

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

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

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

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

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

55 | 408.814, F.S.; providing conditions for the agency to  
56 | impose a moratorium or emergency suspension on a provider;  
57 | requiring notice; creating s. 408.815, F.S.; providing  
58 | grounds for denial or revocation of a license or change-  
59 | of-ownership application; providing conditions to continue  
60 | operation; exempting renewal applications from provisions  
61 | requiring the agency to approve or deny an application  
62 | within a specified period of time, under certain  
63 | circumstances; creating s. 408.816, F.S.; authorizing the  
64 | agency to institute injunction proceedings, under certain  
65 | circumstances; creating s. 408.817, F.S.; providing basis  
66 | for review of administrative proceedings challenging  
67 | agency licensure enforcement action; creating s. 408.818,  
68 | F.S.; requiring fees and fines related to health care  
69 | licensing to be deposited into the Health Care Trust Fund;  
70 | creating s. 408.819, F.S.; authorizing the agency to adopt  
71 | rules; providing a timeframe for compliance; creating s.  
72 | 408.820, F.S.; providing exemptions from specified  
73 | requirements of pt. II of ch. 408, F.S.; amending s.  
74 | 400.801, F.S.; providing that the definition of homes for  
75 | special services applies to sites licensed by the agency  
76 | after a certain date; amending s. 400.9905, F.S.;  
77 | excluding certain entities from the definition of  
78 | "clinic"; amending s. 408.036, F.S.; exempting a nursing  
79 | home created by combining certain licensed beds from  
80 | requirements for obtaining a certificate of need from the  
81 | agency; providing for future repeal; amending s. 408.831,

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

82 F.S.; revising provisions relating to agency action to  
 83 deny, suspend, or revoke a license, registration,  
 84 certificate, or application; conforming cross-references;  
 85 providing for priority of application in case of conflict;  
 86 authorizing the agency to adjust annual licensure fees to  
 87 provide biennial licensure fees; requesting interim  
 88 assistance of the Division of Statutory Revision to  
 89 prepare conforming legislation for the 2007 Regular  
 90 Session; authorizing the agency to issue licenses for less  
 91 than a specified time period and providing conditions  
 92 therefor; amending s. 395.4001, F.S.; providing  
 93 definitions; repealing s. 395.4035, F.S., to terminate the  
 94 Trauma Services Trust Fund; amending s. 395.4036, F.S.;  
 95 revising provisions relating to distribution of funds to  
 96 trauma centers and use thereof; creating s. 395.41, F.S.;  
 97 establishing a trauma center startup grant program;  
 98 providing conditions for the receipt of a startup grant;  
 99 providing limitations; making the trauma center startup  
 100 grant program subject to an appropriation in the General  
 101 Appropriations Act; providing effective dates. providing  
 102 an effective date.

103  
 104 Be It Enacted by the Legislature of the State of Florida:  
 105

106 Section 1. Part I of chapter 408, Florida Statutes,  
 107 consisting of sections 408.031, 408.032, 408.033, 408.034,  
 108 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039, 408.040,

ENROLLED

HB 7141, Engrossed 2

2006 Legislature

109 408.041, 408.042, 408.043, 408.044, 408.045, 408.0455, 408.05,  
 110 408.061, 408.062, 408.063, 408.07, 408.08, 408.09, 408.10,  
 111 408.15, 408.16, 408.18, 408.185, 408.20, 408.301, 408.302,  
 112 408.40, 408.50, 408.70, 408.7056, 408.7057, and 408.7071,  
 113 Florida Statutes, is created and entitled "Health Facility and  
 114 Services Planning."

115 Section 2. Part II of chapter 408, Florida Statutes,  
 116 consisting of sections 408.801, 408.802, 408.803, 408.804,  
 117 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811,  
 118 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818,  
 119 408.819, 408.820, and 408.831, Florida Statutes, is created and  
 120 entitled "Health Care Licensing: General Provisions."

121 Section 3. Part III of chapter 408, Florida Statutes,  
 122 consisting of sections 408.90, 408.901, 408.902, 408.903,  
 123 408.904, 408.905, 408.906, 408.907, 408.908, and 408.909,  
 124 Florida Statutes, is created and entitled "Health Insurance  
 125 Access."

126 Section 4. Part IV of chapter 408, Florida Statutes,  
 127 consisting of sections 408.911, 408.913, 408.914, 408.915,  
 128 408.916, 408.917, and 408.918, Florida Statutes, is created and  
 129 entitled "Health and Human Services Eligibility Access System."

130 Section 5. Sections 408.801, 408.802, 408.803, 408.804,  
 131 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811,  
 132 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818,  
 133 408.819, and 408.820, Florida Statutes, are created to read:

134 408.801 Short title; purpose.--

135 (1) This part may be cited as the "Health Care Licensing

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

136 Procedures Act."

137 (2) The Legislature finds that there is unnecessary  
 138 duplication and variation in the requirements for licensure by  
 139 the agency. It is the intent of the Legislature to provide a  
 140 streamlined and consistent set of basic licensing requirements  
 141 for all such providers in order to minimize confusion,  
 142 standardize terminology, and include issues that are otherwise  
 143 not adequately addressed in the Florida Statutes pertaining to  
 144 specific providers.

145 408.802 Applicability.--The provisions of this part apply  
 146 to the provision of services that require licensure as defined  
 147 in this part and to the following entities licensed, registered,  
 148 or certified by the agency, as described in chapters 112, 383,  
 149 390, 394, 395, 400, 440, 483, and 765:

150 (1) Laboratories authorized to perform testing under the  
 151 Drug-Free Workplace Act, as provided under ss. 112.0455 and  
 152 440.102.

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

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

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

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

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

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

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

- 163        (8) Hospitals, as provided under part I of chapter 395.
- 164        (9) Ambulatory surgical centers, as provided under part I
- 165 of chapter 395.
- 166        (10) Mobile surgical facilities, as provided under part I
- 167 of chapter 395.
- 168        (11) Private review agents, as provided under part I of
- 169 chapter 395.
- 170        (12) Health care risk managers, as provided under part I
- 171 of chapter 395.
- 172        (13) Nursing homes, as provided under part II of chapter
- 173 400.
- 174        (14) Assisted living facilities, as provided under part
- 175 III of chapter 400.
- 176        (15) Home health agencies, as provided under part IV of
- 177 chapter 400.
- 178        (16) Nurse registries, as provided under part IV of
- 179 chapter 400.
- 180        (17) Companion services or homemaker services providers,
- 181 as provided under part IV of chapter 400.
- 182        (18) Adult day care centers, as provided under part V of
- 183 chapter 400.
- 184        (19) Hospices, as provided under part VI of chapter 400.
- 185        (20) Adult family-care homes, as provided under part VII
- 186 of chapter 400.
- 187        (21) Homes for special services, as provided under part
- 188 VIII of chapter 400.
- 189        (22) Transitional living facilities, as provided under

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

190 part VIII of chapter 400.  
 191 (23) Prescribed pediatric extended care centers, as  
 192 provided under part IX of chapter 400.  
 193 (24) Home medical equipment providers, as provided under  
 194 part X of chapter 400.  
 195 (25) Intermediate care facilities for persons with  
 196 developmental disabilities, as provided under part XI of chapter  
 197 400.  
 198 (26) Health care services pools, as provided under part  
 199 XII of chapter 400.  
 200 (27) Health care clinics, as provided under part XIII of  
 201 chapter 400.  
 202 (28) Clinical laboratories, as provided under part I of  
 203 chapter 483.  
 204 (29) Multiphasic health testing centers, as provided under  
 205 part II of chapter 483.  
 206 (30) Organ and tissue procurement agencies, as provided  
 207 under chapter 765.  
 208 408.803 Definitions.--As used in this part, the term:  
 209 (1) "Agency" means the Agency for Health Care  
 210 Administration, which is the licensing agency under this part.  
 211 (2) "Applicant" means an individual, corporation,  
 212 partnership, firm, association, or governmental entity that  
 213 submits an application for a license to the agency.  
 214 (3) "Authorizing statute" means the statute authorizing  
 215 the licensed operation of a provider listed in s. 408.802 and  
 216 includes chapters 112, 383, 390, 394, 395, 400, 440, 483, and



ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

217 765.  
 218 (4) "Certification" means certification as a Medicare or  
 219 Medicaid provider of the services that require licensure, or  
 220 certification pursuant to the federal Clinical Laboratory  
 221 Improvement Amendment (CLIA).  
 222 (5) "Change of ownership" means an event in which the  
 223 licensee changes to a different legal entity or in which 45  
 224 percent or more of the ownership, voting shares, or controlling  
 225 interest in a corporation whose shares are not publicly traded  
 226 on a recognized stock exchange is transferred or assigned,  
 227 including the final transfer or assignment of multiple transfers  
 228 or assignments over a 2-year period that cumulatively total 45  
 229 percent or greater. A change solely in the management company or  
 230 board of directors is not a change of ownership.  
 231 (6) "Client" means any person receiving services from a  
 232 provider listed in s. 408.802.  
 233 (7) "Controlling interest" means:  
 234 (a) The applicant or licensee;  
 235 (b) A person or entity that serves as an officer of, is on  
 236 the board of directors of, or has a 5-percent or greater  
 237 ownership interest in the applicant or licensee; or  
 238 (c) A person or entity that serves as an officer of, is on  
 239 the board of directors of, or has a 5-percent or greater  
 240 ownership interest in the management company or other entity,  
 241 related or unrelated, with which the applicant or licensee  
 242 contracts to manage the provider.  
 243

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

244 The term does not include a voluntary board member.

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

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

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

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

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

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

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

271           408.804 License required; display.--  
 272           (1) It is unlawful to provide services that require  
 273 licensure, or operate or maintain a provider that offers or  
 274 provides services that require licensure, without first  
 275 obtaining from the agency a license authorizing the provision of  
 276 such services or the operation or maintenance of such provider.  
 277           (2) A license must be displayed in a conspicuous place  
 278 readily visible to clients who enter at the address that appears  
 279 on the license and is valid only in the hands of the licensee to  
 280 whom it is issued and may not be sold, assigned, or otherwise  
 281 transferred, voluntarily or involuntarily. The license is valid  
 282 only for the licensee, provider, and location for which the  
 283 license is issued.  
 284           408.805 Fees required; adjustments.--Unless otherwise  
 285 limited by authorizing statutes, license fees must be reasonably  
 286 calculated by the agency to cover its costs in carrying out its  
 287 responsibilities under this part, authorizing statutes, and  
 288 applicable rules, including the cost of licensure, inspection,  
 289 and regulation of providers.  
 290           (1) Licensure fees shall be adjusted to provide for  
 291 biennial licensure under agency rules.  
 292           (2) The agency shall annually adjust licensure fees,  
 293 including fees paid per bed, by not more than the change in the  
 294 Consumer Price Index based on the 12 months immediately  
 295 preceding the increase.  
 296           (3) An inspection fee must be paid as required in  
 297 authorizing statutes.

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

298           (4) Fees are nonrefundable.  
 299           (5) When a change is reported that requires issuance of a  
 300 license, a fee may be assessed. The fee must be based on the  
 301 actual cost of processing and issuing the license.

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

305           (7) Total fees collected may not exceed the cost of  
 306 administering this part, authorizing statutes, and applicable  
 307 rules.

308           408.806 License application process.--

309           (1) An application for licensure must be made to the  
 310 agency on forms furnished by the agency, submitted under oath,  
 311 and accompanied by the appropriate fee in order to be accepted  
 312 and considered timely. The application must contain information  
 313 required by authorizing statutes and applicable rules and must  
 314 include:

315           (a) The name, address, and social security number of the  
 316 applicant and each controlling interest if the applicant or  
 317 controlling interest is an individual.

318           (b) The name, address, and federal employer identification  
 319 number or taxpayer identification number of the applicant and  
 320 each controlling interest if the applicant or controlling  
 321 interest is not an individual.

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

323           (d) The total number of beds or capacity requested, as  
 324 applicable.

325           (e) The name of the person or persons under whose

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

326 management or supervision the provider will operate and the name  
327 of the administrator, if required.

328 (f) If the applicant offers continuing care agreements as  
329 defined in chapter 651, proof shall be furnished that the  
330 applicant has obtained a certificate of authority as required  
331 for operation under chapter 651.

332 (g) Other information, including satisfactory inspection  
333 results, that the agency finds necessary to determine the  
334 ability of the applicant to carry out its responsibilities under  
335 this part, authorizing statutes, and applicable rules.

336 (2) (a) The applicant for a renewal license must submit an  
337 application that must be received by the agency at least 60 days  
338 prior to the expiration of the current license. If the renewal  
339 application and fee are received prior to the license expiration  
340 date, the license shall not be deemed to have expired if the  
341 license expiration date occurs during the agency's review of the  
342 renewal application.

343 (b) The applicant for initial licensure due to a change of  
344 ownership must submit an application that must be received by  
345 the agency at least 60 days prior to the date of change of  
346 ownership.

347 (c) For any other application or request, the applicant  
348 must submit an application or request that must be received by  
349 the agency at least 60 days prior to the requested effective  
350 date, unless otherwise specified in authorizing statutes or  
351 applicable rules.

352 (d) The agency shall notify the licensee by mail or

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

353 electronically at least 90 days prior to the expiration of a  
354 license that a renewal license is necessary to continue  
355 operation. The failure to timely submit a renewal application  
356 and license fee shall result in a \$50 per day late fee charged  
357 to the licensee by the agency; however, the aggregate amount of  
358 the late fee may not exceed 50 percent of the licensure fee or  
359 \$500, whichever is less. If an application is received after the  
360 required filing date and exhibits a hand-canceled postmark  
361 obtained from a United States post office dated on or before the  
362 required filing date, no fine will be levied.

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

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

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

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

378 (b) Each license issued shall indicate the name of the  
379 licensee, the type of provider or service that the licensee is

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

380 required or authorized to operate or offer, the date the license  
381 is effective, the expiration date of the license, the maximum  
382 capacity of the licensed premises, if applicable, and any other  
383 information required or deemed necessary by the agency.

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

387 (6) The agency may not issue an initial license to a  
388 health care provider subject to the certificate-of-need  
389 provisions in part I of this chapter if the licensee has not  
390 been issued a certificate of need or certificate-of-need  
391 exemption, when applicable. Failure to apply for the renewal of  
392 a license prior to the expiration date renders the license void.

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

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

401 (c) If an inspection is required by the authorizing  
402 statute for a license application other than an initial  
403 application, the inspection must be unannounced. This paragraph  
404 does not apply to inspections required pursuant to ss. 383.324,  
405 395.0161(4), and 483.061(2).

406 (d) If a provider is not available when an inspection is

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

407 attempted, the application shall be denied.

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

411 (a) Licensure applications.

412 (b) Required signatures.

413 (c) Payment of fees.

414 (d) Notarization of applications.

415

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

418 408.807 Change of ownership.--Whenever a change of  
419 ownership occurs:

420 (1) The transferor shall notify the agency in writing at  
421 least 60 days before the anticipated date of the change of  
422 ownership.

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

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

426 (a) The lawful operation of the provider and the welfare  
427 of the clients served until the date the transferee is licensed  
428 by the agency.

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

431 (4) Any restriction on licensure, including a conditional  
432 license existing at the time of a change of ownership, shall  
433 remain in effect until the agency determines that the grounds



## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

434 for the restriction are corrected.

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

438 (a) All client records.

439 (b) Inspection reports.

440 (c) All records required to be maintained pursuant to s.  
441 409.913, if applicable.

442 408.808 License categories.--

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

449 (2) PROVISIONAL LICENSE.--A provisional license may be  
450 issued to an applicant pursuant to s. 408.809(3). An applicant  
451 against whom a proceeding denying or revoking a license is  
452 pending at the time of license renewal may be issued a  
453 provisional license effective until final action not subject to  
454 further appeal.

455 (3) INACTIVE LICENSE.--An inactive license may be issued  
456 to a health care provider subject to the certificate-of-need  
457 provisions in part I of this chapter when the provider is  
458 currently licensed, does not have a provisional license, and  
459 will be temporarily unable to provide services but is reasonably  
460 expected to resume services within 12 months. Such designation

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

461 may be made for a period not to exceed 12 months but may be  
462 renewed by the agency for up to 12 additional months upon  
463 demonstration by the licensee of the provider's progress toward  
464 reopening. A request by a licensee for an inactive license or to  
465 extend the previously approved inactive period must be submitted  
466 to the agency and must include a written justification for the  
467 inactive license with the beginning and ending dates of  
468 inactivity specified, a plan for the transfer of any clients to  
469 other providers, and the appropriate licensure fees. The agency  
470 may not accept a request that is submitted after initiating  
471 closure, after any suspension of service, or after notifying  
472 clients of closure or suspension of service, unless the action  
473 is a result of a disaster at the licensed premises. For the  
474 purposes of this section, the term "disaster" means a sudden  
475 emergency occurrence beyond the control of the licensee, whether  
476 natural, technological, or manmade, which renders the provider  
477 inoperable at the premises. Upon agency approval, the provider  
478 shall notify clients of any necessary discharge or transfer as  
479 required by authorizing statutes or applicable rules. The  
480 beginning of the inactive license period is the date the  
481 provider ceases operations. The end of the inactive license  
482 period shall become the license expiration date. All licensure  
483 fees must be current, must be paid in full, and may be prorated.  
484 Reactivation of an inactive license requires the approval of a  
485 renewal application, including payment of licensure fees and  
486 agency inspections indicating compliance with all requirements  
487 of this part, authorizing statutes, and applicable rules.

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

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

490           408.809 Background screening; prohibited offenses.--

491           (1) Level 2 background screening pursuant to chapter 435  
 492 must be conducted through the agency on each of the following  
 493 persons, who shall be considered an employee for the purposes of  
 494 conducting screening under chapter 435:

495           (a) The licensee, if an individual.

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

498           (c) The financial officer or similarly titled individual  
 499 who is responsible for the financial operation of the licensee  
 500 or provider.

501           (d) Any person who is a controlling interest if the agency  
 502 has reason to believe that such person has been convicted of any  
 503 offense prohibited by s. 435.04. For each controlling interest  
 504 who has been convicted of any such offense, the licensee shall  
 505 submit to the agency a description and explanation of the  
 506 conviction at the time of license application.

507           (2) Proof of compliance with level 2 screening standards  
 508 submitted within the previous 5 years to meet any provider or  
 509 professional licensure requirements of the agency, the  
 510 Department of Health, the Agency for Persons with Disabilities,  
 511 or the Department of Children and Family Services satisfies the  
 512 requirements of this section, provided that such proof is  
 513 accompanied, under penalty of perjury, by an affidavit of  
 514 compliance with the provisions of chapter 435 using forms

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

515 provided by the agency. Proof of compliance with the background  
516 screening requirements of the Department of Financial Services  
517 submitted within the previous 5 years for an applicant for a  
518 certificate of authority to operate a continuing care retirement  
519 community under chapter 651 satisfies the Department of Law  
520 Enforcement and Federal Bureau of Investigation portions of a  
521 level 2 background check.

522 (3) A provisional license may be granted to an applicant  
523 when each individual required by this section to undergo  
524 background screening has met the standards for the Department of  
525 Law Enforcement background check but the agency has not yet  
526 received background screening results from the Federal Bureau of  
527 Investigation. A standard license may be granted to the licensee  
528 upon the agency's receipt of a report of the results of the  
529 Federal Bureau of Investigation background screening for each  
530 individual required by this section to undergo background  
531 screening that confirms that all standards have been met or upon  
532 the granting of an exemption from disqualification by the agency  
533 as set forth in chapter 435.

534 (4) When a person is newly employed in a capacity that  
535 requires screening under this section, the licensee must notify  
536 the agency of the change within the time period specified in the  
537 authorizing statute or rules and must submit to the agency  
538 information necessary to conduct level 2 screening or provide  
539 evidence of compliance with background screening requirements of  
540 this section. The person may serve in his or her capacity  
541 pending the agency's receipt of the report from the Federal

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

542 Bureau of Investigation if he or she has met the standards for  
543 the Department of Law Enforcement background check. However, the  
544 person may not continue to serve in his or her capacity if the  
545 report indicates any violation of background screening standards  
546 unless an exemption from disqualification has been granted by  
547 the agency as set forth in chapter 435.

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

550 408.810 Minimum licensure requirements.--In addition to  
551 the licensure requirements specified in this part, authorizing  
552 statutes, and applicable rules, each applicant and licensee must  
553 comply with the requirements of this section in order to obtain  
554 and maintain a license.

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

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

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

565 (4) Whenever a licensee discontinues operation of a  
566 provider:

567 (a) The licensee must inform the agency not less than 30  
568 days prior to the discontinuance of operation and inform clients

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

569 of such discontinuance as required by authorizing statutes.

570 Immediately upon discontinuance of operation by a provider, the  
571 licensee shall surrender the license to the agency and the  
572 license shall be canceled.

573 (b) The licensee shall remain responsible for retaining  
574 and appropriately distributing all records within the timeframes  
575 prescribed in authorizing statutes and applicable rules. In  
576 addition, the licensee or, in the event of death or dissolution  
577 of a licensee, the estate or agent of the licensee shall:

578 1. Make arrangements to forward records for each client to  
579 one of the following, based upon the client's choice: the client  
580 or the client's legal representative, the client's attending  
581 physician, or the health care provider where the client  
582 currently receives services; or

583 2. Cause a notice to be published in the newspaper of  
584 greatest general circulation in the county in which the provider  
585 was located that advises clients of the discontinuance of the  
586 provider operation. The notice must inform clients that they may  
587 obtain copies of their records and specify the name, address,  
588 and telephone number of the person from whom the copies of  
589 records may be obtained. The notice must appear at least once a  
590 week for 4 consecutive weeks.

591 (5) (a) On or before the first day services are provided to  
592 a client, a licensee must inform the client and his or her  
593 immediate family or representative, if appropriate, of the right  
594 to report:

595 1. Complaints. The statewide toll-free telephone number

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

596 for reporting complaints to the agency must be provided to  
597 clients in a manner that is clearly legible and must include the  
598 words: "To report a complaint regarding the services you  
599 receive, please call toll-free (phone number)."

600 2. Abusive, neglectful, or exploitative practices. The  
601 statewide toll-free telephone number for the central abuse  
602 hotline must be provided to clients in a manner that is clearly  
603 legible and must include the words: "To report abuse, neglect,  
604 or exploitation, please call toll-free (phone number)." The  
605 agency shall publish a minimum of a 90-day advance notice of a  
606 change in the toll-free telephone numbers.

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

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

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

617 (8) Upon application for initial licensure or change of  
618 ownership licensure, the applicant shall furnish satisfactory  
619 proof of the applicant's financial ability to operate in  
620 accordance with the requirements of this part, authorizing  
621 statutes, and applicable rules. The agency shall establish  
622 standards for this purpose, including information concerning the

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

623 applicant's controlling interests. The agency shall also  
624 establish documentation requirements, to be completed by each  
625 applicant, that show anticipated provider revenues and  
626 expenditures, the basis for financing the anticipated cash-flow  
627 requirements of the provider, and an applicant's access to  
628 contingency financing. A current certificate of authority,  
629 pursuant to chapter 651, may be provided as proof of financial  
630 ability to operate. The agency may require a licensee to provide  
631 proof of financial ability to operate at any time if there is  
632 evidence of financial instability, including, but not limited  
633 to, unpaid expenses necessary for the basic operations of the  
634 provider.

635 (9) A controlling interest may not withhold from the  
636 agency any evidence of financial instability, including, but not  
637 limited to, checks returned due to insufficient funds,  
638 delinquent accounts, nonpayment of withholding taxes, unpaid  
639 utility expenses, nonpayment for essential services, or adverse  
640 court action concerning the financial viability of the provider  
641 or any other provider licensed under this part that is under the  
642 control of the controlling interest. Any person who violates  
643 this subsection commits a misdemeanor of the second degree,  
644 punishable as provided in s. 775.082 or s. 775.083. Each day of  
645 continuing violation is a separate offense.

646 (10) The agency may not issue a license to a health care  
647 provider subject to the certificate-of-need provisions in part I  
648 of this chapter if the health care provider has not been issued  
649 a certificate of need or an exemption. Upon initial licensure of



## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

650 any such provider, the authorization contained in the  
651 certificate of need shall be considered fully implemented and  
652 merged into the license and shall have no force and effect upon  
653 termination of the license for any reason.

654 408.811 Right of inspection; copies; inspection reports.--

655 (1) An authorized officer or employee of the agency may  
656 make or cause to be made any inspection or investigation deemed  
657 necessary by the agency to determine the state of compliance  
658 with this part, authorizing statutes, and applicable rules. The  
659 right of inspection extends to any business that the agency has  
660 reason to believe is being operated as a provider without a  
661 license, but inspection of any business suspected of being  
662 operated without the appropriate license may not be made without  
663 the permission of the owner or person in charge unless a warrant  
664 is first obtained from a circuit court. Any application for a  
665 license issued under this part, authorizing statutes, or  
666 applicable rules constitutes permission for an appropriate  
667 inspection to verify the information submitted on or in  
668 connection with the application.

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

671 (b) Inspections for relicensure shall be conducted  
672 biennially unless otherwise specified by authorizing statutes or  
673 applicable rules.

674 (2) Inspections conducted in conjunction with  
675 certification may be accepted in lieu of a complete licensure  
676 inspection. However, a licensure inspection may also be

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

677 conducted to review any licensure requirements that are not also  
 678 requirements for certification.

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

682 (4) (a) Each licensee shall maintain as public information,  
 683 available upon request, records of all inspection reports  
 684 pertaining to that provider that have been filed by the agency  
 685 unless those reports are exempt from or contain information that  
 686 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 687 Constitution or is otherwise made confidential by law. Effective  
 688 October 1, 2006, copies of such reports shall be retained in the  
 689 records of the provider for at least 3 years following the date  
 690 the reports are filed and issued, regardless of a change of  
 691 ownership.

692 (b) A licensee shall, upon the request of any person who  
 693 has completed a written application with intent to be admitted  
 694 by such provider, any person who is a client of such provider,  
 695 or any relative, spouse, or guardian of any such person, furnish  
 696 to the requester a copy of the last inspection report pertaining  
 697 to the licensed provider that was issued by the agency or by an  
 698 accrediting organization if such report is used in lieu of a  
 699 licensure inspection.

700 408.812 Unlicensed activity.--

701 (1) A person or entity may not offer or advertise services  
 702 that require licensure as defined by this part, authorizing  
 703 statutes, or applicable rules to the public without obtaining a

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

704 valid license from the agency. A licenseholder may not advertise  
 705 or hold out to the public that he or she holds a license for  
 706 other than that for which he or she actually holds the license.

707 (2) The operation or maintenance of an unlicensed provider  
 708 or the performance of any services that require licensure  
 709 without proper licensure is a violation of this part and  
 710 authorizing statutes. Unlicensed activity constitutes harm that  
 711 materially affects the health, safety, and welfare of clients.  
 712 The agency or any state attorney may, in addition to other  
 713 remedies provided in this part, bring an action for an  
 714 injunction to restrain such violation, or to enjoin the future  
 715 operation or maintenance of the unlicensed provider or the  
 716 performance of any services in violation of this part and  
 717 authorizing statutes, until compliance with this part,  
 718 authorizing statutes, and agency rules has been demonstrated to  
 719 the satisfaction of the agency.

720 (3) It is unlawful for any person or entity to own,  
 721 operate, or maintain an unlicensed provider. If after receiving  
 722 notification from the agency, such person or entity fails to  
 723 cease operation and apply for a license under this part and  
 724 authorizing statutes, the person or entity shall be subject to  
 725 penalties as prescribed by authorizing statutes and applicable  
 726 rules. Each day of continued operation is a separate offense.

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

730 (5) When a controlling interest or licensee has an

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

731 interest in more than one provider and fails to license a  
732 provider rendering services that require licensure, the agency  
733 may revoke all licenses and impose actions under s. 408.814 and  
734 a fine of \$1,000 per day, unless otherwise specified by  
735 authorizing statutes, against each licensee until such time as  
736 the appropriate license is obtained for the unlicensed  
737 operation.

738 (6) In addition to granting injunctive relief pursuant to  
739 subsection (2), if the agency determines that a person or entity  
740 is operating or maintaining a provider without obtaining a  
741 license and determines that a condition exists that poses a  
742 threat to the health, safety, or welfare of a client of the  
743 provider, the person or entity is subject to the same actions  
744 and fines imposed against a licensee as specified in this part,  
745 authorizing statutes, and agency rules.

746 (7) Any person aware of the operation of an unlicensed  
747 provider must report that provider to the agency.

748 408.813 Administrative fines.--As a penalty for any  
749 violation of this part, authorizing statutes, or applicable  
750 rules, the agency may impose an administrative fine. Unless the  
751 amount or aggregate limitation of the fine is prescribed by  
752 authorizing statutes or applicable rules, the agency may  
753 establish criteria by rule for the amount or aggregate  
754 limitation of administrative fines applicable to this part,  
755 authorizing statutes, and applicable rules. Each day of  
756 violation constitutes a separate violation and is subject to a  
757 separate fine. For fines imposed by final order of the agency

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

758 and not subject to further appeal, the violator shall pay the  
 759 fine plus interest at the rate specified in s. 55.03 for each  
 760 day beyond the date set by the agency for payment of the fine.

761 408.814 Moratorium; emergency suspension.--

762 (1) The agency may impose an immediate moratorium or  
 763 emergency suspension as defined in s. 120.60 on any provider if  
 764 the agency determines that any condition related to the provider  
 765 or licensee presents a threat to the health, safety, or welfare  
 766 of a client.

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

771 (3) A moratorium or emergency suspension remains in effect  
 772 after a change of ownership, unless the agency has determined  
 773 that the conditions that created the moratorium, emergency  
 774 suspension, or denial of licensure have been corrected.

775 (4) When a moratorium or emergency suspension is placed on  
 776 a provider or licensee, notice of the action shall be posted and  
 777 visible to the public at the location of the provider until the  
 778 action is lifted.

779 408.815 License or application denial; revocation.--

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

784 (a) False representation of a material fact in the license

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

785 application or omission of any material fact from the  
786 application.

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

789 (c) A violation of this part, authorizing statutes, or  
790 applicable rules.

791 (d) A demonstrated pattern of deficient performance.

792 (e) The applicant, licensee, or controlling interest has  
793 been or is currently excluded, suspended, or terminated from  
794 participation in the state Medicaid program, the Medicaid  
795 program of any other state, or the Medicare program.

796 (2) If a licensee lawfully continues to operate while a  
797 denial or revocation is pending in litigation, the licensee must  
798 continue to meet all other requirements of this part,  
799 authorizing statutes, and applicable rules and must file  
800 subsequent renewal applications for licensure and pay all  
801 licensure fees. The provisions of ss. 120.60(1) and  
802 408.806(3)(c) shall not apply to renewal applications filed  
803 during the time period in which the litigation of the denial or  
804 revocation is pending until that litigation is final.

805 (3) An action under s. 408.814 or denial of the license of  
806 the transferor may be grounds for denial of a change of  
807 ownership application of the transferee.

808 408.816 Injunctions.--

809 (1) In addition to the other powers provided by this part,  
810 authorizing statutes, and applicable rules, the agency may  
811 institute injunction proceedings in a court of competent

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

812 jurisdiction to:

813 (a) Restrain or prevent the establishment or operation of  
814 a provider that does not have a license or is in violation of  
815 any provision of this part, authorizing statutes, or applicable  
816 rules. The agency may also institute injunction proceedings in a  
817 court of competent jurisdiction when a violation of this part,  
818 authorizing statutes, or applicable rules constitutes an  
819 emergency affecting the immediate health and safety of a client.

820 (b) Enforce the provisions of this part, authorizing  
821 statutes, or any minimum standard, rule, or order issued or  
822 entered into pursuant thereto when the attempt by the agency to  
823 correct a violation through administrative sanctions has failed  
824 or when the violation materially affects the health, safety, or  
825 welfare of clients or involves any operation of an unlicensed  
826 provider.

827 (c) Terminate the operation of a provider when a violation  
828 of any provision of this part, authorizing statutes, or any  
829 standard or rule adopted pursuant thereto exists that materially  
830 affects the health, safety, or welfare of a client.

831  
832 Such injunctive relief may be temporary or permanent.

833 (2) If action is necessary to protect clients of providers  
834 from immediate, life-threatening situations, the court may allow  
835 a temporary injunction without bond upon proper proofs being  
836 made. If it appears by competent evidence or a sworn,  
837 substantiated affidavit that a temporary injunction should be  
838 issued, the court, pending the determination on final hearing,

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

839 | shall enjoin the operation of the provider.

840 |       408.817 Administrative proceedings.--Administrative  
841 | proceedings challenging agency licensure enforcement action  
842 | shall be reviewed on the basis of the facts and conditions that  
843 | resulted in the agency action.

844 |       408.818 Health Care Trust Fund.--Unless otherwise  
845 | prescribed by authorizing statutes, all fees and fines collected  
846 | under this part, authorizing statutes, and applicable rules  
847 | shall be deposited into the Health Care Trust Fund, created in  
848 | s. 408.16, and used to pay the costs of the agency in  
849 | administering the provider program paying the fees or fines.

850 |       408.819 Rules.--The agency is authorized to adopt rules as  
851 | necessary to administer this part. Any licensed provider that is  
852 | in operation at the time of adoption of any applicable rule  
853 | under this part or authorizing statutes shall be given a  
854 | reasonable time under the particular circumstances, not to  
855 | exceed 6 months after the date of such adoption, within which to  
856 | comply with such rule, unless otherwise specified by rule.

857 |       408.820 Exemptions.--Except as prescribed in authorizing  
858 | statutes, the following exemptions shall apply to specified  
859 | requirements of this part:

860 |       (1) Laboratories authorized to perform testing under the  
861 | Drug-Free Workplace Act, as provided under ss. 112.0455 and  
862 | 440.102, are exempt from s. 408.810(5)-(10).

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

865 |       (3) Abortion clinics, as provided under chapter 390, are



## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

866 exempt from s. 408.810(7)-(10).

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

869 (5) Short-term residential treatment facilities, as  
870 provided under parts I and IV of chapter 394, are exempt from s.  
871 408.810(8)-(10).

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

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

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

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

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

883 (11) Private review agents, as provided under part I of  
884 chapter 395, are exempt from ss. 408.806(7), 408.810, and  
885 408.811.

886 (12) Health care risk managers, as provided under part I  
887 of chapter 395, are exempt from ss. 408.806(7), 408.810, and  
888 408.811.

889 (13) Nursing homes, as provided under part II of chapter  
890 400, are exempt from s. 408.810(7).

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

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

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

895       (16) Nurse registries, as provided under part IV of  
896 chapter 400, are exempt from s. 408.810(6) and (10).

897       (17) Companion services or homemaker services providers,  
898 as provided under part IV of chapter 400, are exempt from s.  
899 408.810(6)-(10).

900       (18) Adult day care centers, as provided under part V of  
901 chapter 400, are exempt from s. 408.810(10).

902       (19) Adult family-care homes, as provided under part VII  
903 of chapter 400, are exempt from s. 408.810(7)-(10).

904       (20) Homes for special services, as provided under part  
905 VIII of chapter 400, are exempt from s. 408.810(7)-(10).

906       (21) Transitional living facilities, as provided under  
907 part VIII of chapter 400, are exempt from s. 408.810(7)-(10).

908       (22) Prescribed pediatric extended care centers, as  
909 provided under part IX of chapter 400, are exempt from s.  
910 408.810(10).

911       (23) Home medical equipment providers, as provided under  
912 part X of chapter 400, are exempt from s. 408.810(10).

913       (24) Intermediate care facilities for persons with  
914 developmental disabilities, as provided under part XI of chapter  
915 400, are exempt from s. 408.810(7).

916       (25) Health care services pools, as provided under part  
917 XII of chapter 400, are exempt from s. 408.810(6)-(10).

918       (26) Health care clinics, as provided under part XIII of  
919 chapter 400, are exempt from ss. 408.809 and 408.810(1), (6),

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

920 (7), and (10).

921 (27) Clinical laboratories, as provided under part I of  
 922 chapter 483, are exempt from s. 408.810(5)-(10).

923 (28) Multiphasic health testing centers, as provided under  
 924 part II of chapter 483, are exempt from s. 408.810(5)-(10).

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

927 Section 6. Paragraph (b) of subsection (1) of section  
 928 400.801, Florida Statutes, is amended to read:

929 400.801 Homes for special services.--

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

931 (b) "Home for special services" means a site licensed by  
 932 the agency prior to January 1, 2006, where specialized health  
 933 care services are provided, including personal and custodial  
 934 care, but not continuous nursing services.

935 Section 7. Paragraphs (e) and (i) of subsection (4) of  
 936 section 400.9905, Florida Statutes, are amended, and paragraph  
 937 (k) is added to that subsection, to read:

938 400.9905 Definitions.--

939 (4) "Clinic" means an entity at which health care services  
 940 are provided to individuals and which tenders charges for  
 941 reimbursement for such services, including a mobile clinic and a  
 942 portable equipment provider. For purposes of this part, the term  
 943 does not include and the licensure requirements of this part do  
 944 not apply to:

945 (e) An entity that is exempt from federal taxation under  
 946 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), an employee stock

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

947 ownership plan under 26 U.S.C. s. 409 that has a board of  
 948 trustees not less than two-thirds of which are Florida-licensed  
 949 health care practitioners and provides only physical therapy  
 950 services under physician orders, any community college or  
 951 university clinic, and any entity owned or operated by the  
 952 federal or state government, including agencies, subdivisions,  
 953 or municipalities thereof.

954 (i) Entities that provide only oncology or radiation  
 955 therapy services by physicians licensed under chapter 458 or  
 956 chapter 459 or entities that provide oncology or radiation  
 957 therapy services by physicians licensed under chapter 458 or  
 958 chapter 459 which are owned by a corporation whose shares are  
 959 publicly traded on a recognized stock exchange.

960 (k) Entities that provide licensed practitioners to staff  
 961 emergency departments or to deliver anesthesia services in  
 962 facilities licensed under chapter 395 and that derive at least  
 963 90 percent of their gross annual revenues from the provision of  
 964 such services. Entities claiming an exemption from licensure  
 965 under this paragraph must provide documentation demonstrating  
 966 compliance.

967 Section 8. Paragraphs (f) through (s) of subsection (3) of  
 968 section 408.036, Florida Statutes, are redesignated as  
 969 paragraphs (g) through (t), respectively, and a new paragraph  
 970 (f) is added to that subsection to read:

971 408.036 Projects subject to review; exemptions.--

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

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

974        (f) For the creation of a single nursing home within a  
975 district by combining licensed beds from two or more licensed  
976 nursing homes within such district, regardless of subdistrict  
977 boundaries, if 50 percent of the beds in the created nursing  
978 home are transferred from the only nursing home in a county and  
979 its utilization data demonstrate that it had an occupancy rate  
980 of less than 75 percent for the 12-month period ending 90 days  
981 before the request for the exemption. This paragraph is repealed  
982 upon the expiration of the moratorium established in s.  
983 651.1185(1).

984        Section 9. Subsections (1) and (3) of section 408.831,  
985 Florida Statutes, are amended to read:

986        408.831 Denial, suspension, or revocation of a license,  
987 registration, certificate, or application.--

988        (1) In addition to any other remedies provided by law, the  
989 agency may deny each application or suspend or revoke each  
990 license, registration, or certificate of entities regulated or  
991 licensed by it:

992        (a) If the applicant, licensee, or a licensee subject to  
993 this part which shares a common controlling interest with the  
994 applicant registrant, or certificateholder, or, in the case of a  
995 corporation, partnership, or other business entity, if any  
996 officer, director, agent, or managing employee of that business  
997 entity or any affiliated person, partner, or shareholder having  
998 an ownership interest equal to 5 percent or greater in that  
999 business entity, has failed to pay all outstanding fines, liens,  
1000 or overpayments assessed by final order of the agency or final

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1001 order of the Centers for Medicare and Medicaid Services, not  
 1002 subject to further appeal, unless a repayment plan is approved  
 1003 by the agency; or

1004 (b) For failure to comply with any repayment plan.

1005 (3) This section provides standards of enforcement  
 1006 applicable to all entities licensed or regulated by the Agency  
 1007 for Health Care Administration. This section controls over any  
 1008 conflicting provisions of chapters 39, ~~381~~, 383, 390, 391, ~~393~~,  
 1009 394, 395, 400, 408, 468, 483, and 765 ~~641~~ or rules adopted  
 1010 pursuant to those chapters.

1011 Section 10. In case of conflict between the provisions of  
 1012 part II of chapter 408, Florida Statutes, and the authorizing  
 1013 statutes governing the licensure of health care providers by the  
 1014 Agency for Health Care Administration found in s. 112.0455 and  
 1015 chapters 383, 390, 394, 395, 400, 440, 483, and 765, Florida  
 1016 Statutes, the provisions of part II of chapter 408, Florida  
 1017 Statutes, shall prevail.

1018 Section 11. All provisions that apply to the entities  
 1019 specified in s. 408.802, Florida Statutes, as created by this  
 1020 act, in effect on October 1, 2006, that provide for annual  
 1021 licensure fees are hereby adjusted to provide for biennial  
 1022 licensure fees with a corresponding doubling of the amount.

1023 Section 12. The Legislature recognizes that there is a  
 1024 need to conform the Florida Statutes to the policy decisions  
 1025 reflected in this act and that there may be a need to resolve  
 1026 apparent conflicts between any changes or additions to the  
 1027 authorizing statutes, as defined in s. 408.803, Florida

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1028 Statutes, or any other legislation that has been or may be  
 1029 enacted during 2006 and this chapter 408, Florida Statutes, as  
 1030 amended by this act. Therefore, in the interim between this act  
 1031 becoming a law and the 2007 Regular Session of the Legislature  
 1032 or an earlier special session addressing this issue, the  
 1033 Division of Statutory Revision shall provide the relevant  
 1034 substantive committees of the Senate and the House of  
 1035 Representatives with assistance, upon request, to enable such  
 1036 committees to prepare draft legislation to conform the Florida  
 1037 Statutes and any legislation enacted during 2006 to the  
 1038 provisions of this act.

1039       Section 13. For the purpose of staggering license  
 1040 expiration dates, the Agency for Health Care Administration may  
 1041 issue a license for less than a 2-year period to those providers  
 1042 making the transition from annual to biennial licensure as  
 1043 authorized in this act. The agency shall charge a prorated  
 1044 licensure fee for this shortened period. This authority shall  
 1045 expire September 30, 2008.

1046       Section 14. Section 395.4001, Florida Statutes, is amended  
 1047 to read:

1048       395.4001 Definitions.--As used in this part, the term:

1049       (1) "Agency" means the Agency for Health Care  
 1050 Administration.

1051       (2) "Charity care" or "uncompensated trauma care" means  
 1052 that portion of hospital charges reported to the agency for  
 1053 which there is no compensation, other than restricted or  
 1054 unrestricted revenues provided to a hospital by local

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1055 governments or tax districts regardless of method of payment,  
 1056 for care provided to a patient whose family income for the 12  
 1057 months preceding the determination is less than or equal to 200  
 1058 percent of the federal poverty level, unless the amount of  
 1059 hospital charges due from the patient exceeds 25 percent of the  
 1060 annual family income. However, in no case shall the hospital  
 1061 charges for a patient whose family income exceeds four times the  
 1062 federal poverty level for a family of four be considered  
 1063 charity.

1064 (3) "Department" means the Department of Health.

1065 (4) "Interfacility trauma transfer" means the transfer of  
 1066 a trauma victim between two facilities licensed under this  
 1067 chapter, pursuant to this part.

1068 (5) "International Classification Injury Severity Score"  
 1069 means the statistical method for computing the severity of  
 1070 injuries sustained by trauma patients. The International  
 1071 Classification Injury Severity Score shall be the methodology  
 1072 used by the department and trauma centers to report the severity  
 1073 of an injury.

1074 (6)~~(5)~~ "Level I trauma center" means a trauma center that:

1075 (a) Has formal research and education programs for the  
 1076 enhancement of trauma care; is verified by the department to be  
 1077 in substantial compliance with Level I trauma center and  
 1078 pediatric trauma center standards; and has been approved by the  
 1079 department to operate as a Level I trauma center.



ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1080 (b) Serves as a resource facility to Level II trauma  
 1081 centers, pediatric trauma centers, and general hospitals through  
 1082 shared outreach, education, and quality improvement activities.

1083 (c) Participates in an inclusive system of trauma care,  
 1084 including providing leadership, system evaluation, and quality  
 1085 improvement activities.

1086 (7)~~(6)~~ "Level II trauma center" means a trauma center  
 1087 that:

1088 (a) Is verified by the department to be in substantial  
 1089 compliance with Level II trauma center standards and has been  
 1090 approved by the department to operate as a Level II trauma  
 1091 center.

1092 (b) Serves as a resource facility to general hospitals  
 1093 through shared outreach, education, and quality improvement  
 1094 activities.

1095 (c) Participates in an inclusive system of trauma care.

1096 (8) "Local funding contribution" means local municipal,  
 1097 county, or tax district funding exclusive of any patient-  
 1098 specific funds received pursuant to ss. 154.301-154.316, private  
 1099 foundation funding, or public or private grant funding of at  
 1100 least \$150,000 received by a hospital or health care system that  
 1101 operates a trauma center.

1102 (9)~~(7)~~ "Pediatric trauma center" means a hospital that is  
 1103 verified by the department to be in substantial compliance with  
 1104 pediatric trauma center standards as established by rule of the  
 1105 department and has been approved by the department to operate as  
 1106 a pediatric trauma center.

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1107        ~~(10)(8)~~ "Provisional trauma center" means a hospital that  
 1108 has been verified by the department to be in substantial  
 1109 compliance with the requirements in s. 395.4025 and has been  
 1110 approved by the department to operate as a provisional Level I  
 1111 trauma center, Level II trauma center, or pediatric trauma  
 1112 center.

1113        ~~(11)(9)~~ "Trauma agency" means a department-approved agency  
 1114 established and operated by one or more counties, or a  
 1115 department-approved entity with which one or more counties  
 1116 contract, for the purpose of administering an inclusive regional  
 1117 trauma system.

1118        ~~(12)(10)~~ "Trauma alert victim" means a person who has  
 1119 incurred a single or multisystem injury due to blunt or  
 1120 penetrating means or burns, who requires immediate medical  
 1121 intervention or treatment, and who meets one or more of the  
 1122 adult or pediatric scorecard criteria established by the  
 1123 department by rule.

1124        (13) "Trauma caseload volume" means the number of trauma  
 1125 patients reported by individual trauma centers to the Trauma  
 1126 Registry and validated by the department.

1127        ~~(14)(11)~~ "Trauma center" means a hospital that has been  
 1128 verified by the department to be in substantial compliance with  
 1129 the requirements in s. 395.4025 and has been approved by the  
 1130 department to operate as a Level I trauma center, Level II  
 1131 trauma center, or pediatric trauma center.

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1132            (15) "Trauma patient" means a person who has incurred a  
 1133 physical injury or wound caused by trauma and has accessed a  
 1134 trauma center.

1135            (16)~~(12)~~ "Trauma scorecard" means a statewide methodology  
 1136 adopted by the department by rule under which a person who has  
 1137 incurred a traumatic injury is graded as to the severity of his  
 1138 or her injuries or illness and which methodology is used as the  
 1139 basis for making destination decisions.

1140            (17)~~(13)~~ "Trauma transport protocol" means a document  
 1141 which describes the policies, processes, and procedures  
 1142 governing the dispatch of vehicles, the triage, prehospital  
 1143 transport, and interfacility trauma transfer of trauma victims.

1144            (18)~~(14)~~ "Trauma victim" means any person who has incurred  
 1145 a single or multisystem injury due to blunt or penetrating means  
 1146 or burns and who requires immediate medical intervention or  
 1147 treatment.

1148            Section 15. Section 395.4035, Florida Statutes, is  
 1149 repealed.

1150            Section 16. Subsection (1) of section 395.4036, Florida  
 1151 Statutes, is amended to read:

1152            395.4036 Trauma payments.--

1153            (1) Recognizing the Legislature's stated intent to provide  
 1154 financial support to the current verified trauma centers and to  
 1155 provide incentives for the establishment of additional trauma  
 1156 centers as part of a system of state-sponsored trauma centers,  
 1157 the department shall utilize funds collected under s.

1158 318.18 (15)~~(14)~~ and deposited into the Administrative Trust Fund

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1159 of the department to ensure the availability and accessibility  
 1160 of trauma services throughout the state as provided in this  
 1161 subsection.

1162 (a) Twenty percent of the total funds collected under this  
 1163 subsection during the state fiscal year shall be distributed to  
 1164 verified trauma centers ~~located in a region~~ that have ~~has~~ a  
 1165 local funding contribution as of December 31. Distribution of  
 1166 funds under this paragraph shall be based on trauma caseload  
 1167 volume for the most recent calendar year available.

1168 (b) Forty percent of the total funds collected under this  
 1169 subsection shall be distributed to verified trauma centers based  
 1170 on trauma caseload volume for ~~of~~ the most recent ~~previous~~  
 1171 calendar year available. The determination of caseload volume  
 1172 for distribution of funds under this paragraph shall be based on  
 1173 the department's Trauma Registry data.

1174 (c) Forty percent of the total funds collected under this  
 1175 subsection shall be distributed to verified trauma centers based  
 1176 on severity of trauma patients for the most recent calendar year  
 1177 available. The determination of severity for distribution of  
 1178 funds under this paragraph shall be based on the department's  
 1179 International Classification Injury Severity Scores or another  
 1180 statistically valid and scientifically accepted method of  
 1181 stratifying a trauma patient's severity of injury, risk of  
 1182 mortality, and resource consumption as adopted by the department  
 1183 by rule, weighted based on the costs associated with and  
 1184 incurred by the trauma center in treating trauma patients. The

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1185 weighting of scores shall be established by the department by  
 1186 rule scores of 1 14 and 15 plus.  
 1187  
 1188 Funds deposited in the department's Administrative Trust Fund  
 1189 for verified trauma centers may be used to maximize the receipt  
 1190 of federal funds that may be available for such trauma centers.  
 1191 Notwithstanding this section and s. 318.14, distributions to  
 1192 trauma centers may be adjusted in a manner to ensure that total  
 1193 payments to trauma centers represent the same proportional  
 1194 allocation as set forth in this section and s. 318.14. For  
 1195 purposes of this section and s. 318.14, total funds distributed  
 1196 to trauma centers may include revenue from the Administrative  
 1197 Trust Fund and federal funds for which revenue from the  
 1198 Administrative Trust Fund is used to meet state or local  
 1199 matching requirements. Funds collected under ss. 318.14 and  
 1200 318.18(15) and deposited in the Administrative Trust Fund of the  
 1201 department shall be distributed to trauma centers on a quarterly  
 1202 basis using the most recent calendar year data available. Such  
 1203 data shall not be used for more than four quarterly  
 1204 distributions unless there are extenuating circumstances as  
 1205 determined by the department, in which case the most recent  
 1206 calendar year data available shall continue to be used and  
 1207 appropriate adjustments shall be made as soon as the more recent  
 1208 data becomes available. Trauma centers may request that their  
 1209 distributions from the Administrative Trust Fund be used as  
 1210 intergovernmental transfer funds in the Medicaid program.

ENROLLED  
 HB 7141, Engrossed 2

2006 Legislature

1211 Section 17. Section 395.41, Florida Statutes, is created  
 1212 to read:

1213 395.41 Trauma center startup grant program.--There is  
 1214 established a trauma center startup grant program.

1215 (1) The Legislature recognizes the need for a statewide,  
 1216 cohesive, uniform, and integrated trauma system, and the  
 1217 Legislature acknowledges that the state has been divided into  
 1218 trauma service areas. Each of the trauma service areas should  
 1219 have at least one trauma center; however, some trauma service  
 1220 areas do not have a trauma center because of the significant up-  
 1221 front investment of capital required for hospitals to develop  
 1222 the physical space, equipment, and qualified personnel necessary  
 1223 to provide quality trauma services.

1224 (2) An acute care general hospital that has submitted a  
 1225 letter of intent and an application to become a trauma center  
 1226 pursuant to s. 395.4025 may apply to the department for a  
 1227 startup grant. The grant applicant must demonstrate that:

1228 (a) There are currently no other trauma centers in the  
 1229 hospital's trauma service area as established under s. 395.402.

1230 (b) There is not a trauma center within a 100-mile radius  
 1231 of the proposed trauma center.

1232 (c) The hospital has received a local funding contribution  
 1233 as defined under s. 395.4001.

1234 (d) The hospital has incurred startup costs in excess of  
 1235 the amount of grant funding requested.

1236 (e) The hospital is pursuing the establishment of a  
 1237 residency program in internal medicine or emergency medicine.

## ENROLLED

HB 7141, Engrossed 2

2006 Legislature

1238           (3) A hospital receiving startup grant funding that does  
1239 not become a provisional trauma center within 24 months after  
1240 submitting an application to become a trauma center must forfeit  
1241 any state grant funds received pursuant to this section.

1242           (4) A hospital that receives startup grant funding may not  
1243 receive more than \$500,000, must ensure that the startup grant  
1244 funding is matched on a dollar-for-dollar basis with a local  
1245 funding contribution, and shall receive startup grant funding  
1246 only one time.

1247           Section 18. This act shall take effect October 1, 2006,  
1248 except that section 395.41, Florida Statutes, as created by this  
1249 act, shall take effect subject to an appropriation for the  
1250 trauma center startup grant program in the 2006-2007 General  
1251 Appropriations Act.