substantiated affidavit that a temporary
31 injunction should be issued, the court, pending the

1 determination on final hearing, shall enjoin the operation of
2 the provider.

3 408.817 Administrative proceedings.--Administrative
4 proceedings challenging licensure-enforcement action by the
5 agency shall be reviewed on the basis of the facts and
6 conditions that resulted in the agency action.

7 408.818 Health Care Trust Fund.--Unless otherwise
8 prescribed by authorizing statutes, all fees and fines
9 collected under this part, authorizing statutes, and
10 applicable rules shall be deposited into the Health Care Trust
11 Fund, created in s. 408.16, and used to pay the costs of the
12 agency in administering the provider program paying the fees
13 or fines.

14 408.819 Rules.--The agency may adopt rules as
15 necessary to administer this part. Any licensed provider that
16 is in operation at the time of adoption of any applicable rule
17 under this part or authorizing statutes shall be given a
18 reasonable time under the particular circumstances, not to
19 exceed 6 months after the date of such adoption, within which
20 to comply with such rule, unless otherwise specified by rule.

21 408.820 Exemptions.--Except as prescribed in
22 authorizing statutes, the following exemptions shall apply to
23 specified requirements of this part:

24 (1) Laboratories authorized to perform testing under
25 the Drug-Free Workplace Act, as provided under ss. 112.0455
26 and 440.102, are exempt from s. 408.810(5)-(10).

27 (2) Birth centers, as provided under chapter 383, are
28 exempt from s. 408.810(7)-(10).

29 (3) Abortion clinics, as provided under chapter 390,
30 are exempt from s. 408.810(7)-(10).

31

1 (4) Crisis-stabilization units, as provided under
2 parts I and IV of chapter 394, are exempt from s.
3 408.810(8)-(10).

4 (5) Short-term residential treatment facilities, as
5 provided under parts I and IV of chapter 394, are exempt from
6 s. 408.810(8)-(10).

7 (6) Residential treatment facilities, as provided
8 under part IV of chapter 394, are exempt from s.
9 408.810(8)-(10).

10 (7) Residential treatment centers for children and
11 adolescents, as provided under part IV of chapter 394, are
12 exempt from s. 408.810(8)-(10).

13 (8) Hospitals, as provided under part I of chapter
14 395, are exempt from s. 408.810(7)-(9).

15 (9) Ambulatory surgical centers, as provided under
16 part I of chapter 395, are exempt from s. 408.810(7)-(10).

17 (10) Mobile surgical facilities, as provided under
18 part I of chapter 395, are exempt from s. 408.810(7)-(10).

19 (11) Private review agents, as provided under part I
20 of chapter 395, are exempt from ss. 408.806(7), 408.810, and
21 408.811.

22 (12) Health care risk managers, as provided under part
23 I of chapter 395, are exempt from ss. 408.806(7), 408.810,
24 408.811.

25 (13) Nursing homes, as provided under part II of
26 chapter 400, are exempt from s. 408.810(7).

27 (14) Assisted living facilities, as provided under
28 part III of chapter 400, are exempt from s. 408.810(10).

29 (15) Home health agencies, as provided under part IV
30 of chapter 400, are exempt from s. 408.810(10).

31

- 1 (16) Nurse registries, as provided under part IV of
2 chapter 400, are exempt from s. 408.810(6) and (10).
- 3 (17) Companion services or homemaker services
4 providers, as provided under part IV of chapter 400, are
5 exempt from s. 408.810(6)-(10).
- 6 (18) Adult day care centers, as provided under part V
7 of chapter 400, are exempt from s. 408.810(10).
- 8 (19) Adult family-care homes, as provided under part
9 VII of chapter 400, are exempt from s. 408.810(7)-(10).
- 10 (20) Homes for special services, as provided under
11 part VIII of chapter 400, are exempt from s. 408.810(7)-(10).
- 12 (21) Transitional living facilities, as provided under
13 part VIII of chapter 400, are exempt from s. 408.810(7)-(10).
- 14 (22) Prescribed pediatric extended care centers, as
15 provided under part IX of chapter 400, are exempt from s.
16 408.810(10).
- 17 (23) Home medical equipment providers, as provided
18 under part X of chapter 400, are exempt from s. 408.810(10).
- 19 (24) Intermediate care facilities for persons with
20 developmental disabilities, as provided under part XI of
21 chapter 400, are exempt from s. 408.810(7).
- 22 (25) Health care services pools, as provided under
23 part XII of chapter 400, are exempt from s. 408.810(6)-(10).
- 24 (26) Health care clinics, as provided under part XIII
25 of chapter 400, are exempt from ss. 408.809 and 408.810(1),
26 (6), (7) and (10).
- 27 (27) Clinical laboratories, as provided under part I
28 of chapter 483, are exempt from s. 408.810(5)-(10).
- 29 (28) Multiphasic health testing centers, as provided
30 under part II of chapter 483, are exempt from s.
31 408.810(5)-(10).

1 (29) Organ and tissue procurement agencies, as
2 provided under chapter 765, are exempt from s.
3 408.810(5)-(10).

4 Section 8. Paragraph (b) of subsection (1) of section
5 400.801, Florida Statutes, is amended to read:

6 400.801 Homes for special services.--

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

8 (b) "Home for special services" means a site licensed
9 by the agency before January 1, 2006, where specialized health
10 care services are provided, including personal and custodial
11 care, but not continuous nursing services.

12 Section 9. Paragraphs (e) and (i) of subsection (4) of
13 section 400.9905, Florida Statutes, are amended, and paragraph
14 (k) is added to that subsection, to read:

15 400.9905 Definitions.--

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

22 (e) An entity that is exempt from federal taxation
23 under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), an employee
24 stock ownership plan under 26 U.S.C. s. 409 having a board of
25 trustees of which no fewer than two-thirds are
26 Florida-licensed health care practitioners and providing only
27 physical therapy services under physician orders, any
28 community college or university clinic, and any entity owned
29 or operated by the federal or state government, including
30 agencies, subdivisions, or municipalities thereof.

31

1 (i) Entities that provide ~~only~~ oncology or radiation
2 therapy services by physicians licensed under chapter 458 or
3 chapter 459.

4 (k) Entities that provide licensed practitioners to
5 staff emergency departments or to deliver anesthesia services
6 in facilities licensed under chapter 395 and that derive at
7 least 90 percent of their gross annual revenues from the
8 provision of such services. Entities claiming exemption from
9 licensure under this paragraph must provide documentation
10 demonstrating compliance.

11 Section 10. Subsections (1) and (3) of section
12 408.831, Florida Statutes, are amended to read:

13 408.831 Denial, suspension, or revocation of a
14 license, registration, certificate, or application.--

15 (1) In addition to any other remedies provided by law,
16 the agency may deny each application or suspend or revoke each
17 license, registration, or certificate of entities regulated or
18 licensed by it:

19 (a) If the applicant, licensee, or a licensee subject
20 to this part which shares a common controlling interest with
21 the applicant registrant, or certificateholder, or, in the
22 case of a corporation, partnership, or other business entity,
23 if any officer, director, agent, or managing employee of that
24 business entity or any affiliated person, partner, or
25 shareholder having an ownership interest equal to 5 percent or
26 greater in that business entity, has failed to pay all
27 outstanding fines, liens, or overpayments assessed by final
28 order of the agency or final order of the Centers for Medicare
29 and Medicaid Services, not subject to further appeal, unless a
30 repayment plan is approved by the agency; or

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

1 (3) This section provides standards of enforcement
2 applicable to all entities licensed or regulated by the Agency
3 for Health Care Administration. This section controls over any
4 conflicting provisions of chapters 39, ~~381~~, 383, 390, 391,
5 ~~393~~, 394, 395, 400, 408, 468, 483, and 765 ~~641~~ or rules
6 adopted pursuant to those chapters.

7 Section 11. Subsection (10) is added to section
8 400.991, Florida Statutes, to read:

9 400.991 License requirements; background screenings;
10 prohibitions.--

11 (10) A license may not be granted to a clinic if it is
12 owned by an entity licensed under chapter 627 or chapter 641.

13 Section 12. In case of conflict between the provisions
14 of part II of chapter 408, Florida Statutes, and the
15 authorizing statutes governing the licensure of health care
16 providers by the Agency for Health Care Administration found
17 in s. 112.0455, chapter 383, chapter 390, chapter 394, chapter
18 395, chapter 400, chapter 440, chapter 483, and chapter 765,
19 Florida Statutes, the provisions of part II of chapter 408,
20 Florida Statutes, shall prevail.

21 Section 13. All provisions that apply to the entities
22 specified in s. 408.802, Florida Statutes, as created by this
23 act, in effect on October 1, 2006, which provides for annual
24 licensure fees are adjusted to provide for biennial licensure
25 fees with a corresponding doubling of the amount.

26 Section 14. The Legislature recognizes that there is a
27 need to conform the Florida Statutes to the policy decisions
28 reflected in this act and that there may be a need to resolve
29 apparent conflicts between authorizing statutes or any other
30 legislation that has been or may be enacted during 2006 and
31 the creation by this act of parts I, II, III, and IV of

1 chapter 408, Florida Statutes. Therefore, in the interim
2 between this act becoming a law and the 2007 Regular Session
3 of the Legislature or an earlier special session addressing
4 this issue, the Division of Statutory Revision shall provide
5 the relevant substantive committees of the Senate and the
6 House of Representatives with assistance, upon request, to
7 enable such committees to prepare draft legislation to conform
8 the Florida Statutes and any legislation enacted during 2006
9 to the provisions of this act.

10 Section 15. For the purpose of staggering license
11 expiration dates, the Agency for Health Care Administration
12 may issue a license for less than a 2-year period to those
13 providers making the transition from annual to biennial
14 licensure as authorized in this act. The agency shall charge a
15 prorated licensure fee for this shortened period. This
16 authority shall expire September 30, 2008.

17 Section 16. This act shall take effect October 1,
18 2006.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2214

Provides an exemption from the prohibition against use of conduction anesthesia in birth centers for a period of three years to a specific birthing center meeting certain criteria. The Agency for Health Care Administration is directed to review the safety and outcome data for patients served at this center to determine the viability of extending the exemption statewide.

Provides a certificate-of-need exemption for the creation of a single nursing home under specific circumstances. This exemption ends upon the expiration of the nursing home certificate-of-need moratorium.

Exempts from definition of a health clinic certain entities that provide physical therapy services under physician orders and entities that provide licensed practitioners to staff emergency departments or deliver anesthesia services in facilities licensed under chapter 395. Documentation demonstrating compliance with this requirement must be provided to the agency. A requirement that an exempt entity provide only oncology or radiation therapy services is also deleted.

Prohibits the granting of a health care clinic license to an entity owned by an insurance entity regulated by chapter 627 or 641, F.S.