

587-371C-07

1 A bill to be entitled  
2 An act conforming the Florida Statutes to  
3 legislation enacted during the 2006 Regular  
4 Session relating to the licensure of health  
5 care providers regulated by the Agency for  
6 Health Care Administration; amending s.  
7 112.0455, F.S.; providing applicability of  
8 licensure requirements under pt. II of ch. 408,  
9 F.S., to drug-testing standards of  
10 laboratories; authorizing the Agency for Health  
11 Care Administration to adopt rules to implement  
12 pt. II of ch. 408, F.S., relating to the  
13 Drug-Free Workplace Act; revising a license  
14 fee; amending s. 381.78, F.S.; conforming a  
15 cross-reference; amending s. 383.301, F.S.;  
16 providing applicability of licensure  
17 requirements under pt. II of ch. 408, F.S., to  
18 birth centers; repealing s. 383.304, F.S.,  
19 relating to the licensure requirement for birth  
20 centers; amending s. 383.305, F.S.; providing  
21 applicability of licensure requirements under  
22 pt. II of ch. 408, F.S., to birth centers;  
23 providing for licensure fees to be established  
24 by rule; amending s. 383.309, F.S.; authorizing  
25 the agency to adopt and enforce rules to  
26 administer pt. II of ch. 408, F.S., relating to  
27 standards for birth centers; amending s.  
28 383.315, F.S.; revising a provision relating to  
29 consultation agreements for birth centers;  
30 amending s. 383.324, F.S.; revising provisions  
31 relating to inspections and investigations of

1 birth center facilities; repealing s. 383.325,  
2 F.S., relating to inspection reports of birth  
3 centers; amending s. 383.33, F.S.; revising  
4 provisions relating to administrative fines,  
5 penalties, emergency orders, and moratoriums on  
6 admissions; repealing s. 383.331, F.S.,  
7 relating to injunctive relief; amending s.  
8 383.332, F.S.; providing applicability of  
9 licensure requirements under pt. II of ch. 408,  
10 F.S.; amending s. 383.335, F.S.; providing an  
11 exemption from pt. II of ch. 408, F.S., for  
12 specified birth centers; amending s. 383.50,  
13 F.S.; conforming a cross-reference; amending s.  
14 390.011, F.S.; revising a definition; amending  
15 s. 390.012, F.S.; revising rulemaking authority  
16 of the agency for abortion clinics; repealing  
17 s. 390.013, F.S., relating to effective date of  
18 rules applicable to abortion clinics; amending  
19 s. 390.014, F.S.; providing applicability of  
20 licensure requirements under pt. II of ch. 408,  
21 F.S., to abortion clinics; amending s. 390.015,  
22 F.S.; revising provisions to applications for a  
23 license; repealing s. 390.016, F.S., relating  
24 to expiration and renewal of a license;  
25 repealing s. 390.017, F.S., relating to grounds  
26 for suspension or revocation of a license;  
27 amending s. 390.018, F.S.; providing  
28 applicability of licensure requirements under  
29 pt. II of ch. 408, F.S., to administrative  
30 fines; repealing s. 390.019, F.S., relating an  
31 to administrative penalty in lieu of revocation

1 or suspension of a license to operate an  
2 abortion clinic; repealing s. 390.021, F.S.,  
3 relating to instituting injunction proceedings  
4 against an abortion clinic; amending s.  
5 394.455, F.S.; revising a definition; amending  
6 s. 394.4787, F.S.; conforming a  
7 cross-reference; amending s. 394.67, F.S.;  
8 deleting, revising, and providing definitions;  
9 amending ss. 394.74 and 394.82, F.S.;  
10 conforming cross-references; amending s.  
11 394.875, F.S.; providing the purpose of  
12 short-term residential treatment facilities;  
13 providing applicability of licensure  
14 requirements under pt. II of ch. 408, F.S., to  
15 crisis stabilization units, short-term  
16 residential treatment facilities, residential  
17 treatment facilities, and residential treatment  
18 centers for children and adolescents; providing  
19 an exemption from licensure requirements for  
20 hospitals licensed under ch. 395, F.S., and  
21 certain programs operated therein; amending s.  
22 394.876, F.S.; revising provisions relating to  
23 an application for licensure to provide  
24 community substance abuse and mental health  
25 services; amending s. 394.877, F.S.; providing  
26 applicability of pt. II of ch. 408, F.S., to  
27 license fees; repealing s. 394.878, F.S.,  
28 relating to issuance and renewal of licenses;  
29 amending s. 394.879, F.S.; providing rulemaking  
30 authority to the Department of Children and  
31 Family Services; deleting a reference to

1 deposit of certain fines in the Mental Health  
2 Facility Trust Fund; amending s. 394.90, F.S.;  
3 revising provisions relating to inspections of  
4 crisis stabilization units and residential  
5 treatment facilities; amending s. 394.902,  
6 F.S.; revising provisions relating to the  
7 moratorium on admissions for unsafe or unlawful  
8 provision of community substance abuse and  
9 mental health services; amending s. 394.907,  
10 F.S., relating to access to records of  
11 community mental health centers; providing for  
12 the department to determine licensee compliance  
13 with quality assurance programs; amending s.  
14 395.002, F.S.; deleting a definition;  
15 conforming cross-references; amending ss.  
16 395.003, 395.004, and 395.0161, F.S.; providing  
17 applicability of licensure requirements under  
18 pt. II of ch. 408, F.S., to hospitals,  
19 ambulatory surgical centers, and mobile  
20 surgical facilities; repealing s. 395.0055,  
21 F.S., relating to background screening of  
22 personnel of hospitals and other licensed  
23 facilities; repealing s. 395.0162, F.S.,  
24 relating to inspection reports of hospitals and  
25 other licensed facilities; amending s.  
26 395.0163, F.S.; deleting a provision requiring  
27 the deposit of fees charged for review of plans  
28 for construction of hospitals and other  
29 licensed facilities in the Planning and  
30 Regulation Trust Fund; amending ss. 395.0193  
31 and 395.0197, F.S.; providing for the

1 applicability of the reporting requirements of  
2 pt. II of ch. 408, F.S., to hospitals and other  
3 licensed facilities; conforming  
4 cross-references; amending ss. 395.0199 and  
5 395.1046, F.S.; providing applicability of  
6 licensure requirements under pt. II of ch. 408,  
7 F.S., to health care utilization review and  
8 complaint investigation procedures; amending s.  
9 395.1055, F.S.; providing applicability of  
10 licensure requirements under pt. II of ch. 408,  
11 F.S., to the adoption and enforcement of rules;  
12 amending ss. 395.1065, 395.10973, and  
13 395.10974, F.S.; providing applicability of  
14 licensure requirements under pt. II of ch. 408,  
15 F.S., to administrative penalties and  
16 injunctions, rulemaking, and health care risk  
17 managers; amending ss. 395.602, 395.701,  
18 400.0073, and 400.0074, F.S.; conforming  
19 cross-references; amending s. 400.021, F.S.;  
20 deleting definitions; amending s. 400.022,  
21 F.S.; providing applicability of licensure  
22 requirements under pt. II of ch. 408, F.S., to  
23 grounds for action for a violation of  
24 residents' rights; amending s. 400.051, F.S.;  
25 conforming a cross-reference; amending s.  
26 400.062, F.S.; providing applicability of  
27 licensure requirements under pt. II of ch. 408,  
28 F.S., to nursing homes and related health care  
29 facilities; revising provisions relating to  
30 license fees; amending s. 400.063, F.S.;  
31 conforming a cross-reference; amending ss.

1 400.071 and 400.0712, F.S.; providing  
2 applicability of licensure requirements under  
3 pt. II of ch. 408, F.S., to license  
4 applications; revising provisions governing  
5 inactive licenses; amending s. 400.102, F.S.;  
6 providing applicability of licensure  
7 requirements under pt. II of ch. 408, F.S., to  
8 grounds for action by the agency against a  
9 licensee; amending s. 400.111, F.S.; providing  
10 applicability of licensure requirements under  
11 pt. II of ch. 408, F.S., to the disclosure of a  
12 controlling interest of a nursing home  
13 facility; requiring a licensee to disclose  
14 certain holdings of a controlling interest;  
15 amending s. 400.1183, F.S.; revising grievance  
16 procedures for nursing home residents; deleting  
17 a provision relating to an administrative fine;  
18 amending s. 400.121, F.S.; providing  
19 applicability of licensure requirements under  
20 pt. II of ch. 408, F.S., to the denial,  
21 suspension, or revocation of a nursing home  
22 facility license, fines imposed, and procedures  
23 for conducting hearings; repealing s. 400.125,  
24 F.S., relating to instituting injunction  
25 proceedings against a nursing home; amending s.  
26 400.141, F.S.; conforming a cross-reference;  
27 amending s. 400.179, F.S.; revising provisions  
28 relating to liability for Medicaid  
29 underpayments and overpayments; requiring that  
30 certain licensure fees be paid annually;  
31 amending s. 400.18, F.S.; revising provisions

1 relating to the closing of a nursing home  
2 facility; amending s. 400.19, F.S.; providing  
3 applicability of licensure requirements under  
4 pt. II of ch. 408, F.S., to nursing home  
5 facility inspections; amending s. 400.191,  
6 F.S.; revising provisions relating to the  
7 availability, distribution, and posting of  
8 reports and records; amending s. 400.23, F.S.;  
9 providing applicability of pt. II of ch. 408,  
10 F.S., to rulemaking for nursing home  
11 facilities; amending s. 400.241, F.S.; deleting  
12 provisions relating to prohibited acts  
13 involving the establishment, operation, or  
14 advertisement of nursing home facilities;  
15 amending ss. 400.464, 400.471, 400.474, and  
16 400.484, F.S.; providing applicability of  
17 licensure requirements under pt. II of ch. 408,  
18 F.S., to home health agencies; repealing s.  
19 400.495, F.S., relating to the notice of a  
20 toll-free telephone number for the central  
21 abuse hotline; amending ss. 400.497, 400.506,  
22 400.509, 400.602, 400.605, 400.606, 400.6065,  
23 400.607, 400.801, 400.805, 400.903, 400.905,  
24 400.907, 400.908, 400.912, 400.914, and  
25 400.915, F.S.; providing applicability of  
26 licensure requirements under pt. II of ch. 408,  
27 F.S., to the toll-free central abuse hotline,  
28 rules establishing minimum standards for home  
29 health aides, nurse registries, the  
30 registration of companion or homemaker service  
31 providers that are exempt from licensure,

1 hospices, homes for special services,  
2 transitional living facilities, and prescribed  
3 pediatric extended care (PPEC) centers;  
4 amending s. 400.512, F.S.; revising provisions  
5 relating to the screening of home health  
6 agency, nurse registry, companion, and  
7 homemaker personnel; repealing s. 400.515,  
8 F.S., relating to instituting injunction  
9 proceedings against a home health agency or  
10 nurse registry; amending s. 400.6095, F.S.;  
11 clarifying provisions relating to protection  
12 from liability for hospice staff; amending s.  
13 400.902, F.S.; revising a definition; amending  
14 s. 400.906, F.S.; revising provisions relating  
15 to applications for a license to operate a PPEC  
16 center; repealing s. 400.910, F.S., relating to  
17 expiration and renewal of a license and the  
18 issuance of a conditional license or permit to  
19 operate a PPEC center; repealing s. 400.911,  
20 F.S., relating to instituting injunction  
21 proceedings against a PPEC center; repealing s.  
22 400.913, F.S., relating to right to enter and  
23 inspect a PPEC center; amending s. 400.916,  
24 F.S.; revising provisions relating to  
25 prohibited acts and penalties applicable to a  
26 PPEC center; repealing s. 400.917, F.S.,  
27 relating to disposition of moneys from fines  
28 and fees imposed on a PPEC center; amending s.  
29 400.925, F.S.; deleting and revising  
30 definitions; amending ss. 400.93, 400.931,  
31 400.932, 400.933, 400.935, 400.953, and



1 400.955, F.S.; providing applicability of  
2 licensure requirements under pt. II of ch. 408,  
3 F.S., to home medical equipment providers;  
4 repealing s. 400.95, F.S., relating to notice  
5 of the toll-free telephone number for the  
6 central abuse hotline; repealing s. 400.956,  
7 F.S., relating to instituting injunction  
8 proceedings against a home medical equipment  
9 provider; amending ss. 400.962, 400.967,  
10 400.968, and 400.969, F.S.; providing  
11 applicability of licensure requirements under  
12 pt. II of ch. 408, F.S., to intermediate care  
13 facilities for developmentally disabled  
14 persons; repealing s. 400.963, F.S., relating  
15 to instituting injunction proceedings against  
16 an intermediate care facility for  
17 developmentally disabled persons; repealing s.  
18 400.965, F.S., relating to agency action  
19 against an intermediate care facility for  
20 developmentally disabled persons; amending s.  
21 400.980, F.S.; providing applicability of  
22 licensure requirements under pt. II of ch. 408,  
23 F.S., to health care services pools; amending  
24 ss. 400.991, 400.9915, 400.9925, 400.993,  
25 400.9935, and 400.995, F.S.; providing  
26 applicability of licensure requirements under  
27 pt. II of ch. 408, F.S., to health care  
28 clinics; repealing s. 400.992, F.S., relating  
29 to license renewal, transfer of ownership, and  
30 provisional license of a health care clinic;  
31 repealing s. 400.994, F.S., relating to

1 instituting injunctive proceedings against a  
2 health care clinic; repealing s. 400.9945,  
3 F.S., relating to review of agency licensure  
4 enforcement actions; amending ss. 408.802 and  
5 408.832, F.S.; revising provisions to conform  
6 to changes made by the act; amending ss.  
7 409.221, 409.815, 409.905, and 409.907, F.S.;  
8 conforming cross-references; amending ss.  
9 429.02, 429.07, 429.075, 429.08, 429.11,  
10 429.12, 429.14, 429.17, 429.174, 429.176,  
11 429.18, 429.19, 429.22, 429.26, 429.31, 429.34,  
12 429.35, 429.41, and 429.47, F.S.; providing  
13 applicability of licensure requirements under  
14 pt. II of ch. 408, F.S., to assisted living  
15 facilities; repealing s. 429.15, F.S., relating  
16 to imposing a moratorium on admissions to an  
17 assisted living facility and notice thereof;  
18 repealing s. 429.21, F.S., relating to  
19 instituting injunctive proceedings against an  
20 assisted living facility; repealing s. 429.51,  
21 F.S., relating to the time for an existing  
22 assisted living facility to comply with newly  
23 adopted rules and standards; amending ss.  
24 429.67, 429.69, 429.71, and 429.73, F.S.;  
25 providing applicability of licensure  
26 requirements under pt. II of ch. 408, F.S., to  
27 adult family-care homes; repealing s. 429.77,  
28 F.S., relating to instituting injunctive  
29 proceedings against an adult family-care home;  
30 amending ss. 429.901, 429.907, 429.909,  
31 429.911, 429.913, 429.915, 429.919, 429.925,

1 429.927, and 429.929, F.S.; providing  
2 applicability of licensure requirements under  
3 pt. II of ch. 408, F.S., to adult day care  
4 centers; repealing s. 429.921, F.S., relating  
5 to the disposition of fees and administrative  
6 fines imposed on adult day care centers;  
7 repealing s. 429.923, F.S., relating to  
8 instituting injunctive proceedings against an  
9 adult day care center; repealing s. 429.933,  
10 F.S., relating to prohibited acts and penalties  
11 applicable to adult day care centers; amending  
12 s. 440.102, F.S.; providing applicability of  
13 licensure requirements under pt. II of ch. 408,  
14 F.S., to drug-testing laboratories; amending  
15 ss. 468.505 and 483.106, F.S.; conforming  
16 cross-references; amending ss. 483.035,  
17 483.051, 483.061, 483.091, 483.101, 483.111,  
18 483.172, 483.201, and 483.221, F.S.; providing  
19 applicability of licensure requirements under  
20 pt. II of ch. 408, F.S., to certain clinical  
21 laboratories; repealing s. 483.131, F.S.,  
22 relating to display of the clinical laboratory  
23 license; repealing s. 483.25, F.S., relating to  
24 instituting injunctive proceedings against a  
25 clinical laboratory; amending ss. 483.291,  
26 483.294, 483.30, 483.302, 483.317, 483.32, and  
27 483.322, F.S.; providing applicability of  
28 licensure requirements under pt. II of ch. 408,  
29 F.S., to multiphasic health testing centers;  
30 repealing s. 483.311, F.S., relating to the  
31 display of a multiphasic health testing center

1 license; amending s. 483.317, F.S.; repealing  
2 s. 483.328, F.S., relating to instituting  
3 injunctive proceedings against a multiphasic  
4 health testing center; amending s. 765.541,  
5 F.S.; conforming provisions relating to  
6 cadaveric organ and tissue procurement;  
7 amending s. 765.542, F.S.; providing  
8 applicability of licensure requirements under  
9 pt. II of ch. 408, F.S., to organ procurement  
10 organizations and tissue and eye banks;  
11 amending s. 765.544, F.S.; conforming  
12 provisions relating to application fees from  
13 organizations and tissue and eye banks;  
14 amending ss. 766.118, 766.316, and 812.014,  
15 F.S.; conforming cross-references; providing an  
16 effective date.

17

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

19

20 Section 1. Subsections (12) and (17) and paragraph (a)  
21 of subsection (13) of section 112.0455, Florida Statutes, are  
22 amended to read:

23 112.0455 Drug-Free Workplace Act.--

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

25 (a) The requirements of part II of chapter 408 apply  
26 to the provision of services that require licensure pursuant  
27 to this section and part II of chapter 408 and to entities  
28 licensed by or applying for such licensure from the Agency for  
29 Health Care Administration pursuant to this section. A license  
30 issued by the agency is required in order to operate a  
31 laboratory.

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

3           1. The laboratory is licensed and approved by the  
4 Agency for Health Care Administration using criteria  
5 established by the United States Department of Health and  
6 Human Services as general guidelines for modeling the state  
7 drug testing program and in accordance with part II of chapter  
8 408. Each applicant for licensure and licensee must comply  
9 with all requirements of part II of chapter 408. ~~the following~~  
10 ~~requirements:~~

11           ~~a. Upon receipt of a completed, signed, and dated~~  
12 ~~application, the agency shall require background screening, in~~  
13 ~~accordance with the level 2 standards for screening set forth~~  
14 ~~in chapter 435, of the managing employee, or other similarly~~  
15 ~~titled individual responsible for the daily operation of the~~  
16 ~~laboratory, and of the financial officer, or other similarly~~  
17 ~~titled individual who is responsible for the financial~~  
18 ~~operation of the laboratory, including billings for services.~~  
19 ~~The applicant must comply with the procedures for level 2~~  
20 ~~background screening as set forth in chapter 435, as well as~~  
21 ~~the requirements of s. 435.03(3).~~

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

27           ~~c. Proof of compliance with the level 2 background~~  
28 ~~screening requirements of chapter 435 which has been submitted~~  
29 ~~within the previous 5 years in compliance with any other~~  
30 ~~health care licensure requirements of this state is acceptable~~  
31 ~~in fulfillment of screening requirements.~~

1           ~~d. 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, or a request for a~~  
7 ~~disqualification exemption has been submitted to the agency as~~  
8 ~~set forth in chapter 435, but a response has not yet been~~  
9 ~~issued. A license may be granted to the applicant upon the~~  
10 ~~agency's receipt of a report of the results of the Federal~~  
11 ~~Bureau of Investigation background screening for each~~  
12 ~~individual required by this section to undergo background~~  
13 ~~screening which confirms that all standards have been met, or~~  
14 ~~upon the granting of a disqualification exemption by the~~  
15 ~~agency as set forth in chapter 435. Any other person who is~~  
16 ~~required to undergo level 2 background screening may serve in~~  
17 ~~his or her capacity pending the agency's receipt of the report~~  
18 ~~from the Federal Bureau of Investigation. However, the person~~  
19 ~~may not continue to serve if the report indicates any~~  
20 ~~violation of background screening standards and a~~  
21 ~~disqualification exemption has not been requested of and~~  
22 ~~granted by the agency as set forth in chapter 435.~~

23           ~~e. Each applicant must submit to the agency, with its~~  
24 ~~application, a description and explanation of any exclusions,~~  
25 ~~permanent suspensions, or terminations of the applicant from~~  
26 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
27 ~~the requirements for disclosure of ownership and control~~  
28 ~~interests under the Medicaid or Medicare programs shall be~~  
29 ~~accepted in lieu of this submission.~~

30           ~~f. Each applicant must submit to the agency a~~  
31 ~~description and explanation of any conviction of an offense~~

1 ~~prohibited under the level 2 standards of chapter 435 by a~~  
2 ~~member of the board of directors of the applicant, its~~  
3 ~~officers, or any individual owning 5 percent or more of the~~  
4 ~~applicant. This requirement does not apply to a director of a~~  
5 ~~not for profit corporation or organization if the director~~  
6 ~~serves solely in a voluntary capacity for the corporation or~~  
7 ~~organization, does not regularly take part in the day to day~~  
8 ~~operational decisions of the corporation or organization,~~  
9 ~~receives no remuneration for his or her services on the~~  
10 ~~corporation or organization's board of directors, and has no~~  
11 ~~financial interest and has no family members with a financial~~  
12 ~~interest in the corporation or organization, provided that the~~  
13 ~~director and the not for profit corporation or organization~~  
14 ~~include in the application a statement affirming that the~~  
15 ~~director's relationship to the corporation satisfies the~~  
16 ~~requirements of this sub-subparagraph.~~

17 ~~g. A license may not be granted to any applicant if~~  
18 ~~the applicant or managing employee has been found guilty of,~~  
19 ~~regardless of adjudication, or has entered a plea of nolo~~  
20 ~~contendere or guilty to, any offense prohibited under the~~  
21 ~~level 2 standards for screening set forth in chapter 435,~~  
22 ~~unless an exemption from disqualification has been granted by~~  
23 ~~the agency as set forth in chapter 435.~~

24 ~~h. The agency may deny or revoke licensure if the~~  
25 ~~applicant:~~

26 ~~(I) Has falsely represented a material fact in the~~  
27 ~~application required by sub-subparagraph e. or~~  
28 ~~sub-subparagraph f., or has omitted any material fact from the~~  
29 ~~application required by sub-subparagraph e. or~~  
30 ~~sub-subparagraph f.; or~~

31

1 ~~(II) Has had prior action taken against the applicant~~  
2 ~~under the Medicaid or Medicare program as set forth in~~  
3 ~~sub-subparagraph e.~~

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

6 2. The laboratory has written procedures to ensure  
7 chain of custody.

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

10 a. The use of internal quality controls including the  
11 use of samples of known concentrations which are used to check  
12 the performance and calibration of testing equipment, and  
13 periodic use of blind samples for overall accuracy.

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

17 c. Security measures implemented by the testing  
18 laboratory to preclude adulteration of specimens and drug test  
19 results.

20 d. Other necessary and proper actions taken to ensure  
21 reliable and accurate drug test results.

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

26 1. The name and address of the laboratory which  
27 performed the test and the positive identification of the  
28 person tested.

29 2. Positive results on confirmation tests only, or  
30 negative results, as applicable.

31



1 3. A list of the drugs for which the drug analyses  
2 were conducted.

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

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

8  
9 No report shall disclose the presence or absence of any drug  
10 other than a specific drug and its metabolites listed pursuant  
11 to this section.

12 ~~(d)(e)~~ The laboratory shall submit to the Agency for  
13 Health Care Administration a monthly report with statistical  
14 information regarding the testing of employees and job  
15 applicants. The reports shall include information on the  
16 methods of analyses conducted, the drugs tested for, the  
17 number of positive and negative results for both initial and  
18 confirmation tests, and any other information deemed  
19 appropriate by the Agency for Health Care Administration. No  
20 monthly report shall identify specific employees or job  
21 applicants.

22 ~~(e)(d)~~ Laboratories shall provide technical assistance  
23 to the employer, employee, or job applicant for the purpose of  
24 interpreting any positive confirmed test results which could  
25 have been caused by prescription or nonprescription medication  
26 taken by the employee or job applicant.

27 (13) RULES.--

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

1 for modeling drug-free workplace laboratories ~~the state~~  
2 ~~drug testing program~~, concerning, but not limited to:

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

5 2. Urine, hair, blood, and other body specimens and  
6 minimum specimen amounts which are appropriate for drug  
7 testing, not inconsistent with other provisions established by  
8 law.

9 3. Methods of analysis and procedures to ensure  
10 reliable drug-testing results, including standards for initial  
11 tests and confirmation tests, not inconsistent with other  
12 provisions established by law.

13 4. Minimum cutoff detection levels for drugs or their  
14 metabolites for the purposes of determining a positive test  
15 result, not inconsistent with other provisions established by  
16 law.

17 5. Chain-of-custody procedures to ensure proper  
18 identification, labeling, and handling of specimens being  
19 tested, not inconsistent with other provisions established by  
20 law.

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

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

26

27 This section shall not be construed to eliminate the  
28 bargainable rights as provided in the collective bargaining  
29 process where applicable.

30 (17) LICENSE FEE.--Fees from licensure of drug-testing  
31 laboratories shall be sufficient to carry out the

1 responsibilities of the Agency for Health Care Administration  
2 for the regulation of drug-testing laboratories. In accordance  
3 with s. 408.805, applicants and licensees shall pay a fee for  
4 each license application submitted under this part, part II of  
5 chapter 408, and applicable rules. The fee shall be not less  
6 than \$16,000 or more than \$20,000 per biennium and shall be  
7 established by rule. The Agency for Health Care Administration  
8 ~~shall collect fees for all licenses issued under this part.~~  
9 ~~Each nonrefundable fee shall be due at the time of application~~  
10 ~~and shall be payable to the Agency for Health Care~~  
11 ~~Administration to be deposited in a trust fund administered by~~  
12 ~~the Agency for Health Care Administration and used only for~~  
13 ~~the purposes of this section. The fee schedule is as~~  
14 ~~follows: For licensure as a drug testing laboratory, an~~  
15 ~~annual fee of not less than \$8,000 or more than \$10,000 per~~  
16 ~~fiscal year; for late filing of an application for renewal, an~~  
17 ~~additional fee of \$500 per day shall be charged.~~

18 Section 2. Paragraph (b) of subsection (4) of section  
19 381.78, Florida Statutes, is amended to read:

20 381.78 Advisory council on brain and spinal cord  
21 injuries.--

22 (4) The council shall:

23 (b) Annually appoint a five-member committee composed  
24 of one individual who has a brain injury or has a family  
25 member with a brain injury, one individual who has a spinal  
26 cord injury or has a family member with a spinal cord injury,  
27 and three members who shall be chosen from among these  
28 representative groups: physicians, other allied health  
29 professionals, administrators of brain and spinal cord injury  
30 programs, and representatives from support groups with  
31 expertise in areas related to the rehabilitation of

1 individuals who have brain or spinal cord injuries, except  
2 that one and only one member of the committee shall be an  
3 administrator of a transitional living facility. Membership on  
4 the council is not a prerequisite for membership on this  
5 committee.

6 1. The committee shall perform onsite visits to those  
7 transitional living facilities identified by the Agency for  
8 Health Care Administration as being in possible violation of  
9 the statutes and rules regulating such facilities. The  
10 committee members have the same rights of entry and inspection  
11 granted under s. 400.805(4) ~~s. 400.805(8)~~ to designated  
12 representatives of the agency.

13 2. Factual findings of the committee resulting from an  
14 onsite investigation of a facility pursuant to subparagraph 1.  
15 shall be adopted by the agency in developing its  
16 administrative response regarding enforcement of statutes and  
17 rules regulating the operation of the facility.

18 3. Onsite investigations by the committee shall be  
19 funded by the Health Care Trust Fund.

20 4. Travel expenses for committee members shall be  
21 reimbursed in accordance with s. 112.061.

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

26 Section 3. Section 383.301, Florida Statutes, is  
27 amended to read:

28 383.301 Licensure and regulation of birth centers;  
29 legislative intent.--It is the intent of the Legislature to  
30 provide for the protection of public health and safety in the  
31 establishment, maintenance, and operation of birth centers by

1 providing for licensure of birth centers and for the  
2 development, establishment, and enforcement of minimum  
3 standards with respect to birth centers. The requirements of  
4 part II of chapter 408 shall apply to the provision of  
5 services that require licensure pursuant to ss. 383.30-383.335  
6 and part II of chapter 408 and to entities licensed by or  
7 applying for such licensure from the Agency for Health Care  
8 Administration pursuant to ss. 383.30-383.335. A license  
9 issued by the agency is required in order to operate a birth  
10 center in this state.

11 Section 4. Section 383.304, Florida Statutes, is  
12 repealed.

13 Section 5. Section 383.305, Florida Statutes, is  
14 amended to read:

15 383.305 Licensure; ~~issuance, renewal, denial,~~  
16 ~~suspension, revocation; fees; background screening.--~~

17 (1)(a) In accordance with s. 408.805, an applicant or  
18 a licensee shall pay a fee for each license application  
19 submitted under ss. 383.30-383.335 and part II of chapter 408.  
20 The amount of the fee shall be established by rule. Upon  
21 receipt of an application for a license and the license fee,  
22 the agency shall issue a license if the applicant and facility  
23 have received all approvals required by law and meet the  
24 requirements established under ss. 383.30 383.335 and by rules  
25 promulgated hereunder.

26 (b) ~~A provisional license may be issued to any birth~~  
27 ~~center that is in substantial compliance with ss.~~  
28 ~~383.30 383.335 and with the rules of the agency. A provisional~~  
29 ~~license may be granted for a period of no more than 1 year~~  
30 ~~from the effective date of rules adopted by the agency, shall~~  
31

1 ~~expire automatically at the end of its term, and may not be~~  
2 ~~renewed.~~

3 ~~(c) A license, unless sooner suspended or revoked,~~  
4 ~~automatically expires 1 year from its date of issuance and is~~  
5 ~~renewable upon application for renewal and payment of the fee~~  
6 ~~prescribed, provided the applicant and the birth center meet~~  
7 ~~the requirements established under ss. 383.30-383.335 and by~~  
8 ~~rules promulgated hereunder. A complete application for~~  
9 ~~renewal of a license shall be made 90 days prior to expiration~~  
10 ~~of the license on forms provided by the agency.~~

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

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

22 ~~(b) The fees established pursuant to ss.~~  
23 ~~383.30-383.335 shall be based on actual costs incurred by the~~  
24 ~~agency in the administration of its duties under such~~  
25 ~~sections.~~

26 ~~(4) Each license is valid only for the person or~~  
27 ~~governmental unit to whom or which it is issued; is not~~  
28 ~~subject to sale, assignment, or other transfer, voluntary or~~  
29 ~~involuntary; and is not valid for any premises other than~~  
30 ~~those for which it was originally issued.~~

31

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

3           ~~(6) Whenever the agency finds that there has been a~~  
4 ~~substantial failure to comply with the requirements~~  
5 ~~established under ss. 383.30 383.335 or in rules adopted under~~  
6 ~~those sections, it is authorized to deny, suspend, or revoke a~~  
7 ~~license.~~

8           (2)(7) Each applicant for licensure and each licensee  
9 must comply with the following requirements of this chapter  
10 and part II of chapter 408.+

11           ~~(a) Upon receipt of a completed, signed, and dated~~  
12 ~~application, the agency shall require background screening, in~~  
13 ~~accordance with the level 2 standards for screening set forth~~  
14 ~~in chapter 435, of the managing employee, or other similarly~~  
15 ~~titled individual who is responsible for the daily operation~~  
16 ~~of the center, and of the financial officer, or other~~  
17 ~~similarly titled individual who is responsible for the~~  
18 ~~financial operation of the center, including billings for~~  
19 ~~patient care and services. The applicant must comply with the~~  
20 ~~procedures for level 2 background screening as set forth in~~  
21 ~~chapter 435 as well as the requirements of s. 435.03(3).~~

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

27           ~~(c) Proof of compliance with the level 2 background~~  
28 ~~screening requirements of chapter 435 which has been submitted~~  
29 ~~within the previous 5 years in compliance with any other~~  
30 ~~health care licensure requirements of this state is acceptable~~  
31 ~~in fulfillment of the requirements of paragraph (a).~~

1           ~~(d) 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, or a request for a~~  
7 ~~disqualification exemption has been submitted to the agency as~~  
8 ~~set forth in chapter 435 but a response has not yet been~~  
9 ~~issued. A standard license may be granted to the applicant~~  
10 ~~upon the agency's receipt of a report of the results of the~~  
11 ~~Federal Bureau of Investigation background screening for each~~  
12 ~~individual required by this section to undergo background~~  
13 ~~screening which confirms that all standards have been met, or~~  
14 ~~upon the granting of a disqualification exemption by the~~  
15 ~~agency as set forth in chapter 435. Any other person who is~~  
16 ~~required to undergo level 2 background screening may serve in~~  
17 ~~his or her capacity pending the agency's receipt of the report~~  
18 ~~from the Federal Bureau of Investigation. However, the person~~  
19 ~~may not continue to serve if the report indicates any~~  
20 ~~violation of background screening standards and a~~  
21 ~~disqualification exemption has not been requested of and~~  
22 ~~granted by the agency as set forth in chapter 435.~~

23           ~~(e) Each applicant must submit to the agency, with its~~  
24 ~~application, a description and explanation of any exclusions,~~  
25 ~~permanent suspensions, or terminations of the applicant from~~  
26 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
27 ~~the requirements for disclosure of ownership and control~~  
28 ~~interests under the Medicaid or Medicare programs shall be~~  
29 ~~accepted in lieu of this submission.~~

30           ~~(f) Each applicant must submit to the agency a~~  
31 ~~description and explanation of any conviction of an offense~~



1 ~~prohibited under the level 2 standards of chapter 435 by a~~  
2 ~~member of the board of directors of the applicant, its~~  
3 ~~officers, or any individual owning 5 percent or more of the~~  
4 ~~applicant. This requirement does not apply to a director of a~~  
5 ~~not for profit corporation or organization if the director~~  
6 ~~serves solely in a voluntary capacity for the corporation or~~  
7 ~~organization, does not regularly take part in the day to day~~  
8 ~~operational decisions of the corporation or organization,~~  
9 ~~receives no remuneration for his or her services on the~~  
10 ~~corporation or organization's board of directors, and has no~~  
11 ~~financial interest and has no family members with a financial~~  
12 ~~interest in the corporation or organization, provided that the~~  
13 ~~director and the not for profit corporation or organization~~  
14 ~~include in the application a statement affirming that the~~  
15 ~~director's relationship to the corporation satisfies the~~  
16 ~~requirements of this paragraph.~~

17 ~~(g) A license may not be granted to an applicant if~~  
18 ~~the applicant or managing employee has been found guilty of,~~  
19 ~~regardless of adjudication, or has entered a plea of nolo~~  
20 ~~contendere or guilty to, any offense prohibited under the~~  
21 ~~level 2 standards for screening set forth in chapter 435,~~  
22 ~~unless an exemption from disqualification has been granted by~~  
23 ~~the agency as set forth in chapter 435.~~

24 ~~(h) The agency may deny or revoke licensure if the~~  
25 ~~applicant:~~

26 ~~1. Has falsely represented a material fact in the~~  
27 ~~application required by paragraph (c) or paragraph (f), or has~~  
28 ~~omitted any material fact from the application required by~~  
29 ~~paragraph (c) or paragraph (f); or~~

30  
31

1 ~~2. Has had prior action taken against the applicant~~  
2 ~~under the Medicaid or Medicare program as set forth in~~  
3 ~~paragraph (c).~~

4 ~~(i) An application for license renewal must contain~~  
5 ~~the information required under paragraphs (c) and (f).~~

6 Section 6. Section 383.309, Florida Statutes, is  
7 amended to read:

8 383.309 Minimum standards for birth centers; rules and  
9 enforcement.--

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

14 (a) Sufficient numbers and qualified types of  
15 personnel and occupational disciplines are available at all  
16 times to provide necessary and adequate patient care and  
17 safety.

18 (b) Infection control, housekeeping, sanitary  
19 conditions, disaster plan, and medical record procedures that  
20 will adequately protect patient care and provide safety are  
21 established and implemented.

22 (c) Licensed facilities are established, organized,  
23 and operated consistent with established programmatic  
24 standards.

25 ~~(2) Any licensed facility that is in operation at the~~  
26 ~~time of adoption of any applicable rule under ss.~~  
27 ~~383.30-383.335 shall be given a reasonable time under the~~  
28 ~~particular circumstances, not to exceed 1 year after the date~~  
29 ~~of such adoption, within which to comply with such rule.~~

30 ~~(2)(3)~~ The agency may not establish any rule governing  
31 the design, construction, erection, alteration, modification,

1 repair, or demolition of birth centers. It is the intent of  
2 the Legislature to preempt that function to the Florida  
3 Building Commission and the State Fire Marshal through  
4 adoption and maintenance of the Florida Building Code and the  
5 Florida Fire Prevention Code. However, the agency shall  
6 provide technical assistance to the commission and the State  
7 Fire Marshal in updating the construction standards of the  
8 Florida Building Code and the Florida Fire Prevention Code  
9 which govern birth centers. In addition, the agency may  
10 enforce the special-occupancy provisions of the Florida  
11 Building Code and the Florida Fire Prevention Code which apply  
12 to birth centers in conducting any inspection authorized under  
13 this chapter or part II of chapter 408.

14 Section 7. Subsection (1) of section 383.315, Florida  
15 Statutes, is amended to read:

16 383.315 Agreements with consultants for advice or  
17 services; maintenance.--

18 (1) A birth center shall maintain in writing a  
19 consultation agreement, signed within the current license  
20 period year, with each consultant who has agreed to provide  
21 advice and services to the birth center as requested.

22 Section 8. Section 383.324, Florida Statutes, is  
23 amended to read:

24 383.324 Inspections and investigations; inspection  
25 fees.--

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

28 ~~(2) Each facility licensed under s. 383.305 shall pay~~  
29 ~~to the agency, at the time of inspection,~~ an inspection fee  
30 established by rule of the agency. In addition to the  
31 requirements of part II of chapter 408,

1           ~~(3)~~ the agency shall coordinate all periodic  
2 inspections for licensure made by the agency to ensure that  
3 the cost to the facility of such inspections and the  
4 disruption of services by such inspections is minimized.

5           Section 9. Section 383.325, Florida Statutes, is  
6 repealed.

7           Section 10. Section 383.33, Florida Statutes, is  
8 amended to read:

9           383.33 Administrative penalties; ~~emergency orders;~~  
10 moratorium on admissions.--

11           ~~(1)(a)~~ In addition to the requirements of part II of  
12 chapter 408, the agency may ~~deny, revoke, or suspend a~~  
13 ~~license, or~~ impose an administrative fine not to exceed \$500  
14 per violation per day, ~~for the violation of any provision of~~  
15 ~~ss. 383.30-383.335, part II of chapter 408, or applicable~~  
16 rules or any rule adopted under ss. 383.30-383.335. Each day  
17 ~~of violation constitutes a separate violation and is subject~~  
18 ~~to a separate fine.~~

19           ~~(2)(b)~~ In determining the amount of the fine to be  
20 levied for a violation, as provided in this section ~~paragraph~~  
21 ~~(a)~~, the following factors shall be considered:

22           ~~(a)1-~~ The severity of the violation, including the  
23 probability that death or serious harm to the health or safety  
24 of any person will result or has resulted; the severity of the  
25 actual or potential harm; and the extent to which the  
26 provisions of ss. 383.30-383.335, part II of chapter 408, or  
27 applicable rules were violated.

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

30           ~~(c)3-~~ Any previous violations by the licensee.  
31

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

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

10           ~~(2)(3)~~ In accordance with part II of chapter 408, the  
11 agency may impose an immediate moratorium on elective  
12 admissions to any licensed facility, building or portion  
13 thereof, or service when the agency determines that any  
14 condition in the facility presents a threat to the public  
15 health or safety.

16           Section 11. Section 383.331, Florida Statutes, is  
17 repealed.

18           Section 12. Section 383.332, Florida Statutes, is  
19 amended to read:

20           383.332 Establishing, managing, or operating a birth  
21 center without a license; penalty.--Any person who  
22 establishes, conducts, manages, or operates any birth center  
23 facility without a license issued under s. 383.305 and part II  
24 of chapter 408 commits is guilty of a misdemeanor and, upon  
25 conviction, shall be fined not more than \$100 for the first  
26 offense and not more than \$500 for each subsequent offense;  
27 and each day of continuing violation after conviction shall be  
28 considered a separate offense.

29           Section 13. Subsection (1) of section 383.335, Florida  
30 Statutes, is amended to read:

31           383.335 Partial exemptions.--

1 (1) Any facility that ~~which~~ was providing obstetrical  
2 and gynecological surgical services and was owned and operated  
3 by a board-certified obstetrician on June 15, 1984, and that  
4 would ~~which~~ otherwise be subject to licensure under ss.  
5 383.30-383.335 as a birth center, is exempt from the  
6 provisions of ss. 383.30-383.335 and part II of chapter 408  
7 which restrict the provision of surgical services and outlet  
8 forceps delivery and the administration of anesthesia at birth  
9 centers. The agency shall adopt rules specifically related to  
10 the performance of such services and the administration of  
11 anesthesia at such facilities.

12 Section 14. Subsection (4) of section 383.50, Florida  
13 Statutes, is amended to read:

14 383.50 Treatment of abandoned newborn infant.--

15 (4) Each hospital of this state subject to s. 395.1041  
16 shall, and any other hospital may, admit and provide all  
17 necessary emergency services and care, as defined in s.  
18 395.002(9)~~(10)~~, to any newborn infant left with the hospital  
19 in accordance with this section. The hospital or any of its  
20 licensed health care professionals shall consider these  
21 actions as implied consent for treatment, and a hospital  
22 accepting physical custody of a newborn infant has implied  
23 consent to perform all necessary emergency services and care.  
24 The hospital or any of its licensed health care professionals  
25 is immune from criminal or civil liability for acting in good  
26 faith in accordance with this section. Nothing in this  
27 subsection limits liability for negligence.

28 Section 15. Subsection (5) of section 390.011, Florida  
29 Statutes, is amended to read:

30 390.011 Definitions.--As used in this chapter, the  
31 term:

1 (5) "Hospital" means a facility as defined in s.  
2 395.002(12) and licensed under chapter 395 and part II of  
3 chapter 408.

4 Section 16. Subsection (1) of section 390.012, Florida  
5 Statutes, is amended to read:

6 390.012 Powers of agency; rules; disposal of fetal  
7 remains.--

8 (1) The agency may ~~shall have the authority to~~ develop  
9 and enforce rules pursuant to ss. 390.001-390.018 and part II  
10 of chapter 408 for the health, care, and treatment of persons  
11 in abortion clinics and for the safe operation of such  
12 clinics.

13 (a) The rules shall be reasonably related to the  
14 preservation of maternal health of the clients.

15 (b) The rules shall be in accordance with s. 797.03  
16 and may not impose an unconstitutional burden on a woman's  
17 freedom to decide whether to terminate her pregnancy.

18 (c) The rules shall provide for:

19 1. The performance of pregnancy termination procedures  
20 only by a licensed physician.

21 2. The making, protection, and preservation of patient  
22 records, which shall be treated as medical records under  
23 chapter 458.

24 Section 17. Section 390.013, Florida Statutes, is  
25 repealed.

26 Section 18. Section 390.014, Florida Statutes, is  
27 amended to read:

28 390.014 Licenses; fees, ~~display, etc.~~--

29 (1) The requirements of part II of chapter 408 shall  
30 apply to the provision of services that require licensure  
31 pursuant to ss. 390.011-390.018 and part II of chapter 408 and

1 to entities licensed by or applying for such licensure from  
2 the Agency for Health Care Administration pursuant to ss.  
3 390.011-390.018. A license issued by the agency is required in  
4 order to operate a clinic in this state. ~~No abortion clinic~~  
5 ~~shall operate in this state without a currently effective~~  
6 ~~license issued by the agency.~~

7 (2) A separate license shall be required for each  
8 clinic maintained on separate premises, even though it is  
9 operated by the same management as another clinic; but a  
10 separate license shall not be required for separate buildings  
11 on the same premises.

12 (3) In accordance with s. 408.805, an applicant or  
13 licensee shall pay a fee for each license application  
14 submitted under this part and part II of chapter 408. The  
15 amount of the fee shall be established by rule and ~~The annual~~  
16 ~~license fee required for a clinic shall be nonrefundable and~~  
17 ~~shall be reasonably calculated to cover the cost of regulation~~  
18 ~~under this chapter, but may not be less than \$70 or \$35 nor~~  
19 ~~more than \$500 \$250.~~

20 (4) Counties and municipalities applying for licenses  
21 under this act shall be exempt from the payment of the license  
22 fees.

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

25 ~~(6) A license shall be valid only for the clinic to~~  
26 ~~which it is issued, and it shall not be subject to sale,~~  
27 ~~assignment, or other transfer, voluntary or involuntary. No~~  
28 ~~license shall be valid for any premises other than those for~~  
29 ~~which it was originally issued.~~

30 Section 19. Section 390.015, Florida Statutes, is  
31 amended to read:



1 390.015 Application for license.--

2 ~~(1) In addition to the requirements of part II of~~  
3 ~~chapter 408, an application for a license to operate an~~  
4 ~~abortion clinic shall be made to the agency and must include~~  
5 ~~on a form furnished by it for that purpose. The application~~  
6 ~~shall be accompanied by the applicable license fee.~~

7 ~~(2) The application, which shall be made under oath,~~  
8 ~~shall contain, among other things, the following:~~

9 ~~(a) The name and address of the applicant if the~~  
10 ~~applicant is an individual; or if the applicant is a firm,~~  
11 ~~partnership, or association, the name and address of each~~  
12 ~~member thereof; or if the applicant is a corporation, its name~~  
13 ~~and address and the name and address of each of its officers.~~

14 ~~(b) The name by which the clinic is to be known.~~

15 ~~(c) the location of the clinic for which application~~  
16 ~~is made and a statement that local zoning ordinances permit~~  
17 ~~such location.~~

18 ~~(d) The name of the person or persons under whose~~  
19 ~~management or supervision the clinic will be operated.~~

20 ~~(3) Each applicant for licensure must comply with the~~  
21 ~~following requirements:~~

22 ~~(a) Upon receipt of a completed, signed, and dated~~  
23 ~~application, the agency shall require background screening, in~~  
24 ~~accordance with the level 2 standards for screening set forth~~  
25 ~~in chapter 435, of the managing employee, or other similarly~~  
26 ~~titled individual who is responsible for the daily operation~~  
27 ~~of the clinic, and financial officer, or other similarly~~  
28 ~~titled individual who is responsible for the financial~~  
29 ~~operation of the clinic, including billings for patient care~~  
30 ~~and services. The applicant must comply with the procedures~~

31

1 ~~for level 2 background screening as set forth in chapter 435,~~  
2 ~~as well as the requirements of s. 435.03(3).~~

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

8 ~~(c) Proof of compliance with the level 2 background~~  
9 ~~screening requirements of chapter 435 which has been submitted~~  
10 ~~within the previous 5 years in compliance with any other~~  
11 ~~health care licensure requirements of this state is acceptable~~  
12 ~~in fulfillment of the requirements of paragraph (a).~~

13 ~~(d) A provisional license may be granted to an~~  
14 ~~applicant when each individual required by this section to~~  
15 ~~undergo background screening has met the standards for the~~  
16 ~~Department of Law Enforcement background check, but the agency~~  
17 ~~has not yet received background screening results from the~~  
18 ~~Federal Bureau of Investigation, or a request for a~~  
19 ~~disqualification exemption has been submitted to the agency as~~  
20 ~~set forth in chapter 435 but a response has not yet been~~  
21 ~~issued. A standard license may be granted to the applicant~~  
22 ~~upon the agency's receipt of a report of the results of the~~  
23 ~~Federal Bureau of Investigation background screening for each~~  
24 ~~individual required by this section to undergo background~~  
25 ~~screening which confirms that all standards have been met, or~~  
26 ~~upon the granting of a disqualification exemption by the~~  
27 ~~agency as set forth in chapter 435. Any other person who is~~  
28 ~~required to undergo level 2 background screening may serve in~~  
29 ~~his or her capacity pending the agency's receipt of the report~~  
30 ~~from the Federal Bureau of Investigation. However, the person~~  
31 ~~may not continue to serve if the report indicates any~~

1 ~~violation of background screening standards and a~~  
2 ~~disqualification exemption has not been requested of and~~  
3 ~~granted by the agency as set forth in chapter 435.~~

4 ~~(e) Each applicant must submit to the agency, with its~~  
5 ~~application, a description and explanation of any exclusions,~~  
6 ~~permanent suspensions, or terminations of the applicant from~~  
7 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
8 ~~the requirements for disclosure of ownership and control~~  
9 ~~interests under the Medicaid or Medicare programs shall be~~  
10 ~~accepted in lieu of this submission.~~

11 ~~(f) Each applicant must submit to the agency a~~  
12 ~~description and explanation of any conviction of an offense~~  
13 ~~prohibited under the level 2 standards of chapter 435 by a~~  
14 ~~member of the board of directors of the applicant, its~~  
15 ~~officers, or any individual owning 5 percent or more of the~~  
16 ~~applicant. This requirement does not apply to a director of a~~  
17 ~~not for profit corporation or organization if the director~~  
18 ~~serves solely in a voluntary capacity for the corporation or~~  
19 ~~organization, does not regularly take part in the day to day~~  
20 ~~operational decisions of the corporation or organization,~~  
21 ~~receives no remuneration for his or her services on the~~  
22 ~~corporation or organization's board of directors, and has no~~  
23 ~~financial interest and has no family members with a financial~~  
24 ~~interest in the corporation or organization, provided that the~~  
25 ~~director and the not for profit corporation or organization~~  
26 ~~include in the application a statement affirming that the~~  
27 ~~director's relationship to the corporation satisfies the~~  
28 ~~requirements of this paragraph.~~

29 ~~(g) A license may not be granted to an applicant if~~  
30 ~~the applicant or managing employee has been found guilty of,~~  
31 ~~regardless of adjudication, or has entered a plea of nolo~~

1 ~~contendere or guilty to, any offense prohibited under the~~  
2 ~~level 2 standards for screening set forth in chapter 435,~~  
3 ~~unless an exemption from disqualification has been granted by~~  
4 ~~the agency as set forth in chapter 435.~~

5 ~~(h) The agency may deny or revoke licensure if the~~  
6 ~~applicant:~~

7 ~~1. Has falsely represented a material fact in the~~  
8 ~~application required by paragraph (c) or paragraph (f), or has~~  
9 ~~omitted any material fact from the application required by~~  
10 ~~paragraph (c) or paragraph (f); or~~

11 ~~2. Has had prior action taken against the applicant~~  
12 ~~under the Medicaid or Medicare program as set forth in~~  
13 ~~paragraph (c).~~

14 ~~(i) An application for license renewal must contain~~  
15 ~~the information required under paragraphs (c) and (f).~~

16 Section 20. Section 390.016, Florida Statutes, is  
17 repealed.

18 Section 21. Section 390.017, Florida Statutes, is  
19 repealed.

20 Section 22. Section 390.018, Florida Statutes, is  
21 amended to read:

22 390.018 Administrative fine ~~penalty in lieu of~~  
23 ~~revocation or suspension.--In addition to the requirements of~~  
24 part II of chapter 408 ~~If the agency finds that one or more~~  
25 ~~grounds exist for the revocation or suspension of a license~~  
26 ~~issued to an abortion clinic, the agency may, in lieu of such~~  
27 ~~suspension or revocation,~~ impose a fine upon the clinic in an  
28 amount not to exceed \$1,000 for each violation of any  
29 provision of this part, part II of chapter 408, or applicable  
30 rules. ~~The fine shall be paid to the agency within 60 days~~  
31 ~~from the date of entry of the administrative order. If the~~

1 ~~licensee fails to pay the fine in its entirety to the agency~~  
2 ~~within the period allowed, the license of the licensee shall~~  
3 ~~stand suspended, revoked, or renewal or continuation may be~~  
4 ~~refused, as the case may be, upon expiration of such period~~  
5 ~~and without any further administrative or judicial~~  
6 ~~proceedings.~~

7 Section 23. Section 390.019, Florida Statutes, is  
8 repealed.

9 Section 24. Section 390.021, Florida Statutes, is  
10 repealed.

11 Section 25. Subsection (13) of section 394.455,  
12 Florida Statutes, is amended to read:

13 394.455 Definitions.--As used in this part, unless the  
14 context clearly requires otherwise, the term:

15 (13) "Hospital" means a facility as defined in s.  
16 395.002 and licensed under chapter 395 and part II of chapter  
17 408.

18 Section 26. Subsection (7) of section 394.4787,  
19 Florida Statutes, is amended to read:

20 394.4787 Definitions; ss. 394.4786, 394.4787,  
21 394.4788, and 394.4789.--As used in this section and ss.  
22 394.4786, 394.4788, and 394.4789:

23 (7) "Specialty psychiatric hospital" means a hospital  
24 licensed by the agency pursuant to s. 395.002(28) and part II  
25 of chapter 408 ~~s. 395.002(29)~~ as a specialty psychiatric  
26 hospital.

27 Section 27. Subsections (3) through (25) of section  
28 394.67, Florida Statutes, are renumbered as subsections (2)  
29 through (24), respectively, and present subsections (2) and  
30 (4) of that section are amended to read:

31 394.67 Definitions.--As used in this part, the term:

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

6           (3)~~(4)~~ "Crisis services" means short-term evaluation,  
7 stabilization, and brief intervention services provided to a  
8 person who is experiencing an acute mental or emotional  
9 crisis, as defined in subsection(17)~~(18)~~, or an acute  
10 substance abuse crisis, as defined in subsection(18)~~(19)~~, to  
11 prevent further deterioration of the person's mental health.  
12 Crisis services are provided in settings such as a crisis  
13 stabilization unit, an inpatient unit, a short-term  
14 residential treatment program, a detoxification facility, or  
15 an addictions receiving facility; at the site of the crisis by  
16 a mobile crisis response team; or at a hospital on an  
17 outpatient basis.

18           Section 28. Subsection (3) of section 394.74, Florida  
19 Statutes, is amended to read:

20           394.74 Contracts for provision of local substance  
21 abuse and mental health programs.--

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

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

29           (b) A provision that such services be available with  
30 priority of attention being given to individuals who exhibit  
31

1 symptoms of chronic or acute substance abuse or mental illness  
2 and who are unable to pay the cost of receiving such services;

3 (c) A provision that every reasonable effort to  
4 collect appropriate reimbursement for the cost of providing  
5 substance abuse and mental health services to persons able to  
6 pay for services, including first-party payments and  
7 third-party payments, shall be made by facilities providing  
8 services pursuant to this act;

9 (d) A program description and line-item operating  
10 budget by program service component for substance abuse and  
11 mental health services, provided the entire proposed operating  
12 budget for the service provider will be displayed;

13 (e) A provision that client demographic, service, and  
14 outcome information required for the department's Mental  
15 Health and Substance Abuse Data System be submitted to the  
16 department by a date specified in the contract. The department  
17 may not pay the provider unless the required information has  
18 been submitted by the specified date; and

19 (f) A requirement that the contractor must conform to  
20 department rules and the priorities established thereunder.

21 Section 29. Subsections (1) and (4) of section 394.82,  
22 Florida Statutes, are amended to read:

23 394.82 Funding of expanded services.--

24 (1) Pursuant to the General Appropriations Acts for  
25 the 2001-2002 and 2002-2003 fiscal years, funds appropriated  
26 to the Department of Children and Family Services for the  
27 purpose of expanding community mental health services must be  
28 used to implement programs that emphasize crisis services as  
29 defined in s. 394.67~~(3)~~~~(4)~~ and treatment services,  
30 rehabilitative services, support services, and case management  
31 services, as defined in s. 394.67~~(15)~~~~(16)~~. Following the

1 | 2002-2003 fiscal year, the Department of Children and Family  
2 | Services must continue to expand the provision of these  
3 | community mental health services.

4 |       (4) By January 1, 2004, the crisis services defined in  
5 | s. 394.67~~(3)~~~~(4)~~ shall be implemented, as appropriate, in the  
6 | state's public community mental health system to serve  
7 | children and adults who are experiencing an acute mental or  
8 | emotional crisis, as defined in s. 394.67~~(17)~~~~(18)~~. By January  
9 | 1, 2006, the mental health services defined in s.  
10 | 394.67~~(15)~~~~(16)~~ shall be implemented, as appropriate, in the  
11 | state's public community mental health system to serve adults  
12 | and older adults who have a severe and persistent mental  
13 | illness and to serve children who have a serious emotional  
14 | disturbance or mental illness, as defined in s. 394.492(6).

15 |       Section 30. Section 394.875, Florida Statutes, is  
16 | amended to read:

17 |       394.875 Crisis stabilization units, residential  
18 | treatment facilities, and residential treatment centers for  
19 | children and adolescents; authorized services; license  
20 | required; ~~penalties~~.--

21 |       (1)(a) The purpose of a crisis stabilization unit is  
22 | to stabilize and redirect a client to the most appropriate and  
23 | least restrictive community setting available, consistent with  
24 | the client's needs. Crisis stabilization units may screen,  
25 | assess, and admit for stabilization persons who present  
26 | themselves to the unit and persons who are brought to the unit  
27 | under s. 394.463. Clients may be provided 24-hour observation,  
28 | medication prescribed by a physician or psychiatrist, and  
29 | other appropriate services. Crisis stabilization units shall  
30 | provide services regardless of the client's ability to pay and  
31 | shall be limited in size to a maximum of 30 beds.



1 (b) The purpose of a residential treatment facility is  
2 to be a part of a comprehensive treatment program for mentally  
3 ill individuals in a community-based residential setting.

4 (c) The purpose of a residential treatment center for  
5 children and adolescents is to provide mental health  
6 assessment and treatment services pursuant to ss. 394.491,  
7 394.495, and 394.496 to children and adolescents who meet the  
8 target population criteria specified in s. 394.493(1)(a), (b),  
9 or (c).

10 (2) The requirements of part II of chapter 408 apply  
11 to the provision of services that require licensure under ss.  
12 394.455-394.904 and part II of chapter 408 and to entities  
13 licensed by or applying for such licensure from the Agency for  
14 Health Care Administration pursuant to ss. 394.455-394.904. A  
15 license issued by the agency is required in order to operate  
16 ~~It is unlawful for any entity to hold itself out as a crisis~~  
17 ~~stabilization unit, a residential treatment facility, or a~~  
18 ~~residential treatment center for children and adolescents, or~~  
19 ~~to act as a crisis stabilization unit, a residential treatment~~  
20 ~~facility, or a residential treatment center for children and~~  
21 ~~adolescents in this state, unless it is licensed by the agency~~  
22 ~~pursuant to this chapter.~~

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

26 ~~(4) The agency may maintain an action in circuit court~~  
27 ~~to enjoin the unlawful operation of a crisis stabilization~~  
28 ~~unit, a residential treatment facility, or a residential~~  
29 ~~treatment center for children and adolescents if the agency~~  
30 ~~first gives the violator 14 days' notice of its intention to~~  
31

1 ~~maintain such action and if the violator fails to apply for~~  
2 ~~licensure within such 14 day period.~~

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

6 (a) Homes for special services licensed under chapter  
7 400. ~~;~~

8 (b) Nursing homes licensed under chapter 400.

9 (c) Comprehensive transitional education programs  
10 licensed under s. 393.067.

11 (4)(6) The department, in consultation with the  
12 agency, may establish multiple license classifications for  
13 residential treatment facilities.

14 (5)(7) The agency may not issue a license to a crisis  
15 stabilization unit unless the unit receives state mental  
16 health funds and is affiliated with a designated public  
17 receiving facility.

18 (6)(8) The agency may issue a license for a crisis  
19 stabilization unit or short-term residential treatment  
20 facility, certifying the number of authorized beds for such  
21 facility as indicated by existing need and available  
22 appropriations. The agency may disapprove an application for  
23 such a license if it determines that a facility should not be  
24 licensed pursuant to the provisions of this chapter. Any  
25 facility operating beds in excess of those authorized by the  
26 agency shall, upon demand of the agency, reduce the number of  
27 beds to the authorized number, forfeit its license, or provide  
28 evidence of a license issued pursuant to chapter 395 for the  
29 excess beds.

30 (7)(9) A children's crisis stabilization unit which  
31 does not exceed 20 licensed beds and which provides separate

1 facilities or a distinct part of a facility, separate  
2 staffing, and treatment exclusively for minors may be located  
3 on the same premises as a crisis stabilization unit serving  
4 adults. The department, in consultation with the agency, shall  
5 adopt rules governing facility construction, staffing and  
6 licensure requirements, and the operation of such units for  
7 minors.

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

16 ~~(9)~~~~(11)~~ Notwithstanding the provisions of subsection  
17 (8), crisis stabilization units may not exceed their licensed  
18 capacity by more than 10 percent, nor may they exceed their  
19 licensed capacity for more than 3 consecutive working days or  
20 for more than 7 days in 1 month.

21 ~~(10)~~~~(12)~~ Notwithstanding the other provisions of this  
22 section, any facility licensed under former chapter 396 and  
23 chapter 397 for detoxification, residential level I care, and  
24 outpatient treatment may elect to license concurrently all of  
25 the beds at such facility both for that purpose and as a  
26 long-term residential treatment facility pursuant to this  
27 section, if all of the following conditions are met:

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

30 (b) On January 1, 1993, the facility was licensed  
31 under former chapter 396 and chapter 397 as a facility for

1 detoxification, residential level I care, and outpatient  
2 treatment of substance abuse.

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

6 (d) The number of beds to be licensed under this  
7 chapter is equal to or less than the number of beds licensed  
8 under former chapter 396 and chapter 397 as of January 1,  
9 1993.

10 (e) The licensee agrees in writing to a condition  
11 placed upon the license that the facility will limit its  
12 treatment exclusively to law enforcement personnel and their  
13 immediate families who are seeking admission on a voluntary  
14 basis and who are exhibiting symptoms of posttraumatic stress  
15 disorder or other mental health problems, including drug or  
16 alcohol abuse, which are directly related to law enforcement  
17 work and which are amenable to verbal treatment therapies; the  
18 licensee agrees to coordinate the provision of appropriate  
19 postresidential care for discharged individuals; and the  
20 licensee further agrees in writing that a failure to meet any  
21 condition specified in this paragraph shall constitute grounds  
22 for a revocation of the facility's license as a residential  
23 treatment facility.

24 (f) The licensee agrees that the facility will meet  
25 all licensure requirements for a residential treatment  
26 facility, including minimum standards for compliance with  
27 lifesafety requirements, except those licensure requirements  
28 which are in express conflict with the conditions and other  
29 provisions specified in this subsection.

30  
31

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

4  
5 Any facility licensed under this subsection is not required to  
6 provide any services to any persons except those included in  
7 the specified conditions of licensure, and is exempt from any  
8 requirements related to the 60-day or greater average length  
9 of stay imposed on community-based residential treatment  
10 facilities otherwise licensed under this chapter.

11 ~~(13) Each applicant for licensure must comply with the~~  
12 ~~following requirements:~~

13 ~~(a) Upon receipt of a completed, signed, and dated~~  
14 ~~application, the agency shall require background screening, in~~  
15 ~~accordance with the level 2 standards for screening set forth~~  
16 ~~in chapter 435, of the managing employee and financial~~  
17 ~~officer, or other similarly titled individual who is~~  
18 ~~responsible for the financial operation of the facility,~~  
19 ~~including billings for client care and services. The applicant~~  
20 ~~must comply with the procedures for level 2 background~~  
21 ~~screening as set forth in chapter 435, as well as the~~  
22 ~~requirements of s. 435.03(3).~~

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

28 ~~(c) Proof of compliance with the level 2 background~~  
29 ~~screening requirements of chapter 435 which has been submitted~~  
30 ~~within the previous 5 years in compliance with any other~~

31

1 ~~health care licensure requirements of this state is acceptable~~  
2 ~~in fulfillment of the requirements of paragraph (a).~~

3 ~~(d) A provisional license may be granted to an~~  
4 ~~applicant when each individual required by this section to~~  
5 ~~undergo background screening has met the standards for the~~  
6 ~~Department of Law Enforcement background check, but the agency~~  
7 ~~has not yet received background screening results from the~~  
8 ~~Federal Bureau of Investigation, or a request for a~~  
9 ~~disqualification exemption has been submitted to the agency as~~  
10 ~~set forth in chapter 435, but a response has not yet been~~  
11 ~~issued. A standard license may be granted to the applicant~~  
12 ~~upon the agency's receipt of a report of the results of the~~  
13 ~~Federal Bureau of Investigation background screening for each~~  
14 ~~individual required by this section to undergo background~~  
15 ~~screening which confirms that all standards have been met, or~~  
16 ~~upon the granting of a disqualification exemption by the~~  
17 ~~agency as set forth in chapter 435. Any other person who is~~  
18 ~~required to undergo level 2 background screening may serve in~~  
19 ~~his or her capacity pending the agency's receipt of the report~~  
20 ~~from the Federal Bureau of Investigation. However, the person~~  
21 ~~may not continue to serve if the report indicates any~~  
22 ~~violation of background screening standards and a~~  
23 ~~disqualification exemption has not been requested of and~~  
24 ~~granted by the agency as set forth in chapter 435.~~

25 ~~(e) Each applicant must submit to the agency, with its~~  
26 ~~application, a description and explanation of any exclusions,~~  
27 ~~permanent suspensions, or terminations of the applicant from~~  
28 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
29 ~~the requirements for disclosure of ownership and control~~  
30 ~~interests under the Medicaid or Medicare programs shall be~~  
31 ~~accepted in lieu of this submission.~~

1           ~~(f) Each applicant must submit to the agency a~~  
2 ~~description and explanation of any conviction of an offense~~  
3 ~~prohibited under the level 2 standards of chapter 435 by a~~  
4 ~~member of the board of directors of the applicant, its~~  
5 ~~officers, or any individual owning 5 percent or more of the~~  
6 ~~applicant. This requirement does not apply to a director of a~~  
7 ~~not for profit corporation or organization if the director~~  
8 ~~serves solely in a voluntary capacity for the corporation or~~  
9 ~~organization, does not regularly take part in the day to day~~  
10 ~~operational decisions of the corporation or organization,~~  
11 ~~receives no remuneration for his or her services on the~~  
12 ~~corporation or organization's board of directors, and has no~~  
13 ~~financial interest and has no family members with a financial~~  
14 ~~interest in the corporation or organization, provided that the~~  
15 ~~director and the not for profit corporation or organization~~  
16 ~~include in the application a statement affirming that the~~  
17 ~~director's relationship to the corporation satisfies the~~  
18 ~~requirements of this paragraph.~~

19           ~~(g) A license may not be granted to an applicant if~~  
20 ~~the applicant or managing employee has been found guilty of,~~  
21 ~~regardless of adjudication, or has entered a plea of nolo~~  
22 ~~contendere or guilty to, any offense prohibited under the~~  
23 ~~level 2 standards for screening set forth in chapter 435,~~  
24 ~~unless an exemption from disqualification has been granted by~~  
25 ~~the agency as set forth in chapter 435.~~

26           ~~(h) The agency may deny or revoke licensure if the~~  
27 ~~applicant:~~

28           ~~1. Has falsely represented a material fact in the~~  
29 ~~application required by paragraph (c) or paragraph (f), or has~~  
30 ~~omitted any material fact from the application required by~~  
31 ~~paragraph (c) or paragraph (f); or~~

1           ~~2. Has had prior action taken against the applicant~~  
2 ~~under the Medicaid or Medicare program as set forth in~~  
3 ~~paragraph (c).~~

4           ~~(i) An application for license renewal must contain~~  
5 ~~the information required under paragraphs (c) and (f).~~

6           Section 31. Section 394.876, Florida Statutes, is  
7 amended to read:

8           394.876 Applications.--

9           (1) In addition to the requirements of part II of  
10 chapter 408, any person desiring to be licensed under this  
11 chapter shall apply to the agency and on forms provided by the  
12 agency. the application must ~~shall~~ contain the following:

13           ~~(a) The name and address of the applicant, the name of~~  
14 ~~the unit or facility, and the address of the unit or facility.~~

15           ~~(b)1. If the applicant is a partnership, association,~~  
16 ~~or other form of entity other than an individual or a~~  
17 ~~corporation, the name and address of each member or owner of~~  
18 ~~the entity.~~

19           ~~2. If the applicant is a corporation, the name and~~  
20 ~~address of each director or officer and the name and address~~  
21 ~~of each person holding at least 5 percent ownership interest~~  
22 ~~in the corporation.~~

23           ~~(c)~~ such information as the department and the agency  
24 find necessary to determine the ability of the applicant to  
25 carry out its responsibilities under this chapter.

26           ~~(2) The applicant shall furnish proof satisfactory to~~  
27 ~~the agency of its financial ability to operate the unit or~~  
28 ~~facility in accordance with this chapter. An applicant for an~~  
29 ~~original license shall submit a balance sheet and a statement~~  
30 ~~projecting revenues, expenses, taxes, extraordinary items, and~~  
31 ~~other credits and charges for the first 6 months of operation.~~



1           ~~(2)(3)~~ The applicant shall provide proof of liability  
2 insurance coverage in amounts set by the department and the  
3 agency by rule.

4           ~~(4) The agency shall accept proof of accreditation by~~  
5 ~~the Joint Commission on Accreditation of Hospitals in lieu of~~  
6 ~~the information required by subsection (1).~~

7           Section 32. Section 394.877, Florida Statutes, is  
8 amended to read:

9           394.877 Fees.--

10          ~~(1) In accordance with s. 408.805, an applicant or~~  
11 ~~licensee shall pay a fee for each license application~~  
12 ~~submitted under this part, part II of chapter 408, and~~  
13 ~~applicable rules. The amount of the fee shall be established~~  
14 ~~by rule. Each application for licensure or renewal must be~~  
15 ~~accompanied by a fee set by the department, in consultation~~  
16 ~~with the agency, by rule. Such fees shall be reasonably~~  
17 ~~calculated to cover only the cost of regulation under this~~  
18 ~~chapter.~~

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

21          Section 33. Section 394.878, Florida Statutes, is  
22 repealed.

23          Section 34. Subsections (1), (3), (4), and (5) of  
24 section 394.879, Florida Statutes, are amended to read:

25          394.879 Rules; enforcement.--

26          (1) The agency, in consultation with the department,  
27 may adopt rules to administer the requirements of part II of  
28 chapter 408. The department, in consultation with the agency,  
29 shall adopt rules pursuant to ss. 120.536(1) and 120.54 to  
30 administer ~~implement~~ the provisions of this chapter,  
31

1 including, at a minimum, rules providing standards to ensure  
2 that:

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

6 (b) Adequate space is provided each client of a  
7 licensed facility.

8 (c) Licensed facilities are limited to an appropriate  
9 number of beds.

10 (d) Each licensee establishes and implements adequate  
11 infection control, housekeeping, sanitation, disaster  
12 planning, and medical recordkeeping.

13 (e) Licensed facilities are established, organized,  
14 and operated in accordance with programmatic standards of the  
15 department.

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

18 (g) The use of restraint and seclusion is consistent  
19 with recognized best practices and professional judgment; that  
20 inherently dangerous restraint or seclusion procedures are  
21 prohibited; that limitations are established on the use and  
22 duration of restraint and seclusion; that measures are  
23 established to ensure the safety of program participants and  
24 staff during an incident of restraint or seclusion; that  
25 procedures are created for staff to follow before, during, and  
26 after incidents of restraint or seclusion; that professional  
27 qualifications and training are established for staff who may  
28 order or be engaged in the use of restraint or seclusion; and  
29 that mandatory reporting, data collection, and data  
30 dissemination procedures and requirements are instituted.

31 Rules adopted under this section must require that any

1 instance of the use of restraint or seclusion shall be  
2 documented in the record of the client.

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

8 (4) In accordance with part II of chapter 408, the  
9 agency may impose an administrative penalty of no more than  
10 \$500 per day against any licensee that violates any rule  
11 adopted pursuant to this section and may suspend and ~~or~~ revoke  
12 the license and ~~or~~ deny the renewal application of such  
13 licensee. In imposing such penalty, the agency shall consider  
14 the severity of the violation, actions taken by the licensee  
15 to correct the violation, and previous violations by the  
16 licensee. ~~Fines collected under this subsection shall be~~  
17 ~~deposited in the Mental Health Facility Licensing Trust Fund.~~

18 (5) The agency or the department may not adopt any  
19 rule governing the design, construction, erection, alteration,  
20 modification, repair, or demolition of crisis stabilization  
21 units. It is the intent of the Legislature to preempt that  
22 function to the Florida Building Commission and the State Fire  
23 Marshal through adoption and maintenance of the Florida  
24 Building Code and the Florida Fire Prevention Code. However,  
25 the agency shall provide technical assistance to the  
26 commission and the State Fire Marshal in updating the  
27 construction standards of the Florida Building Code and the  
28 Florida Fire Prevention Code which govern crisis stabilization  
29 units. In addition, the agency may enforce the  
30 special-occupancy provisions of the Florida Building Code and  
31 the Florida Fire Prevention Code which apply to crisis

1 stabilization units in conducting any inspection authorized  
2 under this part or part II of chapter 408.

3 Section 35. Paragraph (a) of subsection (1) of section  
4 394.90, Florida Statutes, is amended to read:

5 394.90 Inspection; right of entry; records.--

6 (1)(a) The department and the agency, in accordance  
7 with s. 408.811, and the department may enter and inspect at  
8 any time a licensed facility to determine whether the facility  
9 is in compliance with this chapter, part II of chapter 408,  
10 and applicable the rules of the department.

11 Section 36. Section 394.902, Florida Statutes, is  
12 amended to read:

13 394.902 Moratorium on admissions ~~Denial, suspension,~~  
14 ~~and revocation; other remedies.--~~

15 ~~(1) The agency may issue an emergency order suspending~~  
16 ~~or revoking a license if the agency determines that the~~  
17 ~~continued operation of the licensed facility presents a clear~~  
18 ~~and present danger to the public health or safety.~~

19 ~~(2)~~ In accordance with part II of chapter 408, the  
20 agency may impose a moratorium on elective admissions to a  
21 licensee or any program or portion of a licensed facility if  
22 the agency determines that any condition in the facility  
23 presents a threat to the public health or safety.

24 ~~(3) If the agency determines that an applicant or~~  
25 ~~licensee is not in compliance with this chapter or the rules~~  
26 ~~adopted under this chapter, the agency may deny, suspend, or~~  
27 ~~revoke the license or application or may suspend, revoke, or~~  
28 ~~impose reasonable restrictions on any portion of the license.~~  
29 ~~If a license is revoked, the licensee is barred from~~  
30 ~~submitting any application for licensure to the agency for a~~  
31 ~~period of 6 months following revocation.~~

1           ~~(4) The agency may maintain an action in circuit court~~  
2 ~~to enjoin the operation of any licensed or unlicensed facility~~  
3 ~~in violation of this chapter or the rules adopted under this~~  
4 ~~chapter.~~

5           ~~(5) License denial, suspension, or revocation~~  
6 ~~procedures shall be in accordance with chapter 120.~~

7           Section 37. Subsection (7) of section 394.907, Florida  
8 Statutes, is amended to read:

9           394.907 Community mental health centers; quality  
10 assurance programs.--

11           (7) The department shall have access to all records  
12 necessary to determine licensee ~~agency~~ compliance with the  
13 provisions of this section. The records of quality assurance  
14 programs which relate solely to actions taken in carrying out  
15 the provisions of this section, and records obtained by the  
16 department to determine licensee ~~agency~~ compliance with this  
17 section, are confidential and exempt from s. 119.07(1). Such  
18 records are not admissible in any civil or administrative  
19 action, except in disciplinary proceedings by the Department  
20 of Business and Professional Regulation and the appropriate  
21 regulatory board, nor shall such records be available to the  
22 public as part of the record of investigation for, and  
23 prosecution in disciplinary proceedings made available to the  
24 public by the Department of Business and Professional  
25 Regulation or the appropriate regulatory board. Meetings or  
26 portions of meetings of quality assurance program committees  
27 that relate solely to actions taken pursuant to this section  
28 are exempt from s. 286.011.

29           Section 38. Subsections (5) through (33) of section  
30 395.002, Florida Statutes, are renumbered as subsections (4)

31

1 through (32), respectively, and present subsections (4), (11),  
2 and (29) of that section are amended to read:

3 395.002 Definitions.--As used in this chapter:

4 ~~(4) "Applicant" means an individual applicant, or any~~  
5 ~~officer, director, or agent, or any partner or shareholder~~  
6 ~~having an ownership interest equal to a 5 percent or greater~~  
7 ~~interest in the corporation, partnership, or other business~~  
8 ~~entity.~~

9 ~~(10)(11)~~ "General hospital" means any facility which  
10 meets the provisions of subsection~~(12)(13)~~ and which  
11 regularly makes its facilities and services available to the  
12 general population.

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

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

19 (b) A restricted range of services appropriate to the  
20 diagnosis, care, and treatment of patients with specific  
21 categories of medical or psychiatric illnesses or disorders;  
22 or

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

25 Section 39. Section 395.003, Florida Statutes, is  
26 amended to read:

27 395.003 Licensure; ~~issuance, renewal,~~ denial,  
28 ~~modification,~~ suspension, and revocation.--

29 (1)(a) The requirements of part II of chapter 408  
30 apply to the provision of services that require licensure  
31 pursuant to ss. 395.001-395.1065 and part II of chapter 408

1 and to entities licensed by or applying for such licensure  
2 from the Agency for Health Care Administration pursuant to ss.  
3 395.001-395.1065. A license issued by the agency is required  
4 in order to operate ~~A person may not establish, conduct, or~~  
5 ~~maintain~~ a hospital, ambulatory surgical center, or mobile  
6 surgical facility in this state ~~without first obtaining a~~  
7 ~~license under this part.~~

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

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

18 ~~(c)3-~~ Until July 1, 2006, additional emergency  
19 departments located off the premises of licensed hospitals may  
20 not be authorized by the agency.

21 ~~(2)(a) Upon the receipt of an application for a~~  
22 ~~license and the license fee, the agency shall issue a license~~  
23 ~~if the applicant and facility have received all approvals~~  
24 ~~required by law and meet the requirements established under~~  
25 ~~this part and in rules. Such license shall include all beds~~  
26 ~~and services located on the premises of the facility.~~

27 ~~(b) A provisional license may be issued to a new~~  
28 ~~facility or a facility that is in substantial compliance with~~  
29 ~~this part and with the rules of the agency. A provisional~~  
30 ~~license shall be granted for a period of no more than 1 year~~  
31

1 ~~and shall expire automatically at the end of its term. A~~  
2 ~~provisional license may not be renewed.~~

3 ~~(c) A license, unless sooner suspended or revoked,~~  
4 ~~shall automatically expire 2 years from the date of issuance~~  
5 ~~and shall be renewable biennially upon application for renewal~~  
6 ~~and payment of the fee prescribed by s. 395.004(2), provided~~  
7 ~~the applicant and licensed facility meet the requirements~~  
8 ~~established under this part and in rules. An application for~~  
9 ~~renewal of a license shall be made 90 days prior to expiration~~  
10 ~~of the license, on forms provided by the agency.~~

11 ~~(a)(d)~~ In addition to the requirements in part II of  
12 chapter 408, the agency shall, at the request of a licensee,  
13 issue a single license to a licensee for facilities located on  
14 separate premises. Such a license shall specifically state the  
15 location of the facilities, the services, and the licensed  
16 beds available on each separate premises. If a licensee  
17 requests a single license, the licensee shall designate which  
18 facility or office is responsible for receipt of information,  
19 payment of fees, service of process, and all other activities  
20 necessary for the agency to carry out the provisions of this  
21 part.

22 ~~(b)(e)~~ The agency shall, at the request of a licensee  
23 that is a teaching hospital as defined in s. 408.07(45), issue  
24 a single license to a licensee for facilities that have been  
25 previously licensed as separate premises, provided such  
26 separately licensed facilities, taken together, constitute the  
27 same premises as defined in s. 395.002~~(23)~~~~(24)~~. Such license  
28 for the single premises shall include all of the beds,  
29 services, and programs that were previously included on the  
30 licenses for the separate premises. The granting of a single  
31 license under this paragraph shall not in any manner reduce



1 | the number of beds, services, or programs operated by the  
2 | licensee.

3 |       ~~(c)(f)~~ Intensive residential treatment programs for  
4 | children and adolescents which have received accreditation  
5 | from an accrediting organization as defined in s. 395.002(1)  
6 | and which meet the minimum standards developed by rule of the  
7 | agency for such programs shall be licensed by the agency under  
8 | this part.

9 |       ~~(3)(a)~~ Each license shall be valid only for the person  
10 | to whom it is issued and shall not be sold, assigned, or  
11 | otherwise transferred, voluntarily or involuntarily. A license  
12 | is only valid for the premises for which it was originally  
13 | issued.

14 |       ~~(b)1.~~ An application for a new license is required if  
15 | ownership, a majority of the ownership, or controlling  
16 | interest of a licensed facility is transferred or assigned and  
17 | when a lessee agrees to undertake or provide services to the  
18 | extent that legal liability for operation of the facility  
19 | rests with the lessee. The application for a new license  
20 | showing such change shall be made at least 60 days prior to  
21 | the date of the sale, transfer, assignment, or lease.

22 |       ~~(3)2.~~ In addition to the requirements of s. 408.807,  
23 | after a change of ownership has been approved by the agency,  
24 | the transferee shall be liable for any liability to the state,  
25 | regardless of when identified, resulting from changes to  
26 | allowable costs affecting provider reimbursement for Medicaid  
27 | participation or Public Medical Assistance Trust Fund  
28 | Assessments, and related administrative fines. ~~The transferee,~~  
29 | ~~simultaneously with the transfer of ownership, shall pay or~~  
30 | ~~make arrangements to pay to the agency or the department any~~  
31 | ~~amount owed to the agency or the department; payment~~

1 ~~assurances may be in the form of an irrevocable credit~~  
2 ~~instrument or payment bond acceptable to the agency or the~~  
3 ~~department provided by or on behalf of the transferor. The~~  
4 ~~issuance of a license to the transferee shall be delayed~~  
5 ~~pending payment or until arrangement for payment acceptable to~~  
6 ~~the agency or the department is made.~~

7 (4) The agency shall issue a license which specifies  
8 the service categories and the number of hospital beds in each  
9 bed category for which a license is received. Such information  
10 shall be listed on the face of the license. All beds which are  
11 not covered by any specialty-bed-need methodology shall be  
12 specified as general beds. A licensed facility shall not  
13 operate a number of hospital beds greater than the number  
14 indicated by the agency on the face of the license without  
15 approval from the agency under conditions established by rule.

16 (5)(a) Adherence to patient rights, standards of care,  
17 and examination and placement procedures provided under part I  
18 of chapter 394 shall be a condition of licensure for hospitals  
19 providing voluntary or involuntary medical or psychiatric  
20 observation, evaluation, diagnosis, or treatment.

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

25 (c) A hospital that provides birthing services shall  
26 affirm in writing as part of the application for a new,  
27 provisional, or renewal license that the hospital shall comply  
28 with s. 382.013(2)(c), which includes assisting unmarried  
29 parents who request assistance in executing a voluntary  
30 acknowledgment of paternity. No fine or other sanction under  
31 s. 395.1065 may be imposed on a hospital for noncompliance

1 with s. 382.013(2)(c).(6) No specialty hospital shall provide  
2 any service or regularly serve any population group beyond  
3 those services or groups specified in its license.

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

6 (7)(8) In addition to the requirements of part II of  
7 chapter 408, whenever the agency finds that there has been a  
8 substantial failure to comply with the requirements  
9 established under this part or in rules, the agency is  
10 authorized to deny, modify, suspend, and ~~or~~ revoke:

11 (a) A license;

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

14 (c) Licensure approval limited to a facility,  
15 building, or portion thereof, or a service, within a given  
16 premises.

17 (8)(9) A hospital may not be licensed or relicensed  
18 if:

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

24 1. Cardiac-related diseases and disorders classified  
25 as diagnosis-related groups 103-145, 478-479, 514-518, or  
26 525-527;

27 2. Orthopedic-related diseases and disorders  
28 classified as diagnosis-related groups 209-256, 471, 491,  
29 496-503, or 519-520;

30 3. Cancer-related diseases and disorders classified as  
31 diagnosis-related groups 64, 82, 172, 173, 199, 200, 203,

1 257-260, 274, 275, 303, 306, 307, 318, 319, 338, 344, 346,  
2 347, 363, 366, 367, 400-414, 473, or 492; or

3 4. Any combination of the above discharges.

4 (b) The hospital restricts its medical and surgical  
5 services to primarily or exclusively cardiac, orthopedic,  
6 surgical, or oncology specialties.

7 ~~(9)(10)~~ A hospital licensed as of June 1, 2004, shall  
8 be exempt from subsection~~(8)(9)~~ as long as the hospital  
9 maintains the same ownership, facility street address, and  
10 range of services that were in existence on June 1, 2004. Any  
11 transfer of beds, or other agreements that result in the  
12 establishment of a hospital or hospital services within the  
13 intent of this section, shall be subject to subsection~~(8)~~  
14 ~~(9)~~. Unless the hospital is otherwise exempt under subsection  
15 ~~(8)(9)~~, the agency shall deny or revoke the license of a  
16 hospital that violates any of the criteria set forth in that  
17 subsection.

18 ~~(10)(11)~~ The agency may adopt rules implementing the  
19 licensure requirements set forth in subsection~~(8)(9)~~. Within  
20 14 days after rendering its decision on a license application  
21 or revocation, the agency shall publish its proposed decision  
22 in the Florida Administrative Weekly. Within 21 days after  
23 publication of the agency's decision, any authorized person  
24 may file a request for an administrative hearing. In  
25 administrative proceedings challenging the approval, denial,  
26 or revocation of a license pursuant to subsection~~(8)(9)~~, the  
27 hearing must be based on the facts and law existing at the  
28 time of the agency's proposed agency action. Existing  
29 hospitals may initiate or intervene in an administrative  
30 hearing to approve, deny, or revoke licensure under subsection  
31 ~~(8)(9)~~ based upon a showing that an established program will

1 | be substantially affected by the issuance or renewal of a  
2 | license to a hospital within the same district or service  
3 | area.

4 |       Section 40. Section 395.004, Florida Statutes, is  
5 | amended to read:

6 |       395.004 Application for license; l fees; ~~expenses~~.--

7 |       ~~(1)~~ In accordance with s. 408.805, an applicant or  
8 | licensee shall pay a fee for each license application  
9 | submitted under this part, part II of chapter 408, and  
10 | applicable rules. The amount of the fee shall be established  
11 | by rule. An application for a license or renewal thereof shall  
12 | ~~be made under oath to the agency, upon forms provided by it,~~  
13 | ~~and shall contain such information as the agency reasonably~~  
14 | ~~requires, which may include affirmative evidence of ability to~~  
15 | ~~comply with applicable laws and rules.~~

16 |       ~~(2)~~ ~~Each application for a general hospital license,~~  
17 | ~~specialty hospital license, ambulatory surgical center~~  
18 | ~~license, or mobile surgical facility license, or renewal~~  
19 | ~~thereof, shall be accompanied by a license fee, in accordance~~  
20 | ~~with the following schedule:~~

21 |       ~~(a)~~ ~~The biennial license, provisional license, and~~  
22 | ~~license renewal fee required of a facility licensed under this~~  
23 | ~~part shall be reasonably calculated to cover the cost of~~  
24 | ~~regulation under this part and shall be established by rule at~~  
25 | ~~the rate of not less than \$9.50 per hospital bed, nor more~~  
26 | ~~than \$30 per hospital bed, except that the minimum license fee~~  
27 | ~~shall be \$1,500 and the total fees collected from all licensed~~  
28 | ~~facilities may not exceed the cost of properly carrying out~~  
29 | ~~the provisions of this part.~~

30 |       ~~(b)~~ ~~Such fees shall be paid to the agency and shall be~~  
31 | ~~deposited in the Planning and Regulation Trust Fund of the~~

1 ~~agency, which is hereby created, for the sole purpose of~~  
2 ~~carrying out the provisions of this part.~~

3 Section 41. Section 395.0055, Florida Statutes, is  
4 repealed.

5 Section 42. Section 395.0161, Florida Statutes, is  
6 amended to read:

7 395.0161 Licensure inspection.--

8 (1) In addition to the requirement of s. 408.811, the  
9 agency shall make or cause to be made such inspections and  
10 investigations as it deems necessary, including:

11 (a) Inspections directed by the federal Centers for  
12 Medicare and Medicaid Services Health Care Financing  
13 Administration.

14 (b) Validation inspections.

15 (c) Lifesafety inspections.

16 (d) Licensure complaint investigations, including full  
17 licensure investigations with a review of all licensure  
18 standards as outlined in the administrative rules. Complaints  
19 received by the agency from individuals, organizations, or  
20 other sources are subject to review and investigation by the  
21 agency.

22 (e) Emergency access complaint investigations.

23 (f) Inspections of mobile surgical facilities at each  
24 time a facility establishes a new location, prior to the  
25 admission of patients. However, such inspections shall not be  
26 required when a mobile surgical facility is moved temporarily  
27 to a location where medical treatment will not be provided.

28 (2) The agency shall accept, in lieu of its own  
29 periodic inspections for licensure, the survey or inspection  
30 of an accrediting organization, provided the accreditation of  
31 the licensed facility is not provisional and provided the

1 licensed facility authorizes release of, and the agency  
2 receives the report of, the accrediting organization. The  
3 agency shall develop, and adopt by rule, criteria for  
4 accepting survey reports of accrediting organizations in lieu  
5 of conducting a state licensure inspection.

6 (3) In accordance with s. 408.805, an applicant or  
7 licensee shall pay a fee for each license application  
8 submitted under this part, part II of chapter 408, and  
9 applicable rules. With the exception of state-operated  
10 licensed facilities, each facility licensed under this part  
11 shall pay to the agency, at the time of inspection, the  
12 following fees:

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

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

21 (4) The agency shall coordinate all periodic  
22 inspections for licensure made by the agency to ensure that  
23 the cost to the facility of such inspections and the  
24 disruption of services by such inspections is minimized.

25 Section 43. Section 395.0162, Florida Statutes, is  
26 repealed.

27 Section 44. Subsections (2) and (3) of section  
28 395.0163, Florida Statutes, are amended to read:

29 395.0163 Construction inspections; plan submission and  
30 approval; fees.--

31

1 (2)(a) The agency is authorized to charge an initial  
2 fee of \$2,000 for review of plans and construction on all  
3 projects, no part of which is refundable. The agency may also  
4 collect a fee, not to exceed 1 percent of the estimated  
5 construction cost or the actual cost of review, whichever is  
6 less, for the portion of the review which encompasses initial  
7 review through the initial revised construction document  
8 review. The agency is further authorized to collect its actual  
9 costs on all subsequent portions of the review and  
10 construction inspections. The initial fee payment shall  
11 accompany the initial submission of plans and specifications.  
12 Any subsequent payment that is due is payable upon receipt of  
13 the invoice from the agency.

14 ~~(b) Notwithstanding any other provisions of law to the~~  
15 ~~contrary, all moneys received by the agency pursuant to the~~  
16 ~~provisions of this section shall be deposited in the Planning~~  
17 ~~and Regulation Trust Fund, as created by s. 395.004, to be~~  
18 ~~held and applied solely for the operations required under this~~  
19 ~~section.~~

20 (3) In addition to the requirements of s. 408.811, the  
21 agency shall inspect a mobile surgical facility at initial  
22 licensure and at each time the facility establishes a new  
23 location, prior to admission of patients. However, such  
24 inspections shall not be required when a mobile surgical  
25 facility is moved temporarily to a location where medical  
26 treatment will not be provided.

27 Section 45. Subsection (6) of section 395.0193,  
28 Florida Statutes, is amended to read:

29 395.0193 Licensed facilities; peer review;  
30 disciplinary powers; agency or partnership with physicians.--  
31



1 (6) For a single incident or series of isolated  
2 incidents that are nonwillful violations of the reporting  
3 requirements of this section or part II of chapter 408, the  
4 agency shall first seek to obtain corrective action by the  
5 facility. If correction is not demonstrated within the  
6 timeframe established by the agency or if there is a pattern  
7 of nonwillful violations of this section or part II of chapter  
8 408, the agency may impose an administrative fine, not to  
9 exceed \$5,000 for any violation of the reporting requirements  
10 of this section or part II of chapter 408. The administrative  
11 fine for repeated nonwillful violations ~~may shall~~ not exceed  
12 \$10,000 for any violation. The administrative fine for each  
13 intentional and willful violation may not exceed \$25,000 per  
14 violation, per day. The fine for an intentional and willful  
15 violation of this section or part II of chapter 408 may not  
16 exceed \$250,000. In determining the amount of fine to be  
17 levied, the agency shall be guided by s. 395.1065~~(1)(2)~~(b).

18 Section 46. Subsection (12) of section 395.0197,  
19 Florida Statutes, is amended to read:

20 395.0197 Internal risk management program.--

21 (12) In addition to any penalty imposed pursuant to  
22 this section or part II of chapter 408, the agency shall  
23 require a written plan of correction from the facility. For a  
24 single incident or series of isolated incidents that are  
25 nonwillful violations of the reporting requirements of this  
26 section or part II of chapter 408, the agency shall first seek  
27 to obtain corrective action by the facility. If the correction  
28 is not demonstrated within the timeframe established by the  
29 agency or if there is a pattern of nonwillful violations of  
30 this section or part II of chapter 408, the agency may impose  
31 an administrative fine, not to exceed \$5,000 for any violation

1 of the reporting requirements of this section or part II of  
2 chapter 408. The administrative fine for repeated nonwillful  
3 violations ~~may shall~~ not exceed \$10,000 for any violation. The  
4 administrative fine for each intentional and willful violation  
5 may not exceed \$25,000 per violation, per day. The fine for an  
6 intentional and willful violation of this section or part II  
7 of chapter 408 may not exceed \$250,000. In determining the  
8 amount of fine to be levied, the agency shall be guided by s.  
9 395.1065~~(1)(2)~~(b).

10 Section 47. Section 395.0199, Florida Statutes, is  
11 amended to read:

12 395.0199 Private utilization review.--

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

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

16 (b) Foster greater coordination between providers and  
17 health insurers performing utilization review.

18 (c) Protect patients and insurance providers by  
19 ensuring that private review agents are qualified to perform  
20 utilization review activities and to make informed decisions  
21 on the appropriateness of medical care.

22 (d) This section does not regulate the activities of  
23 private review agents, health insurers, health maintenance  
24 organizations, or hospitals, except as expressly provided  
25 herein, or authorize regulation or intervention as to the  
26 correctness of utilization review decisions of insurers or  
27 private review agents.

28 (2) The requirements of part II of chapter 408 apply  
29 to the provision of services that require registration or  
30 licensure pursuant to this section and part II of chapter 408  
31 and to persons registered by or applying for such registration

1 from the Agency for Health Care Administration pursuant to  
2 this section. Registration or a license issued by the agency  
3 is required in order to perform as a private review agent  
4 conducting utilization review as to health care services in  
5 this state performed or proposed to be performed in this state  
6 ~~shall register with the agency in accordance with this~~  
7 ~~section.~~

8 (3) In accordance with s. 408.805, an applicant for  
9 registration or the registrant shall pay a fee for each  
10 registration application submitted under this section, part II  
11 of chapter 408, and applicable rules. The amount of the fee  
12 shall be established by rule and Registration shall be made  
13 ~~annually with the agency on forms furnished by the agency and~~  
14 ~~shall be accompanied by the appropriate registration fee as~~  
15 ~~set by the agency. The fee shall be sufficient to pay for the~~  
16 administrative costs of registering the agent, but may shall  
17 not exceed ~~\$500~~\$250. The ~~agency may also charge reasonable~~  
18 ~~fees, reflecting actual costs, to persons requesting copies of~~  
19 ~~registration.~~

20 (4) ~~Each applicant for registration must comply with~~  
21 ~~the following requirements:~~

22 (a) ~~Upon receipt of a completed, signed, and dated~~  
23 ~~application, the agency shall require background screening, in~~  
24 ~~accordance with the level 2 standards for screening set forth~~  
25 ~~in chapter 435, of the managing employee or other similarly~~  
26 ~~titled individual who is responsible for the operation of the~~  
27 ~~entity. The applicant must comply with the procedures for~~  
28 ~~level 2 background screening as set forth in chapter 435, as~~  
29 ~~well as the requirements of s. 435.03(3).~~

30 (b) ~~The agency may require background screening of any~~  
31 ~~other individual who is an applicant, if the agency has~~

1 ~~probable cause to believe that he or she has been convicted of~~  
2 ~~a crime or has committed any other offense prohibited under~~  
3 ~~the level 2 standards for screening set forth in chapter 435.~~

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

9 ~~(d) A provisional registration may be granted to an~~  
10 ~~applicant when each individual required by this section to~~  
11 ~~undergo background screening has met the standards for the~~  
12 ~~Department of Law Enforcement background check, but the agency~~  
13 ~~has not yet received background screening results from the~~  
14 ~~Federal Bureau of Investigation, or a request for a~~  
15 ~~disqualification exemption has been submitted to the agency as~~  
16 ~~set forth in chapter 435 but a response has not yet been~~  
17 ~~issued. A standard registration may be granted to the~~  
18 ~~applicant upon the agency's receipt of a report of the results~~  
19 ~~of the Federal Bureau of Investigation background screening~~  
20 ~~for each individual required by this section to undergo~~  
21 ~~background screening which confirms that all standards have~~  
22 ~~been met, or upon the granting of a disqualification exemption~~  
23 ~~by the agency as set forth in chapter 435. Any other person~~  
24 ~~who is required to undergo level 2 background screening may~~  
25 ~~serve in his or her capacity pending the agency's receipt of~~  
26 ~~the report from the Federal Bureau of Investigation. However,~~  
27 ~~the person may not continue to serve if the report indicates~~  
28 ~~any violation of background screening standards and a~~  
29 ~~disqualification exemption has not been requested of and~~  
30 ~~granted by the agency as set forth in chapter 435.~~

1           ~~(e) Each applicant must submit to the agency, with its~~  
2 ~~application, a description and explanation of any exclusions,~~  
3 ~~permanent suspensions, or terminations of the applicant from~~  
4 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
5 ~~the requirements for disclosure of ownership and control~~  
6 ~~interests under the Medicaid or Medicare programs shall be~~  
7 ~~accepted in lieu of this submission.~~

8           ~~(f) Each applicant must submit to the agency a~~  
9 ~~description and explanation of any conviction of an offense~~  
10 ~~prohibited under the level 2 standards of chapter 435 by a~~  
11 ~~member of the board of directors of the applicant, its~~  
12 ~~officers, or any individual owning 5 percent or more of the~~  
13 ~~applicant. This requirement does not apply to a director of a~~  
14 ~~not for profit corporation or organization if the director~~  
15 ~~serves solely in a voluntary capacity for the corporation or~~  
16 ~~organization, does not regularly take part in the day to day~~  
17 ~~operational decisions of the corporation or organization,~~  
18 ~~receives no remuneration for his or her services on the~~  
19 ~~corporation or organization's board of directors, and has no~~  
20 ~~financial interest and has no family members with a financial~~  
21 ~~interest in the corporation or organization, provided that the~~  
22 ~~director and the not for profit corporation or organization~~  
23 ~~include in the application a statement affirming that the~~  
24 ~~director's relationship to the corporation satisfies the~~  
25 ~~requirements of this paragraph.~~

26           ~~(g) A registration may not be granted to an applicant~~  
27 ~~if the applicant or managing employee has been found guilty~~  
28 ~~of, regardless of adjudication, or has entered a plea of nolo~~  
29 ~~contendere or guilty to, any offense prohibited under the~~  
30 ~~level 2 standards for screening set forth in chapter 435,~~  
31

1 ~~unless an exemption from disqualification has been granted by~~  
2 ~~the agency as set forth in chapter 435.~~

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

5 ~~1. Has falsely represented a material fact in the~~  
6 ~~application required by paragraph (c) or paragraph (f), or has~~  
7 ~~omitted any material fact from the application required by~~  
8 ~~paragraph (c) or paragraph (f); or~~

9 ~~2. Has had prior action taken against the applicant~~  
10 ~~under the Medicaid or Medicare program as set forth in~~  
11 ~~paragraph (c).~~

12 ~~(i) An application for registration renewal must~~  
13 ~~contain the information required under paragraphs (c) and (f).~~

14 ~~(4)(5)~~ In addition to the requirements of part II of  
15 chapter 408, registration shall include the following:

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

19 (b) The name, address, and telephone number of the  
20 utilization review agent performing utilization review, who  
21 shall be at least:

22 1. A licensed practical nurse or licensed registered  
23 nurse, or other similarly qualified medical records or health  
24 care professionals, for performing initial review when  
25 information is necessary from the physician or hospital to  
26 determine the medical necessity or appropriateness of hospital  
27 services; or

28 2. A licensed physician, or a licensed physician  
29 practicing in the field of psychiatry for review of mental  
30 health services, for an initial denial determination prior to  
31 a final denial determination by the health insurer and which

1 shall include the written evaluation and findings of the  
2 reviewing physician.

3 (c) A description of an appeal procedure for patients  
4 or health care providers whose services are under review, who  
5 may appeal an initial denial determination prior to a final  
6 determination by the health insurer with whom the private  
7 review agent has contracted. The appeal procedure shall  
8 provide for review by a licensed physician, or by a licensed  
9 physician practicing in the field of psychiatry for review of  
10 mental health services, and shall include the written  
11 evaluation and findings of the reviewing physician.

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

16 (e) An acknowledgment and agreement that any private  
17 review agent which, as a general business practice, fails to  
18 adhere to the policies, procedures, and representations made  
19 in its application for registration shall have its  
20 registration revoked.

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

26 (g) Updates of any material changes to review policies  
27 or procedures.

28 ~~(6) The agency may impose fines or suspend or revoke~~  
29 ~~the registration of any private review agent in violation of~~  
30 ~~this section. Any private review agent failing to register or~~  
31 ~~update registration as required by this section shall be~~

1 ~~deemed to be within the jurisdiction of the agency and subject~~  
2 ~~to an administrative penalty not to exceed \$1,000. The agency~~  
3 ~~may bring actions to enjoin activities of private review~~  
4 ~~agents in violation of this section.~~

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

9 (6)~~(8)~~ A private review agent which operates under  
10 contract with the federal or state government for utilization  
11 review of patients eligible for hospital or other services  
12 under Title XVIII or Title XIX of the Social Security Act is  
13 exempt from the provisions of this section for services  
14 provided under such contract. A private review agent which  
15 provides utilization review services to the federal or state  
16 government and a private insurer shall not be exempt for  
17 services provided to nonfederally funded patients. This  
18 section shall not apply to persons who perform utilization  
19 review services for medically necessary hospital services  
20 provided to injured workers pursuant to chapter 440 and shall  
21 not apply to self-insurance funds or service companies  
22 authorized pursuant to chapter 440 or part VII of chapter 626.

23 (7)~~(9)~~ Facilities licensed under this chapter shall  
24 promptly comply with the requests of utilization review agents  
25 or insurers which are reasonably necessary to facilitate  
26 prompt accomplishment of utilization review activities.

27 (8)~~(10)~~ The agency shall adopt rules to implement the  
28 provisions of this section.

29 Section 48. Subsection (1) of section 395.1046,  
30 Florida Statutes, is amended to read:

31 395.1046 Complaint investigation procedures.--



1           (1) In addition to the requirements of s. 408.811, the  
2 agency shall investigate any complaint against a hospital for  
3 any violation of s. 395.1041 which ~~that~~ the agency reasonably  
4 believes to be legally sufficient. A complaint is legally  
5 sufficient if it contains ultimate facts showing ~~which show~~  
6 that a violation of this chapter, or any rule adopted under  
7 this chapter by the agency, has occurred. The agency may  
8 investigate, or continue to investigate, and may take  
9 appropriate final action on a complaint, even though the  
10 original complainant withdraws his or her complaint or  
11 otherwise indicates his or her desire not to cause it to be  
12 investigated to completion. When an investigation of any  
13 person or facility is undertaken, the agency shall notify such  
14 person in writing of the investigation and inform the person  
15 or facility in writing of the substance, the facts showing  
16 ~~which show~~ that a violation has occurred, and the source of  
17 any complaint filed against him or her. The agency may conduct  
18 an investigation without notification to any person if the act  
19 under investigation is a criminal offense. The agency shall  
20 have access to all records necessary for the investigation of  
21 the complaint.

22           Section 49. Paragraph (f) of subsection (1) of section  
23 395.1055, Florida Statutes, is amended, and subsection (9) is  
24 added to that section, to read:

25           395.1055 Rules and enforcement.--

26           (1) The agency shall adopt rules pursuant to ss.  
27 120.536(1) and 120.54 to implement the provisions of this  
28 part, which shall include reasonable and fair minimum  
29 standards for ensuring that:

30           (f) All hospitals submit such data as necessary to  
31 conduct certificate-of-need reviews required under part I of

1 ~~chapter 408 ss. 408.031-408.045.~~ Such data shall include, but  
2 shall not be limited to, patient origin data, hospital  
3 utilization data, type of service reporting, and facility  
4 staffing data. The agency may ~~shall~~ not collect data that  
5 identifies or could disclose the identity of individual  
6 patients. The agency shall utilize existing uniform statewide  
7 data sources when available and shall minimize reporting costs  
8 to hospitals.

9 (9) The agency may adopt rules to administer the  
10 requirements of part II of chapter 408.

11 Section 50. Section 395.1065, Florida Statutes, is  
12 amended to read:

13 395.1065 Criminal and administrative penalties;  
14 ~~injunctions; emergency orders; moratorium.--~~

15 (1) In addition to s. 408.812, any person  
16 establishing, conducting, managing, or operating any facility  
17 without a license under this part commits ~~is guilty of~~ a  
18 misdemeanor and, upon conviction, shall be fined not more than  
19 \$500 for the first offense and not more than \$1,000 for each  
20 subsequent offense, and each day of continuing violation after  
21 conviction shall be considered a separate offense.

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

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

31

1 1. The severity of the violation, including the  
2 probability that death or serious harm to the health or safety  
3 of any person will result or has resulted, the severity of the  
4 actual or potential harm, and the extent to which the  
5 provisions of this part were violated.

6 2. Actions taken by the licensee to correct the  
7 violations or to remedy complaints.

8 3. Any previous violations of the licensee.

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

12 ~~(c)(d)~~ The agency may impose an administrative fine  
13 for the violation of s. 641.3154 or, if sufficient claims due  
14 to a provider from a health maintenance organization do not  
15 exist to enable the take-back of an overpayment, as provided  
16 under s. 641.3155(5), for the violation of s. 641.3155(5). The  
17 administrative fine for a violation cited in this paragraph  
18 shall be in the amounts specified in s. 641.52(5), and the  
19 provisions of paragraph (a) do not apply.

20 ~~(3) Notwithstanding the existence or pursuit of any~~  
21 ~~other remedy, the agency may maintain an action in the name of~~  
22 ~~the state for injunction or other process to enforce the~~  
23 ~~provisions of this part and rules promulgated hereunder.~~

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

29 ~~(3)(5)~~ In accordance with part II of chapter 408, the  
30 agency may impose an immediate moratorium on elective  
31 admissions to any licensed facility, building, or portion

1 | thereof, or service, when the agency determines that any  
2 | condition in the facility presents a threat to public health  
3 | or safety.

4 | ~~(4)(6)~~ In seeking to impose penalties against a  
5 | facility as defined in s. 394.455 for a violation of part I of  
6 | chapter 394, the agency is authorized to rely on the  
7 | investigation and findings by the Department of Health in lieu  
8 | of conducting its own investigation.

9 | ~~(5)(7)~~ The agency shall impose a fine of \$500 for each  
10 | instance of the facility's failure to provide the information  
11 | required by rules adopted pursuant to s. 395.1055(1)(h).

12 | Section 51. Subsections (1) and (8) of section  
13 | 395.10973, Florida Statutes, are amended to read:

14 | 395.10973 Powers and duties of the agency.--It is the  
15 | function of the agency to:

16 | (1) Adopt rules pursuant to ss. 120.536(1) and 120.54  
17 | to implement the provisions of this part and part II of  
18 | chapter 408 conferring duties upon it.

19 | (8) Enforce the special-occupancy provisions of the  
20 | Florida Building Code which apply to hospitals, intermediate  
21 | residential treatment facilities, and ambulatory surgical  
22 | centers in conducting any inspection authorized by this  
23 | chapter and part II of chapter 408.

24 | Section 52. Section 395.10974, Florida Statutes, is  
25 | amended to read:

26 | 395.10974 Health care risk managers; qualifications,  
27 | licensure, fees.--

28 | (1) The requirements of part II of chapter 408 apply  
29 | to the provision of services that require licensure pursuant  
30 | to ss. 395.10971-395.10975, and part II of chapter 408 and to  
31 | entities licensed by or applying for such licensure from the

1 Agency for Health Care Administration pursuant to ss.  
2 395.10971-395.10975. A license issued by the agency is  
3 required in order to perform as a health care risk manager in  
4 this state. Any person desiring to be licensed as a health  
5 care risk manager shall submit an application on a form  
6 provided by the agency. In order to qualify for licensure, the  
7 applicant shall submit evidence satisfactory to the agency  
8 which demonstrates the applicant's competence, by education or  
9 experience, in the following areas:

- 10 (a) Applicable standards of health care risk  
11 management.  
12 (b) Applicable federal, state, and local health and  
13 safety laws and rules.  
14 (c) General risk management administration.  
15 (d) Patient care.  
16 (e) Medical care.  
17 (f) Personal and social care.  
18 (g) Accident prevention.  
19 (h) Departmental organization and management.  
20 (i) Community interrelationships.  
21 (j) Medical terminology.

22  
23 Each applicant for licensure and each licensee must comply  
24 with all provisions of part II of chapter 408. The agency may  
25 require such additional information, from the applicant or any  
26 other person, as may be reasonably required to verify the  
27 information contained in the application.

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

- 31 (a) Is 18 years of age or over;

1 (b) Is a high school graduate or equivalent; and

2 (c)1. Has fulfilled the requirements of a 1-year  
3 program or its equivalent in health care risk management  
4 training which may be developed or approved by the agency;

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

8 3. Has obtained 1 year of practical experience in  
9 health care risk management.

10 (3) The agency shall issue a license to practice  
11 health care risk management to any applicant who qualifies  
12 under this section. In accordance with s. 408.805, an  
13 applicant or licensee shall pay a fee for each license  
14 application submitted under this part, part II of chapter 408,  
15 and applicable rules. The amount of the fee shall be  
16 established by rule as follows: and submits an application fee  
17 of not more than \$75, a background-screening fingerprinting  
18 fee of not more than \$75, and a license fee of not more than  
19 \$100. ~~The agency shall by rule establish fees and procedures~~  
20 ~~for the issuance and cancellation of licenses.~~

21 ~~(4) The agency shall renew a health care risk manager~~  
22 ~~license upon receipt of a biennial renewal application and~~  
23 ~~fees. The agency shall by rule establish a procedure for the~~  
24 ~~biennial renewal of licenses.~~

25 Section 53. Paragraph (c) of subsection (2) of section  
26 395.602, Florida Statutes, is amended to read:

27 395.602 Rural hospitals.--

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

29 (c) "Inactive rural hospital bed" means a licensed  
30 acute care hospital bed, as defined in s. 395.002(13)(14),  
31

1 that is inactive in that it cannot be occupied by acute care  
2 inpatients.

3 Section 54. Paragraph (c) of subsection (1) of section  
4 395.701, Florida Statutes, is amended to read:

5 395.701 Annual assessments on net operating revenues  
6 for inpatient and outpatient services to fund public medical  
7 assistance; administrative fines for failure to pay  
8 assessments when due; exemption.--

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

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

14 Section 55. Subsection (4) of section 400.0073,  
15 Florida Statutes, is amended to read:

16 400.0073 State and local ombudsman council  
17 investigations.--

18 (4) If the ombudsman or any state or local council  
19 member is not allowed to enter a long-term care facility, the  
20 administrator of the facility shall be considered to have  
21 interfered with a representative of the office, the state  
22 council, or the local council in the performance of official  
23 duties as described in s. 400.0083(1) and to have committed a  
24 violation of this part. The ombudsman shall report a  
25 facility's refusal to allow entry to the agency, and the  
26 agency shall record the report and take it into consideration  
27 when determining actions allowable under s. 400.102, s.  
28 400.121, s. 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s. 429.69  
29 ~~400.6194~~, or s. 429.71 ~~400.6196~~.

30 Section 56. Subsection (4) of section 400.0074,  
31 Florida Statutes, is amended to read:

1 400.0074 Local ombudsman council onsite administrative  
2 assessments.--

3 (4) An onsite administrative assessment may not be  
4 accomplished by forcible entry. However, if the ombudsman or a  
5 state or local council member is not allowed to enter a  
6 long-term care facility, the administrator of the facility  
7 shall be considered to have interfered with a representative  
8 of the office, the state council, or the local council in the  
9 performance of official duties as described in s. 400.0083(1)  
10 and to have committed a violation of this part. The ombudsman  
11 shall report the refusal by a facility to allow entry to the  
12 agency, and the agency shall record the report and take it  
13 into consideration when determining actions allowable under s.  
14 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s. 429.69 ~~400.6194~~, or s.  
15 429.71 ~~400.6196~~.

16 Section 57. Subsections (6) through (19) of section  
17 400.021, Florida Statutes, are renumbered as subsections (5)  
18 through (18), respectively, and present subsections (5) and  
19 (20) of that section are amended to read:

20 400.021 Definitions.--When used in this part, unless  
21 the context otherwise requires, the term:

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

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

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

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



1  
2 ~~The term does not include a voluntary board member.~~

3       ~~(20) "Voluntary board member" means a director of a~~  
4 ~~not for profit corporation or organization who serves solely~~  
5 ~~in a voluntary capacity for the corporation or organization,~~  
6 ~~does not receive any remuneration for his or her services on~~  
7 ~~the board of directors, and has no financial interest in the~~  
8 ~~corporation or organization. The agency shall recognize a~~  
9 ~~person as a voluntary board member following submission of a~~  
10 ~~statement to the agency by the director and the not for profit~~  
11 ~~corporation or organization which affirms that the director~~  
12 ~~conforms to this definition. The statement affirming the~~  
13 ~~status of the director must be submitted to the agency on a~~  
14 ~~form provided by the agency.~~

15       Section 58. Subsection (3) of section 400.022, Florida  
16 Statutes, is amended to read:

17       400.022 Residents' rights.--

18       (3) Any violation of the resident's rights set forth  
19 in this section shall constitute grounds for action by the  
20 agency under the provisions of s. 400.102, s. 400.121, or part  
21 II of chapter 408. In order to determine whether the licensee  
22 is adequately protecting residents' rights, the licensure  
23 ~~annual~~ inspection of the facility shall include private  
24 informal conversations with a sample of residents to discuss  
25 residents' experiences within the facility with respect to  
26 rights specified in this section and general compliance with  
27 standards, and consultation with the ombudsman council in the  
28 local planning and service area of the Department of Elderly  
29 Affairs in which the nursing home is located.

30       Section 59. Paragraph (b) of subsection (1) of section  
31 400.051, Florida Statutes, is amended to read:

1 400.051 Homes or institutions exempt from the  
2 provisions of this part.--

3 (1) The following shall be exempt from the provisions  
4 of this part:

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

7 Section 60. Section 400.062, Florida Statutes, is  
8 amended to read:

9 400.062 License required; fee; disposition; ~~display;~~  
10 ~~transfer~~.--

11 (1) The requirements of part II of chapter 408 apply  
12 to the provision of services that require licensure pursuant  
13 to this part and part II of chapter 408 and to entities  
14 licensed by or applying for such licensure from the Agency for  
15 Health Care Administration pursuant to this part. A license  
16 issued by the agency is required for the operation of a  
17 nursing home in this state. It is unlawful to operate or  
18 maintain a facility without first obtaining from the agency a  
19 license authorizing such operation.

20 (2) Separate licenses shall be required for facilities  
21 maintained in separate premises, even though operated under  
22 the same management. However, a separate license shall not be  
23 required for separate buildings on the same grounds.

24 (3) In accordance with s. 408.805, an applicant or  
25 licensee shall pay a fee for each license application  
26 submitted under this part, part II of chapter 408, and  
27 applicable rules. The annual license fee required for each  
28 license issued under this part shall be comprised of two  
29 parts. Part I of the license fee shall be the basic license  
30 fee. The rate per bed for the basic license fee shall be  
31 established biennially annually and shall be \$100\$50 per bed

1 ~~unless modified by rule. The agency may adjust the per bed~~  
2 ~~licensure fees by the Consumer Price Index based on the 12~~  
3 ~~months immediately preceding the increase to cover the cost of~~  
4 ~~regulation under this part.~~ Part II of the license fee shall  
5 be the resident protection fee, which shall be at the rate of  
6 not less than 50 ~~25~~ cents per bed. The rate per bed shall be  
7 the minimum rate per bed, and such rate shall remain in effect  
8 until the effective date of a rate per bed adopted by rule by  
9 the agency pursuant to this part. At such time as the amount  
10 on deposit in the Resident Protection Trust Fund is less than  
11 \$1 million, the agency may adopt rules to establish a rate  
12 which may not exceed \$20 ~~\$10~~ per bed. The rate per bed shall  
13 revert back to the minimum rate per bed when the amount on  
14 deposit in the Resident Protection Trust Fund reaches \$1  
15 million, except that any rate established by rule shall remain  
16 in effect until such time as the rate has been equally  
17 required for each license issued under this part. Any amount  
18 in the fund in excess of \$2 million shall revert to the Health  
19 Care Trust Fund and may not be expended without prior approval  
20 of the Legislature. The agency may prorate the biennial ~~annual~~  
21 license fee for those licenses which it issues under this part  
22 for less than 2 years ~~1 year~~. ~~Funds generated by license fees~~  
23 ~~collected in accordance with this section shall be deposited~~  
24 ~~in the following manner:~~

25 (a) ~~The basic license fee collected shall be deposited~~  
26 ~~in the Health Care Trust Fund, established for the sole~~  
27 ~~purpose of carrying out this part. When the balance of the~~  
28 ~~account established in the Health Care Trust Fund for the~~  
29 ~~deposit of fees collected as authorized under this section~~  
30 ~~exceeds one third of the annual cost of regulation under this~~  
31

1 ~~part, the excess shall be used to reduce the licensure fees in~~  
2 ~~the next year.~~

3 ~~(b)~~ The resident protection fee collected shall be  
4 deposited in the Resident Protection Trust Fund for the sole  
5 purpose of paying, in accordance with the provisions of s.  
6 400.063, for the appropriate alternate placement, care, and  
7 treatment of a resident removed from a nursing home facility  
8 on a temporary, emergency basis or for the maintenance and  
9 care of residents in a nursing home facility pending removal  
10 and alternate placement.

11 (4) Counties or municipalities applying for licenses  
12 under this part are exempt from license fees authorized under  
13 this section.

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

16 ~~(6) A license shall be valid only in the hands of the~~  
17 ~~individual, firm, partnership, association, or corporation to~~  
18 ~~whom it is issued and shall not be subject to sale,~~  
19 ~~assignment, or other transfer, voluntary or involuntary, nor~~  
20 ~~shall a license be valid for any premises other than those for~~  
21 ~~which originally issued.~~

22 Section 61. Subsection (1) of section 400.063, Florida  
23 Statutes, is amended to read:

24 400.063 Resident Protection Trust Fund.--

25 (1) A Resident Protection Trust Fund shall be  
26 established for the purpose of collecting and disbursing funds  
27 generated from the license fees and administrative fines as  
28 provided for in ss. 393.0673(2), 400.062(3)~~(b)~~, ~~400.111(1)~~,  
29 400.121(2), and 400.23(8). Such funds shall be for the sole  
30 purpose of paying for the appropriate alternate placement,  
31 care, and treatment of residents who are removed from a

1 facility licensed under this part or a facility specified in  
2 s. 393.0678(1) in which the agency determines that existing  
3 conditions or practices constitute an immediate danger to the  
4 health, safety, or security of the residents. If the agency  
5 determines that it is in the best interest of the health,  
6 safety, or security of the residents to provide for an orderly  
7 removal of the residents from the facility, the agency may  
8 utilize such funds to maintain and care for the residents in  
9 the facility pending removal and alternative placement. The  
10 maintenance and care of the residents shall be under the  
11 direction and control of a receiver appointed pursuant to s.  
12 393.0678(1) or s. 400.126(1). However, funds may be expended  
13 in an emergency upon a filing of a petition for a receiver,  
14 upon the declaration of a state of local emergency pursuant to  
15 s. 252.38(3)(a)5., or upon a duly authorized local order of  
16 evacuation of a facility by emergency personnel to protect the  
17 health and safety of the residents.

18 Section 62. Section 400.071, Florida Statutes, is  
19 amended to read:

20 400.071 Application for license.--

21 ~~(1) An application for a license as required by s.~~  
22 ~~400.062 shall be made to the agency on forms furnished by it~~  
23 ~~and shall be accompanied by the appropriate license fee.~~

24 (1)(2) In addition to the requirements of part II of  
25 chapter 408, the application for a license shall be under oath  
26 and must ~~shall~~ contain the following:

27 ~~(a) The name, address, and social security number of~~  
28 ~~the applicant if an individual; if the applicant is a firm,~~  
29 ~~partnership, or association, its name, address, and employer~~  
30 ~~identification number (EIN), and the name and address of any~~  
31

1 ~~controlling interest; and the name by which the facility is to~~  
2 ~~be known.~~

3 ~~(b) The name of any person whose name is required on~~  
4 ~~the application under the provisions of paragraph (a) and who~~  
5 ~~owns at least a 10 percent interest in any professional~~  
6 ~~service, firm, association, partnership, or corporation~~  
7 ~~providing goods, leases, or services to the facility for which~~  
8 ~~the application is made, and the name and address of the~~  
9 ~~professional service, firm, association, partnership, or~~  
10 ~~corporation in which such interest is held.~~

11 ~~(a)(e)~~ The location of the facility for which a  
12 license is sought and an indication, as in the original  
13 application, that such location conforms to the local zoning  
14 ordinances.

15 ~~(d) The name of the person or persons under whose~~  
16 ~~management or supervision the facility will be conducted and~~  
17 ~~the name of the administrator.~~

18 ~~(b)(e)~~ A signed affidavit disclosing any financial or  
19 ownership interest that a controlling interest as defined in  
20 part II of chapter 408 ~~person or entity described in paragraph~~  
21 ~~(a) or paragraph (d)~~ has held in the last 5 years in any  
22 entity licensed by this state or any other state to provide  
23 health or residential care which has closed voluntarily or  
24 involuntarily; has filed for bankruptcy; has had a receiver  
25 appointed; has had a license denied, suspended, or revoked; or  
26 has had an injunction issued against it which was initiated by  
27 a regulatory agency. The affidavit must disclose the reason  
28 any such entity was closed, whether voluntarily or  
29 involuntarily.

30 ~~(c)(f)~~ The total number of beds and the total number  
31 of Medicare and Medicaid certified beds.

1            (d)~~(g)~~ Information relating to ~~the number, experience,~~  
2 ~~and training of the employees of the facility and of the moral~~  
3 ~~character of the applicant and employees which the agency~~  
4 ~~requires by rule, including the name and address of any~~  
5 ~~nursing home with which the applicant or employees have been~~  
6 ~~affiliated through ownership or employment within 5 years of~~  
7 ~~the date of the application for a license and the record of~~  
8 ~~any criminal convictions involving the applicant and any~~  
9 ~~criminal convictions involving an employee if known by the~~  
10 ~~applicant after inquiring of the employee.~~ The applicant must  
11 demonstrate that sufficient numbers of qualified staff, by  
12 training or experience, will be employed to properly care for  
13 the type and number of residents who will reside in the  
14 facility.

15            (e)~~(h)~~ Copies of any civil verdict or judgment  
16 involving the applicant rendered within the 10 years preceding  
17 the application, relating to medical negligence, violation of  
18 residents' rights, or wrongful death. As a condition of  
19 licensure, the licensee agrees to provide to the agency copies  
20 of any new verdict or judgment involving the applicant,  
21 relating to such matters, within 30 days after filing with the  
22 clerk of the court. The information required in this paragraph  
23 shall be maintained in the facility's licensure file and in an  
24 agency database which is available as a public record.

25            ~~(3) The applicant shall submit evidence which~~  
26 ~~establishes the good moral character of the applicant,~~  
27 ~~manager, supervisor, and administrator. No applicant, if the~~  
28 ~~applicant is an individual; no member of a board of directors~~  
29 ~~or officer of an applicant, if the applicant is a firm,~~  
30 ~~partnership, association, or corporation; and no licensed~~  
31 ~~nursing home administrator shall have been convicted, or found~~

1 ~~guilty, regardless of adjudication, of a crime in any~~  
2 ~~jurisdiction which affects or may potentially affect residents~~  
3 ~~in the facility.~~

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

6 ~~(a) Upon receipt of a completed, signed, and dated~~  
7 ~~application, the agency shall require background screening of~~  
8 ~~the applicant, in accordance with the level 2 standards for~~  
9 ~~screening set forth in chapter 435. As used in this~~  
10 ~~subsection, the term "applicant" means the facility~~  
11 ~~administrator, or similarly titled individual who is~~  
12 ~~responsible for the day to day operation of the licensed~~  
13 ~~facility, and the facility financial officer, or similarly~~  
14 ~~titled individual who is responsible for the financial~~  
15 ~~operation of the licensed facility.~~

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

22 ~~(c) Proof of compliance with the level 2 background~~  
23 ~~screening requirements of chapter 435 which has been submitted~~  
24 ~~within the previous 5 years in compliance with any other~~  
25 ~~health care or assisted living licensure requirements of this~~  
26 ~~state is acceptable in fulfillment of paragraph (a). Proof of~~  
27 ~~compliance with background screening which has been submitted~~  
28 ~~within the previous 5 years to fulfill the requirements of the~~  
29 ~~Financial Services Commission and the Office of Insurance~~  
30 ~~Regulation pursuant to chapter 651 as part of an application~~  
31 ~~for a certificate of authority to operate a continuing care~~



1 ~~retirement community is acceptable in fulfillment of the~~  
2 ~~Department of Law Enforcement and Federal Bureau of~~  
3 ~~Investigation background check.~~

4 ~~(d) A provisional license may be granted to an~~  
5 ~~applicant when each individual required by this section to~~  
6 ~~undergo background screening has met the standards for the~~  
7 ~~Department of Law Enforcement background check, but the agency~~  
8 ~~has not yet received background screening results from the~~  
9 ~~Federal Bureau of Investigation, or a request for a~~  
10 ~~disqualification exemption has been submitted to the agency as~~  
11 ~~set forth in chapter 435, but a response has not yet been~~  
12 ~~issued. A license may be granted to the applicant upon the~~  
13 ~~agency's receipt of a report of the results of the Federal~~  
14 ~~Bureau of Investigation background screening for each~~  
15 ~~individual required by this section to undergo background~~  
16 ~~screening which confirms that all standards have been met, or~~  
17 ~~upon the granting of a disqualification exemption by the~~  
18 ~~agency as set forth in chapter 435. Any other person who is~~  
19 ~~required to undergo level 2 background screening may serve in~~  
20 ~~his or her capacity pending the agency's receipt of the report~~  
21 ~~from the Federal Bureau of Investigation; however, the person~~  
22 ~~may not continue to serve if the report indicates any~~  
23 ~~violation of background screening standards and a~~  
24 ~~disqualification exemption has not been requested of and~~  
25 ~~granted by the agency as set forth in chapter 435.~~

26 ~~(e) Each applicant must submit to the agency, with its~~  
27 ~~application, a description and explanation of any exclusions,~~  
28 ~~permanent suspensions, or terminations of the applicant from~~  
29 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
30 ~~disclosure of ownership and control interest requirements of~~

31

1 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
2 ~~this submission.~~

3 ~~(f) Each applicant must submit to the agency a~~  
4 ~~description and explanation of any conviction of an offense~~  
5 ~~prohibited under the level 2 standards of chapter 435 by a~~  
6 ~~member of the board of directors of the applicant, its~~  
7 ~~officers, or any individual owning 5 percent or more of the~~  
8 ~~applicant. This requirement shall not apply to a director of a~~  
9 ~~not for profit corporation or organization if the director~~  
10 ~~serves solely in a voluntary capacity for the corporation or~~  
11 ~~organization, does not regularly take part in the day to day~~  
12 ~~operational decisions of the corporation or organization,~~  
13 ~~receives no remuneration for his or her services on the~~  
14 ~~corporation or organization's board of directors, and has no~~  
15 ~~financial interest and has no family members with a financial~~  
16 ~~interest in the corporation or organization, provided that the~~  
17 ~~director and the not for profit corporation or organization~~  
18 ~~include in the application a statement affirming that the~~  
19 ~~director's relationship to the corporation satisfies the~~  
20 ~~requirements of this paragraph.~~

21 ~~(g) An application for license renewal must contain~~  
22 ~~the information required under paragraphs (c) and (f).~~

23 ~~(5) The applicant shall furnish satisfactory proof of~~  
24 ~~financial ability to operate and conduct the nursing home in~~  
25 ~~accordance with the requirements of this part and all rules~~  
26 ~~adopted under this part, and the agency shall establish~~  
27 ~~standards for this purpose, including information reported~~  
28 ~~under paragraph (2)(c). The agency also shall establish~~  
29 ~~documentation requirements, to be completed by each applicant,~~  
30 ~~that show anticipated facility revenues and expenditures, the~~  
31 ~~basis for financing the anticipated cash flow requirements of~~

1 ~~the facility, and an applicant's access to contingency~~  
2 ~~financing.~~

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

7 (2)(7) As a condition of licensure, each licensee,  
8 except one offering continuing care agreements as defined in  
9 chapter 651, must agree to accept recipients of Title XIX of  
10 the Social Security Act on a temporary, emergency basis. The  
11 persons whom the agency may require such licensees to accept  
12 are those recipients of Title XIX of the Social Security Act  
13 who are residing in a facility in which existing conditions  
14 constitute an immediate danger to the health, safety, or  
15 security of the residents of the facility.

16 ~~(3)(8) The agency may not issue a license to a nursing~~  
17 ~~home that fails to receive a certificate of need under the~~  
18 ~~provisions of ss. 408.031-408.045. It is the intent of the~~  
19 Legislature that, in reviewing a certificate-of-need  
20 application to add beds to an existing nursing home facility,  
21 preference be given to the application of a licensee who has  
22 been awarded a Gold Seal as provided for in s. 400.235, if the  
23 applicant otherwise meets the review criteria specified in s.  
24 408.035.

25 (4)(9) The agency may develop an abbreviated survey  
26 for licensure renewal applicable to a licensee that has  
27 continuously operated as a nursing facility since 1991 or  
28 earlier, has operated under the same management for at least  
29 the preceding 30 months, and has had during the preceding 30  
30 months no class I or class II deficiencies.

31

1           ~~(5)(10)~~ As a condition of licensure, each facility  
2 must establish and submit with its application a plan for  
3 quality assurance and for conducting risk management.

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

9           Section 63. Section 400.0712, Florida Statutes, is  
10 amended to read:

11           400.0712 Application for inactive license.--

12           (1) As specified in s. 408.321(4) and this section,  
13 the agency may issue an inactive license to a nursing home  
14 facility for all or a portion of its beds. Any request by a  
15 licensee that a nursing home or portion of a nursing home  
16 become inactive must be submitted to the agency in the  
17 approved format. The facility may not initiate any suspension  
18 of services, notify residents, or initiate inactivity facility  
19 closure before receiving approval from the agency; and a  
20 licensee facility that violates this provision ~~may~~ shall not  
21 be issued an inactive license. ~~Upon agency approval of an~~  
22 ~~inactive license, the nursing home shall notify residents of~~  
23 ~~any necessary discharge or transfer as provided in s.~~  
24 ~~400.0255.~~

25           (2) The agency may issue an inactive license to a  
26 nursing home that chooses to use an unoccupied contiguous  
27 portion of the facility for an alternative use to meet the  
28 needs of elderly persons through the use of less restrictive,  
29 less institutional services.

30           (a) An inactive license issued under this subsection  
31 may be granted for a period not to exceed the current

1 licensure expiration date 12 months but may be renewed  
2 annually by the agency at the time of licensure renewal ~~for 12~~  
3 ~~months.~~

4 (b) A request to extend the inactive license must be  
5 submitted to the agency in the approved format and approved by  
6 the agency in writing.

7 (c) Nursing homes that receive an inactive license to  
8 provide alternative services shall not receive preference for  
9 participation in the Assisted Living for the Elderly Medicaid  
10 waiver.

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

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

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

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

25 ~~(3)(4)~~ The agency shall adopt rules pursuant to ss.  
26 120.536(1) and 120.54 necessary to implement this section.

27 Section 64. Section 400.102, Florida Statutes, is  
28 amended to read:

29 400.102 Action by agency against licensee; grounds.--  
30  
31

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

4           ~~(1)(a)~~ An intentional or negligent act materially  
5 affecting the health or safety of residents of the facility;

6           ~~(2)(b)~~ Misappropriation or conversion of the property  
7 of a resident of the facility;

8           ~~(3)(c)~~ Failure to follow the criteria and procedures  
9 provided under part I of chapter 394 relating to the  
10 transportation, voluntary admission, and involuntary  
11 examination of a nursing home resident; or

12           ~~(d) Violation of provisions of this part or rules~~  
13 ~~adopted under this part;~~

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

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

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

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

23           ~~(b) In the case of an applicant for relicensure or a~~  
24 ~~current licensee, administrative action as provided in s.~~  
25 ~~400.121 or injunctive action as authorized by s. 400.125.~~

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

28           Section 65. Section 400.111, Florida Statutes, is  
29 amended to read:

30           400.111 Disclosure of controlling interest ~~Expiration~~  
31 ~~of license; renewal.--~~

1           ~~(1) A license issued for the operation of a facility,~~  
2 ~~unless sooner suspended or revoked, shall expire on the date~~  
3 ~~set forth by the agency on the face of the license or 1 year~~  
4 ~~from the date of issuance, whichever occurs first. Ninety days~~  
5 ~~prior to the expiration date, an application for renewal shall~~  
6 ~~be submitted to the agency. A license shall be renewed upon~~  
7 ~~the filing of an application on forms furnished by the agency~~  
8 ~~if the applicant has first met the requirements established~~  
9 ~~under this part and all rules adopted under this part. The~~  
10 ~~failure to file an application within the period established~~  
11 ~~in this subsection shall result in a late fee charged to the~~  
12 ~~licensee by the agency in an amount equal to 50 percent of the~~  
13 ~~fee in effect on the last preceding regular renewal date. A~~  
14 ~~late fee shall be levied for each and every day the filing of~~  
15 ~~the license application is delayed, but in no event shall such~~  
16 ~~fine aggregate more than \$5,000. If an application is received~~  
17 ~~after the required filing date and exhibits a hand canceled~~  
18 ~~postmark obtained from a United States Post Office dated on or~~  
19 ~~before the required filing date, no fine will be levied.~~

20           ~~(2) A licensee against whom a revocation or suspension~~  
21 ~~proceeding, or any judicial proceeding instituted by the~~  
22 ~~agency under this part, is pending at the time of license~~  
23 ~~renewal may be issued a temporary license effective until~~  
24 ~~final disposition by the agency of such proceeding. If~~  
25 ~~judicial relief is sought from the aforesaid administrative~~  
26 ~~order, the court having jurisdiction may issue such orders~~  
27 ~~regarding the issuance of a temporary permit during the~~  
28 ~~pendency of the judicial proceeding.~~

29           ~~(3) The agency may not renew a license if the~~  
30 ~~applicant has failed to pay any fines assessed by final order~~  
31 ~~of the agency or final order of the Health Care Financing~~

1 ~~Administration under requirements for federal certification.~~  
2 ~~The agency may renew the license of an applicant following the~~  
3 ~~assessment of a fine by final order if such fine has been paid~~  
4 ~~into an escrow account pending an appeal of a final order.~~

5       ~~(4)~~ In addition to the requirements of part II of  
6 chapter 408, the licensee shall submit a signed affidavit  
7 disclosing any financial or ownership interest that a  
8 controlling interest licensee has held within the last 5 years  
9 in any entity licensed by the state or any other state to  
10 provide health or residential care which entity has closed  
11 voluntarily or involuntarily; has filed for bankruptcy; has  
12 had a receiver appointed; has had a license denied, suspended,  
13 or revoked; or has had an injunction issued against it which  
14 was initiated by a regulatory agency. The affidavit must  
15 disclose the reason such entity was closed, whether  
16 voluntarily or involuntarily.

17       Section 66. Subsections (2) and (5) of section  
18 400.1183, Florida Statutes, are amended to read:

19       400.1183 Resident grievance procedures.--

20       (2) Each facility shall maintain records of all  
21 grievances and shall report ~~annually~~ to the agency at the time  
22 of relicensure the total number of grievances handled during  
23 the prior licensure period, a categorization of the cases  
24 underlying the grievances, and the final disposition of the  
25 grievances.

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

29       Section 67. Section 400.121, Florida Statutes, is  
30 amended to read:

31



1 400.121 Denial, suspension, revocation of license;  
2 ~~moratorium on admissions;~~ administrative fines; procedure;  
3 order to increase staffing.--

4 (1) The agency may deny an application, revoke or  
5 suspend a license, and ~~or~~ impose an administrative fine, not  
6 to exceed \$500 per violation per day for the violation of any  
7 provision of this part, part II of chapter 408, or applicable  
8 rules, against any applicant or licensee for the following  
9 violations by the applicant, licensee, or other controlling  
10 interest:

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

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

14 ~~(c) Failure to pay any outstanding fines assessed by~~  
15 ~~final order of the agency or final order of the Health Care~~  
16 ~~Financing Administration pursuant to requirements for federal~~  
17 ~~certification. The agency may renew or approve the license of~~  
18 ~~an applicant following the assessment of a fine by final order~~  
19 ~~if such fine has been paid into an escrow account pending an~~  
20 ~~appeal of a final order;~~

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

22 ~~or~~

23 (b)(e) An adverse action by a regulatory agency  
24 against any other licensed facility that has a common  
25 controlling interest with the licensee or applicant against  
26 whom the action under this section is being brought. If the  
27 adverse action involves solely the management company, the  
28 applicant or licensee shall be given 30 days to remedy before  
29 final action is taken. If the adverse action is based solely  
30 upon actions by a controlling interest, the applicant or  
31 licensee may present factors in mitigation of any proposed

1 penalty based upon a showing that such penalty is  
2 inappropriate under the circumstances.

3  
4 All hearings shall be held within the county in which the  
5 licensee or applicant operates or applies for a license to  
6 operate a facility as defined herein.

7 (2) Except as provided in s. 400.23(8), a \$500 fine  
8 shall be imposed for each violation. Each day a violation of  
9 this part or part II of chapter 408 occurs constitutes a  
10 separate violation and is subject to a separate fine, but in  
11 no event may any fine aggregate more than \$5,000. A fine may  
12 be levied pursuant to this section in lieu of and  
13 notwithstanding the provisions of s. 400.23. Fines paid shall  
14 be deposited in the Resident Protection Trust Fund and  
15 expended as provided in s. 400.063.

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

19 (a) Has had two moratoria issued pursuant to this part  
20 or part II of chapter 408 which are imposed by final order for  
21 substandard quality of care, as defined by 42 C.F.R. part 483,  
22 within any 30-month period;

23 (b) Is conditionally licensed for 180 or more  
24 continuous days;

25 (c) Is cited for two class I deficiencies arising from  
26 unrelated circumstances during the same survey or  
27 investigation; or

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

30  
31

1 The licensee may present factors in mitigation of revocation,  
2 and the agency may make a determination not to revoke a  
3 license based upon a showing that revocation is inappropriate  
4 under the circumstances.

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

9 ~~(5)(a) The agency may impose an immediate moratorium~~  
10 ~~on admissions to any facility when the agency determines that~~  
11 ~~any condition in the facility presents a threat to the health,~~  
12 ~~safety, or welfare of the residents in the facility.~~

13 ~~(4)(b) If Where the agency has placed a moratorium~~  
14 ~~pursuant to this part or part II of chapter 408 on admissions~~  
15 ~~on any facility two times within a 7-year period, the agency~~  
16 ~~may suspend the nursing home license ~~of the nursing home and~~~~  
17 ~~the facility's management company, if any. During the~~  
18 ~~suspension, the agency shall take the facility into~~  
19 ~~receivership and shall operate the facility.~~

20 ~~(5)(6) An action taken by the agency to deny, suspend,~~  
21 ~~or revoke a facility's license under this part or part II of~~  
22 ~~chapter 408 shall be heard by the Division of Administrative~~  
23 ~~Hearings of the Department of Management Services within 60~~  
24 ~~days after the assignment of an administrative law judge,~~  
25 ~~unless the time limitation is waived by both parties. The~~  
26 ~~administrative law judge must render a decision within 30 days~~  
27 ~~after receipt of a proposed recommended order.~~

28 ~~(6)(7) The agency is authorized to require a facility~~  
29 ~~to increase staffing beyond the minimum required by law, if~~  
30 ~~the agency has taken administrative action against the~~  
31 ~~facility for care-related deficiencies directly attributable~~

1 to insufficient staff. Under such circumstances, the facility  
2 may request an expedited interim rate increase. The agency  
3 shall process the request within 10 days after receipt of all  
4 required documentation from the facility. A facility that  
5 fails to maintain the required increased staffing is subject  
6 to a fine of \$500 per day for each day the staffing is below  
7 the level required by the agency.

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

12 ~~(7)(9)~~ Notwithstanding any other provision of law to  
13 the contrary, agency action in an administrative proceeding  
14 under this section may be overcome by the licensee upon a  
15 showing by a preponderance of the evidence to the contrary.

16 ~~(8)(10)~~ In addition to any other sanction imposed  
17 under this part or part II of chapter 408, in any final order  
18 that imposes sanctions, the agency may assess costs related to  
19 the investigation and prosecution of the case. Payment of  
20 agency costs shall be deposited into the Health Care Trust  
21 Fund.

22 Section 68. Section 400.125, Florida Statutes, is  
23 repealed.

24 Section 69. Subsection (14) of section 400.141,  
25 Florida Statutes, is amended to read:

26 400.141 Administration and management of nursing home  
27 facilities.--Every licensed facility shall comply with all  
28 applicable standards and rules of the agency and shall:

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

1  
2 Facilities that have been awarded a Gold Seal under the  
3 program established in s. 400.235 may develop a plan to  
4 provide certified nursing assistant training as prescribed by  
5 federal regulations and state rules and may apply to the  
6 agency for approval of their program.

7 Section 70. Section 400.179, Florida Statutes, is  
8 amended to read:

9 400.179 ~~Sale or transfer of ownership of a nursing~~  
10 ~~facility;~~ Liability for Medicaid underpayments and  
11 overpayments.--

12 (1) It is the intent of the Legislature to protect the  
13 rights of nursing home residents and the security of public  
14 funds when a nursing facility is sold or the ownership is  
15 transferred.

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

20 ~~(3) The transferor shall notify the agency in writing~~  
21 ~~at least 90 days prior to the date of transfer of ownership.~~  
22 ~~The transferor shall be responsible and liable for the lawful~~  
23 ~~operation of the nursing facility and the welfare of the~~  
24 ~~residents domiciled in the facility until the date the~~  
25 ~~transferee is licensed by the agency. The transferor shall be~~  
26 ~~liable for any and all penalties imposed against the facility~~  
27 ~~for violations occurring prior to the date of transfer of~~  
28 ~~ownership.~~

29 ~~(4) The transferor shall, prior to transfer of~~  
30 ~~ownership, repay or make arrangements to repay to the agency~~  
31 ~~or the Department of Children and Family Services any amounts~~

1 ~~owed to the agency or the department. Should the transferor~~  
2 ~~fail to repay or make arrangements to repay the amounts owed~~  
3 ~~to the agency or the department prior to the transfer of~~  
4 ~~ownership, the issuance of a license to the transferee shall~~  
5 ~~be delayed until repayment or until arrangements for repayment~~  
6 ~~are made.~~

7 (2)(5) Because any transfer of a nursing facility may  
8 expose the fact that Medicaid may have underpaid or overpaid  
9 the transferor, and because in most instances, any such  
10 underpayment or overpayment can only be determined following a  
11 formal field audit, the liabilities for any such underpayments  
12 or overpayments shall be as follows:

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

16 (b) Without regard to whether the transferor had  
17 leased or owned the nursing facility, the transferor shall  
18 remain liable to the Medicaid program for all Medicaid  
19 overpayments received during the transferor's period of  
20 operation of the facility, regardless of when determined.

21 (c) Where the facility transfer takes any form of a  
22 sale of assets, in addition to the transferor's continuing  
23 liability for any such overpayments, if the transferor fails  
24 to meet these obligations, the transferee shall be liable for  
25 all liabilities that can be readily identifiable 90 days in  
26 advance of the transfer. Such liability shall continue in  
27 succession until the debt is ultimately paid or otherwise  
28 resolved. It shall be the burden of the transferee to  
29 determine the amount of all such readily identifiable  
30 overpayments from the Agency for Health Care Administration,  
31 and the agency shall cooperate in every way with the

1 identification of such amounts. Readily identifiable  
2 overpayments shall include overpayments that will result from,  
3 but not be limited to:

- 4 1. Medicaid rate changes or adjustments;
- 5 2. Any depreciation recapture;
- 6 3. Any recapture of fair rental value system indexing;
- 7 or
- 8 4. Audits completed by the agency.

9  
10 The transferor shall remain liable for any such Medicaid  
11 overpayments that were not readily identifiable 90 days in  
12 advance of the nursing facility transfer.

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

15 1. The transferee shall, as a condition to being  
16 issued a license by the agency, acquire, maintain, and provide  
17 proof to the agency of a bond with a term of 30 months,  
18 renewable annually, in an amount not less than the total of 3  
19 months' Medicaid payments to the facility computed on the  
20 basis of the preceding 12-month average Medicaid payments to  
21 the facility.

22 2. A leasehold licensee may meet the requirements of  
23 subparagraph 1. by payment of a nonrefundable fee, paid at  
24 initial licensure, paid at the time of any subsequent change  
25 of ownership, and paid annually thereafter ~~at the time of any~~  
26 ~~subsequent annual license renewal~~, in the amount of 1 percent  
27 of the total of 3 months' Medicaid payments to the facility  
28 computed on the basis of the preceding 12-month average  
29 Medicaid payments to the facility. If a preceding 12-month  
30 average is not available, projected Medicaid payments may be  
31 used. The fee shall be deposited into the Health Care Trust

1 Fund and shall be accounted for separately as a Medicaid  
2 nursing home overpayment account. These fees shall be used at  
3 the sole discretion of the agency to repay nursing home  
4 Medicaid overpayments. Payment of this fee shall not release  
5 the licensee from any liability for any Medicaid overpayments,  
6 nor shall payment bar the agency from seeking to recoup  
7 overpayments from the licensee and any other liable party. As  
8 a condition of exercising this lease bond alternative,  
9 licensees paying this fee must maintain an existing lease bond  
10 through the end of the 30-month term period of that bond. The  
11 agency is herein granted specific authority to promulgate all  
12 rules pertaining to the administration and management of this  
13 account, including withdrawals from the account, subject to  
14 federal review and approval. This provision shall take effect  
15 upon becoming law and shall apply to any leasehold license  
16 application. The financial viability of the Medicaid nursing  
17 home overpayment account shall be determined by the agency  
18 through annual review of the account balance and the amount of  
19 total outstanding, unpaid Medicaid overpayments owing from  
20 leasehold licensees to the agency as determined by final  
21 agency audits.

22           3. The leasehold licensee may meet the bond  
23 requirement through other arrangements acceptable to the  
24 agency. The agency is herein granted specific authority to  
25 promulgate rules pertaining to lease bond arrangements.

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

31



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

6 6. Any failure of the nursing facility operator to  
7 acquire, maintain, renew annually, or provide proof to the  
8 agency shall be grounds for the agency to deny, ~~cancel,~~  
9 ~~revoke,~~ and ~~or~~ suspend the facility license to operate such  
10 facility and to take any further action, including, but not  
11 limited to, enjoining the facility, asserting a moratorium  
12 pursuant to part II of chapter 408, or applying for a  
13 receiver, deemed necessary to ensure compliance with this  
14 section and to safeguard and protect the health, safety, and  
15 welfare of the facility's residents. A lease agreement  
16 required as a condition of bond financing or refinancing under  
17 s. 154.213 by a health facilities authority or required under  
18 s. 159.30 by a county or municipality is not a leasehold for  
19 purposes of this paragraph and is not subject to the bond  
20 requirement of this paragraph.

21 Section 71. Subsections (1) and (4) of section 400.18,  
22 Florida Statutes, are amended to read:

23 400.18 Closing of nursing facility.--

24 (1) In addition to the requirements of part II of  
25 chapter 408, ~~Whenever a licensee voluntarily discontinues~~  
26 ~~operation, and during the period when it is preparing for such~~  
27 ~~discontinuance, it shall inform the agency not less than 90~~  
28 ~~days prior to the discontinuance of operation.~~ the licensee  
29 also shall inform each ~~the~~ resident or the next of kin, legal  
30 representative, or agency acting on behalf of the resident of  
31 the fact, and the proposed time, of ~~such~~ discontinuance of

1 operation and give at least 90 days' notice so that suitable  
2 arrangements may be made for the transfer and care of the  
3 resident. In the event any resident has no such person to  
4 represent him or her, the licensee shall be responsible for  
5 securing a suitable transfer of the resident before the  
6 discontinuance of operation. The agency shall be responsible  
7 for arranging for the transfer of those residents requiring  
8 transfer who are receiving assistance under the Medicaid  
9 program.

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

13 Section 72. Subsections (1), (2), and (3) of section  
14 400.19, Florida Statutes, are amended to read:

15 400.19 Right of entry and inspection.--

16 (1) In accordance with part II of chapter 408, the  
17 agency and any duly designated officer or employee thereof or  
18 a member of the State Long-Term Care Ombudsman Council or the  
19 local long-term care ombudsman council shall have the right to  
20 enter upon and into the premises of any facility licensed  
21 pursuant to this part, or any distinct nursing home unit of a  
22 hospital licensed under chapter 395 or any freestanding  
23 facility licensed under chapter 395 that provides extended  
24 care or other long-term care services, at any reasonable time  
25 in order to determine the state of compliance with the  
26 provisions of this part, part II of chapter 408, and  
27 applicable rules in force pursuant thereto. ~~The right of entry~~  
28 ~~and inspection shall also extend to any premises which the~~  
29 ~~agency has reason to believe is being operated or maintained~~  
30 ~~as a facility without a license, but no such entry or~~  
31 ~~inspection of any premises shall be made without the~~

1 ~~permission of the owner or person in charge thereof, unless a~~  
2 ~~warrant is first obtained from the circuit court authorizing~~  
3 ~~same. Any application for a facility license or renewal~~  
4 ~~thereof, made pursuant to this part, shall constitute~~  
5 ~~permission for and complete acquiescence in any entry or~~  
6 ~~inspection of the premises for which the license is sought, in~~  
7 ~~order to facilitate verification of the information submitted~~  
8 ~~on or in connection with the application; to discover,~~  
9 ~~investigate, and determine the existence of abuse or neglect;~~  
10 ~~or to elicit, receive, respond to, and resolve complaints. The~~  
11 agency shall, within 60 days after receipt of a complaint made  
12 by a resident or resident's representative, complete its  
13 investigation and provide to the complainant its findings and  
14 resolution.

15 (2) The agency shall coordinate nursing home facility  
16 licensing activities and responsibilities of any duly  
17 designated officer or employee involved in nursing home  
18 facility inspection to assure necessary, equitable, and  
19 consistent supervision of inspection personnel without  
20 unnecessary duplication of inspections, consultation services,  
21 or complaint investigations. ~~To facilitate such coordination,~~  
22 ~~all rules promulgated by the agency pursuant to this part~~  
23 ~~shall be distributed to nursing homes licensed under s.~~  
24 ~~400.062 30 days prior to implementation. This requirement does~~  
25 ~~not apply to emergency rules.~~

26 (3) The agency shall every 15 months conduct at least  
27 one unannounced inspection to determine compliance by the  
28 licensee with statutes, and with rules promulgated under the  
29 provisions of those statutes, governing minimum standards of  
30 construction, quality and adequacy of care, and rights of  
31 residents. The survey shall be conducted every 6 months for

1 | the next 2-year period if the facility has been cited for a  
2 | class I deficiency, has been cited for two or more class II  
3 | deficiencies arising from separate surveys or investigations  
4 | within a 60-day period, or has had three or more substantiated  
5 | complaints within a 6-month period, each resulting in at least  
6 | one class I or class II deficiency. In addition to any other  
7 | fees or fines in this part, the agency shall assess a fine for  
8 | each facility that is subject to the 6-month survey cycle. The  
9 | fine for the 2-year period shall be \$6,000, one-half to be  
10 | paid at the completion of each survey. The agency may adjust  
11 | this fine by the change in the Consumer Price Index, based on  
12 | the 12 months immediately preceding the increase, to cover the  
13 | cost of the additional surveys. The agency shall verify  
14 | through subsequent inspection that any deficiency identified  
15 | during ~~the annual~~ inspection is corrected. However, the agency  
16 | may verify the correction of a class III or class IV  
17 | deficiency unrelated to resident rights or resident care  
18 | without reinspecting the facility if adequate written  
19 | documentation has been received from the facility, which  
20 | provides assurance that the deficiency has been corrected. The  
21 | giving or causing to be given of advance notice of such  
22 | unannounced inspections by an employee of the agency to any  
23 | unauthorized person shall constitute cause for suspension of  
24 | not fewer than 5 working days according to the provisions of  
25 | chapter 110.

26 |       Section 73. Subsections (1) and (3) of section  
27 | 400.191, Florida Statutes, are amended to read:

28 |       400.191 Availability, distribution, and posting of  
29 | reports and records.--

30 |       (1) The agency shall provide information to the public  
31 | about all of the licensed nursing home facilities operating in

1 the state. The agency shall, within 60 days after a licensure  
2 ~~an annual~~ inspection visit or within 30 days after any interim  
3 visit to a facility, send copies of the inspection reports to  
4 the local long-term care ombudsman council, the agency's local  
5 office, and a public library or the county seat for the county  
6 in which the facility is located. The agency may provide  
7 electronic access to inspection reports as a substitute for  
8 sending copies.

9 (3) ~~Each nursing home facility licensee shall maintain~~  
10 ~~as public information, available upon request, records of all~~  
11 ~~cost and inspection reports pertaining to that facility that~~  
12 ~~have been filed with, or issued by, any governmental agency.~~  
13 ~~Copies of the reports shall be retained in the records for not~~  
14 ~~less than 5 years following the date the reports are filed or~~  
15 ~~issued.~~

16 (a) The agency shall publish in the Nursing Home Guide  
17 a "Nursing Home Guide Watch List" to assist consumers in  
18 evaluating the quality of nursing home care in Florida. The  
19 watch list must identify each facility that met the criteria  
20 for a conditional licensure status and each facility that is  
21 operating under bankruptcy protection. The watch list must  
22 include, but is not limited to, the facility's name, address,  
23 and ownership; the county in which the facility operates; the  
24 license expiration date; the number of licensed beds; a  
25 description of the deficiency causing the facility to be  
26 placed on the list; any corrective action taken; and the  
27 cumulative number of days and percentage of days the facility  
28 had a conditional license in the past 30 months. The watch  
29 list must include a brief description regarding how to choose  
30 a nursing home, the categories of licensure, the agency's  
31 inspection process, an explanation of terms used in the watch

1 list, and the addresses and phone numbers of the agency's  
2 health quality assurance field offices.

3 (b) Upon publication of each Nursing Home Guide, the  
4 agency must post a copy on its website by the 15th calendar  
5 day of the second month following the end of the calendar  
6 quarter. Each nursing home licensee must retrieve the most  
7 recent version of the Nursing Home Guide from the agency's  
8 website.

9 Section 74. Subsections (1), (2), (7), and (8) of  
10 section 400.23, Florida Statutes, are amended to read:

11 400.23 Rules; evaluation and deficiencies; licensure  
12 status.--

13 (1) It is the intent of the Legislature that rules  
14 published and enforced pursuant to this part and part II of  
15 chapter 408 shall include criteria by which a reasonable and  
16 consistent quality of resident care may be ensured and the  
17 results of such resident care can be demonstrated and by which  
18 safe and sanitary nursing homes can be provided. It is  
19 further intended that reasonable efforts be made to  
20 accommodate the needs and preferences of residents to enhance  
21 the quality of life in a nursing home. In addition, efforts  
22 shall be made to minimize the paperwork associated with the  
23 reporting and documentation requirements of these rules.

24 (2) Pursuant to the intention of the Legislature, the  
25 agency, in consultation with the Department of Health and the  
26 Department of Elderly Affairs, shall adopt and enforce rules  
27 to implement this part and part II of chapter 408, which shall  
28 include reasonable and fair criteria in relation to:

29 (a) The location of the facility and housing  
30 conditions that will ensure the health, safety, and comfort of  
31 residents, including an adequate call system. In making such

1 | rules, the agency shall be guided by criteria recommended by  
2 | nationally recognized reputable professional groups and  
3 | associations with knowledge of such subject matters. The  
4 | agency shall update or revise such criteria as the need  
5 | arises. The agency may require alterations to a building if it  
6 | determines that an existing condition constitutes a distinct  
7 | hazard to life, health, or safety. In performing any  
8 | inspections of facilities authorized by this part or part II  
9 | of chapter 408, the agency may enforce the special-occupancy  
10 | provisions of the Florida Building Code and the Florida Fire  
11 | Prevention Code which apply to nursing homes. Residents or  
12 | their representatives shall be able to request a change in the  
13 | placement of the bed in their room, provided that at admission  
14 | they are presented with a room that meets requirements of the  
15 | Florida Building Code. The location of a bed may be changed if  
16 | the requested placement does not infringe on the resident's  
17 | roommate or interfere with the resident's care or safety as  
18 | determined by the care planning team in accordance with  
19 | facility policies and procedures. In addition, the bed  
20 | placement may not be used as a restraint. Each facility shall  
21 | maintain a log of resident rooms with beds that are not in  
22 | strict compliance with the Florida Building Code in order for  
23 | such log to be used by surveyors and nurse monitors during  
24 | inspections and visits. A resident or resident representative  
25 | who requests that a bed be moved shall sign a statement  
26 | indicating that he or she understands the room will not be in  
27 | compliance with the Florida Building Code, but they would  
28 | prefer to exercise their right to self-determination. The  
29 | statement must be retained as part of the resident's care  
30 | plan. Any facility that offers this option must submit a  
31 | letter signed by the nursing home administrator of record to

1 | the agency notifying it of this practice with a copy of the  
2 | policies and procedures of the facility. The agency is  
3 | directed to provide assistance to the Florida Building  
4 | Commission in updating the construction standards of the code  
5 | relative to nursing homes.

6 |         (b) The number and qualifications of all personnel,  
7 | including management, medical, nursing, and other professional  
8 | personnel, and nursing assistants, orderlies, and support  
9 | personnel, having responsibility for any part of the care  
10 | given residents.

11 |         (c) All sanitary conditions within the facility and  
12 | its surroundings, including water supply, sewage disposal,  
13 | food handling, and general hygiene which will ensure the  
14 | health and comfort of residents.

15 |         (d) The equipment essential to the health and welfare  
16 | of the residents.

17 |         (e) A uniform accounting system.

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

24 |         (g) The preparation and annual update of a  
25 | comprehensive emergency management plan. The agency shall  
26 | adopt rules establishing minimum criteria for the plan after  
27 | consultation with the Department of Community Affairs. At a  
28 | minimum, the rules must provide for plan components that  
29 | address emergency evacuation transportation; adequate  
30 | sheltering arrangements; postdisaster activities, including  
31 | emergency power, food, and water; postdisaster transportation;



1 supplies; staffing; emergency equipment; individual  
2 identification of residents and transfer of records; and  
3 responding to family inquiries. The comprehensive emergency  
4 management plan is subject to review and approval by the local  
5 emergency management agency. During its review, the local  
6 emergency management agency shall ensure that the following  
7 agencies, at a minimum, are given the opportunity to review  
8 the plan: the Department of Elderly Affairs, the Department  
9 of Health, the Agency for Health Care Administration, and the  
10 Department of Community Affairs. Also, appropriate volunteer  
11 organizations must be given the opportunity to review the  
12 plan. The local emergency management agency shall complete  
13 its review within 60 days and either approve the plan or  
14 advise the facility of necessary revisions.

15 (h) The availability, distribution, and posting of  
16 reports and records pursuant to s. 400.191 and the Gold Seal  
17 Program pursuant to s. 400.235.

18 (7) The agency shall, at least every 15 months,  
19 evaluate all nursing home facilities and make a determination  
20 as to the degree of compliance by each licensee with the  
21 established rules adopted under this part as a basis for  
22 assigning a licensure status to that facility. The agency  
23 shall base its evaluation on the most recent inspection  
24 report, taking into consideration findings from other official  
25 reports, surveys, interviews, investigations, and inspections.  
26 In addition to license categories authorized under part II of  
27 chapter 408, the agency shall assign a licensure status of  
28 standard or conditional to each nursing home.

29 (a) A standard licensure status means that a facility  
30 has no class I or class II deficiencies and has corrected all  
31

1 class III deficiencies within the time established by the  
2 agency.

3 (b) A conditional licensure status means that a  
4 facility, due to the presence of one or more class I or class  
5 II deficiencies, or class III deficiencies not corrected  
6 within the time established by the agency, is not in  
7 substantial compliance at the time of the survey with criteria  
8 established under this part or with rules adopted by the  
9 agency. If the facility has no class I, class II, or class  
10 III deficiencies at the time of the followup survey, a  
11 standard licensure status may be assigned.

12 (c) In evaluating the overall quality of care and  
13 services and determining whether the facility will receive a  
14 conditional or standard license, the agency shall consider the  
15 needs and limitations of residents in the facility and the  
16 results of interviews and surveys of a representative sampling  
17 of residents, families of residents, ombudsman council members  
18 in the planning and service area in which the facility is  
19 located, guardians of residents, and staff of the nursing home  
20 facility.

21 (d) The current licensure status of each facility must  
22 be indicated in bold print on the face of the license. A list  
23 of the deficiencies of the facility shall be posted in a  
24 prominent place that is in clear and unobstructed public view  
25 at or near the place where residents are being admitted to  
26 that facility. Licensees receiving a conditional licensure  
27 status for a facility shall prepare, within 10 working days  
28 after receiving notice of deficiencies, a plan for correction  
29 of all deficiencies and shall submit the plan to the agency  
30 for approval.

31

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

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

6 1. Establish uniform procedures for the evaluation of  
7 facilities.

8 2. Provide criteria in the areas referenced in  
9 paragraph (c).

10 3. Address other areas necessary for carrying out the  
11 intent of this section.

12 (8) The agency shall adopt rules pursuant to this part  
13 and part II of chapter 408 to provide that, when the criteria  
14 established under subsection (2) are not met, such  
15 deficiencies shall be classified according to the nature and  
16 the scope of the deficiency. The scope shall be cited as  
17 isolated, patterned, or widespread. An isolated deficiency is  
18 a deficiency affecting one or a very limited number of  
19 residents, or involving one or a very limited number of staff,  
20 or a situation that occurred only occasionally or in a very  
21 limited number of locations. A patterned deficiency is a  
22 deficiency where more than a very limited number of residents  
23 are affected, or more than a very limited number of staff are  
24 involved, or the situation has occurred in several locations,  
25 or the same resident or residents have been affected by  
26 repeated occurrences of the same deficient practice but the  
27 effect of the deficient practice is not found to be pervasive  
28 throughout the facility. A widespread deficiency is a  
29 deficiency in which the problems causing the deficiency are  
30 pervasive in the facility or represent systemic failure that  
31 has affected or has the potential to affect a large portion of

1 | the facility's residents. The agency shall indicate the  
2 | classification on the face of the notice of deficiencies as  
3 | follows:

4 |         (a) A class I deficiency is a deficiency that the  
5 | agency determines presents a situation in which immediate  
6 | corrective action is necessary because the facility's  
7 | noncompliance has caused, or is likely to cause, serious  
8 | injury, harm, impairment, or death to a resident receiving  
9 | care in a facility. The condition or practice constituting a  
10 | class I violation shall be abated or eliminated immediately,  
11 | unless a fixed period of time, as determined by the agency, is  
12 | required for correction. A class I deficiency is subject to a  
13 | civil penalty of \$10,000 for an isolated deficiency, \$12,500  
14 | for a patterned deficiency, and \$15,000 for a widespread  
15 | deficiency. The fine amount shall be doubled for each  
16 | deficiency if the facility was previously cited for one or  
17 | more class I or class II deficiencies during the last  
18 | licensure ~~annual~~ inspection or any inspection or complaint  
19 | investigation since the last licensure ~~annual~~ inspection. A  
20 | fine must be levied notwithstanding the correction of the  
21 | deficiency.

22 |         (b) A class II deficiency is a deficiency that the  
23 | agency determines has compromised the resident's ability to  
24 | maintain or reach his or her highest practicable physical,  
25 | mental, and psychosocial well-being, as defined by an accurate  
26 | and comprehensive resident assessment, plan of care, and  
27 | provision of services. A class II deficiency is subject to a  
28 | civil penalty of \$2,500 for an isolated deficiency, \$5,000 for  
29 | a patterned deficiency, and \$7,500 for a widespread  
30 | deficiency. The fine amount shall be doubled for each  
31 | deficiency if the facility was previously cited for one or

1 more class I or class II deficiencies during the last  
2 licensure ~~annual~~ inspection or any inspection or complaint  
3 investigation since the last licensure ~~annual~~ inspection. A  
4 fine shall be levied notwithstanding the correction of the  
5 deficiency.

6 (c) A class III deficiency is a deficiency that the  
7 agency determines will result in no more than minimal  
8 physical, mental, or psychosocial discomfort to the resident  
9 or has the potential to compromise the resident's ability to  
10 maintain or reach his or her highest practical physical,  
11 mental, or psychosocial well-being, as defined by an accurate  
12 and comprehensive resident assessment, plan of care, and  
13 provision of services. A class III deficiency is subject to a  
14 civil penalty of \$1,000 for an isolated deficiency, \$2,000 for  
15 a patterned deficiency, and \$3,000 for a widespread  
16 deficiency. The fine amount shall be doubled for each  
17 deficiency if the facility was previously cited for one or  
18 more class I or class II deficiencies during the last  
19 licensure ~~annual~~ inspection or any inspection or complaint  
20 investigation since the last licensure ~~annual~~ inspection. A  
21 citation for a class III deficiency must specify the time  
22 within which the deficiency is required to be corrected. If a  
23 class III deficiency is corrected within the time specified, a  
24 ~~no~~ civil penalty may not ~~shall~~ be imposed.

25 (d) A class IV deficiency is a deficiency that the  
26 agency determines has the potential for causing no more than a  
27 minor negative impact on the resident. If the class IV  
28 deficiency is isolated, no plan of correction is required.

29 Section 75. Section 400.241, Florida Statutes, is  
30 amended to read:

31 400.241 Prohibited acts; penalties for violations.--

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

4 ~~(2) It is unlawful for any person or public body to~~  
5 ~~offer or advertise to the public, in any way by any medium~~  
6 ~~whatever, nursing home care or service or custodial services~~  
7 ~~without obtaining a valid current license. It is unlawful for~~  
8 ~~any holder of a license issued pursuant to the provisions of~~  
9 ~~this part to advertise or hold out to the public that it holds~~  
10 ~~a license for a facility other than that for which it actually~~  
11 ~~holds a license.~~

12 ~~(1)(3)~~ It is unlawful for any person, long-term care  
13 facility, or other entity to willfully interfere with the  
14 unannounced inspections mandated by s. 400.19(3) or part II of  
15 chapter 408. Alerting or advising a facility of the actual or  
16 approximate date of such inspection shall be a per se  
17 violation of this subsection.

18 ~~(2)(4)~~ A violation of any provision of this part or of  
19 any minimum standard, rule, or regulation adopted pursuant  
20 thereto constitutes a misdemeanor of the second degree,  
21 punishable as provided in s. 775.082 or s. 775.083. Each day  
22 of a continuing violation is ~~shall be considered~~ a separate  
23 offense.

24 Section 76. Subsection (1) and paragraphs (a) and (c)  
25 of subsection (4) of section 400.464, Florida Statutes, are  
26 amended to read:

27 400.464 Home health agencies to be licensed;  
28 expiration of license; exemptions; unlawful acts; penalties.--

29 (1) The requirements of part II of chapter 408 apply  
30 to the provision of services that require licensure pursuant  
31 to this part and part II of chapter 408 and entities licensed

1 or registered by or applying for such licensure or  
2 registration from the Agency for Health Care Administration  
3 pursuant to this part. A license issued by the agency is  
4 required in order to operate a home health agency in this  
5 state. Any home health agency must be licensed by the agency  
6 ~~to operate in this state. A license issued to a home health~~  
7 ~~agency, unless sooner suspended or revoked, expires 2 years~~  
8 ~~after its date of issuance.~~

9 (4)(a) ~~An organization may not provide, offer, or~~  
10 ~~advertise home health services to the public unless the~~  
11 ~~organization has a valid license or is specifically exempted~~  
12 ~~under this part.~~ An organization that offers or advertises to  
13 the public any service for which licensure or registration is  
14 required under this part must include in the advertisement the  
15 license number or registration number issued to the  
16 organization by the agency. The agency shall assess a fine of  
17 not less than \$100 to any licensee or registrant who fails to  
18 include the license or registration number when submitting the  
19 advertisement for publication, broadcast, or printing. The  
20 fine for a second or subsequent offense is \$500. The holder of  
21 a license issued under this part may not advertise or indicate  
22 to the public that it holds a home health agency or nurse  
23 registry license other than the one it has been issued.

24 (c) A person who violates paragraph (a) is subject to  
25 an injunctive proceeding under s. 408.816 ~~s. 400.515~~. A  
26 violation of paragraph (a) or s. 408.812 is a deceptive and  
27 unfair trade practice and constitutes a violation of the  
28 Florida Deceptive and Unfair Trade Practices Act under part II  
29 of chapter 501.

30 Section 77. Section 400.471, Florida Statutes, is  
31 amended to read:

1 400.471 Application for license; ~~fee; provisional~~  
2 ~~license; temporary permit.--~~

3 (1) Each applicant for licensure must comply with all  
4 provisions of this part and part II of chapter 408.

5 ~~Application for an initial license or for renewal of an~~  
6 ~~existing license must be made under oath to the agency on~~  
7 ~~forms furnished by it and must be accompanied by the~~  
8 ~~appropriate license fee as provided in subsection (10). The~~  
9 ~~agency must take final action on an initial licensure~~  
10 ~~application within 60 days after receipt of all required~~  
11 ~~documentation.~~

12 (2) In addition to the requirements of part II of  
13 chapter 408, the initial applicant must file with the  
14 application satisfactory proof that the home health agency is  
15 in compliance with this part and applicable rules, including:

16 (a) A listing of services to be provided, either  
17 directly by the applicant or through contractual arrangements  
18 with existing providers.

19 (b) The number and discipline of professional staff to  
20 be employed.

21 ~~(c) Proof of financial ability to operate.~~

22 (c)(d) Completion of questions concerning volume data  
23 on the renewal application as determined by rule.

24 ~~(3) An applicant for initial licensure must~~  
25 ~~demonstrate financial ability to operate by submitting a~~  
26 ~~balance sheet and income and expense statement for the first 2~~  
27 ~~years of operation which provide evidence of having sufficient~~  
28 ~~assets, credit, and projected revenues to cover liabilities~~  
29 ~~and expenses. The applicant shall have demonstrated financial~~  
30 ~~ability to operate if the applicant's assets, credit, and~~  
31 ~~projected revenues meet or exceed projected liabilities and~~



1 ~~expenses. All documents required under this subsection must be~~  
2 ~~prepared in accordance with generally accepted accounting~~  
3 ~~principles and must be compiled by a certified public~~  
4 ~~accountant.~~

5 ~~(4) Each applicant for licensure must comply with the~~  
6 ~~following requirements:~~

7 ~~(a) Upon receipt of a completed, signed, and dated~~  
8 ~~application, the agency shall require background screening of~~  
9 ~~the applicant, in accordance with the level 2 standards for~~  
10 ~~screening set forth in chapter 435. As used in this~~  
11 ~~subsection, the term "applicant" means the administrator, or a~~  
12 ~~similarly titled person who is responsible for the day to day~~  
13 ~~operation of the licensed home health agency, and the~~  
14 ~~financial officer, or similarly titled individual who is~~  
15 ~~responsible for the financial operation of the licensed home~~  
16 ~~health agency.~~

17 ~~(b) The agency may require background screening for a~~  
18 ~~member of the board of directors of the licensee or an officer~~  
19 ~~or an individual owning 5 percent or more of the licensee if~~  
20 ~~the agency reasonably suspects that such individual has been~~  
21 ~~convicted of an offense prohibited under the level 2 standards~~  
22 ~~for screening set forth in chapter 435.~~

23 ~~(c) Proof of compliance with the level 2 background~~  
24 ~~screening requirements of chapter 435 which has been submitted~~  
25 ~~within the previous 5 years in compliance with any other~~  
26 ~~health care or assisted living licensure requirements of this~~  
27 ~~state is acceptable in fulfillment of paragraph (a). Proof of~~  
28 ~~compliance with background screening which has been submitted~~  
29 ~~within the previous 5 years to fulfill the requirements of the~~  
30 ~~Financial Services Commission and the Office of Insurance~~  
31 ~~Regulation pursuant to chapter 651 as part of an application~~

1 ~~for a certificate of authority to operate a continuing care~~  
2 ~~retirement community is acceptable in fulfillment of the~~  
3 ~~Department of Law Enforcement and Federal Bureau of~~  
4 ~~Investigation background check.~~

5 ~~(d) A provisional license may be granted to an~~  
6 ~~applicant when each individual required by this section to~~  
7 ~~undergo background screening has met the standards for the~~  
8 ~~Department of Law Enforcement background check, but the agency~~  
9 ~~has not yet received background screening results from the~~  
10 ~~Federal Bureau of Investigation. A standard license may be~~  
11 ~~granted to the licensee upon the agency's receipt of a report~~  
12 ~~of the results of the Federal Bureau of Investigation~~  
13 ~~background screening for each individual required by this~~  
14 ~~section to undergo background screening which confirms that~~  
15 ~~all standards have been met, or upon the granting of a~~  
16 ~~disqualification exemption by the agency as set forth in~~  
17 ~~chapter 435. Any other person who is required to undergo level~~  
18 ~~2 background screening may serve in his or her capacity~~  
19 ~~pending the agency's receipt of the report from the Federal~~  
20 ~~Bureau of Investigation. However, the person may not continue~~  
21 ~~to serve if the report indicates any violation of background~~  
22 ~~screening standards and a disqualification exemption has not~~  
23 ~~been requested of and granted by the agency as set forth in~~  
24 ~~chapter 435.~~

25 ~~(e) Each applicant must submit to the agency, with its~~  
26 ~~application, a description and explanation of any exclusions,~~  
27 ~~permanent suspensions, or terminations of the licensee or~~  
28 ~~potential licensee from the Medicare or Medicaid programs.~~  
29 ~~Proof of compliance with the requirements for disclosure of~~  
30 ~~ownership and control interest under the Medicaid or Medicare~~  
31 ~~programs may be accepted in lieu of this submission.~~

1           ~~(f) Each applicant must submit to the agency a~~  
2 ~~description and explanation of any conviction of an offense~~  
3 ~~prohibited under the level 2 standards of chapter 435 by a~~  
4 ~~member of the board of directors of the applicant, its~~  
5 ~~officers, or any individual owning 5 percent or more of the~~  
6 ~~applicant. This requirement does not apply to a director of a~~  
7 ~~not for profit corporation or organization if the director~~  
8 ~~serves solely in a voluntary capacity for the corporation or~~  
9 ~~organization, does not regularly take part in the day to day~~  
10 ~~operational decisions of the corporation or organization,~~  
11 ~~receives no remuneration for his or her services on the~~  
12 ~~corporation or organization's board of directors, and has no~~  
13 ~~financial interest and has no family members with a financial~~  
14 ~~interest in the corporation or organization, provided that the~~  
15 ~~director and the not for profit corporation or organization~~  
16 ~~include in the application a statement affirming that the~~  
17 ~~director's relationship to the corporation satisfies the~~  
18 ~~requirements of this paragraph.~~

19           ~~(g) A license may not be granted to an applicant if~~  
20 ~~the applicant, administrator, or financial officer has been~~  
21 ~~found guilty of, regardless of adjudication, or has entered a~~  
22 ~~plea of nolo contendere or guilty to, any offense prohibited~~  
23 ~~under the level 2 standards for screening set forth in chapter~~  
24 ~~435, unless an exemption from disqualification has been~~  
25 ~~granted by the agency as set forth in chapter 435.~~

26           ~~(h) The agency may deny or revoke licensure if the~~  
27 ~~applicant has been or is currently excluded, suspended,~~  
28 ~~terminated from, or has involuntarily withdrawn from~~  
29 ~~participation in any governmental or private health care or~~  
30 ~~health insurance program.~~

31

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

3 ~~(5) The agency may deny or revoke licensure if the~~  
4 ~~applicant has falsely represented a material fact, or has~~  
5 ~~omitted any material fact, from the application required by~~  
6 ~~this section.~~

7 (3)(6) In addition to the requirements of s. 408.810,  
8 the home health agency must also obtain and maintain the  
9 following insurance coverage in an amount of not less than  
10 \$250,000 per claim, and the home health agency must submit  
11 proof of coverage with an initial application for licensure  
12 and with each application for license renewal:

13 (a) Malpractice insurance as defined in s.  
14 624.605(1)(k).†

15 (b) Liability insurance as defined in s.  
16 624.605(1)(b).

17 ~~(7) Sixty days before the expiration date, an~~  
18 ~~application for renewal must be submitted to the agency under~~  
19 ~~oath on forms furnished by it, and a license must be renewed~~  
20 ~~if the applicant has met the requirements established under~~  
21 ~~this part and applicable rules. The home health agency must~~  
22 ~~file with the application satisfactory proof that it is in~~  
23 ~~compliance with this part and applicable rules. If there is~~  
24 ~~evidence of financial instability, the home health agency must~~  
25 ~~submit satisfactory proof of its financial ability to comply~~  
26 ~~with the requirements of this part. The agency shall impose an~~  
27 ~~administrative fine of \$50 per day for each day the home~~  
28 ~~health agency fails to file an application within the~~  
29 ~~timeframe specified in this subsection. Each day of continuing~~  
30 ~~violation is a separate violation; however, the aggregate of~~  
31 ~~such fines may not exceed \$500.~~

1           ~~(8) When transferring the ownership of a home health~~  
2 ~~agency, the transferee must submit an application for a~~  
3 ~~license at least 60 days before the effective date of the~~  
4 ~~transfer. If the application is filed late, an administrative~~  
5 ~~fine shall be imposed in the amount of \$50 per day. Each day~~  
6 ~~of continuing violation is a separate violation; however, the~~  
7 ~~aggregate of such fines may not exceed \$500. If the home~~  
8 ~~health agency is being leased, a copy of the lease agreement~~  
9 ~~must be filed with the application.~~

10           ~~(4)(9)~~ The agency shall accept, in lieu of its own  
11 periodic licensure survey, submission of the survey of an  
12 accrediting organization that is recognized by the agency if  
13 the accreditation of the licensed home health agency is not  
14 provisional and if the licensed home health agency authorizes  
15 release of, and the agency receives the report of, the  
16 accrediting organization.

17           ~~(5)(10)~~ In accordance with s. 408.805, an applicant or  
18 licensee shall pay a fee for each license application  
19 submitted under this part, part II of chapter 408, and  
20 applicable rules. The amount of the fee shall be established  
21 by rule and shall be set at ~~The license fee and renewal fee~~  
22 ~~required of a home health agency are nonrefundable. The agency~~  
23 ~~shall set the license fees in an amount that is sufficient to~~  
24 cover the agency's its costs in carrying out its  
25 responsibilities under this part, but not to exceed \$2,000 per  
26 biennium. However, state, county, or municipal governments  
27 applying for licenses under this part are exempt from the  
28 payment of license fees. ~~All fees collected under this part~~  
29 ~~must be deposited in the Health Care Trust Fund for the~~  
30 ~~administration of this part.~~

1           ~~(11) The license must be displayed in a conspicuous~~  
2 ~~place in the administrative office of the home health agency~~  
3 ~~and is valid only while in the possession of the person to~~  
4 ~~which it is issued. The license may not be sold, assigned, or~~  
5 ~~otherwise transferred, voluntarily or involuntarily, and is~~  
6 ~~valid only for the home health agency and location for which~~  
7 ~~originally issued.~~

8           ~~(12) A home health agency against whom a revocation or~~  
9 ~~suspension proceeding is pending at the time of license~~  
10 ~~renewal may be issued a provisional license effective until~~  
11 ~~final disposition by the agency of such proceedings. If~~  
12 ~~judicial relief is sought from the final disposition, the~~  
13 ~~court that has jurisdiction may issue a temporary permit for~~  
14 ~~the duration of the judicial proceeding.~~

15           ~~(6)(13)~~ The agency may not issue a license designated  
16 as certified to a home health agency that fails to satisfy the  
17 requirements of a Medicare certification survey from the  
18 agency.

19           ~~(14) The agency may not issue a license to a home~~  
20 ~~health agency that has any unpaid fines assessed under this~~  
21 ~~part.~~

22           Section 78. Section 400.474, Florida Statutes, is  
23 amended to read:

24           400.474 Administrative Denial, ~~suspension, revocation~~  
25 ~~of license; injunction; grounds; penalties.--~~

26           (1) The agency may deny, revoke, and ~~or~~ suspend a  
27 license and, ~~or~~ impose an administrative fine in the manner  
28 provided in chapter 120, ~~or initiate injunctive proceedings~~  
29 ~~under s. 400.515.~~

1 (2) Any of the following actions by a home health  
2 agency or its employee is grounds for disciplinary action by  
3 the agency:

4 (a) Violation of this part, part II of chapter 408, or  
5 of applicable rules.

6 (b) An intentional, reckless, or negligent act that  
7 materially affects the health or safety of a patient.

8 (c) Knowingly providing home health services in an  
9 unlicensed assisted living facility or unlicensed adult  
10 family-care home, unless the home health agency or employee  
11 reports the unlicensed facility or home to the agency within  
12 72 hours after providing the services.

13 ~~(3) The agency may impose the following penalties for~~  
14 ~~operating without a license upon an applicant or owner who has~~  
15 ~~in the past operated, or who currently operates, a licensed~~  
16 ~~home health agency.~~

17 ~~(a) If a home health agency that is found to be~~  
18 ~~operating without a license wishes to apply for a license, the~~  
19 ~~home health agency may submit an application only after the~~  
20 ~~agency has verified that the home health agency no longer~~  
21 ~~operates an unlicensed home health agency.~~

22 (a)(b) In addition to the requirements of s. 408.813,  
23 any person, partnership, or corporation that violates s.  
24 408.813 ~~paragraph (a)~~ and that previously operated a licensed  
25 home health agency or concurrently operates both a licensed  
26 home health agency and an unlicensed home health agency  
27 commits a felony of the third degree punishable as provided in  
28 s. 775.082, s. 775.083, or s. 775.084. ~~If an owner has an~~  
29 ~~interest in more than one home health agency and fails to~~  
30 ~~license any one of those home health agencies, the agency must~~  
31 ~~issue a cease and desist order for the activities of the~~

1 ~~unlicensed home health agency and impose a moratorium on any~~  
2 ~~or all of the licensed related home health agencies until the~~  
3 ~~unlicensed home health agency is licensed.~~

4 (b)(c) If any home health agency is found to be  
5 operating without a license ~~meets the criteria in paragraph~~  
6 ~~(a) or paragraph (b)~~ and that home health agency has received  
7 any government reimbursement for services ~~provided by an~~  
8 ~~unlicensed home health agency~~, the agency shall make a fraud  
9 referral to the appropriate government reimbursement program.

10 ~~(4) The agency may deny, revoke, or suspend the~~  
11 ~~license of a home health agency, or may impose on a home~~  
12 ~~health agency administrative fines not to exceed the aggregate~~  
13 ~~sum of \$5,000 if:~~

14 ~~(a) The agency is unable to obtain entry to the home~~  
15 ~~health agency to conduct a licensure survey, complaint~~  
16 ~~investigation, surveillance visit, or monitoring visit.~~

17 ~~(b) An applicant or a licensed home health agency has~~  
18 ~~falsely represented a material fact in the application, or has~~  
19 ~~omitted from the application any material fact, including, but~~  
20 ~~not limited to, the fact that the controlling or ownership~~  
21 ~~interest is held by any officer, director, agent, manager,~~  
22 ~~employee, affiliated person, partner, or shareholder who is~~  
23 ~~not eligible to participate.~~

24 ~~(c) An applicant, owner, or person who has a 5 percent~~  
25 ~~or greater interest in a licensed entity:~~

26 1. ~~Has been previously found by any licensing,~~  
27 ~~certifying, or professional standards board or agency to have~~  
28 ~~violated the standards or conditions that relate to home~~  
29 ~~health related licensure or certification, or to the quality~~  
30 ~~of home health related services provided; or~~

31



1           ~~2. Has been or is currently excluded, suspended,~~  
2 ~~terminated from, or has involuntarily withdrawn from,~~  
3 ~~participation in the Medicaid program of this state or any~~  
4 ~~other state, the Medicare program, or any other governmental~~  
5 ~~health care or health insurance program.~~

6           Section 79. Subsection (1) and paragraphs (a) and (b)  
7 of subsection (2) of section 400.484, Florida Statutes, are  
8 amended to read:

9           400.484 Right of inspection; deficiencies; fines.--

10           (1) In addition to the requirements of s. 408.811, ~~Any~~  
11 ~~duly authorized officer or employee of the agency may make~~  
12 ~~such inspections and investigations as are necessary in order~~  
13 ~~to determine the state of compliance with this part, part II~~  
14 ~~of chapter 408, and with applicable rules. The right of~~  
15 ~~inspection extends to any business that the agency has reason~~  
16 ~~to believe is being operated as a home health agency without a~~  
17 ~~license, but such inspection of any such business may not be~~  
18 ~~made without the permission of the owner or person in charge~~  
19 ~~unless a warrant is first obtained from a circuit court. Any~~  
20 ~~application for a license issued under this part or for~~  
21 ~~license renewal constitutes permission for an appropriate~~  
22 ~~inspection to verify the information submitted on or in~~  
23 ~~connection with the application.~~

24           (2) The agency shall impose fines for various classes  
25 of deficiencies in accordance with the following schedule:

26           (a) A class I deficiency is any act, omission, or  
27 practice that results in a patient's death, disablement, or  
28 permanent injury, or places a patient at imminent risk of  
29 death, disablement, or permanent injury. Upon finding a class  
30 I deficiency, the agency may impose an administrative fine in  
31 the amount of \$5,000 for each occurrence and each day that the

1 | deficiency exists. ~~In addition, the agency may immediately~~  
2 | ~~revoke the license, or impose a moratorium on the admission of~~  
3 | ~~new patients, until the factors causing the deficiency have~~  
4 | ~~been corrected.~~

5 | (b) A class II deficiency is any act, omission, or  
6 | practice that has a direct adverse effect on the health,  
7 | safety, or security of a patient. Upon finding a class II  
8 | deficiency, the agency may impose an administrative fine in  
9 | the amount of \$1,000 for each occurrence and each day that the  
10 | deficiency exists. ~~In addition, the agency may suspend the~~  
11 | ~~license, or impose a moratorium on the admission of new~~  
12 | ~~patients, until the deficiency has been corrected.~~

13 | Section 80. Section 400.495, Florida Statutes, is  
14 | repealed.

15 | Section 81. Section 400.497, Florida Statutes, is  
16 | amended to read:

17 | 400.497 Rules establishing minimum standards.--The  
18 | agency shall adopt, publish, and enforce rules to implement  
19 | part II of chapter 408 and this part, including, as  
20 | applicable, ss. 400.506 and 400.509, which must provide  
21 | reasonable and fair minimum standards relating to:

22 | (1) The home health aide competency test and home  
23 | health aide training. The agency shall create the home health  
24 | aide competency test and establish the curriculum and  
25 | instructor qualifications for home health aide training.  
26 | Licensed home health agencies may provide this training and  
27 | shall furnish documentation of such training to other licensed  
28 | home health agencies upon request. Successful passage of the  
29 | competency test by home health aides may be substituted for  
30 | the training required under this section and any rule adopted  
31 | pursuant thereto.

1 (2) Shared staffing. The agency shall allow shared  
2 staffing if the home health agency is part of a retirement  
3 community that provides multiple levels of care, is located on  
4 one campus, is licensed under this chapter or chapter 429, and  
5 otherwise meets the requirements of law and rule.

6 (3) The criteria for the frequency of onsite licensure  
7 surveys.

8 (4) Licensure application and renewal.

9 (5) The requirements for onsite and electronic  
10 accessibility of supervisory personnel of home health  
11 agencies.

12 (6) Information to be included in patients' records.

13 (7) Geographic service areas.

14 (8) Preparation of a comprehensive emergency  
15 management plan pursuant to s. 400.492.

16 (a) The Agency for Health Care Administration shall  
17 adopt rules establishing minimum criteria for the plan and  
18 plan updates, with the concurrence of the Department of Health  
19 and in consultation with the Department of Community Affairs.

20 (b) The rules must address the requirements in s.  
21 400.492. In addition, the rules shall provide for the  
22 maintenance of patient-specific medication lists that can  
23 accompany patients who are transported from their homes.

24 (c) The plan is subject to review and approval by the  
25 county health department. During its review, the county health  
26 department shall contact state and local health and medical  
27 stakeholders when necessary. The county health department  
28 shall complete its review to ensure that the plan is in  
29 accordance with the criteria in the Agency for Health Care  
30 Administration rules within 90 days after receipt of the plan  
31 and shall approve the plan or advise the home health agency of

1 necessary revisions. If the home health agency fails to submit  
2 a plan or fails to submit the requested information or  
3 revisions to the county health department within 30 days after  
4 written notification from the county health department, the  
5 county health department shall notify the Agency for Health  
6 Care Administration. The agency shall notify the home health  
7 agency that its failure constitutes a deficiency, subject to a  
8 fine of \$5,000 per occurrence. If the plan is not submitted,  
9 information is not provided, or revisions are not made as  
10 requested, the agency may impose the fine.

11 (d) For any home health agency that operates in more  
12 than one county, the Department of Health shall review the  
13 plan, after consulting with state and local health and medical  
14 stakeholders when necessary. The department shall complete its  
15 review within 90 days after receipt of the plan and shall  
16 approve the plan or advise the home health agency of necessary  
17 revisions. The department shall make every effort to avoid  
18 imposing differing requirements on a home health agency that  
19 operates in more than one county as a result of differing or  
20 conflicting comprehensive plan requirements of the counties in  
21 which the home health agency operates.

22 (e) The requirements in this subsection do not apply  
23 to:

24 1. A facility that is certified under chapter 651 and  
25 has a licensed home health agency used exclusively by  
26 residents of the facility; or

27 2. A retirement community that consists of residential  
28 units for independent living and either a licensed nursing  
29 home or an assisted living facility, and has a licensed home  
30 health agency used exclusively by the residents of the  
31 retirement community, provided the comprehensive emergency

1 | management plan for the facility or retirement community  
2 | provides for continuous care of all residents with special  
3 | needs during an emergency.

4 |       Section 82. Section 400.506, Florida Statutes, is  
5 | amended to read:

6 |           400.506 Licensure of nurse registries; requirements;  
7 | penalties.--

8 |           (1) A nurse registry is exempt from the licensing  
9 | requirements of a home health agency but must be licensed as a  
10 | nurse registry. The requirements of part II of chapter 408  
11 | apply to the provision of services that require licensure  
12 | pursuant to ss. 400.506-400.518 and part II of chapter 408 and  
13 | to entities licensed by or applying for such license from the  
14 | Agency for Health Care Administration pursuant to ss.  
15 | 400.506-400.518. A license issued by the agency is required  
16 | for the operation of a nurse registry. Each operational site  
17 | of the nurse registry must be licensed, unless there is more  
18 | than one site within a county. If there is more than one site  
19 | within a county, only one license per county is required. Each  
20 | operational site must be listed on the license.

21 |           (2) Each applicant for licensure and each licensee  
22 | must comply with all provisions of part II of chapter 408 and  
23 | this section. ~~the following requirements:~~

24 |           ~~(a) Upon receipt of a completed, signed, and dated~~  
25 | ~~application, the agency shall require background screening, in~~  
26 | ~~accordance with the level 2 standards for screening set forth~~  
27 | ~~in chapter 435, of the managing employee, or other similarly~~  
28 | ~~titled individual who is responsible for the daily operation~~  
29 | ~~of the nurse registry, and of the financial officer, or other~~  
30 | ~~similarly titled individual who is responsible for the~~  
31 | ~~financial operation of the registry, including billings for~~

1 ~~patient care and services. The applicant shall comply with the~~  
2 ~~procedures for level 2 background screening as set forth in~~  
3 ~~chapter 435.~~

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

9 ~~(c) Proof of compliance with the level 2 background~~  
10 ~~screening requirements of chapter 435 which has been submitted~~  
11 ~~within the previous 5 years in compliance with any other~~  
12 ~~health care or assisted living licensure requirements of this~~  
13 ~~state is acceptable in fulfillment of the requirements of~~  
14 ~~paragraph (a).~~

15 ~~(d) A provisional license may be granted to an~~  
16 ~~applicant when each individual required by this section to~~  
17 ~~undergo background screening has met the standards for the~~  
18 ~~Department of Law Enforcement background check but the agency~~  
19 ~~has not yet received background screening results from the~~  
20 ~~Federal Bureau of Investigation. A standard license may be~~  
21 ~~granted to the applicant upon the agency's receipt of a report~~  
22 ~~of the results of the Federal Bureau of Investigation~~  
23 ~~background screening for each individual required by this~~  
24 ~~section to undergo background screening which confirms that~~  
25 ~~all standards have been met, or upon the granting of a~~  
26 ~~disqualification exemption by the agency as set forth in~~  
27 ~~chapter 435. Any other person who is required to undergo level~~  
28 ~~2 background screening may serve in his or her capacity~~  
29 ~~pending the agency's receipt of the report from the Federal~~  
30 ~~Bureau of Investigation. However, the person may not continue~~  
31 ~~to serve if the report indicates any violation of background~~

1 ~~screening standards and a disqualification exemption has not~~  
2 ~~been requested of and granted by the agency as set forth in~~  
3 ~~chapter 435.~~

4 ~~(e) Each applicant must submit to the agency, with its~~  
5 ~~application, a description and explanation of any exclusions,~~  
6 ~~permanent suspensions, or terminations of the applicant from~~  
7 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
8 ~~the requirements for disclosure of ownership and control~~  
9 ~~interests under the Medicaid or Medicare programs may be~~  
10 ~~accepted in lieu of this submission.~~

11 ~~(f) Each applicant must submit to the agency a~~  
12 ~~description and explanation of any conviction of an offense~~  
13 ~~prohibited under the level 2 standards of chapter 435 by a~~  
14 ~~member of the board of directors of the applicant, its~~  
15 ~~officers, or any individual owning 5 percent or more of the~~  
16 ~~applicant. This requirement does not apply to a director of a~~  
17 ~~not for profit corporation or organization if the director~~  
18 ~~serves solely in a voluntary capacity for the corporation or~~  
19 ~~organization, does not regularly take part in the day to day~~  
20 ~~operational decisions of the corporation or organization,~~  
21 ~~receives no remuneration for his or her services on the~~  
22 ~~corporation or organization's board of directors, and has no~~  
23 ~~financial interest and has no family members with a financial~~  
24 ~~interest in the corporation or organization, provided that the~~  
25 ~~director and the not for profit corporation or organization~~  
26 ~~include in the application a statement affirming that the~~  
27 ~~director's relationship to the corporation satisfies the~~  
28 ~~requirements of this paragraph.~~

29 ~~(g) A license may not be granted to an applicant if~~  
30 ~~the applicant or managing employee has been found guilty of,~~  
31 ~~regardless of adjudication, or has entered a plea of nolo~~

1 ~~contendere or guilty to, any offense prohibited under the~~  
2 ~~level 2 standards for screening set forth in chapter 435,~~  
3 ~~unless an exemption from disqualification has been granted by~~  
4 ~~the agency as set forth in chapter 435.~~

5 ~~(h) The agency may deny or revoke the license if any~~  
6 ~~applicant:~~

7 ~~1. Has falsely represented a material fact in the~~  
8 ~~application required by paragraph (c) or paragraph (f), or has~~  
9 ~~omitted any material fact from the application required by~~  
10 ~~paragraph (c) or paragraph (f); or~~

11 ~~2. Has had prior action taken against the applicant~~  
12 ~~under the Medicaid or Medicare program as set forth in~~  
13 ~~paragraph (c).~~

14 ~~(i) An application for license renewal must contain~~  
15 ~~the information required under paragraphs (c) and (f).~~

16 (3) In accordance with s. 408.805, an applicant or  
17 licensee shall pay a fee for each license application  
18 submitted under ss. 400.508-400.518, part II of chapter 408,  
19 and applicable rules. The amount of the fee shall be  
20 established by rule and may not exceed \$2,000 per biennium.  
21 ~~Application for license must be made to the Agency for Health~~  
22 ~~Care Administration on forms furnished by it and must be~~  
23 ~~accompanied by the appropriate licensure fee, as established~~  
24 ~~by rule and not to exceed the cost of regulation under this~~  
25 ~~part. The licensure fee for nurse registries may not exceed~~  
26 ~~\$2,000 and must be deposited in the Health Care Trust Fund.~~

27 ~~(4) The Agency for Health Care Administration may~~  
28 ~~deny, revoke, or suspend a license or impose an administrative~~  
29 ~~fine in the manner provided in chapter 120 against a nurse~~  
30 ~~registry that:~~

31



1 ~~(a) Fails to comply with this section or applicable~~  
2 ~~rules.~~

3 ~~(b) Commits an intentional, reckless, or negligent act~~  
4 ~~that materially affects the health or safety of a person~~  
5 ~~receiving services.~~

6 ~~(5) A license issued for the operation of a nurse~~  
7 ~~registry, unless sooner suspended or revoked, expires 2 years~~  
8 ~~after its date of issuance. Sixty days before the expiration~~  
9 ~~date, an application for renewal must be submitted to the~~  
10 ~~Agency for Health Care Administration on forms furnished by~~  
11 ~~it. The Agency for Health Care Administration shall renew the~~  
12 ~~license if the applicant has met the requirements of this~~  
13 ~~section and applicable rules. A nurse registry against which a~~  
14 ~~revocation or suspension proceeding is pending at the time of~~  
15 ~~license renewal may be issued a conditional license effective~~  
16 ~~until final disposition by the Agency for Health Care~~  
17 ~~Administration of such proceedings. If judicial relief is~~  
18 ~~sought from the final disposition, the court having~~  
19 ~~jurisdiction may issue a conditional license for the duration~~  
20 ~~of the judicial proceeding.~~

21 ~~(6) The Agency for Health Care Administration may~~  
22 ~~institute injunctive proceedings under s. 400.515.~~

23 (4)(7) A person that provides, offers, or advertises  
24 to the public any service for which licensure is required  
25 under this section must include in such advertisement the  
26 license number issued to it by the Agency for Health Care  
27 Administration. The agency shall assess a fine of not less  
28 than \$100 against any licensee who fails to include the  
29 license number when submitting the advertisement for  
30 publication, broadcast, or printing. The fine for a second or  
31 subsequent offense is \$500.

1           ~~(8)(a) It is unlawful for a person to provide, offer,~~  
2 ~~or advertise to the public services as defined by rule without~~  
3 ~~obtaining a valid license from the Agency for Health Care~~  
4 ~~Administration. It is unlawful for any holder of a license to~~  
5 ~~advertise or hold out to the public that he or she holds a~~  
6 ~~license for other than that for which he or she actually holds~~  
7 ~~a license. A person who violates this subsection is subject to~~  
8 ~~injunctive proceedings under s. 400.515.~~

9           ~~(b) A person who violates the provisions of paragraph~~  
10 ~~(a) commits a misdemeanor of the second degree, punishable as~~  
11 ~~provided in s. 775.082 or s. 775.083. Each day of continuing~~  
12 ~~violation is a separate offense.~~

13           ~~(5)(a)(c)~~ In addition to the requirements of s.  
14 408.812, any person who owns, operates, or maintains an  
15 unlicensed nurse registry and who, within 10 working days  
16 after receiving notification from the agency, fails to cease  
17 operation and apply for a license under this part commits a  
18 misdemeanor of the second degree, punishable as provided in s.  
19 775.082 or s. 775.083. Each day of continued operation is a  
20 separate offense.

21           ~~(b)(d)~~ If a nurse registry fails to cease operation  
22 after agency notification, the agency may impose a fine of  
23 \$500 for each day of noncompliance.

24           ~~(9) Any duly authorized officer or employee of the~~  
25 ~~Agency for Health Care Administration may make such~~  
26 ~~inspections and investigations as are necessary to respond to~~  
27 ~~complaints or to determine the state of compliance with this~~  
28 ~~section and applicable rules.~~

29           ~~(a) If, in responding to a complaint, an agent or~~  
30 ~~employee of the Agency for Health Care Administration has~~  
31

1 ~~reason to believe that a crime has been committed, he or she~~  
2 ~~shall notify the appropriate law enforcement agency.~~

3 ~~(b) If, in responding to a complaint, an agent or~~  
4 ~~employee of the Agency for Health Care Administration has~~  
5 ~~reason to believe that abuse, neglect, or exploitation has~~  
6 ~~occurred, according to the definitions in chapter 415, he or~~  
7 ~~she shall file a report under chapter 415.~~

8 (6)(10)(a) A nurse registry may refer for contract in  
9 private residences registered nurses and licensed practical  
10 nurses registered and licensed under part I of chapter 464,  
11 certified nursing assistants certified under part II of  
12 chapter 464, home health aides who present documented proof of  
13 successful completion of the training required by rule of the  
14 agency, and companions or homemakers for the purposes of  
15 providing those services authorized under s. 400.509(1). Each  
16 person referred by a nurse registry must provide current  
17 documentation that he or she is free from communicable  
18 diseases.

19 (b) A certified nursing assistant or home health aide  
20 may be referred for a contract to provide care to a patient in  
21 his or her home only if that patient is under a physician's  
22 care. A certified nursing assistant or home health aide  
23 referred for contract in a private residence shall be limited  
24 to assisting a patient with bathing, dressing, toileting,  
25 grooming, eating, physical transfer, and those normal daily  
26 routines the patient could perform for himself or herself were  
27 he or she physically capable. A certified nursing assistant or  
28 home health aide may not provide medical or other health care  
29 services that require specialized training and that may be  
30 performed only by licensed health care professionals. The  
31 nurse registry shall obtain the name and address of the

1 attending physician and send written notification to the  
2 physician within 48 hours after a contract is concluded that a  
3 certified nursing assistant or home health aide will be  
4 providing care for that patient.

5 (c) When a certified nursing assistant or home health  
6 aide is referred to a patient's home by a nurse registry, the  
7 nurse registry shall advise the patient, the patient's family,  
8 or any other person acting on behalf of the patient at the  
9 time the contract for services is made that registered nurses  
10 are available to make visits to the patient's home for an  
11 additional cost.

12 ~~(7)(11)~~ A person who is referred by a nurse registry  
13 for contract in private residences and who is not a nurse  
14 licensed under part I of chapter 464 may perform only those  
15 services or care to clients that the person has been certified  
16 to perform or trained to perform as required by law or rules  
17 of the Agency for Health Care Administration or the Department  
18 of Business and Professional Regulation. Providing services  
19 beyond the scope authorized under this subsection constitutes  
20 the unauthorized practice of medicine or a violation of the  
21 Nurse Practice Act and is punishable as provided under chapter  
22 458, chapter 459, or part I of chapter 464.

23 ~~(8)(12)~~ Each nurse registry must require every  
24 applicant for contract to complete an application form  
25 providing the following information:

26 (a) The name, address, date of birth, and social  
27 security number of the applicant.

28 (b) The educational background and employment history  
29 of the applicant.

30 (c) The number and date of the applicable license or  
31 certification.

1 (d) When appropriate, information concerning the  
2 renewal of the applicable license, registration, or  
3 certification.

4 ~~(9)~~~~(13)~~ Each nurse registry must comply with the  
5 procedures set forth in s. 400.512 for maintaining records of  
6 the work history of all persons referred for contract and is  
7 subject to the standards and conditions set forth in that  
8 section. However, an initial screening may not be required for  
9 persons who have been continuously registered with the nurse  
10 registry since October 1, 2000.

11 ~~(10)~~~~(14)~~ The nurse registry must maintain the  
12 application on file, and that file must be open to the  
13 inspection of the Agency for Health Care Administration. The  
14 nurse registry must maintain on file the name and address of  
15 the patient or client to whom nurse registry personnel are  
16 referred for contract and the amount of the fee received by  
17 the nurse registry. A nurse registry must maintain the file  
18 that includes the application and other applicable  
19 documentation for 3 years after the date of the last file  
20 entry of patient-related or client-related information.

21 ~~(11)~~~~(15)~~ Nurse registries shall assist persons who  
22 would need assistance and sheltering during evacuations  
23 because of physical, mental, or sensory disabilities in  
24 registering with the appropriate local emergency management  
25 agency pursuant to s. 252.355.

26 ~~(12)~~~~(16)~~ Each nurse registry shall prepare and  
27 maintain a comprehensive emergency management plan that is  
28 consistent with the criteria in this subsection and with the  
29 local special needs plan. The plan shall be updated annually.  
30 The plan shall include the means by which the nurse registry  
31 will continue to provide the same type and quantity of

1 services to its patients who evacuate to special needs  
2 shelters which were being provided to those patients prior to  
3 evacuation. The plan shall specify how the nurse registry  
4 shall facilitate the provision of continuous care by persons  
5 referred for contract to persons who are registered pursuant  
6 to s. 252.355 during an emergency that interrupts the  
7 provision of care or services in private residences  
8 ~~residencies~~. Nurse registries may establish links to local  
9 emergency operations centers to determine a mechanism by which  
10 to approach specific areas within a disaster area in order for  
11 a provider to reach its clients. Nurse registries shall  
12 demonstrate a good faith effort to comply with the  
13 requirements of this subsection by documenting attempts of  
14 staff to follow procedures outlined in the nurse registry's  
15 comprehensive emergency management plan which support a  
16 finding that the provision of continuing care has been  
17 attempted for patients identified as needing care by the nurse  
18 registry and registered under s. 252.355 in the event of an  
19 emergency under subsection (1).

20 (a) All persons referred for contract who care for  
21 persons registered pursuant to s. 252.355 must include in the  
22 patient record a description of how care will be continued  
23 during a disaster or emergency that interrupts the provision  
24 of care in the patient's home. It shall be the responsibility  
25 of the person referred for contract to ensure that continuous  
26 care is provided.

27 (b) Each nurse registry shall maintain a current  
28 prioritized list of patients in private residences who are  
29 registered pursuant to s. 252.355 and are under the care of  
30 persons referred for contract and who need continued services  
31 during an emergency. This list shall indicate, for each

1 patient, if the client is to be transported to a special needs  
2 shelter and if the patient is receiving skilled nursing  
3 services. Nurse registries shall make this list available to  
4 county health departments and to local emergency management  
5 agencies upon request.

6 (c) Each person referred for contract who is caring  
7 for a patient who is registered pursuant to s. 252.355 shall  
8 provide a list of the patient's medication and equipment needs  
9 to the nurse registry. Each person referred for contract shall  
10 make this information available to county health departments  
11 and to local emergency management agencies upon request.

12 (d) Each person referred for contract shall not be  
13 required to continue to provide care to patients in emergency  
14 situations that are beyond the person's control and that make  
15 it impossible to provide services, such as when roads are  
16 impassable or when patients do not go to the location  
17 specified in their patient records.

18 (e) The comprehensive emergency management plan  
19 required by this subsection is subject to review and approval  
20 by the county health department. During its review, the county  
21 health department shall contact state and local health and  
22 medical stakeholders when necessary. The county health  
23 department shall complete its review to ensure that the plan  
24 complies with the criteria in the Agency for Health Care  
25 Administration rules within 90 days after receipt of the plan  
26 and shall either approve the plan or advise the nurse registry  
27 of necessary revisions. If a nurse registry fails to submit a  
28 plan or fails to submit requested information or revisions to  
29 the county health department within 30 days after written  
30 notification from the county health department, the county  
31 health department shall notify the Agency for Health Care

1 Administration. The agency shall notify the nurse registry  
2 that its failure constitutes a deficiency, subject to a fine  
3 of \$5,000 per occurrence. If the plan is not submitted,  
4 information is not provided, or revisions are not made as  
5 requested, the agency may impose the fine.

6 (f) The Agency for Health Care Administration shall  
7 adopt rules establishing minimum criteria for the  
8 comprehensive emergency management plan and plan updates  
9 required by this subsection, with the concurrence of the  
10 Department of Health and in consultation with the Department  
11 of Community Affairs.

12 ~~(13)~~~~(17)~~ All persons referred for contract in private  
13 residences by a nurse registry must comply with the following  
14 requirements for a plan of treatment:

15 (a) When, in accordance with the privileges and  
16 restrictions imposed upon a nurse under part I of chapter 464,  
17 the delivery of care to a patient is under the direction or  
18 supervision of a physician or when a physician is responsible  
19 for the medical care of the patient, a medical plan of  
20 treatment must be established for each patient receiving care  
21 or treatment provided by a licensed nurse in the home. The  
22 original medical plan of treatment must be timely signed by  
23 the physician, physician assistant, or advanced registered  
24 nurse practitioner, acting within his or her respective scope  
25 of practice, and reviewed in consultation with the licensed  
26 nurse at least every 2 months. Any additional order or change  
27 in orders must be obtained from the physician, physician  
28 assistant, or advanced registered nurse practitioner and  
29 reduced to writing and timely signed by the physician,  
30 physician assistant, or advanced registered nurse  
31 practitioner. The delivery of care under a medical plan of



1 treatment must be substantiated by the appropriate nursing  
2 notes or documentation made by the nurse in compliance with  
3 nursing practices established under part I of chapter 464.

4 (b) Whenever a medical plan of treatment is  
5 established for a patient, the initial medical plan of  
6 treatment, any amendment to the plan, additional order or  
7 change in orders, and copy of nursing notes must be filed in  
8 the office of the nurse registry.

9 ~~(14)(18)~~ The nurse registry must comply with the  
10 notice requirements of s. 408.810(5) ~~s. 400.495~~, relating to  
11 abuse reporting.

12 ~~(15)(19)~~ In addition to any other penalties imposed  
13 pursuant to this section or part, the agency may assess costs  
14 related to an investigation that results in a successful  
15 prosecution, excluding costs associated with an attorney's  
16 time. ~~If the agency imposes such an assessment and the  
17 assessment is not paid, and if challenged is not the subject  
18 of a pending appeal, prior to the renewal of the license, the  
19 license shall not be issued until the assessment is paid or  
20 arrangements for payment of the assessment are made.~~

21 ~~(16)(20)~~ The Agency for Health Care Administration  
22 shall adopt rules to implement this section and part II of  
23 chapter 408.

24 Section 83. Section 400.509, Florida Statutes, is  
25 amended to read:

26 400.509 Registration of particular service providers  
27 exempt from licensure; certificate of registration; regulation  
28 of registrants.--

29 (1) Any organization that provides companion services  
30 or homemaker services and does not provide a home health  
31 service to a person is exempt from licensure under this part.

1 However, any organization that provides companion services or  
2 homemaker services must register with the agency.

3       (2) The requirements of part II of chapter 408 apply  
4 to the provision of services that require registration or  
5 licensure pursuant to this section and part II of chapter 408  
6 and entities registered by or applying for such registration  
7 from the Agency for Health Care Administration pursuant to  
8 this section. Each applicant for registration and each  
9 registrant must comply with all provisions of part II of  
10 chapter 408. Registration or a license issued by the agency is  
11 required for the operation of an organization that provides  
12 companion services or homemaker services. Registration  
13 ~~consists of annually filing with the agency, under oath, on~~  
14 ~~forms provided by it, the following information:~~

15       ~~(a) If the registrant is a firm or partnership, the~~  
16 ~~name, address, date of birth, and social security number of~~  
17 ~~every member.~~

18       ~~(b) If the registrant is a corporation or association,~~  
19 ~~its name and address; the name, address, date of birth, and~~  
20 ~~social security number of each of its directors and officers;~~  
21 ~~and the name and address of each person having at least a 5~~  
22 ~~percent interest in the corporation or association.~~

23       ~~(c) The name, address, date of birth, and social~~  
24 ~~security number of each person employed by or under contract~~  
25 ~~with the organization.~~

26       (3) In accordance with s. 408.805, applicants and  
27 registrants shall pay fees for all registrations issued under  
28 this part, part II of chapter 408, and applicable rules. The  
29 amount of the fee shall be \$50 per biennium. The agency shall  
30 ~~charge a registration fee of \$25 to be submitted with the~~  
31 ~~information required under subsection (2).~~

1           ~~(4) Each applicant for registration must comply with~~  
2 ~~the following requirements:~~

3           ~~(a) Upon receipt of a completed, signed, and dated~~  
4 ~~application, the agency shall require background screening, in~~  
5 ~~accordance with the level 1 standards for screening set forth~~  
6 ~~in chapter 435, of every individual who will have contact with~~  
7 ~~the client. The agency shall require background screening of~~  
8 ~~the managing employee or other similarly titled individual who~~  
9 ~~is responsible for the operation of the entity, and of the~~  
10 ~~financial officer or other similarly titled individual who is~~  
11 ~~responsible for the financial operation of the entity,~~  
12 ~~including billings for client services in accordance with the~~  
13 ~~level 2 standards for background screening as set forth in~~  
14 ~~chapter 435.~~

15           ~~(b) The agency may require background screening of any~~  
16 ~~other individual who is affiliated with the applicant if the~~  
17 ~~agency has a reasonable basis for believing that he or she has~~  
18 ~~been convicted of a crime or has committed any other offense~~  
19 ~~prohibited under the level 2 standards for screening set forth~~  
20 ~~in chapter 435.~~

21           ~~(c) Proof of compliance with the level 2 background~~  
22 ~~screening requirements of chapter 435 which has been submitted~~  
23 ~~within the previous 5 years in compliance with any other~~  
24 ~~health care or assisted living licensure requirements of this~~  
25 ~~state is acceptable in fulfillment of paragraph (a).~~

26           ~~(d) A provisional registration may be granted to an~~  
27 ~~applicant when each individual required by this section to~~  
28 ~~undergo background screening has met the standards for the~~  
29 ~~abuse registry background check through the agency and the~~  
30 ~~Department of Law Enforcement background check, but the agency~~  
31 ~~has not yet received background screening results from the~~

1 ~~Federal Bureau of Investigation. A standard registration may~~  
2 ~~be granted to the applicant upon the agency's receipt of a~~  
3 ~~report of the results of the Federal Bureau of Investigation~~  
4 ~~background screening for each individual required by this~~  
5 ~~section to undergo background screening which confirms that~~  
6 ~~all standards have been met, or upon the granting of a~~  
7 ~~disqualification exemption by the agency as set forth in~~  
8 ~~chapter 435. Any other person who is required to undergo level~~  
9 ~~2 background screening may serve in his or her capacity~~  
10 ~~pending the agency's receipt of the report from the Federal~~  
11 ~~Bureau of Investigation. However, the person may not continue~~  
12 ~~to serve if the report indicates any violation of background~~  
13 ~~screening standards and if a disqualification exemption has~~  
14 ~~not been requested of and granted by the agency as set forth~~  
15 ~~in chapter 435.~~

16 ~~(e) Each applicant must submit to the agency, with its~~  
17 ~~application, a description and explanation of any exclusions,~~  
18 ~~permanent suspensions, or terminations of the applicant from~~  
19 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
20 ~~the requirements for disclosure of ownership and control~~  
21 ~~interests under the Medicaid or Medicare programs may be~~  
22 ~~accepted in lieu of this submission.~~

23 ~~(f) Each applicant must submit to the agency a~~  
24 ~~description and explanation of any conviction of an offense~~  
25 ~~prohibited under the level 2 standards of chapter 435 which~~  
26 ~~was committed by a member of the board of directors of the~~  
27 ~~applicant, its officers, or any individual owning 5 percent or~~  
28 ~~more of the applicant. This requirement does not apply to a~~  
29 ~~director of a not for profit corporation or organization who~~  
30 ~~serves solely in a voluntary capacity for the corporation or~~  
31 ~~organization, does not regularly take part in the day to day~~

1 ~~operational decisions of the corporation or organization,~~  
2 ~~receives no remuneration for his or her services on the~~  
3 ~~corporation's or organization's board of directors, and has no~~  
4 ~~financial interest and no family members having a financial~~  
5 ~~interest in the corporation or organization, if the director~~  
6 ~~and the not for profit corporation or organization include in~~  
7 ~~the application a statement affirming that the director's~~  
8 ~~relationship to the corporation satisfies the requirements of~~  
9 ~~this paragraph.~~

10 ~~(g) A registration may not be granted to an applicant~~  
11 ~~if the applicant or managing employee has been found guilty~~  
12 ~~of, regardless of adjudication, or has entered a plea of nolo~~  
13 ~~contendere or guilty to, any offense prohibited under the~~  
14 ~~level 2 standards for screening set forth in chapter 435,~~  
15 ~~unless an exemption from disqualification has been granted by~~  
16 ~~the agency as set forth in chapter 435.~~

17 ~~(h) The agency may deny or revoke the registration of~~  
18 ~~any applicant who:~~

19 ~~1. Has falsely represented a material fact in the~~  
20 ~~application required by paragraph (c) or paragraph (f), or has~~  
21 ~~omitted any material fact from the application required by~~  
22 ~~paragraph (c) or paragraph (f); or~~

23 ~~2. Has had prior action taken against the applicant~~  
24 ~~under the Medicaid or Medicare program as set forth in~~  
25 ~~paragraph (c).~~

26 ~~(i) An application for licensure renewal must contain~~  
27 ~~the information required under paragraphs (c) and (f).~~

28 ~~(4)(5)~~ Each registrant must obtain the employment or  
29 contract history of persons who are employed by or under  
30 contract with the organization and who will have contact at  
31 any time with patients or clients in their homes by:

1 (a) Requiring such persons to submit an employment or  
2 contractual history to the registrant; and

3 (b) Verifying the employment or contractual history,  
4 unless through diligent efforts such verification is not  
5 possible. The agency shall prescribe by rule the minimum  
6 requirements for establishing that diligent efforts have been  
7 made.

8  
9 There is no monetary liability on the part of, and no cause of  
10 action for damages arises against, a former employer of a  
11 prospective employee of or prospective independent contractor  
12 with a registrant who reasonably and in good faith  
13 communicates his or her honest opinions about the former  
14 employee's or contractor's job performance. This subsection  
15 does not affect the official immunity of an officer or  
16 employee of a public corporation.

17 ~~(6) On or before the first day on which services are~~  
18 ~~provided to a patient or client, any registrant under this~~  
19 ~~part must inform the patient or client and his or her~~  
20 ~~immediate family, if appropriate, of the right to report~~  
21 ~~abusive, neglectful, or exploitative practices. The statewide~~  
22 ~~toll free telephone number for the central abuse hotline must~~  
23 ~~be provided to patients or clients in a manner that is clearly~~  
24 ~~legible and must include the words: "To report abuse, neglect,~~  
25 ~~or exploitation, please call toll free \_\_\_\_\_ (phone number) ."~~  
26 ~~Registrants must establish appropriate policies and~~  
27 ~~procedures for providing such notice to patients or clients.~~

28 ~~(7) The provisions of s. 400.512 regarding screening~~  
29 ~~apply to any person or business entity registered under this~~  
30 ~~section on or after October 1, 1994.~~

31

1 ~~(8) Upon verification that all requirements for~~  
2 ~~registration have been met, the Agency for Health Care~~  
3 ~~Administration shall issue a certificate of registration valid~~  
4 ~~for no more than 1 year.~~

5 ~~(9) The Agency for Health Care Administration may~~  
6 ~~deny, suspend, or revoke the registration of a person that:~~

7 ~~(a) Fails to comply with this section or applicable~~  
8 ~~rules.~~

9 ~~(b) Commits an intentional, reckless, or negligent act~~  
10 ~~that materially affects the health or safety of a person~~  
11 ~~receiving services.~~

12 ~~(10) The Agency for Health Care Administration may~~  
13 ~~institute injunctive proceedings under s. 400.515.~~

14 (5)(11) A person that offers or advertises to the  
15 public a service for which registration is required must  
16 include in its advertisement the registration number issued by  
17 the Agency for Health Care Administration.

18 ~~(12) It is unlawful for a person to offer or advertise~~  
19 ~~to the public services, as defined by rule, without obtaining~~  
20 ~~a certificate of registration from the Agency for Health Care~~  
21 ~~Administration. It is unlawful for any holder of a certificate~~  
22 ~~of registration to advertise or hold out to the public that he~~  
23 ~~or she holds a certificate of registration for other than that~~  
24 ~~for which he or she actually holds a certificate of~~  
25 ~~registration. Any person who violates this subsection is~~  
26 ~~subject to injunctive proceedings under s. 400.515.~~

27 ~~(13) Any duly authorized officer or employee of the~~  
28 ~~Agency for Health Care Administration has the right to make~~  
29 ~~such inspections and investigations as are necessary in order~~  
30 ~~to respond to complaints or to determine the state of~~  
31 ~~compliance with this section and applicable rules.~~

1 ~~(a) If, in responding to a complaint, an officer or~~  
2 ~~employee of the Agency for Health Care Administration has~~  
3 ~~reason to believe that a crime has been committed, he or she~~  
4 ~~shall notify the appropriate law enforcement agency.~~

5 ~~(b) If, in responding to a complaint, an officer or~~  
6 ~~employee of the Agency for Health Care Administration has~~  
7 ~~reason to believe that abuse, neglect, or exploitation has~~  
8 ~~occurred, according to the definitions in chapter 415, he or~~  
9 ~~she shall file a report under chapter 415.~~

10 ~~(6)(14)~~ In addition to any other penalties imposed  
11 pursuant to this section or part, the agency may assess costs  
12 related to an investigation that results in a successful  
13 prosecution, excluding costs associated with an attorney's  
14 time. ~~If the agency imposes such an assessment and the~~  
15 ~~assessment is not paid, and if challenged is not the subject~~  
16 ~~of a pending appeal, prior to the renewal of the registration,~~  
17 ~~the registration shall not be issued until the assessment is~~  
18 ~~paid or arrangements for payment of the assessment are made.~~

19 ~~(7)(15)~~ The Agency for Health Care Administration  
20 shall adopt rules to administer this section and part II of  
21 chapter 408.

22 Section 84. Subsection (7) of section 400.512, Florida  
23 Statutes, is amended to read:

24 400.512 Screening of home health agency personnel;  
25 nurse registry personnel; and companions and homemakers.--The  
26 agency shall require employment or contractor screening as  
27 provided in chapter 435, using the level 1 standards for  
28 screening set forth in that chapter, for home health agency  
29 personnel; persons referred for employment by nurse  
30 registries; and persons employed by companion or homemaker  
31 services registered under s. 400.509.



1           ~~(7)(a) It is a misdemeanor of the first degree,~~  
2 ~~punishable under s. 775.082 or s. 775.083, for any person~~  
3 ~~willfully, knowingly, or intentionally to:~~

4           1. ~~Fail, by false statement, misrepresentation,~~  
5 ~~impersonation, or other fraudulent means, to disclose in any~~  
6 ~~application for voluntary or paid employment a material fact~~  
7 ~~used in making a determination as to such person's~~  
8 ~~qualifications to be an employee under this section;~~

9           2. ~~Operate or attempt to operate an entity licensed or~~  
10 ~~registered under this part with persons who do not meet the~~  
11 ~~minimum standards for good moral character as contained in~~  
12 ~~this section; or~~

13           3. ~~Use information from the criminal records obtained~~  
14 ~~under this section for any purpose other than screening that~~  
15 ~~person for employment as specified in this section or release~~  
16 ~~such information to any other person for any purpose other~~  
17 ~~than screening for employment under this section.~~

18           ~~(b) It is a felony of the third degree, punishable~~  
19 ~~under s. 775.082, s. 775.083, or s. 775.084, for any person~~  
20 ~~willfully, knowingly, or intentionally to use information from~~  
21 ~~the juvenile records of a person obtained under this section~~  
22 ~~for any purpose other than screening for employment under this~~  
23 ~~section.~~

24           Section 85. Section 400.515, Florida Statutes, is  
25 repealed.

26           Section 86. Section 400.602, Florida Statutes, is  
27 amended to read:

28           400.602 Licensure required; prohibited acts;  
29 exemptions; display, transferability of license.--

30           (1)(a) The requirements of part II of chapter 408  
31 apply to the provision of services that require licensure

1 pursuant to this part and part II of chapter 408 and to  
2 entities licensed by or applying for such licensure from the  
3 agency pursuant to this part. A license issued by the agency  
4 is required in order to operate a hospice in this state ~~It is~~  
5 ~~unlawful to operate or maintain a hospice without first~~  
6 ~~obtaining a license from the agency.~~

7 ~~(b)~~ ~~It is unlawful for~~ Any person or legal entity that  
8 is not licensed as a hospice under this part may not ~~to~~ use  
9 the word "hospice" in its name, or ~~to~~ offer or advertise  
10 hospice services or hospice-like services in such a way as to  
11 mislead a person to believe that the offeror is a hospice  
12 licensed under this part.

13 ~~(b)(c)~~ It is unlawful for any person or legal entity  
14 offering, describing, or advertising hospice services or  
15 hospice-like services or otherwise holding itself out as a  
16 hospice to do so without stating the year of initial licensure  
17 as a hospice in the state or the year of initial licensure of  
18 the hospice entity or affiliate based in the state that owns  
19 the hospice. At a minimum, the year of initial licensure must  
20 be stated directly beneath the name of the licensed entity in  
21 a type no less than 25 percent of the size of the type used  
22 for the name or other indication of hospice services or  
23 hospice-like services and must be prominently stated at least  
24 one time on any document, item, or other medium offering,  
25 describing, or advertising hospice services or hospice-like  
26 services. This requirement excludes any materials relating to  
27 the care and treatment of an existing hospice patient.

28 (2) Services provided by a hospital, nursing home, or  
29 other health care facility, health care provider, or  
30 caregiver, or under the Community Care for the Elderly Act, do  
31 not constitute a hospice unless the facility, provider, or

1 caregiver establishes a separate and distinct administrative  
2 program to provide home, residential, and homelike inpatient  
3 hospice services.

4 (3)(a) A separately licensed hospice may not use a  
5 name which is substantially the same as the name of another  
6 hospice licensed under this part.

7 (b) A licensed hospice which intends to change its  
8 name or address must notify the agency at least 60 days before  
9 making the change.

10 ~~(4) The license shall be displayed in a conspicuous~~  
11 ~~place inside the hospice program office; shall be valid only~~  
12 ~~in the possession of the person or public agency to which it~~  
13 ~~is issued; shall not be subject to sale, assignment, or other~~  
14 ~~transfer, voluntary or involuntary; and shall not be valid for~~  
15 ~~any hospice other than the hospice for which originally~~  
16 ~~issued.~~

17 Section 87. Section 400.605, Florida Statutes, is  
18 amended to read:

19 400.605 Administration; forms; fees; rules;  
20 inspections; fines.--

21 (1) The agency, in consultation with the department,  
22 may adopt rules to administer the requirements of part II of  
23 chapter 408. The department, in consultation with the agency,  
24 shall by rule establish minimum standards and procedures for a  
25 hospice pursuant to this part. The rules must include:

26 ~~(a) License application procedures and requirements.~~

27 ~~(a)(b)~~ (a)(b) The qualifications of professional and  
28 ancillary personnel to ensure the provision of appropriate and  
29 adequate hospice care.

30 ~~(b)(c)~~ (b)(c) Standards and procedures for the administrative  
31 management of a hospice.

1           ~~(c)(d)~~ Standards for hospice services that ensure the  
2 provision of quality patient care.

3           ~~(d)(e)~~ Components of a patient plan of care.

4           ~~(e)(f)~~ Procedures relating to the implementation of  
5 advanced directives and do-not-resuscitate orders.

6           ~~(f)(g)~~ Procedures for maintaining and ensuring  
7 confidentiality of patient records.

8           ~~(g)(h)~~ Standards for hospice care provided in  
9 freestanding inpatient facilities that are not otherwise  
10 licensed medical facilities and in residential care facilities  
11 such as nursing homes, assisted living facilities, adult  
12 family care homes, and hospice residential units and  
13 facilities.

14           ~~(h)(i)~~ Components of a comprehensive emergency  
15 management plan, developed in consultation with the Department  
16 of Health, the Department of Elderly Affairs, and the  
17 Department of Community Affairs.

18           ~~(i)(j)~~ Standards and procedures relating to the  
19 establishment and activities of a quality assurance and  
20 utilization review committee.

21           ~~(j)(k)~~ Components and procedures relating to the  
22 collection of patient demographic data and other information  
23 on the provision of hospice care in this state.

24           (2) In accordance with s. 408.805, an applicant or  
25 licensee shall pay a fee for each license application  
26 submitted under this part, part II of chapter 408, and  
27 applicable rules. The amount of the fee shall be established  
28 by rule and may not exceed \$1,200 per biennium. ~~The agency~~  
29 ~~shall:~~

30  
31

1 ~~(a) Prepare and furnish all forms necessary under the~~  
2 ~~provisions of this part in relation to applications for~~  
3 ~~licensure or licensure renewals.~~

4 ~~(b) Collect from the applicant at the time of filing~~  
5 ~~an application for a license or at the time of renewal of a~~  
6 ~~license a fee which must be reasonably calculated to cover the~~  
7 ~~cost of regulation under this part, but may not exceed \$600~~  
8 ~~per program. All fees collected under this part shall be~~  
9 ~~deposited in the Health Care Trust Fund for the administration~~  
10 ~~of this part.~~

11 ~~(c) Issue hospice licenses to all applicants which~~  
12 ~~meet the provisions of this part and applicable rules.~~

13 (3)(d) In accordance with s. 408.811, the agency shall  
14 conduct annual licensure inspections of all licensees, except  
15 that licensure inspections may be conducted biennially for  
16 hospices having a 3-year record of substantial compliance.

17 (e) The agency shall conduct such inspections and  
18 investigations as are necessary in order to determine the  
19 state of compliance with the provisions of this part, part II  
20 of chapter 408, and applicable adopted rules. The right of  
21 inspection also extends to any program that the agency has  
22 reason to believe is offering or advertising itself as a  
23 hospice without a license, but no inspection may be made  
24 without the permission of the owner or person in charge  
25 thereof unless a warrant is first obtained from a circuit  
26 court authorizing such inspection. An application for a  
27 license or license renewal made pursuant to this part  
28 constitutes permission for an inspection of the hospice for  
29 which the license is sought in order to facilitate  
30 verification of the information submitted on or in connection  
31 with the application.

1           ~~(4)(f)~~ In accordance with part II of chapter 408, the  
2 agency may impose an administrative fine for any violation of  
3 the provisions of this part, part II of chapter 408, or  
4 applicable rules.

5           Section 88. Section 400.606, Florida Statutes, is  
6 amended to read:

7           400.606 License; application; renewal; conditional  
8 license or permit; certificate of need.--

9           (1) In addition to the requirements of part II of  
10 chapter 408, A license application must be filed on a form  
11 provided by the agency and must be accompanied by the  
12 appropriate license fee as well as satisfactory proof that the  
13 hospice is in compliance with this part and any rules adopted  
14 by the department and proof of financial ability to operate  
15 and conduct the hospice in accordance with the requirements of  
16 this part. the initial application and change of ownership  
17 application must be accompanied by a plan for the delivery of  
18 home, residential, and homelike inpatient hospice services to  
19 terminally ill persons and their families. Such plan must  
20 contain, but need not be limited to:

21           (a) The estimated average number of terminally ill  
22 persons to be served monthly.

23           (b) The geographic area in which hospice services will  
24 be available.

25           (c) A listing of services which are or will be  
26 provided, either directly by the applicant or through  
27 contractual arrangements with existing providers.

28           (d) Provisions for the implementation of hospice home  
29 care within 3 months after licensure.

30           (e) Provisions for the implementation of hospice  
31 homelike inpatient care within 12 months after licensure.

1 (f) The number and disciplines of professional staff  
2 to be employed.

3 (g) The name and qualifications of any existing or  
4 potential contractee.

5 (h) A plan for attracting and training volunteers.

6 (i) The projected annual operating cost of the  
7 hospice.

8 ~~(j) A statement of financial resources and personnel  
9 available to the applicant to deliver hospice care.~~

10  
11 If the applicant is an existing licensed health care provider,  
12 the application must be accompanied by a copy of the most  
13 recent profit-loss statement and, if applicable, the most  
14 recent licensure inspection report.

15 ~~(2) Each applicant must submit to the agency with its  
16 application a description and explanation of any exclusions,  
17 permanent suspensions, or terminations from the Medicaid or  
18 Medicare programs of the owner, if an individual; of any  
19 officer or board member of the hospice, if the owner is a  
20 firm, corporation, partnership, or association; or of any  
21 person owning 5 percent or more of the hospice. Proof of  
22 compliance with disclosure of ownership and control interest  
23 requirements of the Medicaid or Medicare programs may be  
24 accepted in lieu of this submission.~~

25 ~~(2)(3) In addition to the requirements of part II of  
26 chapter 408, A license issued for the operation of a hospice,  
27 unless sooner suspended or revoked, shall expire automatically  
28 1 year from the date of issuance. Sixty days prior to the  
29 expiration date, a hospice wishing to renew its license shall  
30 submit an application for renewal to the agency on forms  
31 furnished by the agency. The agency shall renew the license if~~

1 ~~the applicant has first met the requirements established under~~  
2 ~~this part and all applicable rules and has provided the~~  
3 ~~information described under this section in addition to the~~  
4 ~~application. However,~~ the application for license renewal  
5 shall be accompanied by an update of the plan for delivery of  
6 hospice care only if information contained in the plan  
7 submitted pursuant to subsection (1) is no longer applicable.

8 ~~(4) A hospice against which a revocation or suspension~~  
9 ~~proceeding is pending at the time of license renewal may be~~  
10 ~~issued a conditional license by the agency effective until~~  
11 ~~final disposition of such proceeding. If judicial relief is~~  
12 ~~sought from the final agency action, the court having~~  
13 ~~jurisdiction may issue a conditional permit for the duration~~  
14 ~~of the judicial proceeding.~~

15 ~~(3)(5)~~ The agency shall not issue a license to a  
16 hospice that fails to receive a certificate of need under the  
17 provisions of part I of chapter 408 ss. 408.031-408.045. A  
18 licensed hospice is a health care facility as that term is  
19 used in s. 408.039(5) and is entitled to initiate or intervene  
20 in an administrative hearing.

21 ~~(4)(6)~~ A freestanding hospice facility that is  
22 primarily engaged in providing inpatient and related services  
23 and that is not otherwise licensed as a health care facility  
24 shall be required to obtain a certificate of need. However, a  
25 freestanding hospice facility with six or fewer beds shall not  
26 be required to comply with institutional standards such as,  
27 but not limited to, standards requiring sprinkler systems,  
28 emergency electrical systems, or special lavatory devices.

29 ~~(5)(7)~~ The agency may deny a license to an applicant  
30 that fails to meet any condition for the provision of hospice  
31 care or services imposed by the agency on a certificate of



1 need by final agency action, unless the applicant can  
2 demonstrate that good cause exists for the applicant's failure  
3 to meet such condition.

4 Section 89. Section 400.6065, Florida Statutes, is  
5 amended to read:

6 400.6065 Background screening.--

7 ~~(1) Upon receipt of a completed application under s.~~  
8 ~~400.606, the agency shall require level 2 background screening~~  
9 ~~on each of the following persons, who shall be considered~~  
10 ~~employees for the purposes of conducting screening under~~  
11 ~~chapter 435:~~

12 ~~(a) The hospice administrator and financial officer.~~

13 ~~(b) An officer or board member if the hospice is a~~  
14 ~~firm, corporation, partnership, or association, or any person~~  
15 ~~owning 5 percent or more of the hospice if the agency has~~  
16 ~~probable cause to believe that such officer, board member, or~~  
17 ~~owner has been convicted of any offense prohibited by s.~~  
18 ~~435.04. For each officer, board member, or person owning 5~~  
19 ~~percent or more who has been convicted of any such offense,~~  
20 ~~the hospice shall submit to the agency a description and~~  
21 ~~explanation of the conviction at the time of license~~  
22 ~~application. This paragraph does not apply to a board member~~  
23 ~~of a not for profit corporation or organization if the board~~  
24 ~~member serves solely in a voluntary capacity, does not~~  
25 ~~regularly take part in the day to day operational decisions of~~  
26 ~~the corporation or organization, receives no remuneration for~~  
27 ~~his or her services, and has no financial interest and has no~~  
28 ~~family members with a financial interest in the corporation or~~  
29 ~~organization, provided that the board member and the~~  
30 ~~corporation or organization submit a statement affirming that~~

1 ~~the board member's relationship to the corporation or~~  
2 ~~organization satisfies the requirements of this paragraph.~~

3 ~~(2) Proof of compliance with level 2 screening~~  
4 ~~standards which has been submitted within the previous 5 years~~  
5 ~~to meet any facility or professional licensure requirements of~~  
6 ~~the agency or the Department of Health satisfies the~~  
7 ~~requirements of this section.~~

8 ~~(3) The agency may grant a provisional license to a~~  
9 ~~hospice applying for an initial license when each individual~~  
10 ~~required by this section to undergo screening has completed~~  
11 ~~the Department of Law Enforcement background check, but has~~  
12 ~~not yet received results from the Federal Bureau of~~  
13 ~~Investigation.~~

14 ~~(4) The agency shall require employment or contractor~~  
15 ~~screening as provided in chapter 435, using the level 1~~  
16 ~~standards for screening set forth in that chapter, for hospice~~  
17 ~~personnel.~~

18 ~~(5) The agency may grant exemptions from~~  
19 ~~disqualification from employment under this section as~~  
20 ~~provided in s. 435.07.~~

21 ~~(6) The administration of each hospice must sign an~~  
22 ~~affidavit annually, under penalty of perjury, stating that all~~  
23 ~~personnel employed or contracted with on or after October 1,~~  
24 ~~1998, who provide hospice services in a facility, or who enter~~  
25 ~~the home of a patient in their service capacity, have been~~  
26 ~~screened.~~

27 ~~(7) Proof of compliance with the screening~~  
28 ~~requirements of chapter 435 shall be accepted in lieu of the~~  
29 ~~requirements of this section if the person has been~~  
30 ~~continuously employed or registered without a breach in~~  
31 ~~service that exceeds 180 days, the proof of compliance is not~~

1 ~~more than 2 years old, and the person has been screened, at~~  
2 ~~the discretion of the hospice.~~

3 ~~(8)(a) It is a misdemeanor of the first degree,~~  
4 ~~punishable under s. 775.082 or s. 775.083, for any person~~  
5 ~~willfully, knowingly, or intentionally to:~~

6 ~~1. Fail, by false statement, misrepresentation,~~  
7 ~~impersonation, or other fraudulent means, to disclose in any~~  
8 ~~application for voluntary or paid employment a material fact~~  
9 ~~used in making a determination as to such person's~~  
10 ~~qualifications to be employed or contracted with under this~~  
11 ~~section;~~

12 ~~2. Operate or attempt to operate an entity licensed~~  
13 ~~under this part with persons who do not meet the minimum~~  
14 ~~standards for good moral character as contained in this~~  
15 ~~section; or~~

16 ~~3. Use information from the criminal records obtained~~  
17 ~~under this section for any purpose other than screening as~~  
18 ~~specified in this section, or release such information to any~~  
19 ~~other person for any purpose other than screening under this~~  
20 ~~section.~~

21 ~~(b) It is a felony of the third degree, punishable~~  
22 ~~under s. 775.082, s. 775.083, or s. 775.084, for any person~~  
23 ~~willfully, knowingly, or intentionally to use information from~~  
24 ~~the juvenile records of a person obtained under this section~~  
25 ~~for any purpose other than screening for employment under this~~  
26 ~~section.~~

27 Section 90. Section 400.607, Florida Statutes, is  
28 amended to read:

29 400.607 Denial, suspension, ~~or~~ revocation of license;  
30 emergency actions; imposition of administrative fine; grounds+  
31 injunctions.--

1 (1) The agency may deny, revoke, and ~~or~~ suspend a  
2 license, impose an action under s. 408.814, and ~~or~~ impose an  
3 administrative fine, which may not exceed \$5,000 per  
4 violation, for the violation of any provision of this part,  
5 part II of chapter 408, or applicable rules in the manner  
6 ~~provided in chapter 120.~~

7 (2) Any of the following actions by a licensed hospice  
8 or any of its employees shall be grounds for action by the  
9 agency against a hospice:

10 (a) A violation of the provisions of this part, part  
11 II of chapter 408, or applicable rules.

12 (b) An intentional or negligent act materially  
13 affecting the health or safety of a patient.

14 ~~(3) The agency may deny or revoke a license upon a~~  
15 ~~determination that:~~

16 ~~(a) Persons subject to level 2 background screening~~  
17 ~~under s. 400.6065 do not meet the screening standards of s.~~  
18 ~~435.04, and exemptions from disqualification have not been~~  
19 ~~provided by the agency.~~

20 ~~(b) An officer, board member, or person owning 5~~  
21 ~~percent or more of the hospice has been excluded, permanently~~  
22 ~~suspended, or terminated from the Medicare or Medicaid~~  
23 ~~programs.~~

24 ~~(3)(4)~~ If, 3 months after the date of obtaining a  
25 license, or at any time thereafter, a hospice does not have in  
26 operation the home-care component of hospice care, the agency  
27 shall immediately revoke the license of such hospice.

28 ~~(4)(5)~~ If, 12 months after the date of obtaining a  
29 license pursuant to s. 400.606, or at any time thereafter, a  
30 hospice does not have in operation the inpatient components of  
31

1 hospice care, the agency shall immediately revoke the license  
2 of such hospice.

3 ~~(6) The agency may institute a civil action in a court~~  
4 ~~of competent jurisdiction to seek injunctive relief to enforce~~  
5 ~~compliance with this part or any rule adopted pursuant to this~~  
6 ~~part.~~

7 ~~(5)(7)~~ The remedies set forth in this section are  
8 independent of and cumulative to other remedies provided by  
9 law.

10 Section 91. Subsection (8) of section 400.6095,  
11 Florida Statutes, is amended to read:

12 400.6095 Patient admission; assessment; plan of care;  
13 discharge; death.--

14 (8) The hospice care team may withhold or withdraw  
15 cardiopulmonary resuscitation if presented with an order not  
16 to resuscitate executed pursuant to s. 401.45. The department  
17 shall adopt rules providing for the implementation of such  
18 orders. Hospice staff shall not be subject to criminal  
19 prosecution or civil liability, nor be considered to have  
20 engaged in negligent or unprofessional conduct, for  
21 withholding or withdrawing cardiopulmonary resuscitation  
22 pursuant to such an order and applicable rules ~~adopted by the~~  
23 ~~department~~. The absence of an order to resuscitate executed  
24 pursuant to s. 401.45 does not preclude a physician from  
25 withholding or withdrawing cardiopulmonary resuscitation as  
26 otherwise permitted by law.

27 Section 92. Section 400.801, Florida Statutes, is  
28 amended to read:

29 400.801 Homes for special services.--

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

31

1 (a) "Agency" means the "Agency for Health Care  
2 Administration."

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

7 (2) The requirements of part II of chapter 408 apply  
8 to the provision of services that require licensure pursuant  
9 to this section and part II of chapter 408 and entities  
10 licensed by or applying for such licensure from the agency  
11 pursuant to this section. A license issued by the agency is  
12 required in order to operate a home for special services in  
13 this state. A person must obtain a license from the agency to  
14 operate a home for special services. A license is valid for 1  
15 year.

16 (3) In accordance with s. 408.805, an applicant or  
17 licensee shall pay a fee for each license application  
18 submitted under this part, part II of chapter 408, and  
19 applicable rules. The amount of the fee shall be established  
20 by rule and may not be more than \$2,000 per biennium. The  
21 application for a license under this section must be made on a  
22 form provided by the agency. A nonrefundable license fee of  
23 not more than \$1,000 must be submitted with the license  
24 application.

25 ~~(4) Each applicant for licensure must comply with the~~  
26 ~~following requirements:~~

27 ~~(a) Upon receipt of a completed, signed, and dated~~  
28 ~~application, the agency shall require background screening, in~~  
29 ~~accordance with the level 2 standards for screening set forth~~  
30 ~~in chapter 435, of the managing employee, or other similarly~~  
31 ~~titled individual who is responsible for the daily operation~~

1 ~~of the facility, and of the financial officer, or other~~  
2 ~~similarly titled individual who is responsible for the~~  
3 ~~financial operation of the facility, including billings for~~  
4 ~~client care and services, in accordance with the level 2~~  
5 ~~standards for screening set forth in chapter 435. The~~  
6 ~~applicant must comply with the procedures for level 2~~  
7 ~~background screening as set forth in chapter 435.~~

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

13 ~~(c) Proof of compliance with the level 2 background~~  
14 ~~screening requirements of chapter 435 which has been submitted~~  
15 ~~within the previous 5 years in compliance with any other~~  
16 ~~health care or assisted living licensure requirements of this~~  
17 ~~state is acceptable in fulfillment of the requirements of~~  
18 ~~paragraph (a).~~

19 ~~(d) A provisional license may be granted to an~~  
20 ~~applicant when each individual required by this section to~~  
21 ~~undergo background screening has met the standards for the~~  
22 ~~Department of Law Enforcement background check, but the agency~~  
23 ~~has not yet received background screening results from the~~  
24 ~~Federal Bureau of Investigation, or a request for a~~  
25 ~~disqualification exemption has been submitted to the agency as~~  
26 ~~set forth in chapter 435, but a response has not yet been~~  
27 ~~issued. A standard license may be granted to the applicant~~  
28 ~~upon the agency's receipt of a report of the results of the~~  
29 ~~Federal Bureau of Investigation background screening for each~~  
30 ~~individual required by this section to undergo background~~  
31 ~~screening which confirms that all standards have been met, or~~

1 ~~upon the granting of a disqualification exemption by the~~  
2 ~~agency as set forth in chapter 435. Any other person who is~~  
3 ~~required to undergo level 2 background screening may serve in~~  
4 ~~his or her capacity pending the agency's receipt of the report~~  
5 ~~from the Federal Bureau of Investigation. However, the person~~  
6 ~~may not continue to serve if the report indicates any~~  
7 ~~violation of background screening standards and a~~  
8 ~~disqualification exemption has not been requested of and~~  
9 ~~granted by the agency as set forth in chapter 435.~~

10 ~~(e) Each applicant must submit to the agency, with its~~  
11 ~~application, a description and explanation of any exclusions,~~  
12 ~~permanent suspensions, or terminations of the applicant from~~  
13 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
14 ~~the requirements for disclosure of ownership and control~~  
15 ~~interests under the Medicaid or Medicare programs may be~~  
16 ~~accepted in lieu of this submission.~~

17 ~~(f) Each applicant must submit to the agency a~~  
18 ~~description and explanation of any conviction of an offense~~  
19 ~~prohibited under the level 2 standards of chapter 435 by a~~  
20 ~~member of the board of directors of the applicant, its~~  
21 ~~officers, or any individual owning 5 percent or more of the~~  
22 ~~applicant. This requirement does not apply to a director of a~~  
23 ~~not for profit corporation or organization if the director~~  
24 ~~serves solely in a voluntary capacity for the corporation or~~  
25 ~~organization, does not regularly take part in the day to day~~  
26 ~~operational decisions of the corporation or organization,~~  
27 ~~receives no remuneration for his or her services on the~~  
28 ~~corporation or organization's board of directors, and has no~~  
29 ~~financial interest and has no family members with a financial~~  
30 ~~interest in the corporation or organization, provided that the~~  
31 ~~director and the not for profit corporation or organization~~



1 ~~include in the application a statement affirming that the~~  
2 ~~director's relationship to the corporation satisfies the~~  
3 ~~requirements of this paragraph.~~

4 ~~(g) A license may not be granted to an applicant if~~  
5 ~~the applicant or managing employee has been found guilty of,~~  
6 ~~regardless of adjudication, or has entered a plea of nolo~~  
7 ~~contendere or guilty to, any offense prohibited under the~~  
8 ~~level 2 standards for screening set forth in chapter 435,~~  
9 ~~unless an exemption from disqualification has been granted by~~  
10 ~~the agency as set forth in chapter 435.~~

11 ~~(h) The agency may deny or revoke licensure if the~~  
12 ~~applicant:~~

13 ~~1. Has falsely represented a material fact in the~~  
14 ~~application required by paragraph (e) or paragraph (f), or has~~  
15 ~~omitted any material fact from the application required by~~  
16 ~~paragraph (e) or paragraph (f); or~~

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

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

22 ~~(5) Application for license renewal must be submitted~~  
23 ~~90 days before the expiration of the license.~~

24 ~~(6) A change of ownership or control of a home for~~  
25 ~~special services must be reported to the agency in writing at~~  
26 ~~least 60 days before the change is scheduled to take effect.~~

27 ~~(4)(7)~~ may shall The agency may shall adopt rules for  
28 implementing and enforcing this section and part II of chapter  
29 408.

1 ~~(8)(a) It is unlawful for any person to establish,~~  
2 ~~conduct, manage, or operate a home for special services~~  
3 ~~without obtaining a license from the agency.~~

4 ~~(b) It is unlawful for any person to offer or~~  
5 ~~advertise to the public, in any medium whatever, specialized~~  
6 ~~health care services without obtaining a license from the~~  
7 ~~agency.~~

8 ~~(c) It is unlawful for a holder of a license issued~~  
9 ~~under this section to advertise or represent to the public~~  
10 ~~that it holds a license for a type of facility other than the~~  
11 ~~facility for which its license is issued.~~

12 (5)(9)(a) In addition to the requirements of part II  
13 of chapter 408, a violation of any provision of this section,  
14 part II of chapter 408, or applicable rules ~~adopted by the~~  
15 ~~agency for implementing this section~~ is punishable by payment  
16 of an administrative fine not to exceed \$5,000.

17 (b) A violation of s. 408.812 ~~subsection (8)~~ or rules  
18 adopted under that section ~~subsection~~ is a misdemeanor of the  
19 first degree, punishable as provided in s. 775.082 or s.  
20 775.083. Each day of continuing violation is a separate  
21 offense.

22 Section 93. Section 400.805, Florida Statutes, is  
23 amended to read:

24 400.805 Transitional living facilities.--

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

26 (a) "Agency" means the Agency for Health Care  
27 Administration.

28 (b) "Department" means the Department of Health.

29 (c) "Transitional living facility" means a site where  
30 specialized health care services are provided, including, but  
31 not limited to, rehabilitative services, community reentry

1 training, aids for independent living, and counseling to  
2 spinal-cord-injured persons and head-injured persons. This  
3 term does not include a hospital licensed under chapter 395 or  
4 any federally operated hospital or facility.

5 (2)(a) The requirements of part II of chapter 408  
6 apply to the provision of services that require licensure  
7 pursuant to this section and part II of chapter 408 and to  
8 entities licensed by or applying for such licensure from the  
9 agency pursuant to this section. A license issued by the  
10 agency is required for the operation of a transitional living  
11 facility in this state. A person must obtain a license from  
12 the agency to operate a transitional living facility. A  
13 license issued under this section is valid for 1 year.

14 (b) In accordance with this section, an applicant or a  
15 licensee shall pay a fee for each license application  
16 submitted under this part, part II of chapter 408, and  
17 applicable rules. The fee shall consist of a \$4,000 license  
18 fee and a \$78.50 per bed fee per biennium. The application for  
19 a license must be made on a form provided by the agency. A  
20 nonrefundable license fee of \$2,000 and a fee of up to \$39.25  
21 per bed must be submitted with the license application.

22 (c) The agency may not issue a license to an applicant  
23 until the agency receives notice from the department as  
24 provided in paragraph(3)(6)(b).

25 ~~(3) Each applicant for licensure must comply with the~~  
26 ~~following requirements:~~

27 ~~(a) Upon receipt of a completed, signed, and dated~~  
28 ~~application, the agency shall require background screening, in~~  
29 ~~accordance with the level 2 standards for screening set forth~~  
30 ~~in chapter 435, of the managing employee, or other similarly~~  
31 ~~titled individual who is responsible for the daily operation~~

1 ~~of the facility, and of the financial officer, or other~~  
2 ~~similarly titled individual who is responsible for the~~  
3 ~~financial operation of the facility, including billings for~~  
4 ~~client care and services. The applicant must comply with the~~  
5 ~~procedures for level 2 background screening as set forth in~~  
6 ~~chapter 435.~~

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

12 ~~(c) Proof of compliance with the level 2 background~~  
13 ~~screening requirements of chapter 435 which has been submitted~~  
14 ~~within the previous 5 years in compliance with any other~~  
15 ~~health care or assisted living licensure requirements of this~~  
16 ~~state is acceptable in fulfillment of the requirements of~~  
17 ~~paragraph (a).~~

18 ~~(d) A provisional license may be granted to an~~  
19 ~~applicant when each individual required by this section to~~  
20 ~~undergo background screening has met the standards for the~~  
21 ~~Department of Law Enforcement background check, but the agency~~  
22 ~~has not yet received background screening results from the~~  
23 ~~Federal Bureau of Investigation, or a request for a~~  
24 ~~disqualification exemption has been submitted to the agency as~~  
25 ~~set forth in chapter 435, but a response has not yet been~~  
26 ~~issued. A standard license may be granted to the applicant~~  
27 ~~upon the agency's receipt of a report of the results of the~~  
28 ~~Federal Bureau of Investigation background screening for each~~  
29 ~~individual required by this section to undergo background~~  
30 ~~screening which confirms that all standards have been met, or~~  
31 ~~upon the granting of a disqualification exemption by the~~

1 ~~agency as set forth in chapter 435. Any other person who is~~  
2 ~~required to undergo level 2 background screening may serve in~~  
3 ~~his or her capacity pending the agency's receipt of the report~~  
4 ~~from the Federal Bureau of Investigation. However, the person~~  
5 ~~may not continue to serve if the report indicates any~~  
6 ~~violation of background screening standards and a~~  
7 ~~disqualification exemption has not been requested of and~~  
8 ~~granted by the agency as set forth in chapter 435.~~

9 ~~(e) Each applicant must submit to the agency, with its~~  
10 ~~application, a description and explanation of any exclusions,~~  
11 ~~permanent suspensions, or terminations of the applicant from~~  
12 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
13 ~~the requirements for disclosure of ownership and control~~  
14 ~~interests under the Medicaid or Medicare programs may be~~  
15 ~~accepted in lieu of this submission.~~

16 ~~(f) Each applicant must submit to the agency a~~  
17 ~~description and explanation of any conviction of an offense~~  
18 ~~prohibited under the level 2 standards of chapter 435 by a~~  
19 ~~member of the board of directors of the applicant, its~~  
20 ~~officers, or any individual owning 5 percent or more of the~~  
21 ~~applicant. This requirement does not apply to a director of a~~  
22 ~~not for profit corporation or organization if the director~~  
23 ~~serves solely in a voluntary capacity for the corporation or~~  
24 ~~organization, does not regularly take part in the day to day~~  
25 ~~operational decisions of the corporation or organization,~~  
26 ~~receives no remuneration for his or her services on the~~  
27 ~~corporation or organization's board of directors, and has no~~  
28 ~~financial interest and has no family members with a financial~~  
29 ~~interest in the corporation or organization, provided that the~~  
30 ~~director and the not for profit corporation or organization~~  
31 ~~include in the application a statement affirming that the~~

1 ~~director's relationship to the corporation satisfies the~~  
2 ~~requirements of this paragraph.~~

3 ~~(g) A license may not be granted to an applicant if~~  
4 ~~the applicant or managing employee has been found guilty of,~~  
5 ~~regardless of adjudication, or has entered a plea of nolo~~  
6 ~~contendere or guilty to, any offense prohibited under the~~  
7 ~~level 2 standards for screening set forth in chapter 435,~~  
8 ~~unless an exemption from disqualification has been granted by~~  
9 ~~the agency as set forth in chapter 435.~~

10 ~~(h) The agency may deny or revoke licensure if the~~  
11 ~~applicant:~~

12 ~~1. Has falsely represented a material fact in the~~  
13 ~~application required by paragraph (e) or paragraph (f), or has~~  
14 ~~omitted any material fact from the application required by~~  
15 ~~paragraph (e) or paragraph (f); or~~

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

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

21 ~~(4) An application for renewal of license must be~~  
22 ~~submitted 90 days before the expiration of the license. Upon~~  
23 ~~renewal of licensure, each applicant must submit to the~~  
24 ~~agency, under penalty of perjury, an affidavit as set forth in~~  
25 ~~paragraph (3)(d).~~

26 ~~(5) A change of ownership or control of a transitional~~  
27 ~~living facility must be reported to the agency in writing at~~  
28 ~~least 60 days before the change is scheduled to take effect.~~

29 ~~(3)(6)(a)~~ The agency shall adopt rules in consultation  
30 with the department governing the physical plant of  
31

1 transitional living facilities and the fiscal management of  
2 transitional living facilities.

3 (b) The department shall adopt rules in consultation  
4 with the agency governing the services provided to clients of  
5 transitional living facilities. The department shall enforce  
6 all requirements for providing services to the facility's  
7 clients. The department must notify the agency when it  
8 determines that an applicant for licensure meets the service  
9 requirements adopted by the department.

10 (c) The agency and the department shall enforce  
11 requirements under this section and part II of chapter 408, as  
12 such requirements relate to them respectively, and their  
13 respective adopted rules.

14 ~~(7)(a) It is unlawful for any person to establish,~~  
15 ~~conduct, manage, or operate a transitional living facility~~  
16 ~~without obtaining a license from the agency.~~

17 ~~(b) It is unlawful for any person to offer or~~  
18 ~~advertise to the public, in any medium whatever, services or~~  
19 ~~care defined in paragraph (1)(c) without obtaining a license~~  
20 ~~from the agency.~~

21 ~~(c) It is unlawful for a holder of a license issued~~  
22 ~~under this section to advertise or represent to the public~~  
23 ~~that it holds a license for a type of facility other than the~~  
24 ~~facility for which its license is issued.~~

25 ~~(4)(8)~~ In accordance with s. 408.811, any designated  
26 officer or employee of the agency, of the state, or of the  
27 local fire marshal may enter unannounced upon and into the  
28 premises of any facility licensed under this section in order  
29 to determine the state of compliance with this section, part  
30 II of chapter 408, and applicable rules ~~and the rules or~~  
31 ~~standards in force under this section. The right of entry and~~

1 ~~inspection also extends to any premises that the agency has~~  
2 ~~reason to believe are being operated or maintained as a~~  
3 ~~facility without a license; but such an entry or inspection~~  
4 ~~may not be made without the permission of the owner or person~~  
5 ~~in charge of the facility unless a warrant that authorizes the~~  
6 ~~entry is first obtained from the circuit court. The warrant~~  
7 ~~requirement extends only to a facility that the agency has~~  
8 ~~reason to believe is being operated or maintained as a~~  
9 ~~facility without a license. An application for a license or~~  
10 ~~renewal thereof which is made under this section constitutes~~  
11 ~~permission for, and acquiescence in, any entry or inspection~~  
12 ~~of the premises for which the license is sought, in order to~~  
13 ~~facilitate verification of the information submitted on or in~~  
14 ~~connection with the application; to discover, investigate, and~~  
15 ~~determine the existence of abuse or neglect; or to elicit,~~  
16 ~~receive, respond to, and resolve complaints. A current valid~~  
17 ~~license constitutes unconditional permission for, and~~  
18 ~~acquiescence in, any entry or inspection of the premises by~~  
19 ~~authorized personnel. The agency retains the right of entry~~  
20 ~~and inspection of facilities that have had a license revoked~~  
21 ~~or suspended within the previous 24 months, to ensure that the~~  
22 ~~facility is not operating unlawfully. However, before the~~  
23 ~~facility is entered, a statement of probable cause must be~~  
24 ~~filed with the director of the agency, who must approve or~~  
25 ~~disapprove the action within 48 hours. Probable cause~~  
26 ~~includes, but is not limited to, evidence that the facility~~  
27 ~~holds itself out to the public as a provider of personal~~  
28 ~~assistance services, or the receipt by the advisory council on~~  
29 ~~brain and spinal cord injuries of a complaint about the~~  
30 ~~facility.~~  
31



1           ~~(9) The agency may institute injunctive proceedings in~~  
2 ~~a court of competent jurisdiction for temporary or permanent~~  
3 ~~relief to:~~

4           ~~(a) Enforce this section or any minimum standard,~~  
5 ~~rule, or order issued pursuant thereto if the agency's effort~~  
6 ~~to correct a violation through administrative fines has failed~~  
7 ~~or when the violation materially affects the health, safety,~~  
8 ~~or welfare of residents; or~~

9           ~~(b) Terminate the operation of a facility if a~~  
10 ~~violation of this section or of any standard or rule adopted~~  
11 ~~pursuant thereto exists which materially affects the health,~~  
12 ~~safety, or welfare of residents.~~

13  
14 ~~The Legislature recognizes that, in some instances, action is~~  
15 ~~necessary to protect residents of facilities from immediately~~  
16 ~~life threatening situations. If it appears by competent~~  
17 ~~evidence or a sworn, substantiated affidavit that a temporary~~  
18 ~~injunction should issue, the court, pending the determination~~  
19 ~~on final hearing, shall enjoin operation of the facility.~~

20           ~~(10) The agency may impose an immediate moratorium on~~  
21 ~~admissions to a facility when the agency determines that any~~  
22 ~~condition in the facility presents a threat to the health,~~  
23 ~~safety, or welfare of the residents in the facility. If a~~  
24 ~~facility's license is denied, revoked, or suspended, the~~  
25 ~~facility may be subject to the immediate imposition of a~~  
26 ~~moratorium on admissions to run concurrently with licensure~~  
27 ~~denial, revocation, or suspension.~~

28           ~~(5)(11)(a)~~ In accordance with part II of chapter 408,  
29 a violation of any provision of this section, part II of  
30 chapter 408, or applicable rules adopted by the agency or  
31

1 ~~department under this section~~ is punishable by payment of an  
2 administrative or a civil penalty fine not to exceed \$5,000.

3 (b) Unlicensed activity pursuant to s. 408.812 A  
4 ~~violation of subsection (7) or rules adopted under that~~  
5 ~~subsection~~ is a misdemeanor of the first degree, punishable as  
6 provided in s. 775.082 or s. 775.083. Each day of a continuing  
7 violation is a separate offense.

8 (6) The agency may adopt rules to administer the  
9 requirements of part II of chapter 408.

10 Section 94. Subsection (4) of section 400.902, Florida  
11 Statutes, is amended to read:

12 400.902 Definitions.--As used in this part, the term:

13 (4) "Owner or operator" means a licensee ~~any~~  
14 ~~individual who has general administrative charge of a PPEC~~  
15 ~~center.~~

16 Section 95. Subsection (3) is added to section  
17 400.903, Florida Statutes, to read:

18 400.903 PPEC centers to be licensed; exemptions.--

19 (3) The requirements of part II of chapter 408 apply  
20 to the provision of services that require licensure pursuant  
21 to this part and part II of chapter 408 and to entities  
22 licensed by or applying for such licensure from the agency  
23 pursuant to this part. A license issued by the agency is  
24 required for the operation of a PPEC center in this state.

25 Section 96. Section 400.905, Florida Statutes, is  
26 amended to read:

27 400.905 License required; fee; exemption; ~~display~~.--

28 (1)(a) ~~It is unlawful to operate or maintain a PPEC~~  
29 ~~center without first obtaining from the agency a license~~  
30 ~~authorizing such operation. The agency is responsible for~~  
31

1 ~~licensing PPEC centers in accordance with the provisions of~~  
2 ~~this part.~~

3 ~~(b) Any person who violates paragraph (a) is guilty of~~  
4 ~~a felony of the third degree, punishable as provided in s.~~  
5 ~~775.082, s. 775.083, or s. 775.084.~~

6 (1)(2) In addition to the requirements of part II of  
7 chapter 408, separate licenses are required for PPEC centers  
8 maintained on separate premises, even though they are operated  
9 under the same management. Separate licenses are not required  
10 for separate buildings on the same grounds.

11 (2)(3) In accordance with s. 408.805, an applicant or  
12 licensee shall pay a fee for each license application  
13 submitted under this part, part II of chapter 408, and  
14 applicable rules. The amount of the fee shall be established  
15 by rule and may not be less than \$1,000 or more than \$3,000  
16 per biennium. ~~The annual license fee required of a PPEC center~~  
17 ~~shall be in an amount determined by the agency to be~~  
18 ~~sufficient to cover the agency's costs in carrying out its~~  
19 ~~responsibilities under this part, but shall not be less than~~  
20 ~~\$500 or more than \$1,500.~~

21 (3)(4) County-operated or municipally operated PPEC  
22 centers applying for licensure under this part are exempt from  
23 the payment of license fees.

24 ~~(5) The license shall be displayed in a conspicuous~~  
25 ~~place inside the PPEC center.~~

26 ~~(6) A license shall be valid only in the possession of~~  
27 ~~the individual, firm, partnership, association, or corporation~~  
28 ~~to whom it is issued and shall not be subject to sale,~~  
29 ~~assignment, or other transfer, voluntary or involuntary; nor~~  
30 ~~shall a license be valid for any premises other than that for~~  
31 ~~which originally issued.~~

1           ~~(7) Any license granted by the agency shall state the~~  
2 ~~maximum capacity of the facility, the date the license was~~  
3 ~~issued, the expiration date of the license, and any other~~  
4 ~~information deemed necessary by the agency.~~

5           Section 97. Section 400.906, Florida Statutes, is  
6 amended to read:

7           400.906 Initial application for license; zoning.--

8           ~~(1) Application for a license shall be made to the~~  
9 ~~agency on forms furnished by it and shall be accompanied by~~  
10 ~~the appropriate license fee unless the applicant is exempt~~  
11 ~~from payment of the fee as provided in s. 400.905.~~

12           ~~(2) In addition to the requirements of part II of~~  
13 ~~chapter 408, the application must shall be under oath and~~  
14 ~~shall contain the following:~~

15           ~~(a) The name and address of the applicant and the name~~  
16 ~~by which the facility is to be known. Pursuant thereto:~~

17           1. ~~If the applicant is a firm, partnership, or~~  
18 ~~association, the application shall contain the name and~~  
19 ~~address of every member thereof.~~

20           2. ~~If the applicant is a corporation, the application~~  
21 ~~shall contain its name and address, the names and addresses of~~  
22 ~~its directors and officers, and the name and address of each~~  
23 ~~person having at least a 10 percent interest in the~~  
24 ~~corporation.~~

25           ~~(b) Information which provides a source to establish~~  
26 ~~the suitable character and competency of the applicant in~~  
27 ~~accordance with the provisions of s. 402.305(2) and, if~~  
28 ~~applicable, of the owner or operator, including the name and~~  
29 ~~address of any licensed facility with which the applicant or~~  
30 ~~owner or operator has been affiliated through ownership or~~

31

1 ~~employment within 5 years of the date of the application for a~~  
2 ~~license.~~

3 ~~(c) The names and addresses of other persons of whom~~  
4 ~~the agency may inquire as to the character and reputation of~~  
5 ~~the applicant and, if applicable, of the owner or operator.~~

6 ~~(d) The names and addresses of other persons of whom~~  
7 ~~the agency may inquire as to the financial responsibility of~~  
8 ~~the applicant.~~

9 ~~(e) Such other reasonable information as may be~~  
10 ~~required by the agency to evaluate the ability of the~~  
11 ~~applicant to meet the responsibilities entailed under this~~  
12 ~~part.~~

13 ~~(f) The location of the facility for which a license~~  
14 ~~is sought and documentation, signed by the appropriate local~~  
15 ~~government official, which states that the applicant has met~~  
16 ~~local zoning requirements.~~

17 ~~(3) The applicant for licensure shall furnish~~  
18 ~~satisfactory proof of financial ability to operate and conduct~~  
19 ~~the PPEC center in accordance with the requirements of this~~  
20 ~~part.~~

21 ~~(4) The applicant for licensure shall furnish proof of~~  
22 ~~adequate liability insurance coverage or protection.~~

23 ~~(5) Each applicant for licensure must comply with the~~  
24 ~~following requirements:~~

25 ~~(a) Upon receipt of a completed, signed, and dated~~  
26 ~~application, the agency shall require background screening, in~~  
27 ~~accordance with the level 2 standards for screening set forth~~  
28 ~~in chapter 435, of the operator, and of the financial officer,~~  
29 ~~or other similarly titled individual who is responsible for~~  
30 ~~the financial operation of the center, including billings for~~  
31 ~~patient care and services. The applicant must comply with the~~

1 ~~procedures for level 2 background screening as set forth in~~  
2 ~~chapter 435, as well as the requirements of s. 435.03(3).~~

3 ~~(b) The agency may require background screening of any~~  
4 ~~other individual who is an applicant if the agency has a~~  
5 ~~reasonable basis for believing that he or she has been~~  
6 ~~convicted of a crime or has committed any other offense~~  
7 ~~prohibited under the level 2 standards for screening set forth~~  
8 ~~in chapter 435.~~

9 ~~(c) Proof of compliance with the level 2 background~~  
10 ~~screening requirements of chapter 435 which has been submitted~~  
11 ~~within the previous 5 years in compliance with any other~~  
12 ~~health care licensure requirements of this state is acceptable~~  
13 ~~in fulfillment of the requirements of paragraph (a).~~

14 ~~(d) A provisional license may be granted to an~~  
15 ~~applicant when each individual required by this section to~~  
16 ~~undergo background screening has met the standards for the~~  
17 ~~Department of Law Enforcement background check, but the agency~~  
18 ~~has not yet received background screening results from the~~  
19 ~~Federal Bureau of Investigation, or a request for a~~  
20 ~~disqualification exemption has been submitted to the agency as~~  
21 ~~set forth in chapter 435, but a response has not yet been~~  
22 ~~issued. A standard license may be granted to the applicant~~  
23 ~~upon the agency's receipt of a report of the results of the~~  
24 ~~Federal Bureau of Investigation background screening for each~~  
25 ~~individual required by this section to undergo background~~  
26 ~~screening which confirms that all standards have been met, or~~  
27 ~~upon the granting of a disqualification exemption by the~~  
28 ~~agency as set forth in chapter 435. Any other person who is~~  
29 ~~required to undergo level 2 background screening may serve in~~  
30 ~~his or her capacity pending the agency's receipt of the report~~  
31 ~~from the Federal Bureau of Investigation. However, the person~~

1 ~~may not continue to serve if the report indicates any~~  
2 ~~violation of background screening standards and a~~  
3 ~~disqualification exemption has not been requested of and~~  
4 ~~granted by the agency as set forth in chapter 435.~~

5 ~~(e) Each applicant must submit to the agency, with its~~  
6 ~~application, a description and explanation of any exclusions,~~  
7 ~~permanent suspensions, or terminations of the applicant from~~  
8 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
9 ~~the requirements for disclosure of ownership and control~~  
10 ~~interests under the Medicaid or Medicare programs shall be~~  
11 ~~accepted in lieu of this submission.~~

12 ~~(f) Each applicant must submit to the agency a~~  
13 ~~description and explanation of any conviction of an offense~~  
14 ~~prohibited under the level 2 standards of chapter 435 by a~~  
15 ~~member of the board of directors of the applicant, its~~  
16 ~~officers, or any individual owning 5 percent or more of the~~  
17 ~~applicant. This requirement does not apply to a director of a~~  
18 ~~not for profit corporation or organization if the director~~  
19 ~~serves solely in a voluntary capacity for the corporation or~~  
20 ~~organization, does not regularly take part in the day to day~~  
21 ~~operational decisions of the corporation or organization,~~  
22 ~~receives no remuneration for his or her services on the~~  
23 ~~corporation or organization's board of directors, and has no~~  
24 ~~financial interest and has no family members with a financial~~  
25 ~~interest in the corporation or organization, provided that the~~  
26 ~~director and the not for profit corporation or organization~~  
27 ~~include in the application a statement affirming that the~~  
28 ~~director's relationship to the corporation satisfies the~~  
29 ~~requirements of this paragraph.~~

30 ~~(g) A license may not be granted to an applicant if~~  
31 ~~the applicant or managing employee has been found guilty of,~~

1 ~~regardless of adjudication, or has entered a plea of nolo~~  
2 ~~contendere or guilty to, any offense prohibited under the~~  
3 ~~level 2 standards for screening set forth in chapter 435,~~  
4 ~~unless an exemption from disqualification has been granted by~~  
5 ~~the agency as set forth in chapter 435.~~

6 ~~(h) The agency may deny or revoke licensure if the~~  
7 ~~applicant:~~

8 1. ~~Has falsely represented a material fact in the~~  
9 ~~application required by paragraph (e) or paragraph (f), or has~~  
10 ~~omitted any material fact from the application required by~~  
11 ~~paragraph (e) or paragraph (f); or~~

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

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

17 Section 98. Section 400.907, Florida Statutes, is  
18 amended to read:

19 400.907 Denial, suspension, revocation of licensure;  
20 administrative fines; grounds.--

21 (1) In accordance with part II of chapter 408, the  
22 agency may deny, revoke, and ~~or~~ suspend a license and ~~or~~  
23 impose an administrative fine for the violation of any  
24 provision of this part, part II of chapter 408, or applicable  
25 rules in the manner provided in chapter 120.

26 (2) Any of the following actions by a PPEC center or  
27 its employee is grounds for action by the agency against a  
28 PPEC center or its employee:

29 (a) An intentional or negligent act materially  
30 affecting the health or safety of children in the PPEC center.

31



1 (b) A violation of the provisions of this part, part  
2 II of chapter 408, or applicable rules ~~or of any standards or~~  
3 ~~rules adopted pursuant to this part.~~

4 (c) Multiple and repeated violations of this part or  
5 part II of chapter 408 or of minimum standards or rules  
6 adopted pursuant to this part or part II of chapter 408.

7 ~~(3) The agency shall be responsible for all~~  
8 ~~investigations and inspections conducted pursuant to this~~  
9 ~~part.~~

10 Section 99. Section 400.908, Florida Statutes, is  
11 amended to read:

12 400.908 Administrative fines; disposition of fees and  
13 fines.--

14 (1)(a) If the agency determines that a PPEC center is  
15 ~~being operated without a license or is otherwise~~ not in  
16 compliance with ~~rules adopted under~~ this part, part II of  
17 chapter 408, or applicable rules, the agency, ~~notwithstanding~~  
18 ~~any other administrative action it takes, shall make a~~  
19 ~~reasonable attempt to discuss each violation and recommended~~  
20 ~~corrective action with the owner of the PPEC center prior to~~  
21 ~~written notification thereof. The agency may request that the~~  
22 PPEC center submit a corrective action plan that ~~which~~  
23 demonstrates a good faith effort to remedy each violation by a  
24 specific date, subject to the approval of the agency.

25 (b) In accordance with part II of chapter 408, the  
26 agency may fine a PPEC center or employee found in violation  
27 of ~~rules adopted pursuant to this part,~~ part II of chapter  
28 408, or applicable rules, in an amount not to exceed \$500 for  
29 each violation. Such fine may not exceed \$5,000 in the  
30 aggregate.

31

1 (c) The failure to correct a violation by the date set  
2 by the agency, or the failure to comply with an approved  
3 corrective action plan, is a separate violation for each day  
4 such failure continues, unless the agency approves an  
5 extension to a specific date.

6 ~~(d) If a PPEC center desires to appeal any agency~~  
7 ~~action under this section and the fine is upheld, the violator~~  
8 ~~shall pay the fine, plus interest at the legal rate specified~~  
9 ~~in s. 687.01, for each day beyond the date set by the agency~~  
10 ~~for payment of the fine.~~

11 (2) In determining if a fine is to be imposed and in  
12 fixing the amount of any fine, the agency shall consider the  
13 following factors:

14 (a) The gravity of the violation, including the  
15 probability that death or serious physical or emotional harm  
16 to a child will result or has resulted, the severity of the  
17 actual or potential harm, and the extent to which the  
18 provisions of the applicable statutes or rules were violated.

19 (b) Actions taken by the owner or operator to correct  
20 violations.

21 (c) Any previous violations.

22 (d) The financial benefit to the PPEC center of  
23 committing or continuing the violation.

24 ~~(3) Fees and fines received by the agency under this~~  
25 ~~part shall be deposited in the Health Care Trust Fund created~~  
26 ~~in s. 408.16.~~

27 Section 100. Section 400.910, Florida Statutes, is  
28 repealed.

29 Section 101. Section 400.911, Florida Statutes, is  
30 repealed.

31

1 Section 102. Section 400.912, Florida Statutes, is  
2 amended to read:

3 400.912 Closing of a PPEC center.--

4 ~~(1) Whenever a PPEC center voluntarily discontinues~~  
5 ~~operation, it shall, inform the agency in writing at least 30~~  
6 ~~days before the discontinuance of operation. The PPEC center~~  
7 ~~shall also, at such time, inform each child's legal guardian~~  
8 ~~of the fact and the proposed time of such discontinuance.~~

9 ~~(2) Immediately upon discontinuance of the operation~~  
10 ~~of a PPEC center, the owner or operator shall surrender the~~  
11 ~~license therefor to the agency and the license shall be~~  
12 ~~canceled.~~

13 Section 103. Section 400.913, Florida Statutes, is  
14 repealed.

15 Section 104. Subsection (1) of section 400.914,  
16 Florida Statutes, is amended to read:

17 400.914 Rules establishing standards.--

18 (1) Pursuant to the intention of the Legislature to  
19 provide safe and sanitary facilities and healthful programs,  
20 the agency in conjunction with the Division of Children's  
21 Medical Services Prevention and Intervention of the Department  
22 of Health shall adopt and publish rules to implement the  
23 provisions of this part and part II of chapter 408, which  
24 shall include reasonable and fair standards. Any conflict  
25 between these standards and those that may be set forth in  
26 local, county, or city ordinances shall be resolved in favor  
27 of those having statewide effect. Such standards shall relate  
28 to:

29 (a) The assurance that PPEC services are family  
30 centered and provide individualized medical, developmental,  
31 and family training services.

1 (b) The maintenance of PPEC centers, not in conflict  
2 with the provisions of chapter 553 and based upon the size of  
3 the structure and number of children, relating to plumbing,  
4 heating, lighting, ventilation, and other building conditions,  
5 including adequate space, which will ensure the health,  
6 safety, comfort, and protection from fire of the children  
7 served.

8 (c) The appropriate provisions of the most recent  
9 edition of the "Life Safety Code" (NFPA-101) shall be applied.

10 (d) The number and qualifications of all personnel who  
11 have responsibility for the care of the children served.

12 (e) All sanitary conditions within the PPEC center and  
13 its surroundings, including water supply, sewage disposal,  
14 food handling, and general hygiene, and maintenance thereof,  
15 which will ensure the health and comfort of children served.

16 (f) Programs and basic services promoting and  
17 maintaining the health and development of the children served  
18 and meeting the training needs of the children's legal  
19 guardians.

20 (g) Supportive, contracted, other operational, and  
21 transportation services.

22 (h) Maintenance of appropriate medical records, data,  
23 and information relative to the children and programs. Such  
24 records shall be maintained in the facility for inspection by  
25 the agency.

26 Section 105. Subsection (3) of section 400.915,  
27 Florida Statutes, is amended to read:

28 400.915 Construction and renovation;  
29 requirements.--The requirements for the construction or  
30 renovation of a PPEC center shall comply with:  
31

1 (3) The standards or rules adopted pursuant to this  
2 part and part II of chapter 408.

3 Section 106. Section 400.916, Florida Statutes, is  
4 amended to read:

5 400.916 Prohibited acts; penalty for violation.--

6 ~~(1) It is unlawful for any person or public body to~~  
7 ~~offer or advertise to the public, in any way or by any medium,~~  
8 ~~basic services as defined in this part without obtaining a~~  
9 ~~valid current license. It is unlawful for any holder of a~~  
10 ~~license issued pursuant to this part to advertise or hold out~~  
11 ~~to the public that it holds a license for a PPEC center other~~  
12 ~~than that for which it actually holds a license.~~

13 ~~(2) Any person who violates s. 408.812 commits the~~  
14 ~~provisions of subsection (1) is guilty of a misdemeanor of the~~  
15 ~~second degree, punishable as provided in s. 775.083. Each day~~  
16 ~~of continuing violation is shall be considered a separate~~  
17 ~~offense.~~

18 Section 107. Section 400.917, Florida Statutes, is  
19 repealed.

20 Section 108. Section 400.925, Florida Statutes, is  
21 amended to read:

22 400.925 Definitions.--As used in this part, the term:

23 (1) "Accrediting organizations" means the Joint  
24 Commission on Accreditation of Healthcare Organizations or  
25 other national accreditation agencies whose standards for  
26 accreditation are comparable to those required by this part  
27 for licensure.

28 ~~(2) "Affiliated person" means any person who directly~~  
29 ~~or indirectly manages, controls, or oversees the operation of~~  
30 ~~a corporation or other business entity that is a licensee,~~  
31

1 ~~regardless of whether such person is a partner, shareholder,~~  
2 ~~owner, officer, director, agent, or employee of the entity.~~

3 (2)~~(3)~~ "Agency" means the Agency for Health Care  
4 Administration.

5 ~~(4)~~ "Applicant" means an individual applicant in the  
6 case of a sole proprietorship, or any officer, director,  
7 agent, managing employee, general manager, or affiliated  
8 person, or any partner or shareholder having an ownership  
9 interest equal to 5 percent or greater in the corporation,  
10 partnership, or other business entity.

11 (3)~~(5)~~ "Consumer" or "patient" means any person who  
12 uses home medical equipment in his or her place of residence.

13 (4)~~(6)~~ "Department" means the Department of Children  
14 and Family Services.

15 (5)~~(7)~~ "General manager" means the individual who has  
16 the general administrative charge of the premises of a  
17 licensed home medical equipment provider.

18 (6)~~(8)~~ "Home medical equipment" includes any product  
19 as defined by the Federal Drug Administration's Drugs, Devices  
20 and Cosmetics Act, any products reimbursed under the Medicare  
21 Part B Durable Medical Equipment benefits, or any products  
22 reimbursed under the Florida Medicaid durable medical  
23 equipment program. Home medical equipment includes oxygen and  
24 related respiratory equipment; manual, motorized, or  
25 customized wheelchairs and related seating and positioning,  
26 but does not include prosthetics or orthotics or any splints,  
27 braces, or aids custom fabricated by a licensed health care  
28 practitioner; motorized scooters; personal transfer systems;  
29 and specialty beds, for use by a person with a medical need.

30  
31

1           ~~(7)(9)~~ "Home medical equipment provider" means any  
2 person or entity that sells or rents or offers to sell or rent  
3 to or for a consumer:

- 4           (a) Any home medical equipment and services; or  
5           (b) Home medical equipment that requires any home  
6 medical equipment services.

7           ~~(8)(10)~~ "Home medical equipment provider personnel"  
8 means persons who are employed by or under contract with a  
9 home medical equipment provider.

10           ~~(9)(11)~~ "Home medical equipment services" means  
11 equipment management and consumer instruction, including  
12 selection, delivery, setup, and maintenance of equipment, and  
13 other related services for the use of home medical equipment  
14 in the consumer's regular or temporary place of residence.

15           ~~(12)~~ "Licensee" means the person or entity to whom a  
16 license to operate as a home medical equipment provider is  
17 issued by the agency.

18           ~~(10)(13)~~ "Life-supporting or life-sustaining  
19 equipment" means a device that is essential to, or that yields  
20 information that is essential to, the restoration or  
21 continuation of a bodily function important to the  
22 continuation of human life. Life-supporting or life-sustaining  
23 equipment includes apnea monitors, enteral feeding pumps,  
24 infusion pumps, portable home dialysis equipment, and  
25 ventilator equipment and supplies for all related equipment,  
26 including oxygen equipment and related respiratory equipment.

27           ~~(11)(14)~~ "Moratorium" means a mandated temporary  
28 cessation or suspension of the sale, rental, or offering of  
29 equipment after the imposition of the moratorium, in  
30 accordance with part II of chapter 408. Services related to  
31 equipment sold or rented prior to the moratorium must be

1 continued without interruption, unless determined ~~deemed~~  
2 otherwise by the agency.

3 ~~(15) "Person" means any individual, firm, partnership,~~  
4 ~~corporation, or association.~~

5 ~~(12)(16)~~ "Premises" means those buildings and  
6 equipment which are located at the address of the licensed  
7 home medical equipment provider for the provision of home  
8 medical equipment services, which are in such reasonable  
9 proximity as to appear to the public to be a single provider  
10 location, and which comply with zoning ordinances.

11 ~~(13)(17)~~ "Residence" means the consumer's home or  
12 place of residence, which may include nursing homes, assisted  
13 living facilities, transitional living facilities, adult  
14 family-care homes, or other congregate residential facilities.

15 Section 109. Subsections (3) and subsection (6) of  
16 section 400.93, Florida Statutes, are amended to read:

17 400.93 Licensure required; exemptions; unlawful acts;  
18 penalties.--

19 (3) The requirements of part II of chapter 408 apply  
20 to the provision of services that require licensure pursuant  
21 to this part and part II of chapter 408 and to entities  
22 licensed by or applying for such licensure from the agency  
23 pursuant to this part. A license issued by the agency is  
24 required in order to provide home medical equipment and  
25 services in this state. A home medical equipment provider must  
26 ~~be licensed by the agency to operate in this state or to~~  
27 ~~provide home medical equipment and services to consumers in~~  
28 ~~this state. A standard license issued to a home medical~~  
29 ~~equipment provider, unless sooner suspended or revoked,~~  
30 ~~expires 2 years after its effective date.~~

31 (6)



1           ~~(a) It is unlawful for any person to offer or~~  
2 ~~advertise home medical equipment and services to the public~~  
3 ~~unless he or she has a valid license under this part or is~~  
4 ~~exempted from licensure under subsection (5). It is unlawful~~  
5 ~~for any holder of a license issued under this part to~~  
6 ~~advertise or indicate to the public that it holds a home~~  
7 ~~medical equipment provider license other than the one it has~~  
8 ~~been issued.~~

9           ~~(a)(b) A person who violates paragraph (a) is subject~~  
10 ~~to an injunctive proceeding under s. 400.956. A violation of~~  
11 ~~s. 408.812 paragraph (a) is a deceptive and unfair trade~~  
12 ~~practice and constitutes a violation of the Florida Deceptive~~  
13 ~~and Unfair Trade Practices Act.~~

14           ~~(b)(c) A person who violates s. 408.812 paragraph (a)~~  
15 ~~commits a misdemeanor of the second degree, punishable as~~  
16 ~~provided in s. 775.082 or s. 775.083. A person who commits a~~  
17 ~~second or subsequent violation commits a misdemeanor of the~~  
18 ~~first degree, punishable as provided in s. 775.082 or s.~~  
19 ~~775.083. Each day of continuing violation constitutes a~~  
20 ~~separate offense.~~

21           ~~(d) The following penalties shall be imposed for~~  
22 ~~operating an unlicensed home medical equipment provider:~~

23           ~~1. Any person or entity who operates an unlicensed~~  
24 ~~provider commits a felony of the third degree.~~

25           ~~2. For any person or entity who has received~~  
26 ~~government reimbursement for services provided by an~~  
27 ~~unlicensed provider, the agency shall make a fraud referral to~~  
28 ~~the appropriate government reimbursement program.~~

29           ~~3. For any licensee found to be concurrently operating~~  
30 ~~licensed and unlicensed provider premises, the agency may~~  
31 ~~impose a fine or moratorium, or revoke existing licenses of~~

1 ~~any or all of the licensee's licensed provider locations until~~  
2 ~~such time as the unlicensed provider premises is licensed.~~

3 ~~(c) A provider found to be operating without a license~~  
4 ~~may apply for licensure, and must cease operations until a~~  
5 ~~license is awarded by the agency.~~

6 Section 110. Section 400.931, Florida Statutes, is  
7 amended to read:

8 400.931 Application for license; fee; provisional  
9 license; temporary permit.--

10 ~~(1) Application for an initial license or for renewal~~  
11 ~~of an existing license must be made under oath to the agency~~  
12 ~~on forms furnished by it and must be accompanied by the~~  
13 ~~appropriate license fee as provided in subsection (12).~~

14 (1)(2) In addition to the requirements of part II of  
15 chapter 408, the applicant must file with the application  
16 satisfactory proof that the home medical equipment provider is  
17 in compliance with this part and applicable rules, including:

18 (a) A report, by category, of the equipment to be  
19 provided, indicating those offered either directly by the  
20 applicant or through contractual arrangements with existing  
21 providers. Categories of equipment include:

- 22 1. Respiratory modalities.
- 23 2. Ambulation aids.
- 24 3. Mobility aids.
- 25 4. Sickroom setup.
- 26 5. Disposables.

27 (b) A report, by category, of the services to be  
28 provided, indicating those offered either directly by the  
29 applicant or through contractual arrangements with existing  
30 providers. Categories of services include:

- 31 1. Intake.

- 1 2. Equipment selection.
- 2 3. Delivery.
- 3 4. Setup and installation.
- 4 5. Patient training.
- 5 6. Ongoing service and maintenance.
- 6 7. Retrieval.

7 (c) A listing of those with whom the applicant  
8 contracts, both the providers the applicant uses to provide  
9 equipment or services to its consumers and the providers for  
10 whom the applicant provides services or equipment.

11 ~~(2)(3)~~ As an alternative to submitting proof of  
12 financial ability to operate as required in s. 408.810(8) The  
13 ~~applicant for initial licensure must demonstrate financial~~  
14 ~~ability to operate, the applicant may submit which may be~~  
15 ~~accomplished by the submission of a \$50,000 surety bond to the~~  
16 ~~agency.~~

17 ~~(4) An applicant for renewal who has demonstrated~~  
18 ~~financial inability to operate must demonstrate financial~~  
19 ~~ability to operate.~~

20 ~~(5) Each applicant for licensure must comply with the~~  
21 ~~following requirements:~~

22 ~~(a) Upon receipt of a completed, signed, and dated~~  
23 ~~application, the agency shall require background screening of~~  
24 ~~the applicant, in accordance with the level 2 standards for~~  
25 ~~screening set forth in chapter 435. As used in this~~  
26 ~~subsection, the term "applicant" means the general manager and~~  
27 ~~the financial officer or similarly titled individual who is~~  
28 ~~responsible for the financial operation of the licensed~~  
29 ~~facility.~~

30 ~~(b) The agency may require background screening for a~~  
31 ~~member of the board of directors of the licensee or an officer~~

1 ~~or an individual owning 5 percent or more of the licensee if~~  
2 ~~the agency has probable cause to believe that such individual~~  
3 ~~has been convicted of an offense prohibited under the level 2~~  
4 ~~standards for screening set forth in chapter 435.~~

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

10 ~~(d) Each applicant must submit to the agency, with its~~  
11 ~~application, a description and explanation of any exclusions,~~  
12 ~~permanent suspensions, or terminations of the applicant from~~  
13 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
14 ~~disclosure of ownership and control interest requirements of~~  
15 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
16 ~~this submission.~~

17 ~~(e) Each applicant must submit to the agency a~~  
18 ~~description and explanation of any conviction of an offense~~  
19 ~~prohibited under the level 2 standards of chapter 435 by a~~  
20 ~~member of the board of directors of the applicant, its~~  
21 ~~officers, or any individual owning 5 percent or more of the~~  
22 ~~applicant. This requirement does not apply to a director of a~~  
23 ~~not for profit corporation or organization if the director~~  
24 ~~serves solely in a voluntary capacity for the corporation or~~  
25 ~~organization, does not regularly take part in the day to day~~  
26 ~~operational decisions of the corporation or organization,~~  
27 ~~receives no remuneration for his or her services on the~~  
28 ~~corporation's or organization's board of directors, and has no~~  
29 ~~financial interest and has no family members with a financial~~  
30 ~~interest in the corporation or organization, provided that the~~  
31 ~~director and the not for profit corporation or organization~~

1 ~~include in the application a statement affirming that the~~  
2 ~~director's relationship to the corporation satisfies the~~  
3 ~~requirements of this provision.~~

4 ~~(f) A license may not be granted to any potential~~  
5 ~~licensee if any applicant, administrator, or financial officer~~  
6 ~~has been found guilty of, regardless of adjudication, or has~~  
7 ~~entered a plea of nolo contendere or guilty to, any offense~~  
8 ~~prohibited under the level 2 standards for screening set forth~~  
9 ~~in chapter 435, unless an exemption from disqualification has~~  
10 ~~been granted by the agency as set forth in chapter 435.~~

11 ~~(g) The agency may deny or revoke licensure to any~~  
12 ~~potential licensee if any applicant:~~

13 1. ~~Has falsely represented a material fact in the~~  
14 ~~application required by paragraphs (d) and (e), or has omitted~~  
15 ~~any material fact from the application required by paragraphs~~  
16 ~~(d) and (e); or~~

17 2. ~~Has had prior Medicaid or Medicare action taken~~  
18 ~~against the applicant as set forth in paragraph (d).~~

19 ~~(h) Upon licensure renewal, each applicant must submit~~  
20 ~~to the agency, under penalty of perjury, an affidavit of~~  
21 ~~compliance with the background screening provisions of this~~  
22 ~~section.~~

23 (3)(6) As specified in part II of chapter 408, the  
24 home medical equipment provider must also obtain and maintain  
25 professional and commercial liability insurance. Proof of  
26 liability insurance, as defined in s. 624.605, must be  
27 submitted with the application. The agency shall set the  
28 required amounts of liability insurance by rule, but the  
29 required amount must not be less than \$250,000 per claim. In  
30 the case of contracted services, it is required that the  
31

1 contractor have liability insurance not less than \$250,000 per  
2 claim.

3 ~~(7) A provisional license shall be issued to an~~  
4 ~~approved applicant for initial licensure for a period of 90~~  
5 ~~days, during which time a survey must be conducted~~  
6 ~~demonstrating substantial compliance with this section. A~~  
7 ~~provisional license shall also be issued pending the results~~  
8 ~~of an applicant's Federal Bureau of Investigation report of~~  
9 ~~background screening confirming that all standards have been~~  
10 ~~met. If substantial compliance is demonstrated, a standard~~  
11 ~~license shall be issued to expire 2 years after the effective~~  
12 ~~date of the provisional license.~~

13 ~~(8) Ninety days before the expiration date, an~~  
14 ~~application for license renewal must be submitted to the~~  
15 ~~agency under oath on forms furnished by the agency, and a~~  
16 ~~license shall be renewed if the applicant has met the~~  
17 ~~requirements established under this part and applicable rules.~~  
18 ~~The home medical equipment provider must file with the~~  
19 ~~application satisfactory proof that it is in compliance with~~  
20 ~~this part and applicable rules. The home medical equipment~~  
21 ~~provider must submit satisfactory proof of its financial~~  
22 ~~ability to comply with the requirements of this part.~~

23 ~~(9) When a change of ownership of a home medical~~  
24 ~~equipment provider occurs, the prospective owner must submit~~  
25 ~~an initial application for a license at least 15 days before~~  
26 ~~the effective date of the change of ownership. An application~~  
27 ~~for change of ownership of a license is required when~~  
28 ~~ownership, a majority of the ownership, or controlling~~  
29 ~~interest of a licensed home medical equipment provider is~~  
30 ~~transferred or assigned and when a licensee agrees to~~  
31 ~~undertake or provide services to the extent that legal~~

1 ~~liability for operation of the home medical equipment provider~~  
2 ~~rests with the licensee. A provisional license shall be issued~~  
3 ~~to the new owner for a period of 90 days, during which time~~  
4 ~~all required documentation must be submitted and a survey must~~  
5 ~~be conducted demonstrating substantial compliance with this~~  
6 ~~section. If substantial compliance is demonstrated, a standard~~  
7 ~~license shall be issued to expire 2 years after the issuance~~  
8 ~~of the provisional license.~~

9 ~~(4)(10)~~ When a change of the general manager of a home  
10 medical equipment provider occurs, the licensee must notify  
11 the agency of the change within 45 days, ~~thereof and must~~  
12 ~~provide evidence of compliance with the background screening~~  
13 ~~requirements in subsection (5); except that a general manager~~  
14 ~~who has met the standards for the Department of Law~~  
15 ~~Enforcement background check, but for whom background~~  
16 ~~screening results from the Federal Bureau of Investigation~~  
17 ~~have not yet been received, may be employed pending receipt of~~  
18 ~~the Federal Bureau of Investigation background screening~~  
19 ~~report. An individual may not continue to serve as general~~  
20 ~~manager if the Federal Bureau of Investigation background~~  
21 ~~screening report indicates any violation of background~~  
22 ~~screening standards.~~

23 ~~(5)(11)~~ In accordance with s. 408.805, an applicant or  
24 a licensee shall pay a fee for each license application  
25 submitted under this part, part II of chapter 408, and  
26 applicable rules. The amount of the fee shall be established  
27 by rule and may not exceed \$300 per biennium. All licensure  
28 ~~fees required of a home medical equipment provider are~~  
29 ~~nonrefundable.~~ The agency shall set the fees in an amount that  
30 is sufficient to cover its costs in carrying out its  
31 responsibilities under this part. However, state, county, or

1 municipal governments applying for licenses under this part  
2 are exempt from the payment of license fees. ~~All fees~~  
3 ~~collected under this part must be deposited in the Health Care~~  
4 ~~Trust Fund for the administration of this part.~~

5 ~~(6)(12)~~ An applicant for initial licensure, renewal,  
6 or change of ownership shall also pay ~~a license processing fee~~  
7 ~~not to exceed \$300, to be paid by all applicants, and an~~  
8 inspection fee not to exceed \$400, which shall ~~to~~ be paid by  
9 all applicants except those not subject to licensure  
10 inspection by the agency as described in s. 400.933(2).

11 ~~(13)~~ ~~When a change is reported which requires issuance~~  
12 ~~of a license, a fee must be assessed. The fee must be based on~~  
13 ~~the actual cost of processing and issuing the license.~~

14 ~~(14)~~ ~~When a duplicate license is issued, a fee must be~~  
15 ~~assessed, not to exceed the actual cost of duplicating and~~  
16 ~~mailing.~~

17 ~~(15)~~ ~~When applications are mailed out upon request, a~~  
18 ~~fee must be assessed, not to exceed the cost of the printing,~~  
19 ~~preparation, and mailing.~~

20 ~~(16)~~ ~~The license must be displayed in a conspicuous~~  
21 ~~place in the administrative office of the home medical~~  
22 ~~equipment provider and is valid only while in the possession~~  
23 ~~of the person or entity to which it is issued. The license may~~  
24 ~~not be sold, assigned, or otherwise transferred, voluntarily~~  
25 ~~or involuntarily, and is valid only for the home medical~~  
26 ~~equipment provider and location for which originally issued.~~

27 ~~(17)~~ ~~A home medical equipment provider against whom a~~  
28 ~~proceeding for revocation or suspension, or for denial of a~~  
29 ~~renewal application, is pending at the time of license renewal~~  
30 ~~may be issued a provisional license effective until final~~  
31 ~~disposition by the agency of such proceedings. If judicial~~



1 ~~relief is sought from the final disposition, the court that~~  
2 ~~has jurisdiction may issue a temporary permit for the duration~~  
3 ~~of the judicial proceeding.~~

4 Section 111. Section 400.932, Florida Statutes, is  
5 amended to read:

6 400.932 Administrative penalties; ~~injunctions;~~  
7 ~~emergency orders; moratoriums.~~--

8 (1) The agency may deny, revoke, and ~~or~~ suspend a  
9 license and, ~~or~~ impose an administrative fine not to exceed  
10 \$5,000 per violation, ~~per day, or initiate injunctive~~  
11 ~~proceedings under s. 400.956.~~

12 (2) Any of the following actions by an employee of a  
13 home medical equipment provider ~~are~~ ~~or any of its employees is~~  
14 grounds for administrative action or penalties by the agency:

15 (a) Violation of this part, part II of chapter 408, or  
16 ~~of~~ applicable rules.

17 (b) An intentional, reckless, or negligent act that  
18 materially affects the health or safety of a patient.

19 (3) The agency may deny or revoke the license of any  
20 applicant that:

21 ~~(a) Made a false representation or omission of any~~  
22 ~~material fact in making the application, including the~~  
23 ~~submission of an application that conceals the controlling or~~  
24 ~~ownership interest or any officer, director, agent, managing~~  
25 ~~employee, affiliated person, partner, or shareholder who may~~  
26 ~~not be eligible to participate;~~

27 ~~(a)(b)~~ Has been previously found by any professional  
28 licensing, certifying, or standards board or agency to have  
29 violated the standards or conditions relating to licensure or  
30 certification or the quality of services provided.

31 "Professional licensing, certifying, or standards board or

1 agency" shall include, but is not limited to, practitioners,  
2 health care facilities, programs, or services, or residential  
3 care, treatment programs, or other human services; or

4 ~~(b)(c)~~ Has been or is currently excluded, suspended,  
5 or terminated from, or has involuntarily withdrawn from,  
6 ~~participation in Florida's Medicaid program or any other~~  
7 ~~state's Medicaid program, or participation in the Medicare~~  
8 ~~program or any other governmental or private health care or~~  
9 health insurance program.

10 ~~(4) The agency may issue an emergency order~~  
11 ~~immediately suspending or revoking a license when it~~  
12 ~~determines that any condition within the responsibility of the~~  
13 ~~home medical equipment provider presents a clear and present~~  
14 ~~danger to public health and safety.~~

15 ~~(5) The agency may impose an immediate moratorium on~~  
16 ~~any licensed home medical equipment provider when the agency~~  
17 ~~determines that any condition within the responsibility of the~~  
18 ~~home medical equipment provider presents a threat to public~~  
19 ~~health or safety.~~

20 Section 112. Section 400.933, Florida Statutes, is  
21 amended to read:

22 400.933 Licensure inspections and investigations.--

23 (1) In addition to the requirements of s. 408.811, the  
24 agency shall make or cause to be made such inspections and  
25 investigations as it considers necessary, including:

26 (a) Licensure inspections.

27 (b) Inspections directed by the federal Centers for  
28 Medicare and Medicaid Services Health Care Financing  
29 Administration.

30 (c) Licensure complaint investigations, including full  
31 licensure investigations with a review of all licensure

1 standards as outlined in the administrative rules. Complaints  
2 received by the agency from individuals, organizations, or  
3 other sources are subject to review and investigation by the  
4 agency.

5 (2) The agency shall accept, in lieu of its own  
6 periodic inspections for licensure, submission of the  
7 following:

8 (a) The survey or inspection of an accrediting  
9 organization, provided the accreditation of the licensed home  
10 medical equipment provider is not provisional and provided the  
11 licensed home medical equipment provider authorizes release  
12 of, and the agency receives the report of, the accrediting  
13 organization; or

14 (b) A copy of a valid medical oxygen retail  
15 establishment permit issued by the Department of Health,  
16 pursuant to chapter 499.

17 Section 113. Section 400.935, Florida Statutes, is  
18 amended to read:

19 400.935 Rules establishing minimum standards.--The  
20 agency shall adopt, publish, and enforce rules to implement  
21 this part and part II of chapter 408, which must provide  
22 reasonable and fair minimum standards relating to:

23 (1) The qualifications and minimum training  
24 requirements of all home medical equipment provider personnel.

25 ~~(2) License application and renewal.~~

26 ~~(3) License and inspection fees.~~

27 ~~(2)~~(4) Financial ability to operate.

28 ~~(3)~~(5) The administration of the home medical  
29 equipment provider.

30 ~~(4)~~(6) Procedures for maintaining patient records.

31

1           ~~(5)(7)~~ Ensuring that the home medical equipment and  
2 services provided by a home medical equipment provider are in  
3 accordance with the plan of treatment established for each  
4 patient, when provided as a part of a plan of treatment.

5           ~~(6)(8)~~ Contractual arrangements for the provision of  
6 home medical equipment and services by providers not employed  
7 by the home medical equipment provider providing for the  
8 consumer's needs.

9           ~~(7)(9)~~ Physical location and zoning requirements.

10           ~~(8)(10)~~ Home medical equipment requiring home medical  
11 equipment services.

12           ~~(9)(11)~~ Preparation of the comprehensive emergency  
13 management plan under s. 400.934 and the establishment of  
14 minimum criteria for the plan, including the maintenance of  
15 patient equipment and supply lists that can accompany patients  
16 who are transported from their homes. Such rules shall be  
17 formulated in consultation with the Department of Health and  
18 the Department of Community Affairs.

19           Section 114. Section 400.95, Florida Statutes, is  
20 repealed.

21           Section 115. Subsections (3) through (7) of section  
22 400.953, Florida Statutes, are renumbered as subsections (2)  
23 through (6), respectively, and present subsection (2) of that  
24 section is amended to read:

25           400.953 Background screening of home medical equipment  
26 provider personnel.--The agency shall require employment  
27 screening as provided in chapter 435, using the level 1  
28 standards for screening set forth in that chapter, for home  
29 medical equipment provider personnel.

30           ~~(2) The general manager of each home medical equipment~~  
31 ~~provider must sign an affidavit annually, under penalty of~~

1 ~~perjury, stating that all home medical equipment provider~~  
2 ~~personnel hired on or after July 1, 1999, who enter the home~~  
3 ~~of a patient in the capacity of their employment have been~~  
4 ~~screened and that its remaining personnel have worked for the~~  
5 ~~home medical equipment provider continuously since before July~~  
6 ~~1, 1999.~~

7 Section 116. Subsection (4) of section 400.955,  
8 Florida Statutes, is amended to read:

9 400.955 Procedures for screening of home medical  
10 equipment provider personnel.--

11 ~~(4) The general manager of each home medical equipment~~  
12 ~~provider must sign an affidavit annually, under penalty of~~  
13 ~~perjury, stating that all personnel hired on or after July 1,~~  
14 ~~1999, have been screened and that its remaining personnel have~~  
15 ~~worked for the home medical equipment provider continuously~~  
16 ~~since before July 1, 1999.~~

17 Section 117. Section 400.956, Florida Statutes, is  
18 repealed.

19 Section 118. Section 400.962, Florida Statutes, is  
20 amended to read:

21 400.962 License required; license application.--

22 (1) The requirements of part II of chapter 408 apply  
23 to the provision of services that require licensure pursuant  
24 to this part and part II of chapter 408 and to entities  
25 licensed by or applying for such licensure from the Agency for  
26 Health Care Administration pursuant to this part. A license  
27 issued by the agency is required in order to operate ~~It is~~  
28 ~~unlawful to operate~~ an intermediate care facility for the  
29 developmentally disabled in this state ~~without a license.~~

30 (2) Separate licenses are required for facilities  
31 maintained on separate premises even if operated under the

1 same management. However, a separate license is not required  
2 for separate buildings on the same grounds.

3 (3) In accordance with s. 408.805, an applicant or  
4 licensee shall pay a fee for each license application  
5 submitted under this part, part II of chapter 408, and  
6 applicable rules. The amount of the fee shall be \$234 per bed  
7 unless modified by rule. The basic license fee collected shall  
8 be deposited in the Health Care Trust Fund, established for  
9 carrying out the purposes of this chapter.

10 (4) ~~The license must be conspicuously displayed inside~~  
11 ~~the facility.~~

12 (5) ~~A license is valid only in the hands of the~~  
13 ~~individual, firm, partnership, association, or corporation to~~  
14 ~~whom it is issued. A license is not valid for any premises~~  
15 ~~other than those for which it was originally issued and may~~  
16 ~~not be sold, assigned, or otherwise transferred, voluntarily~~  
17 ~~or involuntarily.~~

18 (6) ~~An application for a license shall be made to the~~  
19 ~~agency on forms furnished by it and must be accompanied by the~~  
20 ~~appropriate license fee.~~

21 (7) ~~The application must be under oath and must~~  
22 ~~contain the following:~~

23 (a) ~~The name, address, and social security number of~~  
24 ~~the applicant if an individual; if the applicant is a firm,~~  
25 ~~partnership, or association, its name, address, and employer~~  
26 ~~identification number (EIN), and the name and address of every~~  
27 ~~member; if the applicant is a corporation, its name, address,~~  
28 ~~and employer identification number (EIN), and the name and~~  
29 ~~address of its director and officers and of each person having~~  
30 ~~at least a 5 percent interest in the corporation; and the name~~  
31 ~~by which the facility is to be known.~~

1 ~~(b) The name of any person whose name is required on~~  
2 ~~the application under paragraph (a) and who owns at least a 10~~  
3 ~~percent interest in any professional service, firm,~~  
4 ~~association, partnership, or corporation providing goods,~~  
5 ~~leases, or services to the facility for which the application~~  
6 ~~is made, and the name and address of the professional service,~~  
7 ~~firm, association, partnership, or corporation in which such~~  
8 ~~interest is held.~~

9 ~~(c) The application must indicate the location of the~~  
10 ~~facility for which a license is sought and ~~an indication~~ that~~  
11 ~~such location conforms to the local zoning ordinances.~~

12 ~~(d) The name of the persons under whose management or~~  
13 ~~supervision the facility will be operated.~~

14 ~~(e) The total number of beds.~~

15 ~~(4)(8)~~ The applicant must demonstrate that sufficient  
16 numbers of staff, qualified by training or experience, will be  
17 employed to properly care for the type and number of residents  
18 who will reside in the facility.

19 ~~(9) The applicant must submit evidence that~~  
20 ~~establishes the good moral character of the applicant,~~  
21 ~~manager, supervisor, and administrator. An applicant who is an~~  
22 ~~individual or a member of a board of directors or officer of~~  
23 ~~an applicant that is a firm, partnership, association, or~~  
24 ~~corporation must not have been convicted, or found guilty,~~  
25 ~~regardless of adjudication, of a crime in any jurisdiction~~  
26 ~~which affects or may potentially affect residents in the~~  
27 ~~facility.~~

28 ~~(10)(a) Upon receipt of a completed, signed, and dated~~  
29 ~~application, the agency shall require background screening of~~  
30 ~~the applicant, in accordance with the level 2 standards for~~  
31 ~~screening set forth in chapter 435. As used in this~~

1 ~~subsection, the term "applicant" means the facility~~  
2 ~~administrator, or similarly titled individual who is~~  
3 ~~responsible for the day to day operation of the licensed~~  
4 ~~facility, and the facility financial officer, or similarly~~  
5 ~~titled individual who is responsible for the financial~~  
6 ~~operation of the licensed facility.~~

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

13 ~~(c) Proof of compliance with the level 2 background~~  
14 ~~screening requirements of chapter 435 which has been submitted~~  
15 ~~within the previous 5 years in compliance with any other~~  
16 ~~licensure requirements under this chapter or chapter 429~~  
17 ~~satisfies the requirements of paragraph (a). Proof of~~  
18 ~~compliance with background screening which has been submitted~~  
19 ~~within the previous 5 years to fulfill the requirements of the~~  
20 ~~Financial Services Commission and the Office of Insurance~~  
21 ~~Regulation under chapter 651 as part of an application for a~~  
22 ~~certificate of authority to operate a continuing care~~  
23 ~~retirement community satisfies the requirements for the~~  
24 ~~Department of Law Enforcement and Federal Bureau of~~  
25 ~~Investigation background checks.~~

26 ~~(d) A provisional license may be granted to an~~  
27 ~~applicant when each individual required by this section to~~  
28 ~~undergo background screening has met the standards for the~~  
29 ~~Department of Law Enforcement background check, but the agency~~  
30 ~~has not yet received background screening results from the~~  
31 ~~Federal Bureau of Investigation, or a request for a~~



1 ~~disqualification exemption has been submitted to the agency as~~  
2 ~~set forth in chapter 435, but a response has not yet been~~  
3 ~~issued. A license may be granted to the applicant upon the~~  
4 ~~agency's receipt of a report of the results of the Federal~~  
5 ~~Bureau of Investigation background screening for each~~  
6 ~~individual required by this section to undergo background~~  
7 ~~screening which confirms that all standards have been met, or~~  
8 ~~upon the granting of a disqualification exemption by the~~  
9 ~~agency as set forth in chapter 435. Any other person who is~~  
10 ~~required to undergo level 2 background screening may serve in~~  
11 ~~his or her capacity pending the agency's receipt of the report~~  
12 ~~from the Federal Bureau of Investigation; however, the person~~  
13 ~~may not continue to serve if the report indicates any~~  
14 ~~violation of background screening standards and a~~  
15 ~~disqualification exemption has not been granted by the agency~~  
16 ~~as set forth in chapter 435.~~

17 ~~(e) Each applicant must submit to the agency, with its~~  
18 ~~application, a description and explanation of any exclusions,~~  
19 ~~permanent suspensions, or terminations of the applicant from~~  
20 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
21 ~~disclosure of ownership and control interest requirements of~~  
22 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
23 ~~this submission.~~

24 ~~(f) Each applicant must submit to the agency a~~  
25 ~~description and explanation of any conviction of an offense~~  
26 ~~prohibited under the level 2 standards of chapter 435 by a~~  
27 ~~member of the board of directors of the applicant, its~~  
28 ~~officers, or any individual owning 5 percent or more of the~~  
29 ~~applicant. This requirement does not apply to a director of a~~  
30 ~~not for profit corporation or organization if the director~~  
31 ~~serves solely in a voluntary capacity for the corporation or~~

1 ~~organization, does not regularly take part in the day to day~~  
2 ~~operational decisions of the corporation or organization,~~  
3 ~~receives no remuneration for his or her services on the~~  
4 ~~corporation's or organization's board of directors, and has no~~  
5 ~~financial interest and has no family members with a financial~~  
6 ~~interest in the corporation or organization, provided that the~~  
7 ~~director and the not for profit corporation or organization~~  
8 ~~include in the application a statement affirming that the~~  
9 ~~director's relationship to the corporation satisfies the~~  
10 ~~requirements of this paragraph.~~

11 ~~(g) An application for license renewal must contain~~  
12 ~~the information required under paragraphs (c) and (f).~~

13 ~~(11) The applicant must furnish satisfactory proof of~~  
14 ~~financial ability to operate and conduct the facility in~~  
15 ~~accordance with the requirements of this part and all rules~~  
16 ~~adopted under this part, and the agency shall establish~~  
17 ~~standards for this purpose.~~

18 ~~(5)(12)~~ The applicant must agree to provide or arrange  
19 for active treatment services by an interdisciplinary team to  
20 maximize individual independence or prevent regression or loss  
21 of functional status. Standards for active treatment shall be  
22 adopted by the Agency for Health Care Administration by rule  
23 pursuant to ss. 120.536(1) and 120.54. Active treatment  
24 services shall be provided in accordance with the individual  
25 support plan and shall be reimbursed as part of the per diem  
26 rate as paid under the Medicaid program.

27 Section 119. Section 400.963, Florida Statutes, is  
28 repealed.

29 Section 120. Section 400.965, Florida Statutes, is  
30 repealed.

31

1 Section 121. Section 400.967, Florida Statutes, is  
2 amended to read:

3 400.967 Rules and classification of deficiencies.--

4 (1) It is the intent of the Legislature that rules  
5 adopted and enforced under this part and part II of chapter  
6 408 include criteria by which a reasonable and consistent  
7 quality of resident care may be ensured, the results of such  
8 resident care can be demonstrated, and safe and sanitary  
9 facilities can be provided.

10 (2) Pursuant to the intention of the Legislature, the  
11 agency, in consultation with the Agency for Persons with  
12 Disabilities and the Department of Elderly Affairs, shall  
13 adopt and enforce rules to administer this part and part II of  
14 chapter 408, which shall include reasonable and fair criteria  
15 governing:

16 (a) The location and construction of the facility;  
17 including fire and life safety, plumbing, heating, cooling,  
18 lighting, ventilation, and other housing conditions that will  
19 ensure the health, safety, and comfort of residents. The  
20 agency shall establish standards for facilities and equipment  
21 to increase the extent to which new facilities and a new wing  
22 or floor added to an existing facility after July 1, 2000, are  
23 structurally capable of serving as shelters only for  
24 residents, staff, and families of residents and staff, and  
25 equipped to be self-supporting during and immediately  
26 following disasters. The Agency for Health Care Administration  
27 shall work with facilities licensed under this part and report  
28 to the Governor and the Legislature by April 1, 2000, its  
29 recommendations for cost-effective renovation standards to be  
30 applied to existing facilities. In making such rules, the  
31 agency shall be guided by criteria recommended by nationally

1 recognized, reputable professional groups and associations  
2 having knowledge concerning such subject matters. The agency  
3 shall update or revise such criteria as the need arises. All  
4 facilities must comply with those lifesafety code requirements  
5 and building code standards applicable at the time of approval  
6 of their construction plans. The agency may require  
7 alterations to a building if it determines that an existing  
8 condition constitutes a distinct hazard to life, health, or  
9 safety. The agency shall adopt fair and reasonable rules  
10 setting forth conditions under which existing facilities  
11 undergoing additions, alterations, conversions, renovations,  
12 or repairs are required to comply with the most recent updated  
13 or revised standards.

14 (b) The number and qualifications of all personnel,  
15 including management, medical nursing, and other personnel,  
16 having responsibility for any part of the care given to  
17 residents.

18 (c) All sanitary conditions within the facility and  
19 its surroundings, including water supply, sewage disposal,  
20 food handling, and general hygiene, which will ensure the  
21 health and comfort of residents.

22 (d) The equipment essential to the health and welfare  
23 of the residents.

24 (e) A uniform accounting system.

25 (f) The care, treatment, and maintenance of residents  
26 and measurement of the quality and adequacy thereof.

27 (g) The preparation and annual update of a  
28 comprehensive emergency management plan. The agency shall  
29 adopt rules establishing minimum criteria for the plan after  
30 consultation with the Department of Community Affairs. At a  
31 minimum, the rules must provide for plan components that

1 address emergency evacuation transportation; adequate  
2 sheltering arrangements; postdisaster activities, including  
3 emergency power, food, and water; postdisaster transportation;  
4 supplies; staffing; emergency equipment; individual  
5 identification of residents and transfer of records; and  
6 responding to family inquiries. The comprehensive emergency  
7 management plan is subject to review and approval by the local  
8 emergency management agency. During its review, the local  
9 emergency management agency shall ensure that the following  
10 agencies, at a minimum, are given the opportunity to review  
11 the plan: the Department of Elderly Affairs, the Agency for  
12 Persons with Disabilities, the Agency for Health Care  
13 Administration, and the Department of Community Affairs. Also,  
14 appropriate volunteer organizations must be given the  
15 opportunity to review the plan. The local emergency management  
16 agency shall complete its review within 60 days and either  
17 approve the plan or advise the facility of necessary  
18 revisions.

19 ~~(h) The posting of licenses. Each licensee shall post~~  
20 ~~its license in a prominent place that is in clear and~~  
21 ~~unobstructed public view at or near the place where residents~~  
22 ~~are being admitted to the facility.~~

23 (h)(i) The use of restraint and seclusion. Such rules  
24 must be consistent with recognized best practices; prohibit  
25 inherently dangerous restraint or seclusion procedures;  
26 establish limitations on the use and duration of restraint and  
27 seclusion; establish measures to ensure the safety of clients  
28 and staff during an incident of restraint or seclusion;  
29 establish procedures for staff to follow before, during, and  
30 after incidents of restraint or seclusion, including  
31 individualized plans for the use of restraints or seclusion in

1 emergency situations; establish professional qualifications of  
2 and training for staff who may order or be engaged in the use  
3 of restraint or seclusion; establish requirements for facility  
4 data collection and reporting relating to the use of restraint  
5 and seclusion; and establish procedures relating to the  
6 documentation of the use of restraint or seclusion in the  
7 client's facility or program record.

8 (3) The agency shall adopt rules to provide that, when  
9 the criteria established under this part and part II of  
10 chapter 408 ~~subsection (2)~~ are not met, such deficiencies  
11 shall be classified according to the nature of the deficiency.  
12 The agency shall indicate the classification on the face of  
13 the notice of deficiencies as follows:

14 (a) Class I deficiencies are those which the agency  
15 determines present an ~~and~~ imminent danger to the residents or  
16 guests of the facility or a substantial probability that death  
17 or serious physical harm would result therefrom. The condition  
18 or practice constituting a class I violation must be abated or  
19 eliminated immediately, unless a fixed period of time, as  
20 determined by the agency, is required for correction.

21 ~~Notwithstanding s. 400.121(2)~~, A class I deficiency is subject  
22 to a civil penalty in an amount not less than \$5,000 and not  
23 exceeding \$10,000 for each deficiency. A fine may be levied  
24 notwithstanding the correction of the deficiency.

25 (b) Class II deficiencies are those which the agency  
26 determines have a direct or immediate relationship to the  
27 health, safety, or security of the facility residents, other  
28 than class I deficiencies. A class II deficiency is subject to  
29 a civil penalty in an amount not less than \$1,000 and not  
30 exceeding \$5,000 for each deficiency. A citation for a class  
31 II deficiency shall specify the time within which the

1 deficiency must be corrected. If a class II deficiency is  
2 corrected within the time specified, no civil penalty shall be  
3 imposed, unless it is a repeated offense.

4 (c) Class III deficiencies are those which the agency  
5 determines to have an indirect or potential relationship to  
6 the health, safety, or security of the facility residents,  
7 other than class I or class II deficiencies. A class III  
8 deficiency is subject to a civil penalty of not less than \$500  
9 and not exceeding \$1,000 for each deficiency. A citation for a  
10 class III deficiency shall specify the time within which the  
11 deficiency must be corrected. If a class III deficiency is  
12 corrected within the time specified, no civil penalty shall be  
13 imposed, unless it is a repeated offense.

14 ~~(4) Civil penalties paid by any licensee under~~  
15 ~~subsection (3) shall be deposited in the Health Care Trust~~  
16 ~~Fund and expended as provided in s. 400.063.~~

17 (4)~~(5)~~ The agency shall approve or disapprove the  
18 plans and specifications within 60 days after receipt of the  
19 final plans and specifications. The agency may be granted one  
20 15-day extension for the review period, if the secretary of  
21 the agency so approves. If the agency fails to act within the  
22 specified time, it is deemed to have approved the plans and  
23 specifications. When the agency disapproves plans and  
24 specifications, it must set forth in writing the reasons for  
25 disapproval. Conferences and consultations may be provided as  
26 necessary.

27 (5)~~(6)~~ The agency may charge an initial fee of \$2,000  
28 for review of plans and construction on all projects, no part  
29 of which is refundable. The agency may also collect a fee, not  
30 to exceed 1 percent of the estimated construction cost or the  
31 actual cost of review, whichever is less, for the portion of

1 | the review which encompasses initial review through the  
2 | initial revised construction document review. The agency may  
3 | collect its actual costs on all subsequent portions of the  
4 | review and construction inspections. Initial fee payment must  
5 | accompany the initial submission of plans and specifications.  
6 | Any subsequent payment that is due is payable upon receipt of  
7 | the invoice from the agency. Notwithstanding any other  
8 | provision of law, all money received by the agency under this  
9 | section shall be deemed to be trust funds, to be held and  
10 | applied solely for the operations required under this section.

11 | Section 122. Section 400.968, Florida Statutes, is  
12 | amended to read:

13 | 400.968 Right of entry; ~~protection of health, safety,~~  
14 | ~~and welfare.~~--

15 | ~~(1)~~ In addition to the requirements of s. 408.811, any  
16 | designated officer or employee of the agency, or any officer  
17 | or employee of the state, or of the local fire marshal, may  
18 | enter unannounced the premises of any facility licensed under  
19 | this part in order to determine the state of compliance with  
20 | this part, part II of chapter 408, and applicable rules and  
21 | ~~the rules or standards in force under this part. The right of~~  
22 | ~~entry and inspection also extends to any premises that the~~  
23 | ~~agency has reason to believe are being operated or maintained~~  
24 | ~~as a facility without a license; but such an entry or~~  
25 | ~~inspection may not be made without the permission of the owner~~  
26 | ~~or person in charge of the facility unless a warrant that~~  
27 | ~~authorizes the entry is first obtained from the circuit court.~~  
28 | ~~The warrant requirement extends only to a facility that the~~  
29 | ~~agency has reason to believe is being operated or maintained~~  
30 | ~~as a facility without a license. An application for a license~~  
31 | ~~or renewal thereof which is made under this section~~



1 ~~constitutes permission for, and acquiescence in, any entry or~~  
2 ~~inspection of the premises for which the license is sought, in~~  
3 ~~order to facilitate verification of the information submitted~~  
4 ~~in connection with the application; to discover, investigate,~~  
5 ~~and determine the existence of abuse or neglect; or to elicit,~~  
6 ~~receive, respond to, and resolve complaints. A current valid~~  
7 ~~license constitutes unconditional permission for, and~~  
8 ~~acquiescence in, any entry or inspection of the premises by~~  
9 ~~authorized personnel. The agency retains the right of entry~~  
10 ~~and inspection of facilities that have had a license revoked~~  
11 ~~or suspended within the previous 24 months, to ensure that the~~  
12 ~~facility is not operating unlawfully. However, before the~~  
13 ~~facility is entered, a statement of probable cause must be~~  
14 ~~filed with the director of the agency, who must approve or~~  
15 ~~disapprove the action within 48 hours.~~

16 ~~(2) The agency may institute injunctive proceedings in~~  
17 ~~a court of competent jurisdiction for temporary or permanent~~  
18 ~~relief to:~~

19 ~~(a) Enforce this section or any minimum standard,~~  
20 ~~rule, or order issued pursuant thereto if the agency's effort~~  
21 ~~to correct a violation through administrative fines has failed~~  
22 ~~or when the violation materially affects the health, safety,~~  
23 ~~or welfare of residents; or~~

24 ~~(b) Terminate the operation of a facility if a~~  
25 ~~violation of this section or of any standard or rule adopted~~  
26 ~~pursuant thereto exists which materially affects the health,~~  
27 ~~safety, or welfare of residents.~~

28  
29 ~~The Legislature recognizes that, in some instances, action is~~  
30 ~~necessary to protect residents of facilities from immediately~~  
31 ~~life threatening situations. If it appears by competent~~

1 ~~evidence or a sworn, substantiated affidavit that a temporary~~  
2 ~~injunction should issue, the court, pending the determination~~  
3 ~~on final hearing, shall enjoin operation of the facility.~~

4 ~~(3) The agency may impose an immediate moratorium on~~  
5 ~~admissions to a facility when the agency determines that any~~  
6 ~~condition in the facility presents a threat to the health,~~  
7 ~~safety, or welfare of the residents in the facility. If a~~  
8 ~~facility's license is denied, revoked, or suspended, the~~  
9 ~~facility may be subject to the immediate imposition of a~~  
10 ~~moratorium on admissions to run concurrently with licensure~~  
11 ~~denial, revocation, or suspension.~~

12 Section 123. Subsection (1) of section 400.969,  
13 Florida Statutes, is amended to read:

14 400.969 Violation of part; penalties.--

15 (1) In addition to the requirements of part II of  
16 chapter 408, and except as provided in s. 400.967(3), a  
17 violation of any provision of this part, part II of chapter  
18 408, or applicable rules ~~adopted by the agency under this part~~  
19 is punishable by payment of an administrative or civil penalty  
20 not to exceed \$5,000.

21 Section 124. Section 400.980, Florida Statutes, is  
22 amended to read:

23 400.980 Health care services pools.--

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

25 (a) "Agency" means the Agency for Health Care  
26 Administration.

27 (b) "Health care services pool" means any person,  
28 firm, corporation, partnership, or association engaged for  
29 hire in the business of providing temporary employment in  
30 health care facilities, residential facilities, and agencies  
31 for licensed, certified, or trained health care personnel

1 including, without limitation, nursing assistants, nurses'  
2 aides, and orderlies. However, the term does not include  
3 nursing registries, a facility licensed under this chapter or  
4 chapter 429, a health care services pool established within a  
5 health care facility to provide services only within the  
6 confines of such facility, or any individual contractor  
7 directly providing temporary services to a health care  
8 facility without use or benefit of a contracting agent.

9 (2) The requirements of part II of chapter 408 apply  
10 to the provision of services that require licensure or  
11 registration pursuant to this part and part II of chapter 408  
12 and to entities registered by or applying for such  
13 registration from the agency pursuant to this part.  
14 Registration or a license issued by the agency is required for  
15 the operation of ~~Each person who operates~~ a health care  
16 services pool in this state. In accordance with s. 408.805, an  
17 applicant or licensee shall pay a fee for each license  
18 application submitted using this part, part II of chapter 408,  
19 and applicable rules. ~~must register each separate business~~  
20 ~~location with the agency.~~ The agency shall adopt rules and  
21 provide forms required for such registration and shall impose  
22 a registration fee in an amount sufficient to cover the cost  
23 of administering this part and part II of chapter 408 ~~section.~~  
24 In addition to the requirements in part II of chapter 408, the  
25 registrant must provide the agency with any change of  
26 information contained on the original registration application  
27 within 14 days prior to the change. ~~The agency may inspect the~~  
28 ~~offices of any health care services pool at any reasonable~~  
29 ~~time for the purpose of determining compliance with this~~  
30 ~~section or the rules adopted under this section.~~

31 (3) ~~Each application for registration must include:~~

1           ~~(a) The name and address of any person who has an~~  
2 ~~ownership interest in the business, and, in the case of a~~  
3 ~~corporate owner, copies of the articles of incorporation,~~  
4 ~~bylaws, and names and addresses of all officers and directors~~  
5 ~~of the corporation.~~

6           ~~(b) Any other information required by the agency.~~

7           ~~(3)(4) Each applicant for registration must comply~~  
8 ~~with the following requirements:~~

9           ~~(a) Upon receipt of a completed, signed, and dated~~  
10 ~~application, the agency shall require background screening, in~~  
11 ~~accordance with the level 1 standards for screening set forth~~  
12 ~~in chapter 435, of every individual who will have contact with~~  
13 ~~patients. The agency shall require background screening of the~~  
14 ~~managing employee or other similarly titled individual who is~~  
15 ~~responsible for the operation of the entity, and of the~~  
16 ~~financial officer or other similarly titled individual who is~~  
17 ~~responsible for the financial operation of the entity,~~  
18 ~~including billings for services in accordance with the level 2~~  
19 ~~standards for background screening as set forth in chapter~~  
20 ~~435.~~

21           ~~(b) The agency may require background screening of any~~  
22 ~~other individual who is affiliated with the applicant if the~~  
23 ~~agency has a reasonable basis for believing that he or she has~~  
24 ~~been convicted of a crime or has committed any other offense~~  
25 ~~prohibited under the level 2 standards for screening set forth~~  
26 ~~in chapter 435.~~

27           ~~(c) Proof of compliance with the level 2 background~~  
28 ~~screening requirements of chapter 435 which has been submitted~~  
29 ~~within the previous 5 years in compliance with any other~~  
30 ~~health care or assisted living licensure requirements of this~~  
31 ~~state is acceptable in fulfillment of paragraph (a).~~

1           ~~(d) A provisional registration 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 registration may~~  
7 ~~be granted to the applicant upon the agency's receipt of a~~  
8 ~~report 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 a~~  
12 ~~disqualification exemption by the agency as set forth in~~  
13 ~~chapter 435. Any other person who is required to undergo level~~  
14 ~~2 background screening may serve in his or her capacity~~  
15 ~~pending the agency's receipt of the report from the Federal~~  
16 ~~Bureau of Investigation. However, the person may not continue~~  
17 ~~to serve if the report indicates any violation of background~~  
18 ~~screening standards and if a disqualification exemption has~~  
19 ~~not been requested of and granted by the agency as set forth~~  
20 ~~in chapter 435.~~

21           ~~(e) Each applicant must submit to the agency, with its~~  
22 ~~application, a description and explanation of any exclusions,~~  
23 ~~permanent suspensions, or terminations of the applicant from~~  
24 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
25 ~~the requirements for disclosure of ownership and controlling~~  
26 ~~interests under the Medicaid or Medicare programs may be~~  
27 ~~accepted in lieu of this submission.~~

28           ~~(f) Each applicant must submit to the agency a~~  
29 ~~description and explanation of any conviction of an offense~~  
30 ~~prohibited under the level 2 standards of chapter 435 which~~  
31 ~~was committed by a member of the board of directors of the~~

1 ~~applicant, its officers, or any individual owning 5 percent or~~  
2 ~~more of the applicant. This requirement does not apply to a~~  
3 ~~director of a not for profit corporation or organization who~~  
4 ~~serves solely in a voluntary capacity for the corporation or~~  
5 ~~organization, does not regularly take part in the day to day~~  
6 ~~operational decisions of the corporation or organization,~~  
7 ~~receives no remuneration for his or her services on the~~  
8 ~~corporation's or organization's board of directors, and has no~~  
9 ~~financial interest and no family members having a financial~~  
10 ~~interest in the corporation or organization, if the director~~  
11 ~~and the not for profit corporation or organization include in~~  
12 ~~the application a statement affirming that the director's~~  
13 ~~relationship to the corporation satisfies the requirements of~~  
14 ~~this paragraph.~~

15 ~~(g) A registration may not be granted to an applicant~~  
16 ~~if the applicant or managing employee has been found guilty~~  
17 ~~of, regardless of adjudication, or has entered a plea of nolo~~  
18 ~~contendere or guilty to, any offense prohibited under the~~  
19 ~~level 2 standards for screening set forth in chapter 435,~~  
20 ~~unless an exemption from disqualification has been granted by~~  
21 ~~the agency as set forth in chapter 435.~~

22 ~~(h) Failure to provide all required documentation~~  
23 ~~within 30 days after a written request from the agency will~~  
24 ~~result in denial of the application for registration.~~

25 ~~(i) The agency must take final action on an~~  
26 ~~application for registration within 60 days after receipt of~~  
27 ~~all required documentation.~~

28 ~~(j) The agency may deny, revoke, or suspend the~~  
29 ~~registration of any applicant or registrant who:~~

30 ~~1. Has falsely represented a material fact in the~~  
31 ~~application required by paragraph (c) or paragraph (f), or has~~

1 ~~omitted any material fact from the application required by~~  
2 ~~paragraph (e) or paragraph (f); or~~  
3       2. ~~Has had prior action taken against the applicant~~  
4 ~~under the Medicaid or Medicare program as set forth in~~  
5 ~~paragraph (e).~~  
6       3. ~~Fails to comply with this section or applicable~~  
7 ~~rules.~~  
8       4. ~~Commits an intentional, reckless, or negligent act~~  
9 ~~that materially affects the health or safety of a person~~  
10 ~~receiving services.~~  
11       (5) ~~It is a misdemeanor of the first degree,~~  
12 ~~punishable under s. 775.082 or s. 775.083, for any person~~  
13 ~~willfully, knowingly, or intentionally to:~~  
14       (a) ~~Fail, by false statement, misrepresentation,~~  
15 ~~impersonation, or other fraudulent means, to disclose in any~~  
16 ~~application for voluntary or paid employment a material fact~~  
17 ~~used in making a determination as to an applicant's~~  
18 ~~qualifications to be a contractor under this section;~~  
19       (b) ~~Operate or attempt to operate an entity registered~~  
20 ~~under this part with persons who do not meet the minimum~~  
21 ~~standards of chapter 435 as contained in this section; or~~  
22       (c) ~~Use information from the criminal records obtained~~  
23 ~~under this section for any purpose other than screening an~~  
24 ~~applicant for temporary employment as specified in this~~  
25 ~~section, or release such information to any other person for~~  
26 ~~any purpose other than screening for employment under this~~  
27 ~~section.~~  
28       (6) ~~It is a felony of the third degree, punishable~~  
29 ~~under s. 775.082, s. 775.083, or s. 775.084, for any person~~  
30 ~~willfully, knowingly, or intentionally to use information from~~  
31 ~~the juvenile records of a person obtained under this section~~

1 ~~for any purpose other than screening for employment under this~~  
2 ~~section.~~

3 ~~(7) It is unlawful for a person to offer or advertise~~  
4 ~~services, as defined by rule, to the public without obtaining~~  
5 ~~a certificate of registration from the Agency for Health Care~~  
6 ~~Administration. It is unlawful for any holder of a certificate~~  
7 ~~of registration to advertise or hold out to the public that he~~  
8 ~~or she holds a certificate of registration for other than that~~  
9 ~~for which he or she actually holds a certificate of~~  
10 ~~registration. Any person who violates this subsection is~~  
11 ~~subject to injunctive proceedings under s. 400.515.~~

12 ~~(8) Each registration shall be for a period of 2~~  
13 ~~years. The application for renewal must be received by the~~  
14 ~~agency at least 30 days before the expiration date of the~~  
15 ~~registration. An application for a new registration is~~  
16 ~~required within 30 days prior to the sale of a controlling~~  
17 ~~interest in a health care services pool.~~

18 ~~(4)(9)~~ A health care services pool may not require an  
19 employee to recruit new employees from persons employed at a  
20 health care facility to which the health care services pool  
21 employee is assigned. Nor shall a health care facility to  
22 which employees of a health care services pool are assigned  
23 recruit new employees from the health care services pool.

24 ~~(5)(10)~~ A health care services pool shall document  
25 that each temporary employee provided to a health care  
26 facility has met the licensing, certification, training, or  
27 continuing education requirements, as established by the  
28 appropriate regulatory agency, for the position in which he or  
29 she will be working.

30 ~~(6)(11)~~ When referring persons for temporary  
31 employment in health care facilities, a health care services



1 pool shall comply with all pertinent state and federal laws,  
2 rules, and regulations relating to health, background  
3 screening, and other qualifications required of persons  
4 working in a facility of that type.

5 ~~(7)(12)~~(a) As a condition of registration and prior to  
6 the issuance or renewal of a certificate of registration, a  
7 health care services pool applicant must prove financial  
8 responsibility to pay claims, and costs ancillary thereto,  
9 arising out of the rendering of services or failure to render  
10 services by the pool or by its employees in the course of  
11 their employment with the pool. The agency shall promulgate  
12 rules establishing minimum financial responsibility coverage  
13 amounts which shall be adequate to pay potential claims and  
14 costs ancillary thereto.

15 (b) Each health care services pool shall give written  
16 notification to the agency within 20 days after any change in  
17 the method of assuring financial responsibility or upon  
18 cancellation or nonrenewal of professional liability  
19 insurance. Unless the pool demonstrates that it is otherwise  
20 in compliance with the requirements of this subsection  
21 ~~section~~, the agency shall suspend the registration of the pool  
22 pursuant to s. 408.814 ~~ss. 120.569 and 120.57~~. Any suspension  
23 under this section shall remain in effect until the pool  
24 demonstrates compliance with the requirements of this  
25 subsection ~~section~~.

26 (c) Proof of financial responsibility must be  
27 demonstrated to the satisfaction of the agency, through one of  
28 the following methods:

29 1. Establishing and maintaining an escrow account  
30 consisting of cash or assets eligible for deposit in  
31 accordance with s. 625.52;

1           2. Obtaining and maintaining an unexpired irrevocable  
2 letter of credit established pursuant to chapter 675. Such  
3 letters of credit shall be nontransferable and nonassignable  
4 and shall be issued by any bank or savings association  
5 organized and existing under the laws of this state or any  
6 bank or savings association organized under the laws of the  
7 United States that has its principal place of business in this  
8 state or has a branch office which is authorized under the  
9 laws of this state or of the United States to receive deposits  
10 in this state; or

11           3. Obtaining and maintaining professional liability  
12 coverage from one of the following:

13           a. An authorized insurer as defined under s. 624.09;

14           b. An eligible surplus lines insurer as defined under  
15 s. 626.918(2);

16           c. A risk retention group or purchasing group as  
17 defined under s. 627.942; or

18           d. A plan of self-insurance as provided in s. 627.357.

19           (d) If financial responsibility requirements are met  
20 by maintaining an escrow account or letter of credit, as  
21 provided in this subsection ~~section~~, upon the entry of an  
22 adverse final judgment arising from a medical malpractice  
23 arbitration award from a claim of medical malpractice either  
24 in contract or tort, or from noncompliance with the terms of a  
25 settlement agreement arising from a claim of medical  
26 malpractice either in contract or tort, the financial  
27 institution holding the escrow account or the letter of credit  
28 shall pay directly to the claimant the entire amount of the  
29 judgment together with all accrued interest or the amount  
30 maintained in the escrow account or letter of credit as  
31 required by this subsection ~~section~~, whichever is less, within

1 60 days after the date such judgment became final and subject  
2 to execution, unless otherwise mutually agreed to in writing  
3 by the parties. If timely payment is not made, the agency  
4 shall suspend the registration of the pool pursuant to  
5 procedures set forth by the agency through rule. Nothing in  
6 this paragraph shall abrogate a judgment debtor's obligation  
7 to satisfy the entire amount of any judgment.

8 (e) Each health care services pool carrying  
9 claims-made coverage must demonstrate proof of extended  
10 reporting coverage through either tail or nose coverage, in  
11 the event the policy is canceled, replaced, or not renewed.  
12 Such extended coverage shall provide coverage for incidents  
13 that occurred during the claims-made policy period but were  
14 reported after the policy period.

15 (f) The financial responsibility requirements of this  
16 subsection ~~section~~ shall apply to claims for incidents that  
17 occur on or after January 1, 1991, or the initial date of  
18 registration in this state, whichever is later.

19 (g) Meeting the financial responsibility requirements  
20 of this subsection ~~section~~ must be established at the time of  
21 issuance or renewal of a certificate of registration.

22 ~~(8)(13)~~ In addition to the requirements of part II of  
23 chapter 408, the agency shall adopt rules to implement this  
24 part ~~section~~, including rules providing for the establishment  
25 of:

26 (a) Minimum standards for the operation and  
27 administration of health care personnel pools, including  
28 procedures for recordkeeping and personnel.

29 (b) Fines for the violation of this part, part II of  
30 chapter 408, or applicable rules ~~section~~ in an amount not to  
31 exceed \$2,500 ~~and suspension or revocation of registration.~~

1 ~~(c) Disciplinary sanctions for failure to comply with~~  
2 ~~this section or the rules adopted under this section.~~

3 Section 125. Section 400.991, Florida Statutes, is  
4 amended to read:

5 400.991 License requirements; background screenings;  
6 prohibitions.--

7 (1)(a) The requirements of part II of chapter 408  
8 apply to the provision of services that require licensure  
9 pursuant to this part and part II of chapter 408 and to  
10 entities licensed by or applying for such licensure from the  
11 agency pursuant to this part. A license issued by the agency  
12 is required in order to operate a clinic in this state. Each  
13 ~~clinic, as defined in s. 400.9905, must be licensed and shall~~  
14 ~~at all times maintain a valid license with the agency.~~ Each  
15 clinic location shall be licensed separately regardless of  
16 whether the clinic is operated under the same business name or  
17 management as another clinic.

18 (b) Each mobile clinic must obtain a separate health  
19 care clinic license and must provide to the agency, at least  
20 quarterly, its projected street location to enable the agency  
21 to locate and inspect such clinic. A portable equipment  
22 provider must obtain a health care clinic license for a single  
23 administrative office and is not required to submit quarterly  
24 projected street locations.

25 (2) The initial clinic license application shall be  
26 filed with the agency by all clinics, as defined in s.  
27 400.9905, on or before July 1, 2004. ~~A clinic license must be~~  
28 ~~renewed biennially.~~

29 ~~(3) Applicants that submit an application on or before~~  
30 ~~July 1, 2004, which meets all requirements for initial~~  
31 ~~licensure as specified in this section shall receive a~~

1 ~~temporary license until the completion of an initial~~  
2 ~~inspection verifying that the applicant meets all requirements~~  
3 ~~in rules authorized in s. 400.9925. However, a clinic engaged~~  
4 ~~in magnetic resonance imaging services may not receive a~~  
5 ~~temporary license unless it presents evidence satisfactory to~~  
6 ~~the agency that such clinic is making a good faith effort and~~  
7 ~~substantial progress in seeking accreditation required under~~  
8 ~~s. 400.9935.~~

9 ~~(4) Application for an initial clinic license or for~~  
10 ~~renewal of an existing license shall be notarized on forms~~  
11 ~~furnished by the agency and must be accompanied by the~~  
12 ~~appropriate license fee as provided in s. 400.9925. The agency~~  
13 ~~shall take final action on an initial license application~~  
14 ~~within 60 days after receipt of all required documentation.~~

15 ~~(3)(5)~~ The application shall contain information that  
16 includes, but need not be limited to, information pertaining  
17 to the name, residence and business address, phone number,  
18 social security number, and license number of the medical or  
19 clinic director, of the licensed medical providers employed or  
20 under contract with the clinic, ~~and of each person who,~~  
21 ~~directly or indirectly, owns or controls 5 percent or more of~~  
22 ~~an interest in the clinic, or general partners in limited~~  
23 ~~liability partnerships.~~

24 ~~(4)(6)~~ In addition to the requirements of part II of  
25 chapter 408, the applicant must file with the application  
26 satisfactory proof that the clinic is in compliance with this  
27 part and applicable rules, including:

28 (a) A listing of services to be provided either  
29 directly by the applicant or through contractual arrangements  
30 with existing providers;

31

1 (b) The number and discipline of each professional  
2 staff member to be employed; and

3 (c) Proof of financial ability to operate as required  
4 ~~under s. 408.810(8). An applicant must demonstrate financial~~  
5 ~~ability to operate a clinic by submitting a balance sheet and~~  
6 ~~an income and expense statement for the first year of~~  
7 ~~operation which provide evidence of the applicant's having~~  
8 ~~sufficient assets, credit, and projected revenues to cover~~  
9 ~~liabilities and expenses. The applicant shall have~~  
10 ~~demonstrated financial ability to operate if the applicant's~~  
11 ~~assets, credit, and projected revenues meet or exceed~~  
12 ~~projected liabilities and expenses. All documents required~~  
13 ~~under this subsection must be prepared in accordance with~~  
14 ~~generally accepted accounting principles, may be in a~~  
15 ~~compilation form, and the financial statement must be signed~~  
16 ~~by a certified public accountant. As an alternative to~~  
17 submitting proof of financial ability to operate as required  
18 under s. 408.810(8) a balance sheet and an income and expense  
19 statement for the first year of operation, the applicant may  
20 file a surety bond of at least \$500,000 which guarantees that  
21 the clinic will act in full conformity with all legal  
22 requirements for operating a clinic, payable to the agency.  
23 The agency may adopt rules to specify related requirements for  
24 such surety bond.

25 ~~(5)(7)~~ Each applicant for licensure shall comply with  
26 the following requirements:

27 (a) As used in this subsection, the term "applicant"  
28 means individuals owning or controlling, directly or  
29 indirectly, 5 percent or more of an interest in a clinic; the  
30 medical or clinic director, or a similarly titled person who  
31 is responsible for the day-to-day operation of the licensed

1 clinic; the financial officer or similarly titled individual  
2 who is responsible for the financial operation of the clinic;  
3 and licensed health care practitioners at the clinic.

4 (b) Upon receipt of a completed, signed, and dated  
5 application, the agency shall require background screening of  
6 the applicant, in accordance with the level 2 standards for  
7 screening set forth in chapter 435. Proof of compliance with  
8 the level 2 background screening requirements of chapter 435  
9 which has been submitted within the previous 5 years in  
10 compliance with any other health care licensure requirements  
11 of this state is acceptable in fulfillment of this paragraph.  
12 Applicants who own less than 10 percent of a health care  
13 clinic are not required to submit fingerprints under this  
14 section.

15 (c) Each applicant must submit to the agency, with the  
16 application, a description and explanation of any exclusions,  
17 permanent suspensions, or terminations of an applicant from  
18 the Medicare or Medicaid programs. Proof of compliance with  
19 the requirements for disclosure of ownership and control  
20 interest under the Medicaid or Medicare programs may be  
21 accepted in lieu of this submission. The description and  
22 explanation may indicate whether such exclusions, suspensions,  
23 or terminations were voluntary or not voluntary on the part of  
24 the applicant.

25 (d) A license may not be granted to a clinic if the  
26 applicant has been found guilty of, regardless of  
27 adjudication, or has entered a plea of nolo contendere or  
28 guilty to, any offense prohibited under the level 2 standards  
29 for screening set forth in chapter 435, or a violation of  
30 insurance fraud under s. 817.234, within the past 5 years. If  
31 the applicant has been convicted of an offense prohibited

1 under the level 2 standards or insurance fraud in any  
2 jurisdiction, the applicant must show that his or her civil  
3 rights have been restored prior to submitting an application.

4 ~~(c) The agency may deny or revoke licensure if the~~  
5 ~~applicant has falsely represented any material fact or omitted~~  
6 ~~any material fact from the application required by this part.~~

7 ~~(8) Requested information omitted from an application~~  
8 ~~for licensure, license renewal, or transfer of ownership must~~  
9 ~~be filed with the agency within 21 days after receipt of the~~  
10 ~~agency's request for omitted information, or the application~~  
11 ~~shall be deemed incomplete and shall be withdrawn from further~~  
12 ~~consideration.~~

13 ~~(9) The failure to file a timely renewal application~~  
14 ~~shall result in a late fee charged to the facility in an~~  
15 ~~amount equal to 50 percent of the current license fee.~~

16 Section 126. Section 400.9915, Florida Statutes, is  
17 amended to read:

18 400.9915 ~~Clinic inspections;~~ Emergency suspension;  
19 costs.--

20 ~~(1) Any authorized officer or employee of the agency~~  
21 ~~shall make inspections of the clinic as part of the initial~~  
22 ~~license application or renewal application. The application~~  
23 ~~for a clinic license issued under this part or for a renewal~~  
24 ~~license constitutes permission for an appropriate agency~~  
25 ~~inspection to verify the information submitted on or in~~  
26 ~~connection with the application or renewal.~~

27 ~~(2) An authorized officer or employee of the agency~~  
28 ~~may make unannounced inspections of clinics licensed pursuant~~  
29 ~~to this part as are necessary to determine that the clinic is~~  
30 ~~in compliance with this part and with applicable rules. A~~  
31 ~~licensed clinic shall allow full and complete access to the~~



1 ~~premises and to billing records or information to any~~  
2 ~~representative of the agency who makes an inspection to~~  
3 ~~determine compliance with this part and with applicable rules.~~

4 ~~(1)(3) Failure by a clinic licensed under this part to~~  
5 ~~allow full and complete access to the premises and to billing~~  
6 ~~records or information to any representative of the agency who~~  
7 ~~makes a request to inspect the clinic to determine compliance~~  
8 ~~with this part or failure by a clinic to employ a qualified~~  
9 ~~medical director or clinic director constitutes a ground for~~  
10 ~~emergency suspension of the license by the agency pursuant to~~  
11 ~~s. 408.814 s. 120.60(6).~~

12 ~~(2)(4) In addition to any administrative fines imposed~~  
13 ~~pursuant to this part or part II of chapter 408, the agency~~  
14 ~~may assess a fee equal to the cost of conducting a complaint~~  
15 ~~investigation.~~

16 Section 127. Section 400.992, Florida Statutes, is  
17 repealed.

18 Section 128. Section 400.9925, Florida Statutes, is  
19 amended to read:

20 400.9925 Rulemaking authority; license fees.--

21 (1) The agency shall adopt rules necessary to  
22 administer the clinic administration, regulation, and  
23 licensure program, including rules pursuant to this part and  
24 part II of chapter 408, establishing the specific licensure  
25 requirements, procedures, forms, and fees. It shall adopt  
26 rules establishing a procedure for the biennial renewal of  
27 licenses. The agency may issue initial licenses for less than  
28 the full 2-year period by charging a prorated licensure fee  
29 and specifying a different renewal date than would otherwise  
30 be required for biennial licensure. The rules shall specify  
31 the expiration dates of licenses, the process of tracking

1 compliance with financial responsibility requirements, and any  
2 other conditions of renewal required by law or rule.

3 (2) The agency shall adopt rules specifying  
4 limitations on the number of licensed clinics and licensees  
5 for which a medical director or a clinic director may assume  
6 responsibility for purposes of this part. In determining the  
7 quality of supervision a medical director or a clinic director  
8 can provide, the agency shall consider the number of clinic  
9 employees, the clinic location, and the health care services  
10 provided by the clinic.

11 (3) In accordance with s. 408.805, an applicant or a  
12 licensee shall pay a fee for each license application  
13 submitted under this part, part II of chapter 408, and  
14 applicable rules. The amount of the fee shall be established  
15 by rule and may not exceed \$2,000. ~~License application and~~  
16 ~~renewal fees must be reasonably calculated by the agency to~~  
17 ~~cover its costs in carrying out its responsibilities under~~  
18 ~~this part, including the cost of licensure, inspection, and~~  
19 ~~regulation of clinics, and must be of such amount that the~~  
20 ~~total fees collected do not exceed the cost of administering~~  
21 ~~and enforcing compliance with this part. Clinic licensure fees~~  
22 ~~are nonrefundable and may not exceed \$2,000. The agency shall~~  
23 ~~adjust the license fee annually by not more than the change in~~  
24 ~~the Consumer Price Index based on the 12 months immediately~~  
25 ~~preceding the increase. All fees collected under this part~~  
26 ~~must be deposited in the Health Care Trust Fund for the~~  
27 ~~administration of this part.~~

28 Section 129. Section 400.993, Florida Statutes, is  
29 amended to read:

30 400.993 Unlicensed clinics; reporting penalties;  
31 finer; verification of licensure status.--

1 ~~(1) It is unlawful to own, operate, or maintain a~~  
2 ~~clinic without obtaining a license under this part.~~

3 (1)(2) Any person who violates s. 408.812 regarding  
4 unlicensed activity ~~owns, operates, or maintains an unlicensed~~  
5 ~~clinic~~ commits a felony of the third degree, punishable as  
6 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
7 continued operation is a separate offense.

8 (2)(3) Any person found guilty of violating s. 408.812  
9 ~~subsection (2)~~ a second or subsequent time commits a felony of  
10 the second degree, punishable as provided under s. 775.082, s.  
11 775.083, or s. 775.084. Each day of continued operation is a  
12 separate offense.

13 ~~(4) Any person who owns, operates, or maintains an~~  
14 ~~unlicensed clinic due to a change in this part or a~~  
15 ~~modification in agency rules within 6 months after the~~  
16 ~~effective date of such change or modification and who, within~~  
17 ~~10 working days after receiving notification from the agency,~~  
18 ~~fails to cease operation or apply for a license under this~~  
19 ~~part commits a felony of the third degree, punishable as~~  
20 ~~provided in s. 775.082, s. 775.083, or s. 775.084. Each day of~~  
21 ~~continued operation is a separate offense.~~

22 ~~(5) Any clinic that fails to cease operation after~~  
23 ~~agency notification may be fined for each day of noncompliance~~  
24 ~~pursuant to this part.~~

25 ~~(6) When a person has an interest in more than one~~  
26 ~~clinic, and fails to obtain a license for any one of these~~  
27 ~~clinics, the agency may revoke the license, impose a~~  
28 ~~moratorium, or impose a fine pursuant to this part on any or~~  
29 ~~all of the licensed clinics until such time as the unlicensed~~  
30 ~~clinic is licensed or ceases operation.~~

31

1 ~~(7) Any person aware of the operation of an unlicensed~~  
2 ~~clinic must report that facility to the agency.~~

3 (3)(8) In addition to the requirements of part II of  
4 chapter 408, any health care provider who is aware of the  
5 operation of an unlicensed clinic shall report that facility  
6 to the agency. Failure to report a clinic that the provider  
7 knows or has reasonable cause to suspect is unlicensed shall  
8 be reported to the provider's licensing board.

9 ~~(9) The agency may not issue a license to a clinic~~  
10 ~~that has any unpaid fines assessed under this part.~~

11 Section 130. Section 400.9935, Florida Statutes, is  
12 amended to read:

13 400.9935 Clinic responsibilities.--

14 (1) Each clinic shall appoint a medical director or  
15 clinic director who shall agree in writing to accept legal  
16 responsibility for the following activities on behalf of the  
17 clinic. The medical director or the clinic director shall:

18 (a) Have signs identifying the medical director or  
19 clinic director posted in a conspicuous location within the  
20 clinic readily visible to all patients.

21 (b) Ensure that all practitioners providing health  
22 care services or supplies to patients maintain a current  
23 active and unencumbered Florida license.

24 (c) Review any patient referral contracts or  
25 agreements executed by the clinic.

26 (d) Ensure that all health care practitioners at the  
27 clinic have active appropriate certification or licensure for  
28 the level of care being provided.

29 (e) Serve as the clinic records owner as defined in s.  
30 456.057.

31

1 (f) Ensure compliance with the recordkeeping, office  
2 surgery, and adverse incident reporting requirements of  
3 chapter 456, the respective practice acts, and rules adopted  
4 under this part and part II of chapter 408.

5 (g) Conduct systematic reviews of clinic billings to  
6 ensure that the billings are not fraudulent or unlawful. Upon  
7 discovery of an unlawful charge, the medical director or  
8 clinic director shall take immediate corrective action. If the  
9 clinic performs only the technical component of magnetic  
10 resonance imaging, static radiographs, computed tomography, or  
11 positron emission tomography, and provides the professional  
12 interpretation of such services, in a fixed facility that is  
13 accredited by the Joint Commission on Accreditation of  
14 Healthcare Organizations or the Accreditation Association for  
15 Ambulatory Health Care, and the American College of Radiology;  
16 and if, in the preceding quarter, the percentage of scans  
17 performed by that clinic which was billed to all personal  
18 injury protection insurance carriers was less than 15 percent,  
19 the chief financial officer of the clinic may, in a written  
20 acknowledgment provided to the agency, assume the  
21 responsibility for the conduct of the systematic reviews of  
22 clinic billings to ensure that the billings are not fraudulent  
23 or unlawful.

24 (h) Not refer a patient to the clinic if the clinic  
25 performs magnetic resonance imaging, static radiographs,  
26 computed tomography, or positron emission tomography. The term  
27 "refer a patient" means the referral of one or more patients  
28 of the medical or clinical director or a member of the medical  
29 or clinical director's group practice to the clinic for  
30 magnetic resonance imaging, static radiographs, computed  
31 tomography, or positron emission tomography. A medical

1 director who is found to violate this paragraph commits a  
2 felony of the third degree, punishable as provided in s.  
3 775.082, s. 775.083, or s. 775.084.

4 ~~(2) Any business that becomes a clinic after~~  
5 ~~commencing operations must, within 5 days after becoming a~~  
6 ~~clinic, file a license application under this part and shall~~  
7 ~~be subject to all provisions of this part applicable to a~~  
8 ~~clinic.~~

9 ~~(2)(3)~~ Any contract to serve as a medical director or  
10 a clinic director entered into or renewed by a physician or a  
11 licensed health care practitioner in violation of this part is  
12 void as contrary to public policy. This subsection shall apply  
13 to contracts entered into or renewed on or after March 1,  
14 2004.

15 ~~(3)(4)~~ All charges or reimbursement claims made by or  
16 on behalf of a clinic that is required to be licensed under  
17 this part, but that is not so licensed, or that is otherwise  
18 operating in violation of this part, are unlawful charges, and  
19 therefore are noncompensable and unenforceable.

20 ~~(4)(5)~~ In addition to the requirements of s. 408.812,  
21 any person establishing, operating, or managing an unlicensed  
22 clinic otherwise required to be licensed under this part or  
23 part II of chapter 408, or any person who knowingly files a  
24 false or misleading license application or license renewal  
25 application, or false or misleading information related to  
26 such application or department rule, commits a felony of the  
27 third degree, punishable as provided in s. 775.082, s.  
28 775.083, or s. 775.084.

29 ~~(5)(6)~~ Any licensed health care provider who violates  
30 this part is subject to discipline in accordance with this  
31 chapter and his or her respective practice act.

1 ~~(7) The agency may fine, or suspend or revoke the~~  
2 ~~license of, any clinic licensed under this part for operating~~  
3 ~~in violation of the requirements of this part or the rules~~  
4 ~~adopted by the agency.~~

5 ~~(8) The agency shall investigate allegations of~~  
6 ~~noncompliance with this part and the rules adopted under this~~  
7 ~~part.~~

8 (6)(9) Any person or entity providing health care  
9 services which is not a clinic, as defined under s. 400.9905,  
10 may voluntarily apply for a certificate of exemption from  
11 licensure under its exempt status with the agency on a form  
12 that sets forth its name or names and addresses, a statement  
13 of the reasons why it cannot be defined as a clinic, and other  
14 information deemed necessary by the agency. An exemption is  
15 not transferable. The agency may charge an applicant for a  
16 certificate of exemption in an amount equal to \$100 or the  
17 actual cost of processing the certificate, whichever is less.

18 ~~(10) The clinic shall display its license in a~~  
19 ~~conspicuous location within the clinic readily visible to all~~  
20 ~~patients.~~

21 (7)(11)(a) Each clinic engaged in magnetic resonance  
22 imaging services must be accredited by the Joint Commission on  
23 Accreditation of Healthcare Organizations, the American  
24 College of Radiology, or the Accreditation Association for  
25 Ambulatory Health Care, within 1 year after licensure.  
26 However, a clinic may request a single, 6-month extension if  
27 it provides evidence to the agency establishing that, for good  
28 cause shown, such clinic can not be accredited within 1 year  
29 after licensure, and that such accreditation will be completed  
30 within the 6-month extension. After obtaining accreditation as  
31

1 required by this subsection, each such clinic must maintain  
2 accreditation as a condition of renewal of its license.

3 (b) The agency may deny the application or revoke the  
4 license of any entity formed for the purpose of avoiding  
5 compliance with the accreditation provisions of this  
6 subsection and whose principals were previously principals of  
7 an entity that was unable to meet the accreditation  
8 requirements within the specified timeframes. The agency may  
9 adopt rules as to the accreditation of magnetic resonance  
10 imaging clinics.

11 ~~(8)(12)~~ The agency shall give full faith and credit  
12 pertaining to any past variance and waiver granted to a  
13 magnetic resonance imaging clinic from rule 64-2002, Florida  
14 Administrative Code, by the Department of Health, until  
15 September 2004. After that date, such clinic must request a  
16 variance and waiver from the agency under s. 120.542.

17 ~~(9)(13)~~ In addition to the requirements of part II of  
18 chapter 408, the clinic shall display a sign in a conspicuous  
19 location within the clinic readily visible to all patients  
20 indicating that, pursuant to s. 626.9892, the Department of  
21 Financial Services may pay rewards of up to \$25,000 to persons  
22 providing information leading to the arrest and conviction of  
23 persons committing crimes investigated by the Division of  
24 Insurance Fraud arising from violations of s. 440.105, s.  
25 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized  
26 employee of the Division of Insurance Fraud may make  
27 unannounced inspections of a clinic licensed under this part  
28 as necessary to determine whether the clinic is in compliance  
29 with this subsection. A licensed clinic shall allow full and  
30 complete access to the premises to such authorized employee of  
31



1 the division who makes an inspection to determine compliance  
2 with this subsection.

3 Section 131. Section 400.994, Florida Statutes, is  
4 repealed.

5 Section 132. Section 400.9945, Florida Statutes, is  
6 repealed.

7 Section 133. Section 400.995, Florida Statutes, is  
8 amended to read:

9 400.995 Agency administrative penalties.--

10 (1) In addition to the requirements of part II of  
11 chapter 408, the agency may deny the application for a license  
12 renewal, revoke and ~~or~~ suspend the license, and impose  
13 administrative fines of up to \$5,000 per violation for  
14 violations of the requirements of this part or rules of the  
15 agency. In determining if a penalty is to be imposed and in  
16 fixing the amount of the fine, the agency shall consider the  
17 following factors:

18 (a) The gravity of the violation, including the  
19 probability that death or serious physical or emotional harm  
20 to a patient will result or has resulted, the severity of the  
21 action or potential harm, and the extent to which the  
22 provisions of the applicable laws or rules were violated.

23 (b) Actions taken by the owner, medical director, or  
24 clinic director to correct violations.

25 (c) Any previous violations.

26 (d) The financial benefit to the clinic of committing  
27 or continuing the violation.

28 (2) Each day of continuing violation after the date  
29 fixed for termination of the violation, as ordered by the  
30 agency, constitutes an additional, separate, and distinct  
31 violation.

1 (3) Any action taken to correct a violation shall be  
2 documented in writing by the owner, medical director, or  
3 clinic director of the clinic and verified through followup  
4 visits by agency personnel. The agency may impose a fine and,  
5 in the case of an owner-operated clinic, revoke or deny a  
6 clinic's license when a clinic medical director or clinic  
7 director knowingly misrepresents actions taken to correct a  
8 violation.

9 ~~(4) For fines that are upheld following administrative~~  
10 ~~or judicial review, the violator shall pay the fine, plus~~  
11 ~~interest at the rate as specified in s. 55.03, for each day~~  
12 ~~beyond the date set by the agency for payment of the fine.~~

13 ~~(5) Any unlicensed clinic that continues to operate~~  
14 ~~after agency notification is subject to a \$1,000 fine per day.~~

15 (4)(6) Any licensed clinic whose owner, medical  
16 director, or clinic director concurrently operates an  
17 unlicensed clinic shall be subject to an administrative fine  
18 of \$5,000 per day.

19 (5)(7) Any clinic whose owner fails to apply for a  
20 change-of-ownership license in accordance with s. 400.992 and  
21 operates the clinic under the new ownership is subject to a  
22 fine of \$5,000.

23 (6)(8) The agency, as an alternative to or in  
24 conjunction with an administrative action against a clinic for  
25 violations of this part and adopted rules, shall make a  
26 reasonable attempt to discuss each violation and recommended  
27 corrective action with the owner, medical director, or clinic  
28 director of the clinic, prior to written notification. The  
29 agency, instead of fixing a period within which the clinic  
30 shall enter into compliance with standards, may request a plan  
31 of corrective action from the clinic which demonstrates a good

1 faith effort to remedy each violation by a specific date,  
2 subject to the approval of the agency.

3 ~~(9) Administrative fines paid by any clinic under this~~  
4 ~~section shall be deposited into the Health Care Trust Fund.~~

5 ~~(10) If the agency issues a notice of intent to deny a~~  
6 ~~license application after a temporary license has been issued~~  
7 ~~pursuant to s. 400.991(3), the temporary license shall expire~~  
8 ~~on the date of the notice and may not be extended during any~~  
9 ~~proceeding for administrative or judicial review pursuant to~~  
10 ~~chapter 120.~~

11 Section 134. Section 408.802, Florida Statutes, is  
12 amended to read:

13 408.802 Applicability.--The provisions of this part  
14 apply to the provision of services that require licensure as  
15 defined in this part and to the following entities licensed,  
16 registered, or certified by the agency, as described in  
17 chapters 112, 383, 390, 394, 395, 400, 429, 440, 483, and 765:

18 (1) Laboratories authorized to perform testing under  
19 the Drug-Free Workplace Act, as provided under ss. 112.0455  
20 and 440.102.

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

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

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

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

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

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

31

- 1 (8) Hospitals, as provided under part I of chapter  
2 395.
- 3 (9) Ambulatory surgical centers, as provided under  
4 part I of chapter 395.
- 5 (10) Mobile surgical facilities, as provided under  
6 part I of chapter 395.
- 7 (11) Private review agents, as provided under part I  
8 of chapter 395.
- 9 (12) Health care risk managers, as provided under part  
10 I of chapter 395.
- 11 (13) Nursing homes, as provided under part II of  
12 chapter 400.
- 13 (14) Assisted living facilities, as provided under  
14 part I ~~III~~ of chapter 429 ~~400~~.
- 15 (15) Home health agencies, as provided under part III  
16 ~~IV~~ of chapter 400.
- 17 (16) Nurse registries, as provided under part III ~~IV~~  
18 of chapter 400.
- 19 (17) Companion services or homemaker services  
20 providers, as provided under part III ~~IV~~ of chapter 400.
- 21 (18) Adult day care centers, as provided under part  
22 III ~~V~~ of chapter 429 ~~400~~.
- 23 (19) Hospices, as provided under part IV ~~VI~~ of chapter  
24 400.
- 25 (20) Adult family-care homes, as provided under part  
26 II ~~VII~~ of chapter 429 ~~400~~.
- 27 (21) Homes for special services, as provided under  
28 part V ~~VIII~~ of chapter 400.
- 29 (22) Transitional living facilities, as provided under  
30 part V ~~VIII~~ of chapter 400.
- 31

1 (23) Prescribed pediatric extended care centers, as  
2 provided under part VI ~~IX~~ of chapter 400.

3 (24) Home medical equipment providers, as provided  
4 under part VII ~~X~~ of chapter 400.

5 (25) Intermediate care facilities for persons with  
6 developmental disabilities, as provided under part VIII ~~XI~~ of  
7 chapter 400.

8 (26) Health care services pools, as provided under  
9 part IX ~~XII~~ of chapter 400.

10 (27) Health care clinics, as provided under part X  
11 ~~XIII~~ of chapter 400.

12 (28) Clinical laboratories, as provided under part I  
13 of chapter 483.

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

16 (30) Organ and tissue procurement agencies, as  
17 provided under chapter 765.

18 Section 135. Section 408.832, Florida Statutes, is  
19 amended to read:

20 408.832 Conflicts.--In case of conflict between the  
21 provisions of part II of chapter 408 and the authorizing  
22 statutes governing the licensure of health care providers by  
23 the Agency for Health Care Administration found in s. 112.0455  
24 and chapters 383, 390, 394, 395, 400, 429, 440, 483, and 765,  
25 the provisions of part II of chapter 408 shall prevail.

26 Section 136. Paragraph (e) of subsection (4) of  
27 section 409.221, Florida Statutes, is amended to read:

28 409.221 Consumer-directed care program.--

29 (4) CONSUMER-DIRECTED CARE.--

30 (e) Services.--Consumers shall use the budget  
31 allowance only to pay for home and community-based services

1 that meet the consumer's long-term care needs and are a  
2 cost-efficient use of funds. Such services may include, but  
3 are not limited to, the following:

- 4 1. Personal care.
- 5 2. Homemaking and chores, including housework, meals,  
6 shopping, and transportation.
- 7 3. Home modifications and assistive devices which may  
8 increase the consumer's independence or make it possible to  
9 avoid institutional placement.
- 10 4. Assistance in taking self-administered medication.
- 11 5. Day care and respite care services, including those  
12 provided by nursing home facilities pursuant to s. 400.141(6)  
13 or by adult day care facilities licensed pursuant to s.  
14 429.907 ~~400.554~~.
- 15 6. Personal care and support services provided in an  
16 assisted living facility.

17 Section 137. Paragraph (g) of subsection (2) of  
18 section 409.815, Florida Statutes, is amended to read:

19 409.815 Health benefits coverage; limitations.--

20 (2) BENCHMARK BENEFITS.--In order for health benefits  
21 coverage to qualify for premium assistance payments for an  
22 eligible child under ss. 409.810-409.820, the health benefits  
23 coverage, except for coverage under Medicaid and Medikids,  
24 must include the following minimum benefits, as medically  
25 necessary.

26 (g) Behavioral health services.--

- 27 1. Mental health benefits include:
  - 28 a. Inpatient services, limited to not more than 30  
29 inpatient days per contract year for psychiatric admissions,  
30 or residential services in facilities licensed under s.  
31 ~~394.875(6)(8)~~ or s. 395.003 in lieu of inpatient psychiatric

1 admissions; however, a minimum of 10 of the 30 days shall be  
2 available only for inpatient psychiatric services when  
3 authorized by a physician; and

4 b. Outpatient services, including outpatient visits  
5 for psychological or psychiatric evaluation, diagnosis, and  
6 treatment by a licensed mental health professional, limited to  
7 a maximum of 40 outpatient visits each contract year.

8 2. Substance abuse services include:

9 a. Inpatient services, limited to not more than 7  
10 inpatient days per contract year for medical detoxification  
11 only and 30 days of residential services; and

12 b. Outpatient services, including evaluation,  
13 diagnosis, and treatment by a licensed practitioner, limited  
14 to a maximum of 40 outpatient visits per contract year.

15 Section 138. Subsection (8) of section 409.905,  
16 Florida Statutes, is amended to read:

17 409.905 Mandatory Medicaid services.--The agency may  
18 make payments for the following services, which are required  
19 of the state by Title XIX of the Social Security Act,  
20 furnished by Medicaid providers to recipients who are  
21 determined to be eligible on the dates on which the services  
22 were provided. Any service under this section shall be  
23 provided only when medically necessary and in accordance with  
24 state and federal law. Mandatory services rendered by  
25 providers in mobile units to Medicaid recipients may be  
26 restricted by the agency. Nothing in this section shall be  
27 construed to prevent or limit the agency from adjusting fees,  
28 reimbursement rates, lengths of stay, number of visits, number  
29 of services, or any other adjustments necessary to comply with  
30 the availability of moneys and any limitations or directions  
31 provided for in the General Appropriations Act or chapter 216.

1 (8) NURSING FACILITY SERVICES.--The agency shall pay  
2 for 24-hour-a-day nursing and rehabilitative services for a  
3 recipient in a nursing facility licensed under part II of  
4 chapter 400 or in a rural hospital, as defined in s. 395.602,  
5 or in a Medicare certified skilled nursing facility operated  
6 by a hospital, as defined by s. 395.002(10)(~~11~~), that is  
7 licensed under part I of chapter 395, and in accordance with  
8 provisions set forth in s. 409.908(2)(a), which services are  
9 ordered by and provided under the direction of a licensed  
10 physician. However, if a nursing facility has been destroyed  
11 or otherwise made uninhabitable by natural disaster or other  
12 emergency and another nursing facility is not available, the  
13 agency must pay for similar services temporarily in a hospital  
14 licensed under part I of chapter 395 provided federal funding  
15 is approved and available. The agency shall pay only for  
16 bed-hold days if the facility has an occupancy rate of 95  
17 percent or greater. The agency is authorized to seek any  
18 federal waivers to implement this policy.

19 Section 139. Subsection (7) of section 409.907,  
20 Florida Statutes, is amended to read:

21 409.907 Medicaid provider agreements.--The agency may  
22 make payments for medical assistance and related services  
23 rendered to Medicaid recipients only to an individual or  
24 entity who has a provider agreement in effect with the agency,  
25 who is performing services or supplying goods in accordance  
26 with federal, state, and local law, and who agrees that no  
27 person shall, on the grounds of handicap, race, color, or  
28 national origin, or for any other reason, be subjected to  
29 discrimination under any program or activity for which the  
30 provider receives payment from the agency.

31



1 (7) The agency may require, as a condition of  
2 participating in the Medicaid program and before entering into  
3 the provider agreement, that the provider submit information,  
4 in an initial and any required renewal applications,  
5 concerning the professional, business, and personal background  
6 of the provider and permit an onsite inspection of the  
7 provider's service location by agency staff or other personnel  
8 designated by the agency to perform this function. The agency  
9 shall perform a random onsite inspection, within 60 days after  
10 receipt of a fully complete new provider's application, of the  
11 provider's service location prior to making its first payment  
12 to the provider for Medicaid services to determine the  
13 applicant's ability to provide the services that the applicant  
14 is proposing to provide for Medicaid reimbursement. The agency  
15 is not required to perform an onsite inspection of a provider  
16 or program that is licensed by the agency, that provides  
17 services under waiver programs for home and community-based  
18 services, or that is licensed as a medical foster home by the  
19 Department of Children and Family Services. As a continuing  
20 condition of participation in the Medicaid program, a provider  
21 shall immediately notify the agency of any current or pending  
22 bankruptcy filing. Before entering into the provider  
23 agreement, or as a condition of continuing participation in  
24 the Medicaid program, the agency may also require that  
25 Medicaid providers reimbursed on a fee-for-services basis or  
26 fee schedule basis which is not cost-based, post a surety bond  
27 not to exceed \$50,000 or the total amount billed by the  
28 provider to the program during the current or most recent  
29 calendar year, whichever is greater. For new providers, the  
30 amount of the surety bond shall be determined by the agency  
31 based on the provider's estimate of its first year's billing.

1 | If the provider's billing during the first year exceeds the  
2 | bond amount, the agency may require the provider to acquire an  
3 | additional bond equal to the actual billing level of the  
4 | provider. A provider's bond shall not exceed \$50,000 if a  
5 | physician or group of physicians licensed under chapter 458,  
6 | chapter 459, or chapter 460 has a 50 percent or greater  
7 | ownership interest in the provider or if the provider is an  
8 | assisted living facility licensed under chapter 429. The bonds  
9 | permitted by this section are in addition to the bonds  
10 | referenced in s. 400.179(2)(~~5~~)(d). If the provider is a  
11 | corporation, partnership, association, or other entity, the  
12 | agency may require the provider to submit information  
13 | concerning the background of that entity and of any principal  
14 | of the entity, including any partner or shareholder having an  
15 | ownership interest in the entity equal to 5 percent or  
16 | greater, and any treating provider who participates in or  
17 | intends to participate in Medicaid through the entity. The  
18 | information must include:

19 |       (a) Proof of holding a valid license or operating  
20 | certificate, as applicable, if required by the state or local  
21 | jurisdiction in which the provider is located or if required  
22 | by the Federal Government.

23 |       (b) Information concerning any prior violation, fine,  
24 | suspension, termination, or other administrative action taken  
25 | under the Medicaid laws, rules, or regulations of this state  
26 | or of any other state or the Federal Government; any prior  
27 | violation of the laws, rules, or regulations relating to the  
28 | Medicare program; any prior violation of the rules or  
29 | regulations of any other public or private insurer; and any  
30 | prior violation of the laws, rules, or regulations of any  
31 | regulatory body of this or any other state.

1 (c) Full and accurate disclosure of any financial or  
2 ownership interest that the provider, or any principal,  
3 partner, or major shareholder thereof, may hold in any other  
4 Medicaid provider or health care related entity or any other  
5 entity that is licensed by the state to provide health or  
6 residential care and treatment to persons.

7 (d) If a group provider, identification of all members  
8 of the group and attestation that all members of the group are  
9 enrolled in or have applied to enroll in the Medicaid program.

10 Section 140. Subsections (6) through (27) of section  
11 429.02, Florida Statutes, are renumbered as subsections (5)  
12 through (26), respectively, and present subsections (5) and  
13 (12) of that section are amended to read:

14 429.02 Definitions.--When used in this part, the term:

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

18 ~~(11)(12)~~ "Extended congregate care" means acts beyond  
19 those authorized in subsection~~(16)(17)~~ that may be performed  
20 pursuant to part I of chapter 464 by persons licensed  
21 thereunder while carrying out their professional duties, and  
22 other supportive services which may be specified by rule. The  
23 purpose of such services is to enable residents to age in  
24 place in a residential environment despite mental or physical  
25 limitations that might otherwise disqualify them from  
26 residency in a facility licensed under this part.

27 Section 141. Section 429.07, Florida Statutes, is  
28 amended to read:

29 429.07 License required; fee, ~~display~~.--

30 (1) The requirements of part II of chapter 408 apply  
31 to the provision of services that require licensure pursuant

1 to this part and part II of chapter 408 and to entities  
2 licensed by or applying for such licensure from the agency  
3 pursuant to this part. A license issued by the agency is  
4 required in order to operate ~~for~~ an assisted living facility  
5 ~~operating~~ in this state.

6 (2) Separate licenses shall be required for facilities  
7 maintained in separate premises, even though operated under  
8 the same management. A separate license shall not be required  
9 for separate buildings on the same grounds.

10 (3) In addition to the requirements of s. 408.806,  
11 each ~~Any~~ license granted by the agency must state ~~the maximum~~  
12 ~~resident capacity of the facility,~~ the type of care for which  
13 the license is granted, ~~the date the license is issued, the~~  
14 ~~expiration date of the license, and any other information~~  
15 ~~deemed necessary by the agency.~~ Licenses shall be issued for  
16 one or more of the following categories of care: standard,  
17 extended congregate care, limited nursing services, or limited  
18 mental health.

19 (a) A standard license shall be issued to facilities  
20 providing one or more of the personal services identified in  
21 s. 429.02. Such facilities may also employ or contract with a  
22 person licensed under part I of chapter 464 to administer  
23 medications and perform other tasks as specified in s.  
24 429.255.

25 (b) An extended congregate care license shall be  
26 issued to facilities providing, directly or through contract,  
27 services beyond those authorized in paragraph (a), including  
28 acts performed pursuant to part I of chapter 464 by persons  
29 licensed thereunder, and supportive services defined by rule  
30 to persons who otherwise would be disqualified from continued  
31 residence in a facility licensed under this part.

1           1. In order for extended congregate care services to  
2 be provided in a facility licensed under this part, the agency  
3 must first determine that all requirements established in law  
4 and rule are met and must specifically designate, on the  
5 facility's license, that such services may be provided and  
6 whether the designation applies to all or part of a facility.  
7 Such designation may be made at the time of initial licensure  
8 or relicensure, or upon request in writing by a licensee under  
9 this part and part II of chapter 408. Notification of approval  
10 or denial of such request shall be made in accordance with  
11 part II of chapter 408 ~~within 90 days after receipt of such~~  
12 ~~request and all necessary documentation~~. Existing facilities  
13 qualifying to provide extended congregate care services must  
14 have maintained a standard license and may not have been  
15 subject to administrative sanctions during the previous 2  
16 years, or since initial licensure if the facility has been  
17 licensed for less than 2 years, for any of the following  
18 reasons:

19           a. A class I or class II violation;

20           b. Three or more repeat or recurring class III  
21 violations of identical or similar resident care standards as  
22 specified in rule from which a pattern of noncompliance is  
23 found by the agency;

24           c. Three or more class III violations that were not  
25 corrected in accordance with the corrective action plan  
26 approved by the agency;

27           d. Violation of resident care standards resulting in a  
28 requirement to employ the services of a consultant pharmacist  
29 or consultant dietitian;

30           e. Denial, suspension, or revocation of a license for  
31 another facility under this part in which the applicant for an

1 extended congregate care license has at least 25 percent  
2 ownership interest; or

3 f. Imposition of a moratorium pursuant to this part or  
4 part II of chapter 408 ~~on admissions~~ or initiation of  
5 injunctive proceedings.

6 2. Facilities that are licensed to provide extended  
7 congregate care services shall maintain a written progress  
8 report on each person who receives such services, which report  
9 describes the type, amount, duration, scope, and outcome of  
10 services that are rendered and the general status of the  
11 resident's health. A registered nurse, or appropriate  
12 designee, representing the agency shall visit such facilities  
13 at least quarterly to monitor residents who are receiving  
14 extended congregate care services and to determine if the  
15 facility is in compliance with this part, part II of chapter  
16 408, and ~~with~~ rules that relate to extended congregate care.

17 One of these visits may be in conjunction with the regular  
18 survey. The monitoring visits may be provided through  
19 contractual arrangements with appropriate community agencies.  
20 A registered nurse shall serve as part of the team that  
21 inspects such facility. The agency may waive one of the  
22 required yearly monitoring visits for a facility that has been  
23 licensed for at least 24 months to provide extended congregate  
24 care services, if, during the inspection, the registered nurse  
25 determines that extended congregate care services are being  
26 provided appropriately, and if the facility has no class I or  
27 class II violations and no uncorrected class III violations.  
28 Before such decision is made, the agency shall consult with  
29 the long-term care ombudsman council for the area in which the  
30 facility is located to determine if any complaints have been  
31 made and substantiated about the quality of services or care.

1 The agency may not waive one of the required yearly monitoring  
2 visits if complaints have been made and substantiated.

3 3. Facilities that are licensed to provide extended  
4 congregate care services shall:

5 a. Demonstrate the capability to meet unanticipated  
6 resident service needs.

7 b. Offer a physical environment that promotes a  
8 homelike setting, provides for resident privacy, promotes  
9 resident independence, and allows sufficient congregate space  
10 as defined by rule.

11 c. Have sufficient staff available, taking into  
12 account the physical plant and firesafety features of the  
13 building, to assist with the evacuation of residents in an  
14 emergency, as necessary.

15 d. Adopt and follow policies and procedures that  
16 maximize resident independence, dignity, choice, and  
17 decisionmaking to permit residents to age in place to the  
18 extent possible, so that moves due to changes in functional  
19 status are minimized or avoided.

20 e. Allow residents or, if applicable, a resident's  
21 representative, designee, surrogate, guardian, or attorney in  
22 fact to make a variety of personal choices, participate in  
23 developing service plans, and share responsibility in  
24 decisionmaking.

25 f. Implement the concept of managed risk.

26 g. Provide, either directly or through contract, the  
27 services of a person licensed pursuant to part I of chapter  
28 464.

29 h. In addition to the training mandated in s. 429.52,  
30 provide specialized training as defined by rule for facility  
31 staff.

1           4. Facilities licensed to provide extended congregate  
2 care services are exempt from the criteria for continued  
3 residency as set forth in rules adopted under s. 429.41.  
4 Facilities so licensed shall adopt their own requirements  
5 within guidelines for continued residency set forth by ~~the~~  
6 ~~department in~~ rule. However, such facilities may not serve  
7 residents who require 24-hour nursing supervision. Facilities  
8 licensed to provide extended congregate care services shall  
9 provide each resident with a written copy of facility policies  
10 governing admission and retention.

11           5. The primary purpose of extended congregate care  
12 services is to allow residents, as they become more impaired,  
13 the option of remaining in a familiar setting from which they  
14 would otherwise be disqualified for continued residency. A  
15 facility licensed to provide extended congregate care services  
16 may also admit an individual who exceeds the admission  
17 criteria for a facility with a standard license, if the  
18 individual is determined appropriate for admission to the  
19 extended congregate care facility.

20           6. Before admission of an individual to a facility  
21 licensed to provide extended congregate care services, the  
22 individual must undergo a medical examination as provided in  
23 s. 429.26(4) and the facility must develop a preliminary  
24 service plan for the individual.

25           7. When a facility can no longer provide or arrange  
26 for services in accordance with the resident's service plan  
27 and needs and the facility's policy, the facility shall make  
28 arrangements for relocating the person in accordance with s.  
29 429.28(1)(k).

30  
31



1 8. Failure to provide extended congregate care  
2 services may result in denial of extended congregate care  
3 license renewal.

4 9. No later than January 1 of each year, the  
5 department, in consultation with the agency, shall prepare and  
6 submit to the Governor, the President of the Senate, the  
7 Speaker of the House of Representatives, and the chairs of  
8 appropriate legislative committees, a report on the status of,  
9 and recommendations related to, extended congregate care  
10 services. The status report must include, but need not be  
11 limited to, the following information:

12 a. A description of the facilities licensed to provide  
13 such services, including total number of beds licensed under  
14 this part.

15 b. The number and characteristics of residents  
16 receiving such services.

17 c. The types of services rendered that could not be  
18 provided through a standard license.

19 d. An analysis of deficiencies cited during licensure  
20 inspections.

21 e. The number of residents who required extended  
22 congregate care services at admission and the source of  
23 admission.

24 f. Recommendations for statutory or regulatory  
25 changes.

26 g. The availability of extended congregate care to  
27 state clients residing in facilities licensed under this part  
28 and in need of additional services, and recommendations for  
29 appropriations to subsidize extended congregate care services  
30 for such persons.

31

1 h. Such other information as the department considers  
2 appropriate.

3 (c) A limited nursing services license shall be issued  
4 to a facility that provides services beyond those authorized  
5 in paragraph (a) and as specified in this paragraph.

6 1. In order for limited nursing services to be  
7 provided in a facility licensed under this part, the agency  
8 must first determine that all requirements established in law  
9 and rule are met and must specifically designate, on the  
10 facility's license, that such services may be provided. Such  
11 designation may be made at the time of initial licensure or  
12 relicensure, or upon request in writing by a licensee under  
13 this part and part II of chapter 408. Notification of approval  
14 or denial of such request shall be made in accordance with  
15 part II of chapter 408 ~~within 90 days after receipt of such~~  
16 ~~request and all necessary documentation~~. Existing facilities  
17 qualifying to provide limited nursing services shall have  
18 maintained a standard license and may not have been subject to  
19 administrative sanctions that affect the health, safety, and  
20 welfare of residents for the previous 2 years or since initial  
21 licensure if the facility has been licensed for less than 2  
22 years.

23 2. Facilities that are licensed to provide limited  
24 nursing services shall maintain a written progress report on  
25 each person who receives such nursing services, which report  
26 describes the type, amount, duration, scope, and outcome of  
27 services that are rendered and the general status of the  
28 resident's health. A registered nurse representing the agency  
29 shall visit such facilities at least twice a year to monitor  
30 residents who are receiving limited nursing services and to  
31 determine if the facility is in compliance with applicable

1 | provisions of this part, part II of chapter 408, and with  
2 | related rules. The monitoring visits may be provided through  
3 | contractual arrangements with appropriate community agencies.  
4 | A registered nurse shall also serve as part of the team that  
5 | inspects such facility.

6 |         3. A person who receives limited nursing services  
7 | under this part must meet the admission criteria established  
8 | by the agency for assisted living facilities. When a resident  
9 | no longer meets the admission criteria for a facility licensed  
10 | under this part, arrangements for relocating the person shall  
11 | be made in accordance with s. 429.28(1)(k), unless the  
12 | facility is licensed to provide extended congregate care  
13 | services.

14 |         (4) In accordance with s. 408.805, an applicant or  
15 | licensee shall pay a fee for each license application  
16 | submitted under this part, part II of chapter 408, and  
17 | applicable rules. The amount of the fee shall be established  
18 | by rule.

19 |         (a) The biennial license fee required of a facility is  
20 | \$300 per license, with an additional fee of \$50 per resident  
21 | based on the total licensed resident capacity of the facility,  
22 | except that no additional fee will be assessed for beds  
23 | designated for recipients of optional state supplementation  
24 | payments provided for in s. 409.212. The total fee may not  
25 | exceed \$10,000, ~~no part of which shall be returned to the~~  
26 | ~~facility. The agency shall adjust the per bed license fee and~~  
27 | ~~the total licensure fee annually by not more than the change~~  
28 | ~~in the consumer price index based on the 12 months immediately~~  
29 | ~~preceding the increase.~~

30 |         (b) In addition to the total fee assessed under  
31 | paragraph (a), the agency shall require facilities that are

1 licensed to provide extended congregate care services under  
2 this part to pay an additional fee per licensed facility. The  
3 amount of the biennial fee shall be \$400 per license, with an  
4 additional fee of \$10 per resident based on the total licensed  
5 resident capacity of the facility. ~~No part of this fee shall~~  
6 ~~be returned to the facility. The agency may adjust the per bed~~  
7 ~~license fee and the annual license fee once each year by not~~  
8 ~~more than the average rate of inflation for the 12 months~~  
9 ~~immediately preceding the increase.~~

10 (c) In addition to the total fee assessed under  
11 paragraph (a), the agency shall require facilities that are  
12 licensed to provide limited nursing services under this part  
13 to pay an additional fee per licensed facility. The amount of  
14 the biennial fee shall be \$250 per license, with an additional  
15 fee of \$10 per resident based on the total licensed resident  
16 capacity of the facility. ~~No part of this fee shall be~~  
17 ~~returned to the facility. The agency may adjust the per bed~~  
18 ~~license fee and the biennial license fee once each year by not~~  
19 ~~more than the average rate of inflation for the 12 months~~  
20 ~~immediately preceding the increase.~~

21 (5) Counties or municipalities applying for licenses  
22 under this part are exempt from the payment of license fees.

23 ~~(6) The license shall be displayed in a conspicuous~~  
24 ~~place inside the facility.~~

25 ~~(7) A license shall be valid only in the possession of~~  
26 ~~the individual, firm, partnership, association, or corporation~~  
27 ~~to which it is issued and shall not be subject to sale,~~  
28 ~~assignment, or other transfer, voluntary or involuntary; nor~~  
29 ~~shall a license be valid for any premises other than that for~~  
30 ~~which originally issued.~~

31

1 ~~(8) A fee may be charged to a facility requesting a~~  
2 ~~duplicate license. The fee shall not exceed the actual cost of~~  
3 ~~duplication and postage.~~

4 Section 142. Subsection (1) of section 429.075,  
5 Florida Statutes, is amended to read:

6 429.075 Limited mental health license.--An assisted  
7 living facility that serves three or more mental health  
8 residents must obtain a limited mental health license.

9 (1) To obtain a limited mental health license, a  
10 facility must hold a standard license as an assisted living  
11 facility, must not have any current uncorrected deficiencies  
12 or violations, and must ensure that, within 6 months after  
13 receiving a limited mental health license, the facility  
14 administrator and the staff of the facility who are in direct  
15 contact with mental health residents must complete training of  
16 no less than 6 hours related to their duties. Such designation  
17 may be made at the time of initial licensure or relicensure or  
18 upon request in writing by a licensee under this part and part  
19 II of chapter 408. Notification of approval or denial of such  
20 request shall be made in accordance with this part, part II of  
21 chapter 408, and applicable rules. This training will be  
22 provided by or approved by the Department of Children and  
23 Family Services.

24 Section 143. Section 429.08, Florida Statutes, is  
25 amended to read:

26 429.08 Unlicensed facilities; referral of person for  
27 residency to unlicensed facility; penalties; verification of  
28 licensure status.--

29 (1)(a) This section applies to the unlicensed  
30 operation of an assisted living facility in addition to the  
31 requirements of part II of chapter 408. It is unlawful to own,

1 ~~operate, or maintain an assisted living facility without~~  
2 ~~obtaining a license under this part.~~

3 (b) Except as provided under paragraph (d), any person  
4 who owns, operates, or maintains an unlicensed assisted living  
5 facility commits a felony of the third degree, punishable as  
6 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
7 continued operation is a separate offense.

8 (c) Any person found guilty of violating paragraph (a)  
9 a second or subsequent time commits a felony of the second  
10 degree, punishable as provided under s. 775.082, s. 775.083,  
11 or s. 775.084. Each day of continued operation is a separate  
12 offense.

13 (d) Any person who owns, operates, or maintains an  
14 unlicensed assisted living facility due to a change in this  
15 part or a modification in ~~department~~ rule within 6 months  
16 after the effective date of such change and who, within 10  
17 working days after receiving notification from the agency,  
18 fails to cease operation or apply for a license under this  
19 part commits a felony of the third degree, punishable as  
20 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
21 continued operation is a separate offense.

22 ~~(e) Any facility that fails to cease operation after~~  
23 ~~agency notification may be fined for each day of noncompliance~~  
24 ~~pursuant to s. 429.19.~~

25 ~~(f) When a licensee has an interest in more than one~~  
26 ~~assisted living facility, and fails to license any one of~~  
27 ~~these facilities, the agency may revoke the license, impose a~~  
28 ~~moratorium, or impose a fine pursuant to s. 429.19, on any or~~  
29 ~~all of the licensed facilities until such time as the~~  
30 ~~unlicensed facility is licensed or ceases operation.~~

31

1           ~~(g) If the agency determines that an owner is~~  
2 ~~operating or maintaining an assisted living facility without~~  
3 ~~obtaining a license and determines that a condition exists in~~  
4 ~~the facility that poses a threat to the health, safety, or~~  
5 ~~welfare of a resident of the facility, the owner is subject to~~  
6 ~~the same actions and fines imposed against a licensed facility~~  
7 ~~as specified in ss. 429.14 and 429.19.~~

8           ~~(e)(h) Any person aware of the operation of an~~  
9 ~~unlicensed assisted living facility must report that facility~~  
10 ~~to the agency.~~ The agency shall provide to the department's  
11 elder information and referral providers a list, by county, of  
12 licensed assisted living facilities, to assist persons who are  
13 considering an assisted living facility placement in locating  
14 a licensed facility.

15           ~~(2)(i)~~ Each field office of the Agency for Health Care  
16 Administration shall establish a local coordinating workgroup  
17 which includes representatives of local law enforcement  
18 agencies, state attorneys, the Medicaid Fraud Control Unit of  
19 the Department of Legal Affairs, local fire authorities, the  
20 Department of Children and Family Services, the district  
21 long-term care ombudsman council, and the district human  
22 rights advocacy committee to assist in identifying the  
23 operation of unlicensed facilities and to develop and  
24 implement a plan to ensure effective enforcement of state laws  
25 relating to such facilities. The workgroup shall report its  
26 findings, actions, and recommendations semiannually to the  
27 Director of Health Quality Assurance ~~Facility Regulation~~ of  
28 the agency.

29           ~~(3)(2)~~ It is unlawful to knowingly refer a person for  
30 residency to an unlicensed assisted living facility; to an  
31 assisted living facility the license of which is under denial

1 or has been suspended or revoked; or to an assisted living  
2 facility that has a moratorium pursuant to part II of chapter  
3 408 on admissions. Any person who violates this subsection  
4 commits a noncriminal violation, punishable by a fine not  
5 exceeding \$500 as provided in s. 775.083.

6 (a) Any health care practitioner, as defined in s.  
7 456.001, who is aware of the operation of an unlicensed  
8 facility shall report that facility to the agency. Failure to  
9 report a facility that the practitioner knows or has  
10 reasonable cause to suspect is unlicensed shall be reported to  
11 the practitioner's licensing board.

12 (b) Any hospital or community mental health center  
13 licensed under chapter 395 or chapter 394 which knowingly  
14 discharges a patient or client to an unlicensed facility is  
15 subject to sanction by the agency.

16 (c) Any employee of the agency or department, or the  
17 Department of Children and Family Services, who knowingly  
18 refers a person for residency to an unlicensed facility; to a  
19 facility the license of which is under denial or has been  
20 suspended or revoked; or to a facility that has a moratorium  
21 pursuant to part II of chapter 408 on admissions is subject to  
22 disciplinary action by the agency or department, or the  
23 Department of Children and Family Services.

24 (d) The employer of any person who is under contract  
25 with the agency or department, or the Department of Children  
26 and Family Services, and who knowingly refers a person for  
27 residency to an unlicensed facility; to a facility the license  
28 of which is under denial or has been suspended or revoked; or  
29 to a facility that has a moratorium pursuant to part II of  
30 chapter 408 on admissions shall be fined and required to  
31



1 prepare a corrective action plan designed to prevent such  
2 referrals.

3 (e) The agency shall provide the department and the  
4 Department of Children and Family Services with a list of  
5 licensed facilities within each county and shall update the  
6 list at least quarterly.

7 (f) At least annually, the agency shall notify, in  
8 appropriate trade publications, physicians licensed under  
9 chapter 458 or chapter 459, hospitals licensed under chapter  
10 395, nursing home facilities licensed under part II of chapter  
11 400, and employees of the agency or the department, or the  
12 Department of Children and Family Services, who are  
13 responsible for referring persons for residency, that it is  
14 unlawful to knowingly refer a person for residency to an  
15 unlicensed assisted living facility and shall notify them of  
16 the penalty for violating such prohibition. The department and  
17 the Department of Children and Family Services shall, in turn,  
18 notify service providers under contract to the respective  
19 departments who have responsibility for resident referrals to  
20 facilities. Further, the notice must direct each noticed  
21 facility and individual to contact the appropriate agency  
22 office in order to verify the licensure status of any facility  
23 prior to referring any person for residency. Each notice must  
24 include the name, telephone number, and mailing address of the  
25 appropriate office to contact.

26 Section 144. Section 429.11, Florida Statutes, is  
27 amended to read:

28 429.11 Initial application for license; provisional  
29 license.--

30 (1) Each applicant for licensure must comply with all  
31 provisions of part II of chapter 408 and must: ~~Application for~~

1 ~~a license shall be made to the agency on forms furnished by it~~  
2 ~~and shall be accompanied by the appropriate license fee.~~

3 ~~(2) The applicant may be an individual owner, a~~  
4 ~~corporation, a partnership, a firm, an association, or a~~  
5 ~~governmental entity.~~

6 ~~(3) The application must be signed by the applicant~~  
7 ~~under oath and must contain the following:~~

8 ~~(a) The name, address, date of birth, and social~~  
9 ~~security number of the applicant and the name by which the~~  
10 ~~facility is to be known. If the applicant is a firm,~~  
11 ~~partnership, or association, the application shall contain the~~  
12 ~~name, address, date of birth, and social security number of~~  
13 ~~every member thereof. If the applicant is a corporation, the~~  
14 ~~application shall contain the corporation's name and address;~~  
15 ~~the name, address, date of birth, and social security number~~  
16 ~~of each of its directors and officers; and the name and~~  
17 ~~address of each person having at least a 5 percent ownership~~  
18 ~~interest in the corporation.~~

19 ~~(b) The name and address of any professional service,~~  
20 ~~firm, association, partnership, or corporation that is to~~  
21 ~~provide goods, leases, or services to the facility if a~~  
22 ~~5 percent or greater ownership interest in the service, firm,~~  
23 ~~association, partnership, or corporation is owned by a person~~  
24 ~~whose name must be listed on the application under paragraph~~  
25 ~~(a).~~

26 ~~(c) The name and address of any long term care~~  
27 ~~facility with which the applicant, administrator, or financial~~  
28 ~~officer has been affiliated through ownership or employment~~  
29 ~~within 5 years of the date of this license application; and a~~  
30 ~~signed affidavit disclosing any financial or ownership~~  
31 ~~interest that the applicant, or any person listed in paragraph~~

1 ~~(a), holds or has held within the last 5 years in any facility~~  
2 ~~licensed under this part, or in any other entity licensed by~~  
3 ~~this state or another state to provide health or residential~~  
4 ~~care, which facility or entity closed or ceased to operate as~~  
5 ~~a result of financial problems, or has had a receiver~~  
6 ~~appointed or a license denied, suspended or revoked, or was~~  
7 ~~subject to a moratorium on admissions, or has had an~~  
8 ~~injunctive proceeding initiated against it.~~

9 ~~(d) A description and explanation of any exclusions,~~  
10 ~~permanent suspensions, or terminations of the applicant from~~  
11 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
12 ~~disclosure of ownership and control interest requirements of~~  
13 ~~the Medicaid or Medicare programs shall be accepted in lieu of~~  
14 ~~this submission.~~

15 ~~(e) The names and addresses of persons of whom the~~  
16 ~~agency may inquire as to the character, reputation, and~~  
17 ~~financial responsibility of the owner and, if different from~~  
18 ~~the applicant, the administrator and financial officer.~~

19 ~~(a)(f)~~ Identify ~~Identification~~ of all other homes or  
20 facilities, including the addresses and the license or  
21 licenses under which they operate, if applicable, which are  
22 currently operated by the applicant or administrator and which  
23 provide housing, meals, and personal services to residents.

24 ~~(b)(g)~~ Provide the location of the facility for which  
25 a license is sought and documentation, signed by the  
26 appropriate local government official, which states that the  
27 applicant has met local zoning requirements.

28 ~~(c)(h)~~ Provide the name, address, date of birth,  
29 social security number, education, and experience of the  
30 administrator, if different from the applicant.

31

1           ~~(4) The applicant shall furnish satisfactory proof of~~  
2 ~~financial ability to operate and conduct the facility in~~  
3 ~~accordance with the requirements of this part. A certificate~~  
4 ~~of authority, pursuant to chapter 651, may be provided as~~  
5 ~~proof of financial ability.~~

6           ~~(5) If the applicant is a continuing care facility~~  
7 ~~certified under chapter 651, a copy of the facility's~~  
8 ~~certificate of authority must be provided.~~

9           (2)(6) The applicant shall provide proof of liability  
10 insurance as defined in s. 624.605.

11           (3)(7) If the applicant is a community residential  
12 home, the applicant must provide proof that it has met the  
13 requirements specified in chapter 419.

14           ~~(8) The applicant must provide the agency with proof~~  
15 ~~of legal right to occupy the property.~~

16           (4)(9) The applicant must furnish proof that the  
17 facility has received a satisfactory firesafety inspection.  
18 The local authority having jurisdiction or the State Fire  
19 Marshal must conduct the inspection within 30 days after  
20 written request by the applicant.

21           (5)(10) The applicant must furnish documentation of a  
22 satisfactory sanitation inspection of the facility by the  
23 county health department.

24           ~~(11) The applicant must furnish proof of compliance~~  
25 ~~with level 2 background screening as required under s.~~  
26 ~~429.174.~~

27           (6)(12) In addition to the license categories  
28 available in s. 408.808, a provisional license may be issued  
29 to an applicant making initial application for licensure or  
30 making application for a change of ownership. A provisional  
31

1 license shall be limited in duration to a specific period of  
2 time not to exceed 6 months, as determined by the agency.

3 ~~(7)(13)~~ A county or municipality may not issue an  
4 occupational license that is being obtained for the purpose of  
5 operating a facility regulated under this part without first  
6 ascertaining that the applicant has been licensed to operate  
7 such facility at the specified location or locations by the  
8 agency. The agency shall furnish to local agencies responsible  
9 for issuing occupational licenses sufficient instruction for  
10 making such determinations.

11 Section 145. Section 429.12, Florida Statutes, is  
12 amended to read:

13 429.12 Sale or transfer of ownership of a  
14 facility.--It is the intent of the Legislature to protect the  
15 rights of the residents of an assisted living facility when  
16 the facility is sold or the ownership thereof is transferred.  
17 Therefore, in addition to the requirements of part II of  
18 chapter 408, whenever a facility is sold or the ownership  
19 thereof is transferred, including leasing:

20 ~~(1) The transferee shall make application to the~~  
21 ~~agency for a new license at least 60 days before the date of~~  
22 ~~transfer of ownership. The application must comply with the~~  
23 ~~provisions of s. 429.11.~~

24 ~~(2)(a) The transferor shall notify the agency in~~  
25 ~~writing at least 60 days before the date of transfer of~~  
26 ~~ownership.~~

27 ~~(1)(b)~~ The transferee new owner shall notify the  
28 residents, in writing, of the change transfer of ownership  
29 within 7 days after ~~of his or her~~ receipt of the new license.

30 ~~(3) The transferor shall be responsible and liable~~  
31 ~~for:~~

1           ~~(a) The lawful operation of the facility and the~~  
2 ~~welfare of the residents domiciled in the facility until the~~  
3 ~~date the transferee is licensed by the agency.~~

4           ~~(b) Any and all penalties imposed against the facility~~  
5 ~~for violations occurring before the date of transfer of~~  
6 ~~ownership unless the penalty imposed is a moratorium on~~  
7 ~~admissions or denial of licensure. The moratorium on~~  
8 ~~admissions or denial of licensure remains in effect after the~~  
9 ~~transfer of ownership, unless the agency has approved the~~  
10 ~~transferee's corrective action plan or the conditions which~~  
11 ~~created the moratorium or denial have been corrected, and may~~  
12 ~~be grounds for denial of license to the transferee in~~  
13 ~~accordance with chapter 120.~~

14           ~~(c) Any outstanding liability to the state, unless the~~  
15 ~~transferee has agreed, as a condition of sale or transfer, to~~  
16 ~~accept the outstanding liabilities and to guarantee payment~~  
17 ~~therefor; except that, if the transferee fails to meet these~~  
18 ~~obligations, the transferor shall remain liable for the~~  
19 ~~outstanding liability.~~

20           ~~(2)(4)~~ The transferor of a facility the license of  
21 which is denied pending an administrative hearing shall, as a  
22 part of the written change-of-ownership ~~transfer of ownership~~  
23 contract, advise the transferee that a plan of correction must  
24 be submitted by the transferee and approved by the agency at  
25 least 7 days before the change ~~transfer~~ of ownership and that  
26 failure to correct the condition which resulted in the  
27 moratorium pursuant to part II of chapter 408 ~~on admissions~~ or  
28 denial of licensure is grounds for denial of the transferee's  
29 license.

30           ~~(5) The transferee must provide the agency with proof~~  
31 ~~of legal right to occupy the property before a license may be~~

1 | ~~issued. Proof may include, but is not limited to, copies of~~  
2 | ~~warranty deeds, or copies of lease or rental agreements,~~  
3 | ~~contracts for deeds, quitclaim deeds, or other such~~  
4 | ~~documentation.~~

5 | Section 146. Section 429.14, Florida Statutes, is  
6 | amended to read:

7 | 429.14 ~~Denial, revocation, or suspension of license;~~  
8 | ~~imposition of Administrative penalties fine; grounds.--~~

9 | (1) In addition to the requirements of part II of  
10 | chapter 408, the agency may deny, revoke, and ~~or~~ suspend any  
11 | license issued under this part and, ~~or~~ impose an  
12 | administrative fine in the manner provided in chapter 120  
13 | against a licensee of an assisted living facility for a  
14 | violation of any provision of this part, part II of chapter  
15 | 408, or applicable rules, or for any of the following actions  
16 | by a licensee of an assisted living facility, for the actions  
17 | of any person subject to level 2 background screening under s.  
18 | 408.809 ~~s. 429.174,~~ or for the actions of any facility  
19 | employee:

20 | (a) An intentional or negligent act seriously  
21 | affecting the health, safety, or welfare of a resident of the  
22 | facility.

23 | (b) The determination by the agency that the owner  
24 | lacks the financial ability to provide continuing adequate  
25 | care to residents.

26 | (c) Misappropriation or conversion of the property of  
27 | a resident of the facility.

28 | (d) Failure to follow the criteria and procedures  
29 | provided under part I of chapter 394 relating to the  
30 | transportation, voluntary admission, and involuntary  
31 | examination of a facility resident.

1 (e) A citation of any of the following deficiencies as  
2 defined in s. 429.19:

- 3 1. One or more cited class I deficiencies.
- 4 2. Three or more cited class II deficiencies.
- 5 3. Five or more cited class III deficiencies that have  
6 been cited on a single survey and have not been corrected  
7 within the times specified.

8 (f) A determination that a person subject to level 2  
9 background screening under s. 408.809 ~~s. 429.174(1)~~ does not  
10 meet the screening standards of s. 435.04 or that the facility  
11 is retaining an employee subject to level 1 background  
12 screening standards under s. 429.174(2) who does not meet the  
13 screening standards of s. 435.03 and for whom exemptions from  
14 disqualification have not been provided by the agency.

15 (g) A determination that an employee, volunteer,  
16 administrator, or owner, or person who otherwise has access to  
17 the residents of a facility does not meet the criteria  
18 specified in s. 435.03(2), and the owner or administrator has  
19 not taken action to remove the person. Exemptions from  
20 disqualification may be granted as set forth in s. 435.07. No  
21 administrative action may be taken against the facility if the  
22 person is granted an exemption.

23 (h) Violation of a moratorium.

24 (i) Failure of the license applicant, the licensee  
25 during relicensure, or a licensee that holds a provisional  
26 license to meet the minimum license requirements of this part,  
27 or related rules, at the time of license application or  
28 renewal.

29 ~~(j) A fraudulent statement or omission of any material~~  
30 ~~fact on an application for a license or any other document~~  
31 ~~required by the agency, including the submission of a license~~



1 ~~application that conceals the fact that any board member,~~  
2 ~~officer, or person owning 5 percent or more of the facility~~  
3 ~~may not meet the background screening requirements of s.~~  
4 ~~429.174, or that the applicant has been excluded, permanently~~  
5 ~~suspended, or terminated from the Medicaid or Medicare~~  
6 ~~programs.~~

7 (j)(k) An intentional or negligent life-threatening  
8 act in violation of the uniform firesafety standards for  
9 assisted living facilities or other firesafety standards that  
10 threatens the health, safety, or welfare of a resident of a  
11 facility, as communicated to the agency by the local authority  
12 having jurisdiction or the State Fire Marshal.

13 ~~(l) Exclusion, permanent suspension, or termination~~  
14 ~~from the Medicare or Medicaid programs.~~

15 (k)(m) Knowingly operating any unlicensed facility or  
16 providing without a license any service that must be licensed  
17 under this chapter or chapter 400.

18 (l)(n) Any act constituting a ground upon which  
19 application for a license may be denied.

20  
21 ~~Administrative proceedings challenging agency action under~~  
22 ~~this subsection shall be reviewed on the basis of the facts~~  
23 ~~and conditions that resulted in the agency action.~~

24 (2) Upon notification by the local authority having  
25 jurisdiction or by the State Fire Marshal, the agency may deny  
26 or revoke the license of an assisted living facility that  
27 fails to correct cited fire code violations that affect or  
28 threaten the health, safety, or welfare of a resident of a  
29 facility.

30 (3) The agency may deny a license to any applicant or  
31 controlling interest as defined in part II of chapter 408

1 ~~which to any officer or board member of an applicant who is a~~  
2 ~~firm, corporation, partnership, or association or who owns 5~~  
3 ~~percent or more of the facility, if the applicant, officer, or~~  
4 ~~board member~~ has or had a 25-percent or greater financial or  
5 ownership interest in any other facility licensed under this  
6 part, or in any entity licensed by this state or another state  
7 to provide health or residential care, which facility or  
8 entity during the 5 years prior to the application for a  
9 license closed due to financial inability to operate; had a  
10 receiver appointed or a license denied, suspended, or revoked;  
11 was subject to a moratorium ~~on admissions~~; or had an  
12 injunctive proceeding initiated against it; ~~or has an~~  
13 ~~outstanding fine assessed under this chapter or chapter 400.~~

14 (4) The agency shall deny or revoke the license of an  
15 assisted living facility that has two or more class I  
16 violations that are similar or identical to violations  
17 identified by the agency during a survey, inspection,  
18 monitoring visit, or complaint investigation occurring within  
19 the previous 2 years.

20 (5) An action taken by the agency to suspend, deny, or  
21 revoke a facility's license under this part or part II of  
22 chapter 408, in which the agency claims that the facility  
23 owner or an employee of the facility has threatened the  
24 health, safety, or welfare of a resident of the facility be  
25 heard by the Division of Administrative Hearings of the  
26 Department of Management Services within 120 days after  
27 receipt of the facility's request for a hearing, unless that  
28 time limitation is waived by both parties. The administrative  
29 law judge must render a decision within 30 days after receipt  
30 of a proposed recommended order.

31

1 (6) The agency shall provide to the Division of Hotels  
2 and Restaurants of the Department of Business and Professional  
3 Regulation, on a monthly basis, a list of those assisted  
4 living facilities that have had their licenses denied,  
5 suspended, or revoked or that are involved in an appellate  
6 proceeding pursuant to s. 120.60 related to the denial,  
7 suspension, or revocation of a license.

8 (7) Agency notification of a license suspension or  
9 revocation, or denial of a license renewal, shall be posted  
10 and visible to the public at the facility.

11 ~~(8) The agency may issue a temporary license pending~~  
12 ~~final disposition of a proceeding involving the suspension or~~  
13 ~~revocation of an assisted living facility license.~~

14 Section 147. Section 429.15, Florida Statutes, is  
15 repealed.

16 Section 148. Section 429.17, Florida Statutes, is  
17 amended to read:

18 429.17 Expiration of license; renewal; conditional  
19 license.--

20 (1) ~~Biennial licenses, unless sooner suspended or~~  
21 ~~revoked, shall expire 2 years from the date of issuance.~~  
22 Limited nursing, extended congregate care, and limited mental  
23 health licenses shall expire at the same time as the  
24 facility's standard license, regardless of when issued. ~~The~~  
25 ~~agency shall notify the facility at least 120 days prior to~~  
26 ~~expiration that a renewal license is necessary to continue~~  
27 ~~operation. The notification must be provided electronically or~~  
28 ~~by mail delivery. Ninety days prior to the expiration date, an~~  
29 ~~application for renewal shall be submitted to the agency. Fees~~  
30 ~~must be prorated. The failure to file a timely renewal~~

1 ~~application shall result in a late fee charged to the facility~~  
2 ~~in an amount equal to 50 percent of the current fee.~~

3 (2) A license shall be renewed in accordance with part  
4 II of chapter 408 ~~within 90 days upon the timely filing of an~~  
5 ~~application on forms furnished by the agency~~ and the provision  
6 of satisfactory proof of ability to operate and conduct the  
7 facility in accordance with the requirements of this part and  
8 adopted rules, including proof that the facility has received  
9 a satisfactory firesafety inspection, conducted by the local  
10 authority having jurisdiction or the State Fire Marshal,  
11 within the preceding 12 months ~~and an affidavit of compliance~~  
12 ~~with the background screening requirements of s. 429.174.~~

13 (3) In addition to the requirements of part II of  
14 chapter 408, ~~An applicant for renewal of a license who has~~  
15 ~~complied with the provisions of s. 429.11 with respect to~~  
16 ~~proof of financial ability to operate shall not be required to~~  
17 ~~provide further proof unless the facility or any other~~  
18 ~~facility owned or operated in whole or in part by the same~~  
19 ~~person has demonstrated financial instability as provided~~  
20 ~~under s. 429.47(2) or unless the agency suspects that the~~  
21 ~~facility is not financially stable as a result of the annual~~  
22 ~~survey or complaints from the public or a report from the~~  
23 ~~State Long Term Care Ombudsman Council.~~ each facility must  
24 report to the agency any adverse court action concerning the  
25 facility's financial viability, within 7 days after its  
26 occurrence. The agency shall have access to books, records,  
27 and any other financial documents maintained by the facility  
28 to the extent necessary to determine the facility's financial  
29 stability. ~~A license for the operation of a facility shall not~~  
30 ~~be renewed if the licensee has any outstanding fines assessed~~  
31 ~~pursuant to this part which are in final order status.~~

1           ~~(4) A licensee against whom a revocation or suspension~~  
2 ~~proceeding is pending at the time of license renewal may be~~  
3 ~~issued a conditional license effective until final disposition~~  
4 ~~by the agency. If judicial relief is sought from the final~~  
5 ~~disposition, the court having jurisdiction may issue a~~  
6 ~~conditional license for the duration of the judicial~~  
7 ~~proceeding.~~

8           (4)(5) In addition to the license categories available  
9 in s. 408.808, a conditional license may be issued to an  
10 applicant for license renewal if the applicant fails to meet  
11 all standards and requirements for licensure. A conditional  
12 license issued under this subsection shall be limited in  
13 duration to a specific period of time not to exceed 6 months,  
14 as determined by the agency, and shall be accompanied by an  
15 agency-approved plan of correction.

16           ~~(5)(6) When an extended care or limited nursing~~  
17 ~~license is requested during a facility's biennial license~~  
18 ~~period, the fee shall be prorated in order to permit the~~  
19 ~~additional license to expire at the end of the biennial~~  
20 ~~license period. The fee shall be calculated as of the date the~~  
21 ~~additional license application is received by the agency.~~

22           ~~(6)(7) The department may by rule establish renewal~~  
23 ~~procedures, identify forms, and specify documentation~~  
24 ~~necessary to administer this section. The agency, in~~  
25 consultation with the department, may adopt rules to  
26 administer the requirements of part II of chapter 408.

27           Section 149. Section 429.174, Florida Statutes, is  
28 amended to read:

29           429.174 Background screening; exemptions.--

30           ~~(1)(a) Level 2 background screening must be conducted~~  
31 ~~on each of the following persons, who shall be considered~~

1 ~~employees for the purposes of conducting screening under~~  
2 ~~chapter 435.~~

3 ~~1. The facility owner if an individual, the~~  
4 ~~administrator, and the financial officer.~~

5 ~~2. An officer or board member if the facility owner is~~  
6 ~~a firm, corporation, partnership, or association, or any~~  
7 ~~person owning 5 percent or more of the facility if the agency~~  
8 ~~has probable cause to believe that such person has been~~  
9 ~~convicted of any offense prohibited by s. 435.04. For each~~  
10 ~~officer, board member, or person owning 5 percent or more who~~  
11 ~~has been convicted of any such offense, the facility shall~~  
12 ~~submit to the agency a description and explanation of the~~  
13 ~~conviction at the time of license application. This~~  
14 ~~subparagraph does not apply to a board member of a~~  
15 ~~not for profit corporation or organization if the board member~~  
16 ~~serves solely in a voluntary capacity, does not regularly take~~  
17 ~~part in the day to day operational decisions of the~~  
18 ~~corporation or organization, receives no remuneration for his~~  
19 ~~or her services, and has no financial interest and has no~~  
20 ~~family members with a financial interest in the corporation or~~  
21 ~~organization, provided that the board member and facility~~  
22 ~~submit a statement affirming that the board member's~~  
23 ~~relationship to the facility satisfies the requirements of~~  
24 ~~this subparagraph.~~

25 ~~(b) Proof of compliance with level 2 screening~~  
26 ~~standards which has been submitted within the previous 5 years~~  
27 ~~to meet any facility or professional licensure requirements of~~  
28 ~~the agency or the Department of Health satisfies the~~  
29 ~~requirements of this subsection, provided that such proof is~~  
30 ~~accompanied, under penalty of perjury, by an affidavit of~~  
31 ~~compliance with the provisions of chapter 435. Proof of~~

1 ~~compliance with the background screening requirements of the~~  
2 ~~Financial Services Commission and the Office of Insurance~~  
3 ~~Regulation for applicants for a certificate of authority to~~  
4 ~~operate a continuing care retirement community under chapter~~  
5 ~~651, submitted within the last 5 years, satisfies the~~  
6 ~~Department of Law Enforcement and Federal Bureau of~~  
7 ~~Investigation portions of a level 2 background check.~~

8 ~~(c) The agency may grant a provisional license to a~~  
9 ~~facility applying for an initial license when each individual~~  
10 ~~required by this subsection to undergo screening has completed~~  
11 ~~the Department of Law Enforcement background checks, but has~~  
12 ~~not yet received results from the Federal Bureau of~~  
13 ~~Investigation, or when a request for an exemption from~~  
14 ~~disqualification has been submitted to the agency pursuant to~~  
15 ~~s. 435.07, but a response has not been issued.~~

16 ~~(2)~~ The owner or administrator of an assisted living  
17 facility must conduct level 1 background screening, as set  
18 forth in chapter 435, on all employees hired on or after  
19 October 1, 1998, who perform personal services as defined in  
20 s. 429.02(16)(~~17~~). The agency may exempt an individual from  
21 employment disqualification as set forth in chapter 435. Such  
22 persons shall be considered as having met this requirement if:

23 (1)(~~a~~) Proof of compliance with level 1 screening  
24 requirements obtained to meet any professional license  
25 requirements in this state is provided and accompanied, under  
26 penalty of perjury, by a copy of the person's current  
27 professional license and an affidavit of current compliance  
28 with the background screening requirements.

29 (2)(~~b~~) The person required to be screened has been  
30 continuously employed in the same type of occupation for which  
31 the person is seeking employment without a breach in service

1 | which exceeds 180 days, and proof of compliance with the level  
2 | 1 screening requirement which is no more than 2 years old is  
3 | provided. Proof of compliance shall be provided directly from  
4 | one employer or contractor to another, and not from the person  
5 | screened. Upon request, a copy of screening results shall be  
6 | provided by the employer retaining documentation of the  
7 | screening to the person screened.

8 |       ~~(3)(c)~~ The person required to be screened is employed  
9 | by a corporation or business entity or related corporation or  
10 | business entity that owns, operates, or manages more than one  
11 | facility or agency licensed under this chapter, and for whom a  
12 | level 1 screening was conducted by the corporation or business  
13 | entity as a condition of initial or continued employment.

14 |       Section 150. Section 429.176, Florida Statutes, is  
15 | amended to read:

16 |       429.176 Notice of change of administrator.--If, during  
17 | the period for which a license is issued, the owner changes  
18 | administrators, the owner must notify the agency of the change  
19 | within 10 days and provide documentation within 90 days that  
20 | the new administrator has completed the applicable core  
21 | educational requirements under s. 429.52. ~~Background screening~~  
22 | ~~shall be completed on any new administrator as specified in s.~~  
23 | ~~429.174.~~

24 |       Section 151. Section 429.18, Florida Statutes, is  
25 | amended to read:

26 |       429.18 Disposition of fees and administrative fines.--  
27 |       ~~(1) Income from license fees, inspection fees, late~~  
28 | ~~fees, and administrative fines collected under this part~~  
29 | ~~generated pursuant to ss. 429.07, 429.08, 429.17, 429.19, and~~  
30 | ~~429.31 shall be deposited in the Health Care Trust Fund~~  
31 |



1 ~~administered by the agency. Such funds~~ shall be directed to  
2 and used by the agency for the following purposes:

3 ~~(1)(a)~~ Up to 50 percent of the trust funds accrued  
4 each fiscal year under this part may be used to offset the  
5 expenses of receivership, pursuant to s. 429.22, if the court  
6 determines that the income and assets of the facility are  
7 insufficient to provide for adequate management and operation.

8 ~~(2)(b)~~ An amount of \$5,000 of the trust funds accrued  
9 each year under this part shall be allocated to pay for  
10 inspection-related physical and mental health examinations  
11 requested by the agency pursuant to s. 429.26 for residents  
12 who are either recipients of supplemental security income or  
13 have monthly incomes not in excess of the maximum combined  
14 federal and state cash subsidies available to supplemental  
15 security income recipients, as provided for in s. 409.212.  
16 Such funds shall only be used where the resident is ineligible  
17 for Medicaid.

18 ~~(3)(c)~~ Any trust funds accrued each year under this  
19 part and not used for the purposes specified in subsections  
20 ~~(1) and (2) paragraphs (a) and (b)~~ shall be used to offset the  
21 costs of the licensure program, ~~including the costs of~~  
22 ~~conducting background investigations~~, verifying information  
23 submitted, defraying the costs of processing the names of  
24 applicants, and conducting inspections and monitoring visits  
25 pursuant to this part and part II of chapter 408.

26 ~~(2) Income from fees generated pursuant to s.~~  
27 ~~429.41(5) shall be deposited in the Health Care Trust Fund and~~  
28 ~~used to offset the costs of printing and postage.~~

29 Section 152. Section 429.19, Florida Statutes, is  
30 amended to read:

31

1 429.19 Violations; imposition of administrative fines;  
2 grounds.--

3 (1) In addition to the requirements of part II of  
4 chapter 408, the agency shall impose an administrative fine in  
5 the manner provided in chapter 120 for the violation of any  
6 provision of this part, part II of chapter 408, and applicable  
7 rules any of the actions or violations as set forth within  
8 ~~this section~~ by an assisted living facility, for the actions  
9 of any person subject to level 2 background screening under s.  
10 408.809 ~~s. 429.174~~, for the actions of any facility employee,  
11 or for an intentional or negligent act seriously affecting the  
12 health, safety, or welfare of a resident of the facility.

13 (2) Each violation of this part and adopted rules  
14 shall be classified according to the nature of the violation  
15 and the gravity of its probable effect on facility residents.  
16 The agency shall indicate the classification on the written  
17 notice of the violation as follows:

18 (a) Class "I" violations are those conditions or  
19 occurrences related to the operation and maintenance of a  
20 facility or to the personal care of residents which the agency  
21 determines present an imminent danger to the residents or  
22 guests of the facility or a substantial probability that death  
23 or serious physical or emotional harm would result therefrom.  
24 The condition or practice constituting a class I violation  
25 shall be abated or eliminated within 24 hours, unless a fixed  
26 period, as determined by the agency, is required for  
27 correction. The agency shall impose an administrative fine for  
28 a cited class I violation in an amount not less than \$5,000  
29 and not exceeding \$10,000 for each violation. A fine may be  
30 levied notwithstanding the correction of the violation.

31

1 (b) Class "II" violations are those conditions or  
2 occurrences related to the operation and maintenance of a  
3 facility or to the personal care of residents which the agency  
4 determines directly threaten the physical or emotional health,  
5 safety, or security of the facility residents, other than  
6 class I violations. The agency shall impose an administrative  
7 fine for a cited class II violation in an amount not less than  
8 \$1,000 and not exceeding \$5,000 for each violation. A fine  
9 shall be levied notwithstanding the correction of the  
10 violation.

11 (c) Class "III" violations are those conditions or  
12 occurrences related to the operation and maintenance of a  
13 facility or to the personal care of residents which the agency  
14 determines indirectly or potentially threaten the physical or  
15 emotional health, safety, or security of facility residents,  
16 other than class I or class II violations. The agency shall  
17 impose an administrative fine for a cited class III violation  
18 in an amount not less than \$500 and not exceeding \$1,000 for  
19 each violation. A citation for a class III violation must  
20 specify the time within which the violation is required to be  
21 corrected. If a class III violation is corrected within the  
22 time specified, no fine may be imposed, unless it is a  
23 repeated offense.

24 (d) Class "IV" violations are those conditions or  
25 occurrences related to the operation and maintenance of a  
26 building or to required reports, forms, or documents that do  
27 not have the potential of negatively affecting residents.  
28 These violations are of a type that the agency determines do  
29 not threaten the health, safety, or security of residents of  
30 the facility. The agency shall impose an administrative fine  
31 for a cited class IV violation in an amount not less than \$100

1 and not exceeding \$200 for each violation. A citation for a  
2 class IV violation must specify the time within which the  
3 violation is required to be corrected. If a class IV violation  
4 is corrected within the time specified, no fine shall be  
5 imposed. Any class IV violation that is corrected during the  
6 time an agency survey is being conducted will be identified as  
7 an agency finding and not as a violation.

8 (3) For purposes of this section, in determining if a  
9 penalty is to be imposed and in fixing the amount of the fine,  
10 the agency shall consider the following factors:

11 (a) The gravity of the violation, including the  
12 probability that death or serious physical or emotional harm  
13 to a resident will result or has resulted, the severity of the  
14 action or potential harm, and the extent to which the  
15 provisions of the applicable laws or rules were violated.

16 (b) Actions taken by the owner or administrator to  
17 correct violations.

18 (c) Any previous violations.

19 (d) The financial benefit to the facility of  
20 committing or continuing the violation.

21 (e) The licensed capacity of the facility.

22 (4) Each day of continuing violation after the date  
23 fixed for termination of the violation, as ordered by the  
24 agency, constitutes an additional, separate, and distinct  
25 violation.

26 (5) Any action taken to correct a violation shall be  
27 documented in writing by the owner or administrator of the  
28 facility and verified through followup visits by agency  
29 personnel. The agency may impose a fine and, in the case of an  
30 owner-operated facility, revoke or deny a facility's license  
31

1 when a facility administrator fraudulently misrepresents  
2 action taken to correct a violation.

3 ~~(6) For fines that are upheld following administrative~~  
4 ~~or judicial review, the violator shall pay the fine, plus~~  
5 ~~interest at the rate as specified in s. 55.03, for each day~~  
6 ~~beyond the date set by the agency for payment of the fine.~~

7 ~~(7) Any unlicensed facility that continues to operate~~  
8 ~~after agency notification is subject to a \$1,000 fine per day.~~

9 ~~(8) Any licensed facility whose owner or administrator~~  
10 ~~concurrently operates an unlicensed facility shall be subject~~  
11 ~~to an administrative fine of \$5,000 per day.~~

12 (6)(9) Any facility whose owner fails to apply for a  
13 change-of-ownership license in accordance with part II of  
14 chapter 408 s. 429.12 and operates the facility under the new  
15 ownership is subject to a fine of \$5,000.

16 (7)(10) In addition to any administrative fines  
17 imposed, the agency may assess a survey fee, equal to the  
18 lesser of one half of the facility's biennial license and bed  
19 fee or \$500, to cover the cost of conducting initial complaint  
20 investigations that result in the finding of a violation that  
21 was the subject of the complaint or monitoring visits  
22 conducted under s. 429.28(3)(c) to verify the correction of  
23 the violations.

24 (8)(11) The agency, as an alternative to or in  
25 conjunction with an administrative action against a facility  
26 for violations of this part and adopted rules, shall make a  
27 reasonable attempt to discuss each violation and recommended  
28 corrective action with the owner or administrator of the  
29 facility, prior to written notification. The agency, instead  
30 of fixing a period within which the facility shall enter into  
31 compliance with standards, may request a plan of corrective

1 action from the facility which demonstrates a good faith  
2 effort to remedy each violation by a specific date, subject to  
3 the approval of the agency.

4 ~~(12) Administrative fines paid by any facility under~~  
5 ~~this section shall be deposited into the Health Care Trust~~  
6 ~~Fund and expended as provided in s. 429.18.~~

7 ~~(9)(13)~~ The agency shall develop and disseminate an  
8 annual list of all facilities sanctioned or fined \$5,000 or  
9 more for violations of state standards, the number and class  
10 of violations involved, the penalties imposed, and the current  
11 status of cases. The list shall be disseminated, at no charge,  
12 to the Department of Elderly Affairs, the Department of  
13 Health, the Department of Children and Family Services, the  
14 Agency for Persons with Disabilities, the area agencies on  
15 aging, the Florida Statewide Advocacy Council, and the state  
16 and local ombudsman councils. The Department of Children and  
17 Family Services shall disseminate the list to service  
18 providers under contract to the department who are responsible  
19 for referring persons to a facility for residency. The agency  
20 may charge a fee commensurate with the cost of printing and  
21 postage to other interested parties requesting a copy of this  
22 list.

23 Section 153. Section 429.21, Florida Statutes, is  
24 repealed.

25 Section 154. Subsection (9) of section 429.22, Florida  
26 Statutes, is amended to read:

27 429.22 Receivership proceedings.--

28 (9) The court may direct the agency to allocate funds  
29 from the Health Care Trust Fund to the receiver, subject to  
30 the provisions of s. 429.18~~(1)~~.

31

1 Section 155. Subsection (9) of section 429.26, Florida  
2 Statutes, is amended to read:

3 429.26 Appropriateness of placements; examinations of  
4 residents.--

5 (9) If, at any time after admission to a facility, a  
6 resident appears to need care beyond that which the facility  
7 is licensed to provide, the agency shall require the resident  
8 to be physically examined by a licensed physician, physician  
9 assistant, or licensed nurse practitioner. This examination  
10 shall, to the extent possible, be performed by the resident's  
11 preferred physician or nurse practitioner and shall be paid  
12 for by the resident with personal funds, except as provided in  
13 s. 429.18(2)(1)(b). Following this examination, the examining  
14 physician, physician assistant, or licensed nurse practitioner  
15 shall complete and sign a medical form provided by the agency.  
16 The completed medical form shall be submitted to the agency  
17 within 30 days after the date the facility owner or  
18 administrator is notified by the agency that the physical  
19 examination is required. After consultation with the  
20 physician, physician assistant, or licensed nurse practitioner  
21 who performed the examination, a medical review team  
22 designated by the agency shall then determine whether the  
23 resident is appropriately residing in the facility. The  
24 medical review team shall base its decision on a comprehensive  
25 review of the resident's physical and functional status,  
26 including the resident's preferences, and not on an isolated  
27 health-related problem. In the case of a mental health  
28 resident, if the resident appears to have needs in addition to  
29 those identified in the community living support plan, the  
30 agency may require an evaluation by a mental health  
31 professional, as determined by the Department of Children and

1 Family Services. A facility may not be required to retain a  
2 resident who requires more services or care than the facility  
3 is able to provide in accordance with its policies and  
4 criteria for admission and continued residency. Members of the  
5 medical review team making the final determination may not  
6 include the agency personnel who initially questioned the  
7 appropriateness of a resident's placement. Such determination  
8 is final and binding upon the facility and the resident. Any  
9 resident who is determined by the medical review team to be  
10 inappropriately residing in a facility shall be given 30 days'  
11 written notice to relocate by the owner or administrator,  
12 unless the resident's continued residence in the facility  
13 presents an imminent danger to the health, safety, or welfare  
14 of the resident or a substantial probability exists that death  
15 or serious physical harm would result to the resident if  
16 allowed to remain in the facility.

17 Section 156. Subsections (1), (4), and (5) of section  
18 429.31, Florida Statutes, are amended to read:

19 429.31 Closing of facility; notice; penalty.--

20 (1) In addition to the requirements of part II of  
21 chapter 408, ~~Whenever a facility voluntarily discontinues~~  
22 ~~operation, it shall inform the agency in writing at least 90~~  
23 ~~days prior to the discontinuance of operation.~~ the facility  
24 shall ~~also~~ inform each resident or the next of kin, legal  
25 representative, or agency acting on each resident's behalf, of  
26 the fact and the proposed time of ~~such~~ discontinuance of  
27 operation, following the notification requirements provided in  
28 s. 429.28(1)(k). In the event a resident has no person to  
29 represent him or her, the facility shall be responsible for  
30 referral to an appropriate social service agency for  
31 placement.



1           ~~(4) Immediately upon discontinuance of the operation~~  
2 ~~of a facility, the owner shall surrender the license therefor~~  
3 ~~to the agency, and the license shall be canceled.~~

4           ~~(4)(5)~~ The agency may levy a fine in an amount no  
5 greater than \$5,000 upon each person or business entity that  
6 owns any interest in a facility that terminates operation  
7 without providing notice to the agency and the residents of  
8 the facility at least 30 days before operation ceases. This  
9 fine shall not be levied against any facility involuntarily  
10 closed at the initiation of the agency. The agency shall use  
11 the proceeds of the fines to operate the facility until all  
12 residents of the facility are relocated ~~and shall deposit any~~  
13 ~~balance of the proceeds into the Health Care Trust Fund~~  
14 ~~established pursuant to s. 429.18.~~

15           Section 157. Section 429.34, Florida Statutes, is  
16 amended to read:

17           429.34 Right of entry and inspection.--In addition to  
18 the requirements of s. 408.811, any duly designated officer or  
19 employee of the department, the Department of Children and  
20 Family Services, ~~the agency,~~ the Medicaid Fraud Control Unit  
21 of the Office of the Attorney General ~~Department of Legal~~  
22 ~~Affairs,~~ the state or local fire marshal, or a member of the  
23 state or local long-term care ombudsman council shall have the  
24 right to enter unannounced upon and into the premises of any  
25 facility licensed pursuant to this part in order to determine  
26 the state of compliance with the provisions of this part, part  
27 II of chapter 408, and applicable ~~of rules or standards in~~  
28 ~~force pursuant thereto. The right of entry and inspection~~  
29 ~~shall also extend to any premises which the agency has reason~~  
30 ~~to believe is being operated or maintained as a facility~~  
31 ~~without a license; but no such entry or inspection of any~~

1 ~~premises may be made without the permission of the owner or~~  
2 ~~person in charge thereof, unless a warrant is first obtained~~  
3 ~~from the circuit court authorizing such entry. The warrant~~  
4 ~~requirement shall extend only to a facility which the agency~~  
5 ~~has reason to believe is being operated or maintained as a~~  
6 ~~facility without a license. Any application for a license or~~  
7 ~~renewal thereof made pursuant to this part shall constitute~~  
8 ~~permission for, and complete acquiescence in, any entry or~~  
9 ~~inspection of the premises for which the license is sought, in~~  
10 ~~order to facilitate verification of the information submitted~~  
11 ~~on or in connection with the application; to discover,~~  
12 ~~investigate, and determine the existence of abuse or neglect;~~  
13 ~~or to elicit, receive, respond to, and resolve complaints. Any~~  
14 ~~current valid license shall constitute unconditional~~  
15 ~~permission for, and complete acquiescence in, any entry or~~  
16 ~~inspection of the premises by authorized personnel. The agency~~  
17 ~~shall retain the right of entry and inspection of facilities~~  
18 ~~that have had a license revoked or suspended within the~~  
19 ~~previous 24 months, to ensure that the facility is not~~  
20 ~~operating unlawfully. However, before entering the facility, a~~  
21 ~~statement of probable cause must be filed with the director of~~  
22 ~~the agency, who must approve or disapprove the action within~~  
23 ~~48 hours. Probable cause shall include, but is not limited to,~~  
24 ~~evidence that the facility holds itself out to the public as a~~  
25 ~~provider of personal care services or the receipt of a~~  
26 ~~complaint by the long term care ombudsman council about the~~  
27 ~~facility. Data collected by the state or local long-term care~~  
28 ~~ombudsman councils or the state or local advocacy councils may~~  
29 ~~be used by the agency in investigations involving violations~~  
30 ~~of regulatory standards.~~

31

1 Section 158. Section 429.35, Florida Statutes, is  
2 amended to read:

3 429.35 Inspection ~~Maintenance of records~~; reports.--

4 ~~(1) Every facility shall maintain, as public~~  
5 ~~information available for public inspection under such~~  
6 ~~conditions as the agency shall prescribe, records containing~~  
7 ~~copies of all inspection reports pertaining to the facility~~  
8 ~~that have been issued by the agency to the facility. Copies of~~  
9 ~~inspection reports shall be retained in the records for 5~~  
10 ~~years from the date the reports are filed or issued.~~

11 ~~(1)(2)~~ Within 60 days after the date of the biennial  
12 inspection visit required under s. 408.811 or within 30 days  
13 after the date of any interim visit, the agency shall forward  
14 the results of the inspection to the local ombudsman council  
15 in whose planning and service area, as defined in part I ~~II~~ of  
16 chapter 400, the facility is located; to at least one public  
17 library or, in the absence of a public library, the county  
18 seat in the county in which the inspected assisted living  
19 facility is located; and, when appropriate, to the district  
20 Adult Services and Mental Health Program Offices.

21 ~~(2)(3)~~ Every facility shall post a copy of the last  
22 inspection report of the agency for that facility in a  
23 prominent location within the facility so as to be accessible  
24 to all residents and to the public. Upon request, the  
25 facility shall also provide a copy of the report to any  
26 resident of the facility or to an applicant for admission to  
27 the facility.

28 Section 159. Section 429.41, Florida Statutes, is  
29 amended to read:

30 429.41 Rules establishing standards.--

31

1 (1) It is the intent of the Legislature that rules  
2 published and enforced pursuant to this section shall include  
3 criteria by which a reasonable and consistent quality of  
4 resident care and quality of life may be ensured and the  
5 results of such resident care may be demonstrated. Such rules  
6 shall also ensure a safe and sanitary environment that is  
7 residential and noninstitutional in design or nature. It is  
8 further intended that reasonable efforts be made to  
9 accommodate the needs and preferences of residents to enhance  
10 the quality of life in a facility. The agency, in consultation  
11 with the department, may adopt rules to administer the  
12 requirements of part II of chapter 408. In order to provide  
13 safe and sanitary facilities and the highest quality of  
14 resident care accommodating the needs and preferences of  
15 residents, the department, in consultation with the agency,  
16 the Department of Children and Family Services, and the  
17 Department of Health, shall adopt rules, policies, and  
18 procedures to administer this part, which must include  
19 reasonable and fair minimum standards in relation to:

20 (a) The requirements for and maintenance of  
21 facilities, not in conflict with the provisions of chapter  
22 553, relating to plumbing, heating, cooling, lighting,  
23 ventilation, living space, and other housing conditions, which  
24 will ensure the health, safety, and comfort of residents and  
25 protection from fire hazard, including adequate provisions for  
26 fire alarm and other fire protection suitable to the size of  
27 the structure. Uniform firesafety standards shall be  
28 established and enforced by the State Fire Marshal in  
29 cooperation with the agency, the department, and the  
30 Department of Health.

31 1. Evacuation capability determination.--

1 a. The provisions of the National Fire Protection  
2 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used  
3 for determining the ability of the residents, with or without  
4 staff assistance, to relocate from or within a licensed  
5 facility to a point of safety as provided in the fire codes  
6 adopted herein. An evacuation capability evaluation for  
7 initial licensure shall be conducted within 6 months after the  
8 date of licensure. For existing licensed facilities that are  
9 not equipped with an automatic fire sprinkler system, the  
10 administrator shall evaluate the evacuation capability of  
11 residents at least annually. The evacuation capability  
12 evaluation for each facility not equipped with an automatic  
13 fire sprinkler system shall be validated, without liability,  
14 by the State Fire Marshal, by the local fire marshal, or by  
15 the local authority having jurisdiction over firesafety,  
16 before the license renewal date. If the State Fire Marshal,  
17 local fire marshal, or local authority having jurisdiction  
18 over firesafety has reason to believe that the evacuation  
19 capability of a facility as reported by the administrator may  
20 have changed, it may, with assistance from the facility  
21 administrator, reevaluate the evacuation capability through  
22 timed exiting drills. Translation of timed fire exiting drills  
23 to evacuation capability may be determined:

- 24 (I) Three minutes or less: prompt.  
25 (II) More than 3 minutes, but not more than 13  
26 minutes: slow.  
27 (III) More than 13 minutes: impractical.

28 b. The Office of the State Fire Marshal shall provide  
29 or cause the provision of training and education on the proper  
30 application of Chapter 5, NFPA 101A, 1995 edition, to its  
31 employees, to staff of the Agency for Health Care

1 Administration who are responsible for regulating facilities  
2 under this part, and to local governmental inspectors. The  
3 Office of the State Fire Marshal shall provide or cause the  
4 provision of this training within its existing budget, but may  
5 charge a fee for this training to offset its costs. The  
6 initial training must be delivered within 6 months after July  
7 1, 1995, and as needed thereafter.

8 c. The Office of the State Fire Marshal, in  
9 cooperation with provider associations, shall provide or cause  
10 the provision of a training program designed to inform  
11 facility operators on how to properly review bid documents  
12 relating to the installation of automatic fire sprinklers. The  
13 Office of the State Fire Marshal shall provide or cause the  
14 provision of this training within its existing budget, but may  
15 charge a fee for this training to offset its costs. The  
16 initial training must be delivered within 6 months after July  
17 1, 1995, and as needed thereafter.

18 d. The administrator of a licensed facility shall sign  
19 an affidavit verifying the number of residents occupying the  
20 facility at the time of the evacuation capability evaluation.

21 2. Firesafety requirements.--

22 a. Except for the special applications provided  
23 herein, effective January 1, 1996, the provisions of the  
24 National Fire Protection Association, Life Safety Code, NFPA  
25 101, 1994 edition, Chapter 22 for new facilities and Chapter  
26 23 for existing facilities shall be the uniform fire code  
27 applied by the State Fire Marshal for assisted living  
28 facilities, pursuant to s. 633.022.

29 b. Any new facility, regardless of size, that applies  
30 for a license on or after January 1, 1996, must be equipped  
31 with an automatic fire sprinkler system. The exceptions as

1 provided in s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted  
2 herein, apply to any new facility housing eight or fewer  
3 residents. On July 1, 1995, local governmental entities  
4 responsible for the issuance of permits for construction shall  
5 inform, without liability, any facility whose permit for  
6 construction is obtained prior to January 1, 1996, of this  
7 automatic fire sprinkler requirement. As used in this part,  
8 the term "a new facility" does not mean an existing facility  
9 that has undergone change of ownership.

10 c. Notwithstanding any provision of s. 633.022 or of  
11 the National Fire Protection Association, NFPA 101A, Chapter  
12 5, 1995 edition, to the contrary, any existing facility  
13 housing eight or fewer residents is not required to install an  
14 automatic fire sprinkler system, nor to comply with any other  
15 requirement in Chapter 23, NFPA 101, 1994 edition, that  
16 exceeds the firesafety requirements of NFPA 101, 1988 edition,  
17 that applies to this size facility, unless the facility has  
18 been classified as impractical to evacuate. Any existing  
19 facility housing eight or fewer residents that is classified  
20 as impractical to evacuate must install an automatic fire  
21 sprinkler system within the timeframes granted in this  
22 section.

23 d. Any existing facility that is required to install  
24 an automatic fire sprinkler system under this paragraph need  
25 not meet other firesafety requirements of Chapter 23, NFPA  
26 101, 1994 edition, which exceed the provisions of NFPA 101,  
27 1988 edition. The mandate contained in this paragraph which  
28 requires certain facilities to install an automatic fire  
29 sprinkler system supersedes any other requirement.

30 e. This paragraph does not supersede the exceptions  
31 granted in NFPA 101, 1988 edition or 1994 edition.

1 f. This paragraph does not exempt facilities from  
2 other firesafety provisions adopted under s. 633.022 and local  
3 building code requirements in effect before July 1, 1995.

4 g. A local government may charge fees only in an  
5 amount not to exceed the actual expenses incurred by local  
6 government relating to the installation and maintenance of an  
7 automatic fire sprinkler system in an existing and properly  
8 licensed assisted living facility structure as of January 1,  
9 1996.

10 h. If a licensed facility undergoes major  
11 reconstruction or addition to an existing building on or after  
12 January 1, 1996, the entire building must be equipped with an  
13 automatic fire sprinkler system. Major reconstruction of a  
14 building means repair or restoration that costs in excess of  
15 50 percent of the value of the building as reported on the tax  
16 rolls, excluding land, before reconstruction. Multiple  
17 reconstruction projects within a 5-year period the total costs  
18 of which exceed 50 percent of the initial value of the  
19 building at the time the first reconstruction project was  
20 permitted are to be considered as major reconstruction.  
21 Application for a permit for an automatic fire sprinkler  
22 system is required upon application for a permit for a  
23 reconstruction project that creates costs that go over the  
24 50-percent threshold.

25 i. Any facility licensed before January 1, 1996, that  
26 is required to install an automatic fire sprinkler system  
27 shall ensure that the installation is completed within the  
28 following timeframes based upon evacuation capability of the  
29 facility as determined under subparagraph 1.:

30 (I) Impractical evacuation capability, 24 months.

31 (II) Slow evacuation capability, 48 months.



1 (III) Prompt evacuation capability, 60 months.

2

3 The beginning date from which the deadline for the automatic  
4 fire sprinkler installation requirement must be calculated is  
5 upon receipt of written notice from the local fire official  
6 that an automatic fire sprinkler system must be installed. The  
7 local fire official shall send a copy of the document  
8 indicating the requirement of a fire sprinkler system to the  
9 Agency for Health Care Administration.

10 j. It is recognized that the installation of an  
11 automatic fire sprinkler system may create financial hardship  
12 for some facilities. The appropriate local fire official  
13 shall, without liability, grant two 1-year extensions to the  
14 timeframes for installation established herein, if an  
15 automatic fire sprinkler installation cost estimate and proof  
16 of denial from two financial institutions for a construction  
17 loan to install the automatic fire sprinkler system are  
18 submitted. However, for any facility with a class I or class  
19 II, or a history of uncorrected class III, firesafety  
20 deficiencies, an extension must not be granted. The local fire  
21 official shall send a copy of the document granting the time  
22 extension to the Agency for Health Care Administration.

23 k. A facility owner whose facility is required to be  
24 equipped with an automatic fire sprinkler system under Chapter  
25 23, NFPA 101, 1994 edition, as adopted herein, must disclose  
26 to any potential buyer of the facility that an installation of  
27 an automatic fire sprinkler requirement exists. The sale of  
28 the facility does not alter the timeframe for the installation  
29 of the automatic fire sprinkler system.

30 l. Existing facilities required to install an  
31 automatic fire sprinkler system as a result of

1 construction-type restrictions in Chapter 23, NFPA 101, 1994  
2 edition, as adopted herein, or evacuation capability  
3 requirements shall be notified by the local fire official in  
4 writing of the automatic fire sprinkler requirement, as well  
5 as the appropriate date for final compliance as provided in  
6 this subparagraph. The local fire official shall send a copy  
7 of the document to the Agency for Health Care Administration.

8 m. Except in cases of life-threatening fire hazards,  
9 if an existing facility experiences a change in the evacuation  
10 capability, or if the local authority having jurisdiction  
11 identifies a construction-type restriction, such that an  
12 automatic fire sprinkler system is required, it shall be  
13 afforded time for installation as provided in this  
14 subparagraph.

15  
16 Facilities that are fully sprinkled and in compliance with  
17 other firesafety standards are not required to conduct more  
18 than one of the required fire drills between the hours of 11  
19 p.m. and 7 a.m., per year. In lieu of the remaining drills,  
20 staff responsible for residents during such hours may be  
21 required to participate in a mock drill that includes a review  
22 of evacuation procedures. Such standards must be included or  
23 referenced in the rules adopted by the State Fire Marshal.  
24 Pursuant to s. 633.022(1)(b), the State Fire Marshal is the  
25 final administrative authority for firesafety standards  
26 established and enforced pursuant to this section. All  
27 licensed facilities must have an annual fire inspection  
28 conducted by the local fire marshal or authority having  
29 jurisdiction.

30 3. Resident elopement requirements.--Facilities are  
31 required to conduct a minimum of two resident elopement

1 prevention and response drills per year. All administrators  
2 and direct care staff must participate in the drills which  
3 shall include a review of procedures to address resident  
4 elopement. Facilities must document the implementation of the  
5 drills and ensure that the drills are conducted in a manner  
6 consistent with the facility's resident elopement policies and  
7 procedures.

8 (b) The preparation and annual update of a  
9 comprehensive emergency management plan. Such standards must  
10 be included in the rules adopted by the department after  
11 consultation with the Department of Community Affairs. At a  
12 minimum, the rules must provide for plan components that  
13 address emergency evacuation transportation; adequate  
14 sheltering arrangements; postdisaster activities, including  
15 provision of emergency power, food, and water; postdisaster  
16 transportation; supplies; staffing; emergency equipment;  
17 individual identification of residents and transfer of  
18 records; communication with families; and responses to family  
19 inquiries. The comprehensive emergency management plan is  
20 subject to review and approval by the local emergency  
21 management agency. During its review, the local emergency  
22 management agency shall ensure that the following agencies, at  
23 a minimum, are given the opportunity to review the plan: the  
24 Department of Elderly Affairs, the Department of Health, the  
25 Agency for Health Care Administration, and the Department of  
26 Community Affairs. Also, appropriate volunteer organizations  
27 must be given the opportunity to review the plan. The local  
28 emergency management agency shall complete its review within  
29 60 days and either approve the plan or advise the facility of  
30 necessary revisions.  
31

1 (c) The number, training, and qualifications of all  
2 personnel having responsibility for the care of residents. The  
3 rules must require adequate staff to provide for the safety of  
4 all residents. Facilities licensed for 17 or more residents  
5 are required to maintain an alert staff for 24 hours per day.

6 (d) All sanitary conditions within the facility and  
7 its surroundings which will ensure the health and comfort of  
8 residents. The rules must clearly delineate the  
9 responsibilities of the agency's licensure and survey staff,  
10 the county health departments, and the local authority having  
11 jurisdiction over firesafety and ensure that inspections are  
12 not duplicative. The agency may collect fees for food service  
13 inspections conducted by the county health departments and  
14 transfer such fees to the Department of Health.

15 (e) License application and license renewal, transfer  
16 of ownership, proper management of resident funds and personal  
17 property, surety bonds, resident contracts, refund policies,  
18 financial ability to operate, and facility and staff records.

19 (f) Inspections, complaint investigations,  
20 moratoriums, classification of deficiencies, levying and  
21 enforcement of penalties, and use of income from fees and  
22 fines.

23 (g) The enforcement of the resident bill of rights  
24 specified in s. 429.28.

25 (h) The care and maintenance of residents, which must  
26 include, but is not limited to:

- 27 1. The supervision of residents;
- 28 2. The provision of personal services;
- 29 3. The provision of, or arrangement for, social and  
30 leisure activities;

31

1 4. The arrangement for appointments and transportation  
2 to appropriate medical, dental, nursing, or mental health  
3 services, as needed by residents;

4 5. The management of medication;

5 6. The nutritional needs of residents;

6 7. Resident records; and

7 8. Internal risk management and quality assurance.

8 (i) Facilities holding a limited nursing, extended  
9 congregate care, or limited mental health license.

10 (j) The establishment of specific criteria to define  
11 appropriateness of resident admission and continued residency  
12 in a facility holding a standard, limited nursing, extended  
13 congregate care, and limited mental health license.

14 (k) The use of physical or chemical restraints. The  
15 use of physical restraints is limited to half-bed rails as  
16 prescribed and documented by the resident's physician with the  
17 consent of the resident or, if applicable, the resident's  
18 representative or designee or the resident's surrogate,  
19 guardian, or attorney in fact. The use of chemical restraints  
20 is limited to prescribed dosages of medications authorized by  
21 the resident's physician and must be consistent with the  
22 resident's diagnosis. Residents who are receiving medications  
23 that can serve as chemical restraints must be evaluated by  
24 their physician at least annually to assess:

25 1. The continued need for the medication.

26 2. The level of the medication in the resident's  
27 blood.

28 3. The need for adjustments in the prescription.

29 (l) The establishment of specific policies and  
30 procedures on resident elopement. Facilities shall conduct a  
31 minimum of two resident elopement drills each year. All

1 administrators and direct care staff shall participate in the  
2 drills. Facilities shall document the drills.

3 (2) In adopting any rules pursuant to this part, the  
4 department, in conjunction with the agency, shall make  
5 distinct standards for facilities based upon facility size;  
6 the types of care provided; the physical and mental  
7 capabilities and needs of residents; the type, frequency, and  
8 amount of services and care offered; and the staffing  
9 characteristics of the facility. Rules developed pursuant to  
10 this section shall not restrict the use of shared staffing and  
11 shared programming in facilities that are part of retirement  
12 communities that provide multiple levels of care and otherwise  
13 meet the requirements of law and rule. Except for uniform  
14 firesafety standards, the department shall adopt by rule  
15 separate and distinct standards for facilities with 16 or  
16 fewer beds and for facilities with 17 or more beds. The  
17 standards for facilities with 16 or fewer beds shall be  
18 appropriate for a noninstitutional residential environment,  
19 provided that the structure is no more than two stories in  
20 height and all persons who cannot exit the facility unassisted  
21 in an emergency reside on the first floor. The department, in  
22 conjunction with the agency, may make other distinctions among  
23 types of facilities as necessary to enforce the provisions of  
24 this part. Where appropriate, the agency shall offer alternate  
25 solutions for complying with established standards, based on  
26 distinctions made by the department and the agency relative to  
27 the physical characteristics of facilities and the types of  
28 care offered therein.

29 (3) The department shall submit a copy of proposed  
30 rules to the Speaker of the House of Representatives, the  
31 President of the Senate, and appropriate committees of

1 substance for review and comment prior to the promulgation  
2 thereof.

3 ~~(a)~~ Rules promulgated by the department shall  
4 encourage the development of homelike facilities which promote  
5 the dignity, individuality, personal strengths, and  
6 decisionmaking ability of residents.

7 ~~(4)(b)~~ The agency, in consultation with the  
8 department, may waive rules promulgated pursuant to this part  
9 in order to demonstrate and evaluate innovative or  
10 cost-effective congregate care alternatives which enable  
11 individuals to age in place. Such waivers may be granted only  
12 in instances where there is reasonable assurance that the  
13 health, safety, or welfare of residents will not be  
14 endangered. To apply for a waiver, the licensee shall submit  
15 to the agency a written description of the concept to be  
16 demonstrated, including goals, objectives, and anticipated  
17 benefits; the number and types of residents who will be  
18 affected, if applicable; a brief description of how the  
19 demonstration will be evaluated; and any other information  
20 deemed appropriate by the agency. Any facility granted a  
21 waiver shall submit a report of findings to the agency and the  
22 department within 12 months. At such time, the agency may  
23 renew or revoke the waiver or pursue any regulatory or  
24 statutory changes necessary to allow other facilities to adopt  
25 the same practices. The department may by rule clarify terms  
26 and establish waiver application procedures, criteria for  
27 reviewing waiver proposals, and procedures for reporting  
28 findings, as necessary to implement this subsection.

29 ~~(5)(4)~~ The agency may use an abbreviated biennial  
30 standard licensure inspection that consists of a review of key  
31 quality-of-care standards in lieu of a full inspection in

1 facilities which have a good record of past performance.  
2 However, a full inspection shall be conducted in facilities  
3 which have had a history of class I or class II violations,  
4 uncorrected class III violations, confirmed ombudsman council  
5 complaints, or confirmed licensure complaints, within the  
6 previous licensure period immediately preceding the inspection  
7 or when a potentially serious problem is identified during the  
8 abbreviated inspection. The agency, in consultation with the  
9 department, shall develop the key quality-of-care standards  
10 with input from the State Long-Term Care Ombudsman Council and  
11 representatives of provider groups for incorporation into its  
12 rules. The department, in consultation with the agency, shall  
13 report annually to the Legislature concerning its  
14 implementation of this subsection. The report shall include,  
15 at a minimum, the key quality-of-care standards which have  
16 been developed; the number of facilities identified as being  
17 eligible for the abbreviated inspection; the number of  
18 facilities which have received the abbreviated inspection and,  
19 of those, the number that were converted to full inspection;  
20 the number and type of subsequent complaints received by the  
21 agency or department on facilities which have had abbreviated  
22 inspections; any recommendations for modification to this  
23 subsection; any plans by the agency to modify its  
24 implementation of this subsection; and any other information  
25 which the department believes should be reported.

26 ~~(5) A fee shall be charged by the department to any~~  
27 ~~person requesting a copy of this part or rules promulgated~~  
28 ~~under this part. Such fees shall not exceed the actual cost of~~  
29 ~~duplication and postage.~~

30 Section 160. Subsections (4) through (7) of section  
31 429.47, Florida Statutes, are renumbered as subsections (1)



1 through (4), respectively, and present subsections (1), (2),  
2 and (3) of that section are amended to read:

3 429.47 Prohibited acts; penalties for violation.--

4 ~~(1) It is unlawful for any person or public body to~~  
5 ~~offer or advertise to the public, in any way by any medium~~  
6 ~~whatever, personal services as defined in this act, without~~  
7 ~~obtaining a valid current license. It is unlawful for any~~  
8 ~~holder of a license issued pursuant to the provisions of this~~  
9 ~~act to advertise or hold out to the public that it holds a~~  
10 ~~license for a facility other than that for which it actually~~  
11 ~~holds a license.~~

12 ~~(2) It is unlawful for any holder of a license issued~~  
13 ~~pursuant to the provisions of this act to withhold from the~~  
14 ~~agency any evidence of financial instability, including, but~~  
15 ~~not limited to, bad checks, delinquent accounts, nonpayment of~~  
16 ~~withholding taxes, unpaid utility expenses, nonpayment for~~  
17 ~~essential services, or adverse court action concerning the~~  
18 ~~financial viability of the facility or any other facility~~  
19 ~~licensed under part II of chapter 400 or under this part which~~  
20 ~~is owned by the licensee.~~

21 ~~(3) Any person found guilty of violating subsection~~  
22 ~~(1) or subsection (2) commits a misdemeanor of the second~~  
23 ~~degree, punishable as provided in s. 775.083. Each day of~~  
24 ~~continuing violation shall be considered a separate offense.~~

25 Section 161. Section 429.51, Florida Statutes, is  
26 repealed.

27 Section 162. Section 429.67, Florida Statutes, is  
28 amended to read:

29 429.67 Licensure ~~application and renewal.~~--

30 (1) The requirements of part II of chapter 408 apply  
31 to the provision of services that require licensure pursuant

1 to this part and part II of chapter 408 and to entities  
2 licensed by or applying for such licensure from the Agency for  
3 Health Care Administration pursuant to this part. A license  
4 issued by the agency is required in order to operate an adult  
5 family-care home in this state. ~~Each person who intends to be~~  
6 ~~an adult family care home provider must apply for a license~~  
7 ~~from the agency at least 90 days before the applicant intends~~  
8 ~~to operate the adult family care home.~~

9 (2) A person who intends to be an adult family-care  
10 home provider must own or rent the adult family-care home that  
11 is to be licensed and reside therein.

12 (3) In accordance with s. 408.805, an applicant or  
13 licensee shall pay a fee for each license application  
14 submitted under this part, part II of chapter 408, and  
15 applicable rules. The amount of the fee shall be \$200 per  
16 biennium. ~~The agency shall notify a licensee at least 120 days~~  
17 ~~before the expiration date that license renewal is required to~~  
18 ~~continue operation. The notification must be provided~~  
19 ~~electronically or by mail delivery. Application for a license~~  
20 ~~or annual license renewal must be made on a form provided by~~  
21 ~~the agency, signed under oath, and must be accompanied by a~~  
22 ~~licensing fee of \$100 per year.~~

23 (4) Upon receipt of a completed license application or  
24 license renewal, and the fee, the agency shall initiate a  
25 level 1 background screening as provided under chapter 435 on  
26 the adult family-care home provider, the designated relief  
27 person, all adult household members, and all staff members.  
28 ~~The agency shall conduct an onsite visit to the home that is~~  
29 ~~to be licensed.~~

30 (a) Proof of compliance with level 1 screening  
31 standards which has been submitted within the previous 5 years

1 | to meet any facility or professional licensure requirements of  
2 | the agency or the Department of Health satisfies the  
3 | requirements of this subsection. Such proof must be  
4 | accompanied, under penalty of perjury, by a copy of the  
5 | person's current professional license and an affidavit of  
6 | current compliance with the background screening requirements.

7 |       (b) The person required to be screened must have been  
8 | continuously employed in the same type of occupation for which  
9 | the person is seeking employment without a breach in service  
10 | that exceeds 180 days, and proof of compliance with the level  
11 | 1 screening requirement which is no more than 2 years old must  
12 | be provided. Proof of compliance shall be provided directly  
13 | from one employer or contractor to another, and not from the  
14 | person screened. Upon request, a copy of screening results  
15 | shall be provided to the person screened by the employer  
16 | retaining documentation of the screening.

17 |       ~~(5) The application must be accompanied by a~~  
18 | ~~description and explanation of any exclusions, permanent~~  
19 | ~~suspensions, or terminations of the applicant from~~  
20 | ~~participation in the Medicaid or Medicare programs or any~~  
21 | ~~other governmental health care or health insurance program.~~

22 |       (5)(6) Unless the adult family-care home is a  
23 | community residential home subject to chapter 419, the  
24 | applicant must provide documentation, signed by the  
25 | appropriate governmental official, that the home has met local  
26 | zoning requirements for the location for which the license is  
27 | sought.

28 |       (6)(7) In addition to the requirements of s. 408.811,  
29 | access to a licensed adult family-care home must be provided  
30 | at reasonable times for the appropriate officials of the  
31 | department, the Department of Health, the Department of

1 Children and Family Services, the agency, and the State Fire  
2 Marshal, who are responsible for the development and  
3 maintenance of fire, health, sanitary, and safety standards,  
4 to inspect the facility to assure compliance with these  
5 standards. In addition, access to a licensed adult family-care  
6 home must be provided at reasonable times for the local  
7 long-term care ombudsman council.

8 ~~(8) A license is effective for 1 year after the date~~  
9 ~~of issuance unless revoked sooner. Each license must state the~~  
10 ~~name of the provider, the address of the home to which the~~  
11 ~~license applies, and the maximum number of residents of the~~  
12 ~~home. Failure to timely file a license renewal application~~  
13 ~~shall result in a late fee equal to 50 percent of the license~~  
14 ~~fee.~~

15 ~~(9) A license is not transferable or applicable to any~~  
16 ~~location or person other than the location and person~~  
17 ~~indicated on the license.~~

18 (7)~~(10)~~ The licensed maximum capacity of each adult  
19 family-care home is based on the service needs of the  
20 residents and the capability of the provider to meet the needs  
21 of the residents. Any relative who lives in the adult  
22 family-care home and who is a disabled adult or frail elder  
23 must be included in that limitation.

24 (8)~~(11)~~ Each adult family-care home must designate at  
25 least one licensed space for a resident receiving optional  
26 state supplementation. The Department of Children and Family  
27 Services shall specify by rule the procedures to be followed  
28 for referring residents who receive optional state  
29 supplementation to adult family-care homes. Those homes  
30 licensed as adult foster homes or assisted living facilities  
31

1 prior to January 1, 1994, that convert to adult family-care  
2 homes, are exempt from this requirement.

3 ~~(9)(12)~~ In addition to the license categories  
4 available in s. 408.808, the agency may issue a conditional  
5 license to a provider for the purpose of bringing the adult  
6 family-care home into compliance with licensure requirements.  
7 A conditional license must be limited to a specific period,  
8 not exceeding 6 months. The department shall, by rule,  
9 establish criteria for issuing conditional licenses.

10 ~~(13) All moneys collected under this section must be~~  
11 ~~deposited into the Department of Elderly Affairs~~  
12 ~~Administrative Trust Fund.~~

13 ~~(10)(14)~~ The department may adopt rules to establish  
14 procedures, identify forms, specify documentation, and clarify  
15 terms, as necessary, to administer this section.

16 (11) The agency may adopt rules to administer the  
17 requirements of part II of chapter 408.

18 Section 163. Section 429.69, Florida Statutes, is  
19 amended to read:

20 429.69 Denial, revocation, and ~~or~~ suspension of a  
21 license.--In addition to the requirements of part II of  
22 chapter 408, the agency may deny, suspend, and ~~or~~ revoke a  
23 license for any of the following reasons:

24 (1) Failure of any of the persons required to undergo  
25 background screening under s. 429.67 to meet the level 1  
26 screening standards of s. 435.03, unless an exemption from  
27 disqualification has been provided by the agency.

28 ~~(2) An intentional or negligent act materially~~  
29 ~~affecting the health, safety, or welfare of the adult~~  
30 ~~family care home residents.~~

31

1 ~~(3) Submission of fraudulent information or omission~~  
2 ~~of any material fact on a license application or any other~~  
3 ~~document required by the agency.~~

4 ~~(4) Failure to pay an administrative fine assessed~~  
5 ~~under this part.~~

6 ~~(5) A violation of this part or adopted rules which~~  
7 ~~results in conditions or practices that directly threaten the~~  
8 ~~physical or emotional health, safety, or welfare of residents.~~

9 ~~(2)(6)~~ Failure to correct cited fire code violations  
10 that threaten the health, safety, or welfare of residents.

11 ~~(7) Failure to submit a completed initial license~~  
12 ~~application or to complete an application for license renewal~~  
13 ~~within the specified timeframes.~~

14 ~~(8) Exclusion, permanent suspension, or termination of~~  
15 ~~the provider from the Medicare or Medicaid program.~~

16 Section 164. Section 429.71, Florida Statutes, is  
17 amended to read:

18 429.71 Classification of deficiencies; administrative  
19  fines ~~Violations; penalties.--~~

20 (1) In addition to the requirements of part II of  
21 chapter 408 and in addition to any other liability or penalty  
22 provided by law, the agency may impose an administrative fine  
23 ~~a civil penalty~~ on a provider according to the following  
24 classification:

25 (a) Class I violations are those conditions or  
26 practices related to the operation and maintenance of an adult  
27 family-care home or to the care of residents which the agency  
28 determines present an imminent danger to the residents or  
29 guests of the facility or a substantial probability that death  
30 or serious physical or emotional harm would result therefrom.  
31 The condition or practice that constitutes a class I violation

1 | must be abated or eliminated within 24 hours, unless a fixed  
2 | period, as determined by the agency, is required for  
3 | correction. A class I deficiency is subject to an  
4 | administrative fine in an amount not less than \$500 and not  
5 | exceeding \$1,000 for each violation. A fine may be levied  
6 | notwithstanding the correction of the deficiency.

7 |         (b) Class II violations are those conditions or  
8 | practices related to the operation and maintenance of an adult  
9 | family-care home or to the care of residents which the agency  
10 | determines directly threaten the physical or emotional health,  
11 | safety, or security of the residents, other than class I  
12 | violations. A class II violation is subject to an  
13 | administrative fine in an amount not less than \$250 and not  
14 | exceeding \$500 for each violation. A citation for a class II  
15 | violation must specify the time within which the violation is  
16 | required to be corrected. If a class II violation is corrected  
17 | within the time specified, no civil penalty shall be imposed,  
18 | unless it is a repeated offense.

19 |         (c) Class III violations are those conditions or  
20 | practices related to the operation and maintenance of an adult  
21 | family-care home or to the care of residents which the agency  
22 | determines indirectly or potentially threaten the physical or  
23 | emotional health, safety, or security of residents, other than  
24 | class I or class II violations. A class III violation is  
25 | subject to an administrative fine in an amount not less than  
26 | \$100 and not exceeding \$250 for each violation. A citation for  
27 | a class III violation shall specify the time within which the  
28 | violation is required to be corrected. If a class III  
29 | violation is corrected within the time specified, no civil  
30 | penalty shall be imposed, unless it is a repeated offense.

31 |

1 (d) Class IV violations are those conditions or  
2 occurrences related to the operation and maintenance of an  
3 adult family-care home, or related to the required reports,  
4 forms, or documents, which do not have the potential of  
5 negatively affecting the residents. A provider that does not  
6 correct a class IV violation within the time limit specified  
7 by the agency is subject to an administrative fine in an  
8 amount not less than \$50 and not exceeding \$100 for each  
9 violation. Any class IV violation that is corrected during the  
10 time the agency survey is conducted will be identified as an  
11 agency finding and not as a violation.

12 (2) The agency may impose an administrative fine for  
13 violations which do not qualify as class I, class II, class  
14 III, or class IV violations. The amount of the fine shall not  
15 exceed \$250 for each violation or \$2,000 in the aggregate.  
16 Unclassified violations may include:

17 (a) Violating any term or condition of a license.

18 (b) Violating any provision of ~~rule adopted under~~ this  
19 part, part II of chapter 408, or applicable rules.

20 (c) Failure to follow the criteria and procedures  
21 provided under part I of chapter 394 relating to the  
22 transportation, voluntary admission, and involuntary  
23 examination of adult family-care home residents.

24 (d) Exceeding licensed capacity.

25 (e) Providing services beyond the scope of the  
26 license.

27 (f) Violating a moratorium.

28 (3) Each day during which a violation occurs  
29 constitutes a separate offense.  
30  
31



1 (4) In determining whether a penalty is to be imposed,  
2 and in fixing the amount of any penalty to be imposed, the  
3 agency must consider:

4 (a) The gravity of the violation.

5 (b) Actions taken by the provider to correct a  
6 violation.

7 (c) Any previous violation by the provider.

8 (d) The financial benefit to the provider of  
9 committing or continuing the violation.

10 (5) As an alternative to or in conjunction with an  
11 administrative action against a provider, the agency may  
12 request a plan of corrective action that demonstrates a good  
13 faith effort to remedy each violation by a specific date,  
14 subject to the approval of the agency.

15 (6) The department shall set forth, by rule, notice  
16 requirements and procedures for correction of deficiencies.

17 ~~(7) Civil penalties paid by a provider must be~~  
18 ~~deposited into the Department of Elderly Affairs~~  
19 ~~Administrative Trust Fund and used to offset the expenses of~~  
20 ~~departmental training and education for adult family care home~~  
21 ~~providers.~~

22 ~~(8) The agency may impose an immediate moratorium on~~  
23 ~~admissions to any adult family care home if the agency finds~~  
24 ~~that a condition in the home presents a threat to the health,~~  
25 ~~safety, or welfare of its residents. The department may by~~  
26 ~~rule establish facility conditions that constitute grounds for~~  
27 ~~imposing a moratorium and establish procedures for imposing~~  
28 ~~and lifting a moratorium.~~

29 Section 165. Section 429.73, Florida Statutes, is  
30 amended to read:  
31

1 429.73 Rules and standards relating to adult  
2 family-care homes.--

3 (1) The agency, in consultation with the department,  
4 may adopt rules to administer the requirements of part II of  
5 chapter 408. The department, in consultation with the  
6 Department of Health, the Department of Children and Family  
7 Services, and the agency shall, by rule, establish minimum  
8 standards to ensure the health, safety, and well-being of each  
9 resident in the adult family-care home pursuant to this part.

10 The rules must address:

11 (a) Requirements for the physical site of the facility  
12 and facility maintenance.

13 (b) Services that must be provided to all residents of  
14 an adult family-care home and standards for such services,  
15 which must include, but need not be limited to:

- 16 1. Room and board.
- 17 2. Assistance necessary to perform the activities of  
18 daily living.
- 19 3. Assistance necessary to administer medication.
- 20 4. Supervision of residents.
- 21 5. Health monitoring.
- 22 6. Social and leisure activities.

23 (c) Standards and procedures for license application  
24 and annual license renewal, advertising, proper management of  
25 each resident's funds and personal property and personal  
26 affairs, financial ability to operate, medication management,  
27 inspections, complaint investigations, and facility, staff,  
28 and resident records.

29 (d) Qualifications, training, standards, and  
30 responsibilities for providers and staff.

31

1 (e) Compliance with chapter 419, relating to community  
2 residential homes.

3 (f) Criteria and procedures for determining the  
4 appropriateness of a resident's placement and continued  
5 residency in an adult family-care home. A resident who  
6 requires 24-hour nursing supervision may not be retained in an  
7 adult family-care home unless such resident is an enrolled  
8 hospice patient and the resident's continued residency is  
9 mutually agreeable to the resident and the provider.

10 (g) Procedures for providing notice and assuring the  
11 least possible disruption of residents' lives when residents  
12 are relocated, an adult family-care home is closed, or the  
13 ownership of an adult family-care home is transferred.

14 (h) Procedures to protect the residents' rights as  
15 provided in s. 429.85.

16 (i) Procedures to promote the growth of adult  
17 family-care homes as a component of a long-term care system.

18 (j) Procedures to promote the goal of aging in place  
19 for residents of adult family-care homes.

20 (2) The department shall by rule provide minimum  
21 standards and procedures for emergencies. Pursuant to s.  
22 633.022, the State Fire Marshal, in consultation with the  
23 department and the agency, shall adopt uniform firesafety  
24 standards for adult family-care homes.

25 (3) The department shall adopt rules providing for the  
26 implementation of orders not to resuscitate. The provider may  
27 withhold or withdraw cardiopulmonary resuscitation if  
28 presented with an order not to resuscitate executed pursuant  
29 to s. 401.45. The provider shall not be subject to criminal  
30 prosecution or civil liability, nor be considered to have  
31 engaged in negligent or unprofessional conduct, for

1 withholding or withdrawing cardiopulmonary resuscitation  
2 pursuant to such an order and applicable rules ~~adopted by the~~  
3 ~~department.~~

4 ~~(4) The provider of any adult family care home that is~~  
5 ~~in operation at the time any rules are adopted or amended~~  
6 ~~under this part may be given a reasonable time, not exceeding~~  
7 ~~6 months, within which to comply with the new or revised rules~~  
8 ~~and standards.~~

9 Section 166. Section 429.77, Florida Statutes, is  
10 repealed.

11 Section 167. Subsections (6) and (7) of section  
12 429.901, Florida Statutes, are amended to read:

13 429.901 Definitions.--As used in this part, the term:

14 (6) "Operator" means the licensee or person having  
15 general administrative charge of an adult day care center.

16 (7) "Owner" means the licensee ~~owner~~ of an adult day  
17 care center.

18 Section 168. Section 429.907, Florida Statutes, is  
19 amended to read:

20 429.907 License requirement; fee; exemption;  
21 display.--

22 (1) The requirements of part II of chapter 408 apply  
23 to the provision of services that require licensure pursuant  
24 to this part and part II of chapter 408 and to entities  
25 licensed by or applying for such licensure from the Agency for  
26 Health Care Administration pursuant to this part. A license  
27 issued by the agency is required in order to operate an adult  
28 day care in this state. It is unlawful to operate an adult day  
29 care center without first obtaining from the agency a license  
30 authorizing such operation. The agency is responsible for  
31 licensing adult day care centers in accordance with this part.

1 (2) Separate licenses are required for centers  
2 operated on separate premises, even though operated under the  
3 same management. Separate licenses are not required for  
4 separate buildings on the same premises.

5 (3) In accordance with s. 408.805, an applicant or  
6 licensee shall pay a fee for each license application  
7 submitted under this part and part II of chapter 408. The  
8 amount of the fee shall be established by rule and The  
9 ~~biennial license fee required of a center shall be determined~~  
10 ~~by the department, but~~ may not exceed \$150.

11 (4) County-operated or municipally operated centers  
12 applying for licensure under this part are exempt from the  
13 payment of license fees.

14 ~~(5) The license for a center shall be displayed in a~~  
15 ~~conspicuous place inside the center.~~

16 ~~(6) A license is valid only in the possession of the~~  
17 ~~individual, firm, partnership, association, or corporation to~~  
18 ~~which it is issued and is not subject to sale, assignment, or~~  
19 ~~other transfer, voluntary or involuntary; nor is a license~~  
20 ~~valid for any premises other than the premises for which~~  
21 ~~originally issued.~~

22 Section 169. Section 429.909, Florida Statutes, is  
23 amended to read:

24 429.909 Application for license.--

25 ~~(1) An application for a license to operate an adult~~  
26 ~~day care center must be made to the agency on forms furnished~~  
27 ~~by the agency and must be accompanied by the appropriate~~  
28 ~~license fee unless the applicant is exempt from payment of the~~  
29 ~~fee as provided in s. 429.907(4).~~

30 ~~(2)~~ In addition to all provisions of part II of  
31 chapter 408, the applicant for licensure must furnish+

1 (a) a description of the physical and mental  
2 capabilities and needs of the participants to be served and  
3 the availability, frequency, and intensity of basic services  
4 and of supportive and optional services to be provided and;

5 ~~(b) Satisfactory proof of financial ability to operate  
6 and conduct the center in accordance with the requirements of  
7 this part, which must include, in the case of an initial  
8 application, a 1 year operating plan and proof of a 3 month  
9 operating reserve fund; and~~

10 (c) proof of adequate liability insurance coverage.

11 ~~(d) Proof of compliance with level 2 background  
12 screening as required under s. 429.919.~~

13 ~~(e) A description and explanation of any exclusions,  
14 permanent suspensions, or terminations of the application from  
15 the Medicare or Medicaid programs. Proof of compliance with  
16 disclosure of ownership and control interest requirements of  
17 the Medicare or Medicaid programs shall be accepted in lieu of  
18 this submission.~~

19 Section 170. Section 429.911, Florida Statutes, is  
20 amended to read:

21 429.911 Denial, suspension, revocation of license;  
22 emergency action; administrative fines; investigations and  
23 inspections.--

24 (1) The agency may deny, revoke, and ~~or~~ suspend a  
25 license under this part, impose an action under s. 408.814,  
26 and ~~or may~~ impose an administrative fine against the owner of  
27 an adult day care center or its operator or employee in the  
28 manner provided in chapter 120 for the violation of any  
29 provision of this part, part II of chapter 408, or applicable  
30 rules.

1 (2) Each of the following actions by the owner of an  
2 adult day care center or by its operator or employee is a  
3 ground for action by the agency against the owner of the  
4 center or its operator or employee:

5 (a) An intentional or negligent act materially  
6 affecting the health or safety of center participants.

7 (b) A violation of this part or of any standard or  
8 rule under this part or part II of chapter 408.

9 (c) A failure of persons subject to level 2 background  
10 screening under s. 408.809 ~~429.174(1)~~ to meet the screening  
11 standards of s. 435.04, or the retention by the center of an  
12 employee subject to level 1 background screening standards  
13 under s. ~~429.174(2)~~ who does not meet the screening standards  
14 of s. 435.03 and for whom exemptions from disqualification  
15 have not been provided by the agency.

16 (d) Failure to follow the criteria and procedures  
17 provided under part I of chapter 394 relating to the  
18 transportation, voluntary admission, and involuntary  
19 examination of center participants.

20 (e) Multiple or repeated violations of this part or of  
21 any standard or rule adopted under this part or part II of  
22 chapter 408.

23 ~~(f) Exclusion, permanent suspension, or termination of~~  
24 ~~the owner, if an individual, officer, or board member of the~~  
25 ~~adult day care center, if the owner is a firm, corporation,~~  
26 ~~partnership, or association, or any person owning 5 percent or~~  
27 ~~more of the center, from the Medicare or Medicaid program.~~

28 (3) The agency is responsible for all investigations  
29 and inspections conducted pursuant to this part and s.  
30 408.811.

31

1 Section 171. Section 429.913, Florida Statutes, is  
2 amended to read:

3 429.913 Administrative fines;~~interest.~~--

4 (1)(a) In addition to the requirements of part II of  
5 chapter 408, if the agency determines that an adult day care  
6 center is not operated in compliance with this part or with  
7 rules adopted under this part, the agency, notwithstanding any  
8 other administrative action it takes, shall make a reasonable  
9 attempt to discuss with the owner each violation and  
10 recommended corrective action prior to providing the owner  
11 with written notification. The agency may request the  
12 submission of a corrective action plan for the center which  
13 demonstrates a good faith effort to remedy each violation by a  
14 specific date, subject to the approval of the agency.

15 (b) The owner of a center or its operator or employee  
16 found in violation of this part, part II of chapter 408, or  
17 applicable rules ~~or of rules adopted under this part~~ may be  
18 fined by the agency. A fine may not exceed \$500 for each  
19 violation. In no event, however, may such fines in the  
20 aggregate exceed \$5,000.

21 (c) The failure to correct a violation by the date set  
22 by the agency, or the failure to comply with an approved  
23 corrective action plan, is a separate violation for each day  
24 such failure continues, unless the agency approves an  
25 extension to a specific date.

26 ~~(d) If the owner of a center or its operator or~~  
27 ~~employee appeals an agency action under this section and the~~  
28 ~~fine is upheld, the violator shall pay the fine, plus interest~~  
29 ~~at the legal rate specified in s. 687.01 for each day that the~~  
30 ~~fine remains unpaid after the date set by the agency for~~  
31 ~~payment of the fine.~~



1 (2) In determining whether to impose a fine and in  
2 fixing the amount of any fine, the agency shall consider the  
3 following factors:

4 (a) The gravity of the violation, including the  
5 probability that death or serious physical or emotional harm  
6 to a participant will result or has resulted, the severity of  
7 the actual or potential harm, and the extent to which the  
8 provisions of the applicable statutes or rules were violated.

9 (b) Actions taken by the owner or operator to correct  
10 violations.

11 (c) Any previous violations.

12 (d) The financial benefit to the center of committing  
13 or continuing the violation.

14 Section 172. Section 429.915, Florida Statutes, is  
15 amended to read:

16 429.915 ~~Expiration of license; renewal;~~ Conditional  
17 license ~~or permit.~~--

18 ~~(1) A license issued for the operation of an adult day~~  
19 ~~care center, unless sooner suspended or revoked, expires 2~~  
20 ~~years after the date of issuance. The agency shall notify a~~  
21 ~~licensee at least 120 days before the expiration date that~~  
22 ~~license renewal is required to continue operation. The~~  
23 ~~notification must be provided electronically or by mail~~  
24 ~~delivery. At least 90 days prior to the expiration date, an~~  
25 ~~application for renewal must be submitted to the agency. A~~  
26 ~~license shall be renewed, upon the filing of an application on~~  
27 ~~forms furnished by the agency, if the applicant has first met~~  
28 ~~the requirements of this part and of the rules adopted under~~  
29 ~~this part. The applicant must file with the application~~  
30 ~~satisfactory proof of financial ability to operate the center~~  
31 ~~in accordance with the requirements of this part and in~~

1 ~~accordance with the needs of the participants to be served and~~  
2 ~~an affidavit of compliance with the background screening~~  
3 ~~requirements of s. 429.919.~~

4 ~~(2) A licensee against whom a revocation or suspension~~  
5 ~~proceeding is pending at the time for license renewal may be~~  
6 ~~issued a conditional license effective until final disposition~~  
7 ~~by the agency of the proceeding. If judicial relief is sought~~  
8 ~~from the final disposition, the court having jurisdiction may~~  
9 ~~issue a conditional permit effective for the duration of the~~  
10 ~~judicial proceeding.~~

11 ~~(3) In addition to the license categories available in~~  
12 ~~part II of chapter 408, the agency may issue a conditional~~  
13 ~~license to an applicant for license renewal or change of~~  
14 ~~ownership if the applicant fails to meet all standards and~~  
15 ~~requirements for licensure. A conditional license issued under~~  
16 ~~this subsection must be limited to a specific period not~~  
17 ~~exceeding 6 months, as determined by the agency, and must be~~  
18 ~~accompanied by an approved plan of correction.~~

19 Section 173. Section 429.919, Florida Statutes, is  
20 amended to read:

21 429.919 Background screening.--

22 ~~(1)(a) Level 2 background screening must be conducted~~  
23 ~~on each of the following persons, who shall be considered~~  
24 ~~employees for the purposes of conducting screening under~~  
25 ~~chapter 435:~~

26 ~~1. The adult day care center owner if an individual,~~  
27 ~~the operator, and the financial officer.~~

28 ~~2. An officer or board member if the owner of the~~  
29 ~~adult day care center is a firm, corporation, partnership, or~~  
30 ~~association, or any person owning 5 percent or more of the~~  
31 ~~facility, if the agency has probable cause to believe that~~

1 ~~such person has been convicted of any offense prohibited by s.~~  
2 ~~435.04. For each officer, board member, or person owning 5~~  
3 ~~percent or more who has been convicted of any such offense,~~  
4 ~~the facility shall submit to the agency a description and~~  
5 ~~explanation of the conviction at the time of license~~  
6 ~~application. This subparagraph does not apply to a board~~  
7 ~~member of a not for profit corporation or organization if the~~  
8 ~~board member serves solely in a voluntary capacity, does not~~  
9 ~~regularly take part in the day to day operational decisions of~~  
10 ~~the corporation or organization, receives no remuneration for~~  
11 ~~his or her services, and has no financial interest and has no~~  
12 ~~family members with a financial interest in the corporation or~~  
13 ~~organization, provided that the board member and facility~~  
14 ~~submit a statement affirming that the board member's~~  
15 ~~relationship to the facility satisfies the requirements of~~  
16 ~~this subparagraph.~~

17 ~~(b) Proof of compliance with level 2 screening~~  
18 ~~standards which has been submitted within the previous 5 years~~  
19 ~~to meet any facility or professional licensure requirements of~~  
20 ~~the agency or the Department of Health satisfies the~~  
21 ~~requirements of this subsection.~~

22 ~~(c) The agency may grant a provisional license to an~~  
23 ~~adult day care center applying for an initial license when~~  
24 ~~each individual required by this subsection to undergo~~  
25 ~~screening has completed the Department of Law Enforcement~~  
26 ~~background check, but has not yet received results from the~~  
27 ~~Federal Bureau of Investigation, or when a request for an~~  
28 ~~exemption from disqualification has been submitted to the~~  
29 ~~agency pursuant to s. 435.07, but a response has not been~~  
30 ~~issued.~~

31

1           ~~(2)~~ The owner or administrator of an adult day care  
2 center must conduct level 1 background screening as set forth  
3 in chapter 435 on all employees hired on or after October 1,  
4 1998, who provide basic services or supportive and optional  
5 services to the participants. Such persons satisfy this  
6 requirement if:

7           ~~(1)(a)~~ Proof of compliance with level 1 screening  
8 requirements obtained to meet any professional license  
9 requirements in this state is provided and accompanied, under  
10 penalty of perjury, by a copy of the person's current  
11 professional license and an affidavit of current compliance  
12 with the background screening requirements.

13           ~~(2)(b)~~ The person required to be screened has been  
14 continuously employed, without a breach in service that  
15 exceeds 180 days, in the same type of occupation for which the  
16 person is seeking employment and provides proof of compliance  
17 with the level 1 screening requirement which is no more than 2  
18 years old. Proof of compliance must be provided directly from  
19 one employer or contractor to another, and not from the person  
20 screened. Upon request, a copy of screening results shall be  
21 provided to the person screened by the employer retaining  
22 documentation of the screening.

23           ~~(3)(c)~~ The person required to be screened is employed  
24 by a corporation or business entity or related corporation or  
25 business entity that owns, operates, or manages more than one  
26 facility or agency licensed under chapter 400 or this chapter,  
27 and for whom a level 1 screening was conducted by the  
28 corporation or business entity as a condition of initial or  
29 continued employment.

30           Section 174. Section 429.921, Florida Statutes, is  
31 repealed.

1 Section 175. Section 429.923, Florida Statutes, is  
2 repealed.

3 Section 176. Section 429.925, Florida Statutes, is  
4 amended to read:

5 429.925 Discontinuance of operation of adult day care  
6 centers ~~Closing or change of owner or operator of center.--~~

7 ~~(1) In addition to the requirements of part II of~~  
8 ~~chapter 408, before operation of an adult day care center may~~  
9 ~~be voluntarily discontinued, the operator must, inform the~~  
10 ~~agency in writing at least 60 days before prior to the~~  
11 ~~discontinuance of operation. The operator must also, at such~~  
12 ~~time, inform each participant of the fact and the proposed~~  
13 ~~date of such discontinuance of operation.~~

14 ~~(2) Immediately upon discontinuance of the operation~~  
15 ~~of a center, the owner or operator shall surrender the license~~  
16 ~~for the center to the agency, and the license shall be~~  
17 ~~canceled by the agency.~~

18 ~~(3) If a center has a change of ownership, the new~~  
19 ~~owner shall apply to the agency for a new license at least 60~~  
20 ~~days before the date of the change of ownership.~~

21 ~~(4) If a center has a change of operator, the new~~  
22 ~~operator shall notify the agency in writing within 30 days~~  
23 ~~after the change of operator.~~

24 Section 177. Section 429.927, Florida Statutes, is  
25 amended to read:

26 429.927 Right of entry and inspection.--In accordance  
27 with s. 408.811, any duly designated officer or employee of  
28 the agency or department has the right to enter the premises  
29 of any adult day care center licensed pursuant to this part,  
30 at any reasonable time, in order to determine the state of  
31 compliance with this part, part II of chapter 408, and

1 ~~applicable~~ the rules ~~or standards in force pursuant to this~~  
2 ~~part. The right of entry and inspection also extends to any~~  
3 ~~premises that the agency has reason to believe are being~~  
4 ~~operated as a center without a license, but no entry or~~  
5 ~~inspection of any unlicensed premises may be made without the~~  
6 ~~permission of the owner or operator unless a warrant is first~~  
7 ~~obtained from the circuit court authorizing entry or~~  
8 ~~inspection. Any application for a center license or license~~  
9 ~~renewal made pursuant to this part constitutes permission for,~~  
10 ~~and complete acquiescence in, any entry or inspection of the~~  
11 ~~premises for which the license is sought in order to~~  
12 ~~facilitate verification of the information submitted on or in~~  
13 ~~connection with the application.~~

14 Section 178. Section 429.929, Florida Statutes, is  
15 amended to read:

16 429.929 Rules establishing standards.--

17 (1) The agency, in consultation with the department,  
18 may adopt rules to administer the requirements of part II of  
19 chapter 408. The Department of Elderly Affairs, in conjunction  
20 with the agency, shall adopt rules to implement the provisions  
21 of this part. The rules must include reasonable and fair  
22 standards. Any conflict between these standards and those that  
23 may be set forth in local, county, or municipal ordinances  
24 shall be resolved in favor of those having statewide effect.  
25 Such standards must relate to:

26 (a) The maintenance of adult day care centers with  
27 respect to plumbing, heating, lighting, ventilation, and other  
28 building conditions, including adequate meeting space, to  
29 ensure the health, safety, and comfort of participants and  
30 protection from fire hazard. Such standards may not conflict  
31

1 with chapter 553 and must be based upon the size of the  
2 structure and the number of participants.

3 (b) The number and qualifications of all personnel  
4 employed by adult day care centers who have responsibilities  
5 for the care of participants.

6 (c) All sanitary conditions within adult day care  
7 centers and their surroundings, including water supply, sewage  
8 disposal, food handling, and general hygiene, and maintenance  
9 of sanitary conditions, to ensure the health and comfort of  
10 participants.

11 (d) Basic services provided by adult day care centers.

12 (e) Supportive and optional services provided by adult  
13 day care centers.

14 (f) Data and information relative to participants and  
15 programs of adult day care centers, including, but not limited  
16 to, the physical and mental capabilities and needs of the  
17 participants, the availability, frequency, and intensity of  
18 basic services and of supportive and optional services  
19 provided, the frequency of participation, the distances  
20 traveled by participants, the hours of operation, the number  
21 of referrals to other centers or elsewhere, and the incidence  
22 of illness.

23 (g) Components of a comprehensive emergency management  
24 plan, developed in consultation with the Department of Health,  
25 the Agency for Health Care Administration, and the Department  
26 of Community Affairs.

27 ~~(2) Pursuant to s. 119.07, the agency may charge a fee~~  
28 ~~for furnishing a copy of this part, or of the rules adopted~~  
29 ~~under this part, to any person upon request for the copy.~~

30 ~~(2)(3)~~ Pursuant to this part, s. 408.811, and  
31 applicable rules adopted by the department, the agency may

1 | conduct an abbreviated biennial inspection of key  
2 | quality-of-care standards, in lieu of a full inspection, of a  
3 | center that has a record of good performance. However, the  
4 | agency must conduct a full inspection of a center that has had  
5 | one or more confirmed complaints within the licensure period  
6 | immediately preceding the inspection or which has a serious  
7 | problem identified during the abbreviated inspection. The  
8 | agency shall develop the key quality-of-care standards, taking  
9 | into consideration the comments and recommendations of the  
10 | Department of Elderly Affairs and of provider groups. These  
11 | standards shall be included in rules adopted by the Department  
12 | of Elderly Affairs.

13 |       Section 179. Section 429.933, Florida Statutes, is  
14 | repealed.

15 |       Section 180. Subsections (9) and (10) of section  
16 | 440.102, Florida Statutes, are amended to read:

17 |       440.102 Drug-free workplace program requirements.--The  
18 | following provisions apply to a drug-free workplace program  
19 | implemented pursuant to law or to rules adopted by the Agency  
20 | for Health Care Administration:

21 |       (9) DRUG-TESTING STANDARDS FOR LABORATORIES.--

22 |       (a) The requirements of part II of chapter 408 apply  
23 | to the provision of services that require licensure pursuant  
24 | to this section and part II of chapter 408 and to entities  
25 | licensed by or applying for such licensure from the agency  
26 | pursuant to this section. A license issued by the agency is  
27 | required in order to operate a drug-free workplace laboratory.

28 |       ~~(b)(a)~~ A laboratory may analyze initial or  
29 | confirmation test specimens only if:

30 |       1. The laboratory obtains a license under part II of  
31 | chapter 408 and s. 112.0455(17). Each applicant for licensure



1 and each licensee must comply with all requirements of this  
2 section, part II of chapter 408, and applicable rules. is  
3 ~~licensed and approved by the Agency for Health Care~~  
4 ~~Administration using criteria established by the United States~~  
5 ~~Department of Health and Human Services as general guidelines~~  
6 ~~for modeling the state drug testing program pursuant to this~~  
7 ~~section or the laboratory is certified by the United States~~  
8 ~~Department of Health and Human Services.~~

9           2. The laboratory has written procedures to ensure the  
10 chain of custody.

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

13           a. The use of internal quality controls, including the  
14 use of samples of known concentrations which are used to check  
15 the performance and calibration of testing equipment, and  
16 periodic use of blind samples for overall accuracy.

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

20           c. Security measures implemented by the testing  
21 laboratory to preclude adulteration of specimens and drug test  
22 results.

23           d. Other necessary and proper actions taken to ensure  
24 reliable and accurate drug test results.

25           ~~(c)(b)~~ A laboratory shall disclose to the medical  
26 review officer a written positive confirmed test result report  
27 within 7 working days after receipt of the sample. All  
28 laboratory reports of a drug test result must, at a minimum,  
29 state:

30  
31

1           1. The name and address of the laboratory that  
2 performed the test and the positive identification of the  
3 person tested.

4           2. Positive results on confirmation tests only, or  
5 negative results, as applicable.

6           3. A list of the drugs for which the drug analyses  
7 were conducted.

8           4. The type of tests conducted for both initial tests  
9 and confirmation tests and the minimum cutoff levels of the  
10 tests.

11           5. Any correlation between medication reported by the  
12 employee or job applicant pursuant to subparagraph (5)(b)2.  
13 and a positive confirmed drug test result.

14  
15 A report must not disclose the presence or absence of any drug  
16 other than a specific drug and its metabolites listed pursuant  
17 to this section.

18           ~~(d)(e)~~ The laboratory shall submit to the Agency for  
19 Health Care Administration a monthly report with statistical  
20 information regarding the testing of employees and job  
21 applicants. The report must include information on the methods  
22 of analysis conducted, the drugs tested for, the number of  
23 positive and negative results for both initial tests and  
24 confirmation tests, and any other information deemed  
25 appropriate by the Agency for Health Care Administration. A  
26 monthly report must not identify specific employees or job  
27 applicants.

28           (10) RULES.--The Agency for Health Care Administration  
29 shall adopt rules pursuant to s. 112.0455, part II of chapter  
30 408, and criteria established by the United States Department  
31 of Health and Human Services as general guidelines for

1 modeling drug-free workplace laboratories ~~the state~~  
2 ~~drug testing program~~, concerning, but not limited to:

3 (a) Standards for licensing drug-testing laboratories  
4 and suspension and revocation of such licenses.

5 (b) Urine, hair, blood, and other body specimens and  
6 minimum specimen amounts that are appropriate for drug  
7 testing.

8 (c) Methods of analysis and procedures to ensure  
9 reliable drug-testing results, including standards for initial  
10 tests and confirmation tests.

11 (d) Minimum cutoff detection levels for each drug or  
12 metabolites of such drug for the purposes of determining a  
13 positive test result.

14 (e) Chain-of-custody procedures to ensure proper  
15 identification, labeling, and handling of specimens tested.

16 (f) Retention, storage, and transportation procedures  
17 to ensure reliable results on confirmation tests and retests.

18 Section 181. Paragraph (1) of subsection (1) of  
19 section 468.505, Florida Statutes, is amended to read:

20 468.505 Exemptions; exceptions.--

21 (1) Nothing in this part may be construed as  
22 prohibiting or restricting the practice, services, or  
23 activities of:

24 (1) A person employed by a nursing facility exempt  
25 from licensing under s. 395.002(12)(~~13~~), or a person exempt  
26 from licensing under s. 464.022.

27 Section 182. Subsection (3) is added to section  
28 483.035, Florida Statutes, to read:

29 483.035 Clinical laboratories operated by  
30 practitioners for exclusive use; licensure and regulation.--

31

1           (3) The requirements of part II of chapter 408 apply  
2 to the provision of services that require licensure pursuant  
3 to this part and part II of chapter 408 and to entities  
4 licensed by or applying for such licensure from the agency  
5 pursuant to this part. A license issued by the agency is  
6 required in order to operate a clinical laboratory.

7           Section 183. Subsection (1) of section 483.051,  
8 Florida Statutes, is amended to read:

9           483.051 Powers and duties of the agency.--The agency  
10 shall adopt rules to implement this part, which rules must  
11 include, but are not limited to, the following:

12           (1) LICENSING; QUALIFICATIONS.--The agency shall  
13 provide for biennial licensure of all clinical laboratories  
14 meeting the requirements of this part and shall prescribe the  
15 qualifications necessary for such licensure. ~~A license issued~~  
16 ~~for operating a clinical laboratory, unless sooner suspended~~  
17 ~~or revoked, expires on the date set forth by the agency on the~~  
18 ~~face of the license.~~

19           Section 184. Section 483.061, Florida Statutes, is  
20 amended to read:

21           483.061 Inspection of clinical laboratories.--

22           (1) In addition to the requirements of s. 408.811, the  
23 agency shall ensure that each clinical laboratory subject to  
24 this part is inspected either onsite or offsite when deemed  
25 necessary by the agency, but at least every 2 years, for the  
26 purpose of evaluating the operation, supervision, and  
27 procedures of the facility to ensure compliance with this  
28 part. Collection stations and branch offices may be inspected  
29 either onsite or offsite, when deemed necessary by the agency.  
30 The agency may conduct or cause to be conducted the following  
31 ~~announced or unannounced inspections at any reasonable time:~~

1 (a) An inspection conducted at the direction of the  
2 federal Centers for Medicare and Medicaid Services Health Care  
3 Financing Administration.

4 ~~(b) A licensure inspection.~~

5 (b)(c) A validation inspection.

6 (c)(d) A complaint investigation, including a full  
7 licensure investigation with a review of all licensure  
8 standards as outlined in rule. Complaints received by the  
9 agency from individuals, organizations, or other sources are  
10 subject to review and investigation by the agency. If a  
11 complaint has been filed against a laboratory or if a  
12 laboratory has a substantial licensure deficiency, the agency  
13 may inspect the laboratory annually or as the agency considers  
14 necessary.

15 (2) ~~However,~~ For laboratories operated under s.  
16 483.035, biennial licensure inspections shall be scheduled so  
17 as to cause the least disruption to the practitioner's  
18 scheduled patients.

19 ~~(2) The right of entry and inspection is extended to~~  
20 ~~any premises that is maintained as a laboratory without a~~  
21 ~~license, but such entry or inspection may not be made without~~  
22 ~~the permission of the owner or person in charge of the~~  
23 ~~laboratory, unless an inspection warrant as defined in s.~~  
24 ~~933.20 is first obtained.~~

25 (3) The agency may ~~shall~~ inspect an out-of-state  
26 clinical laboratory under this section at the expense of the  
27 out-of-state clinical laboratory to determine whether the  
28 laboratory meets the requirements of this part and part II of  
29 chapter 408.

30 (4) The agency shall accept, in lieu of its own  
31 periodic inspections for licensure, the survey of or

1 inspection by private accrediting organizations that perform  
2 inspections of clinical laboratories accredited by such  
3 organizations, including postinspection activities required by  
4 the agency.

5 (a) The agency shall accept inspections performed by  
6 such organizations if the accreditation is not provisional, if  
7 such organizations perform postinspection activities required  
8 by the agency and provide the agency with all necessary  
9 inspection and postinspection reports and information  
10 necessary for enforcement, if such organizations apply  
11 standards equal to or exceeding standards established and  
12 approved by the agency, and if such accrediting organizations  
13 are approved by the federal Health Care Financing  
14 Administration to perform such inspections.

15 (b) The agency may conduct complaint investigations  
16 made against laboratories inspected by accrediting  
17 organizations.

18 (c) The agency may conduct sample validation  
19 inspections of laboratories inspected by accrediting  
20 organizations to evaluate the accreditation process used by an  
21 accrediting organization.

22 (d) The agency may conduct a full inspection if an  
23 accrediting survey has not been conducted within the previous  
24 24 months, and the laboratory must pay the appropriate license  
25 ~~inspection~~ fee under s. 483.172(2) ~~s. 483.172~~.

26 (e) The agency shall develop, and adopt, by rule,  
27 criteria for accepting inspection and postinspection reports  
28 of accrediting organizations in lieu of conducting a state  
29 licensure inspection.

30 Section 185. Section 483.091, Florida Statutes, is  
31 amended to read:

1           483.091 Clinical laboratory license.--~~A person may not~~  
2 ~~conduct, maintain, or operate a clinical laboratory in this~~  
3 ~~state, except a laboratory that is exempt under s. 483.031,~~  
4 ~~unless the clinical laboratory has obtained a license from the~~  
5 ~~agency.~~ A clinical laboratory may not send a specimen drawn  
6 within this state to any clinical laboratory outside the state  
7 for examination unless the out-of-state laboratory has  
8 obtained a license from the agency. ~~A license is valid only~~  
9 ~~for the person or persons to whom it is issued and may not be~~  
10 ~~sold, assigned, or transferred, voluntarily or involuntarily,~~  
11 ~~and is not valid for any premises other than those for which~~  
12 ~~the license is issued.~~ However, A new license may be secured  
13 for the new location before the actual change, if the  
14 contemplated change complies with this part, part II of  
15 chapter 408, and the applicable rules ~~adopted under this part.~~  
16 ~~Application for a new clinical laboratory license must be made~~  
17 ~~60 days before a change in the ownership of the clinical~~  
18 ~~laboratory.~~

19           Section 186. Section 483.101, Florida Statutes, is  
20 amended to read:

21           483.101 ~~Application for~~ Clinical laboratory license.--

22           ~~(1) An application for a clinical laboratory license~~  
23 ~~must be made under oath by the owner or director of the~~  
24 ~~clinical laboratory or by the public official responsible for~~  
25 ~~operating a state, municipal, or county clinical laboratory or~~  
26 ~~institution that contains a clinical laboratory, upon forms~~  
27 ~~provided by the agency.~~

28           ~~(2) Each applicant for licensure must comply with the~~  
29 ~~following requirements:~~

30           ~~(a) Upon receipt of a completed, signed, and dated~~  
31 ~~application, the agency shall require background screening, in~~

1 ~~accordance with the level 2 standards for screening set forth~~  
2 ~~in chapter 435, of the managing director or other similarly~~  
3 ~~titled individual who is responsible for the daily operation~~  
4 ~~of the laboratory and of the financial officer, or other~~  
5 ~~similarly titled individual who is responsible for the~~  
6 ~~financial operation of the laboratory, including billings for~~  
7 ~~patient services. The applicant must comply with the~~  
8 ~~procedures for level 2 background screening as set forth in~~  
9 ~~chapter 435, as well as the requirements of s. 435.03(3).~~

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

15 ~~(c) Proof of compliance with the level 2 background~~  
16 ~~screening requirements of chapter 435 which has been submitted~~  
17 ~~within the previous 5 years in compliance with any other~~  
18 ~~health care licensure requirements of this state is acceptable~~  
19 ~~in fulfillment of the requirements of paragraph (a).~~

20 ~~(d) A provisional license may be granted to an~~  
21 ~~applicant when each individual required by this section to~~  
22 ~~undergo background screening has met the standards for the~~  
23 ~~Department of Law Enforcement background check but the agency~~  
24 ~~has not yet received background screening results from the~~  
25 ~~Federal Bureau of Investigation, or a request for a~~  
26 ~~disqualification exemption has been submitted to the agency as~~  
27 ~~set forth in chapter 435 but a response has not yet been~~  
28 ~~issued. A license may be granted to the applicant upon the~~  
29 ~~agency's receipt of a report of the results of the Federal~~  
30 ~~Bureau of Investigation background screening for each~~  
31 ~~individual required by this section to undergo background~~



1 ~~screening which confirms that all standards have been met, or~~  
2 ~~upon the granting of a disqualification exemption by the~~  
3 ~~agency as set forth in chapter 435. Any other person who is~~  
4 ~~required to undergo level 2 background screening may serve in~~  
5 ~~his or her capacity pending the agency's receipt of the report~~  
6 ~~from the Federal Bureau of Investigation. However, the person~~  
7 ~~may not continue to serve if the report indicates any~~  
8 ~~violation of background screening standards and a~~  
9 ~~disqualification exemption has not been requested of and~~  
10 ~~granted by the agency as set forth in chapter 435.~~

11 ~~(e) Each applicant must submit to the agency, with its~~  
12 ~~application, a description and explanation of any exclusions,~~  
13 ~~permanent suspensions, or terminations of the applicant from~~  
14 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
15 ~~the requirements for disclosure of ownership and control~~  
16 ~~interests under the Medicaid or Medicare programs may be~~  
17 ~~accepted in lieu of this submission.~~

18 ~~(f) Each applicant must submit to the agency a~~  
19 ~~description and explanation of any conviction of an offense~~  
20 ~~prohibited under the level 2 standards of chapter 435 by a~~  
21 ~~member of the board of directors of the applicant, its~~  
22 ~~officers, or any individual owning 5 percent or more of the~~  
23 ~~applicant. This requirement does not apply to a director of a~~  
24 ~~not for profit corporation or organization if the director~~  
25 ~~serves solely in a voluntary capacity for the corporation or~~  
26 ~~organization, does not regularly take part in the day to day~~  
27 ~~operational decisions of the corporation or organization,~~  
28 ~~receives no remuneration for his or her services on the~~  
29 ~~corporation or organization's board of directors, and has no~~  
30 ~~financial interest and has no family members with a financial~~  
31 ~~interest in the corporation or organization, provided that the~~

1 ~~director and the not for profit corporation or organization~~  
2 ~~include in the application a statement affirming that the~~  
3 ~~director's relationship to the corporation satisfies the~~  
4 ~~requirements of this paragraph.~~

5 ~~(g) A license may not be granted to an applicant if~~  
6 ~~the applicant or managing employee has been found guilty of,~~  
7 ~~regardless of adjudication, or has entered a plea of nolo~~  
8 ~~contendere or guilty to, any offense prohibited under the~~  
9 ~~level 2 standards for screening set forth in chapter 435,~~  
10 ~~unless an exemption from disqualification has been granted by~~  
11 ~~the agency as set forth in chapter 435.~~

12 ~~(h) The agency may deny or revoke licensure if the~~  
13 ~~applicant:~~

14 ~~1. Has falsely represented a material fact in the~~  
15 ~~application required by paragraph (c) or paragraph (f), or has~~  
16 ~~omitted any material fact from the application required by~~  
17 ~~paragraph (c) or paragraph (f); or~~

18 ~~2. Has had prior action taken against the applicant~~  
19 ~~under the Medicaid or Medicare program as set forth in~~  
20 ~~paragraph (c).~~

21 ~~(i) An application for license renewal must contain~~  
22 ~~the information required under paragraphs (c) and (f).~~

23 ~~(3) A license must be issued authorizing the~~  
24 ~~performance of one or more clinical laboratory procedures or~~  
25 ~~one or more tests on each specialty or subspecialty. A~~  
26 ~~separate license is required of all laboratories maintained on~~  
27 ~~separate premises even if the laboratories are operated under~~  
28 ~~the same management. Upon receipt of a request for an~~  
29 ~~application for a clinical laboratory license, the agency~~  
30 ~~shall provide to the applicant a copy of the rules relating to~~  
31

1 ~~licensure and operations applicable to the laboratory for~~  
2 ~~which licensure is sought.~~

3 Section 187. Section 483.106, Florida Statutes, is  
4 amended to read:

5 483.106 Application for a certificate of  
6 exemption.--An application for a certificate of exemption must  
7 be made under oath by the owner or director of a clinical  
8 laboratory that performs only waived tests as defined in s.  
9 483.041. A certificate of exemption authorizes a clinical  
10 laboratory to perform waived tests. Laboratories maintained on  
11 separate premises and operated under the same management may  
12 apply for a single certificate of exemption or multiple  
13 certificates of exemption. The agency shall, by rule, specify  
14 the process for biennially issuing certificates of exemption.  
15 Sections 483.011, 483.021, 483.031, 483.041, 483.172, and  
16 ~~483.23, and 483.25~~ apply to a clinical laboratory that obtains  
17 a certificate of exemption under this section.

18 Section 188. Section 483.111, Florida Statutes, is  
19 amended to read:

20 483.111 Limitations on licensure.--A license may be  
21 issued to a clinical laboratory to perform only those clinical  
22 laboratory procedures and tests that are within the  
23 specialties or subspecialties in which the clinical laboratory  
24 personnel are qualified. A license may not be issued unless  
25 the agency determines that the clinical laboratory is  
26 adequately staffed and equipped to operate in conformity with  
27 the requirements of this part, part II of chapter 408, and  
28 applicable ~~the rules adopted under this part.~~

29 Section 189. Section 483.131, Florida Statutes, is  
30 repealed.

31

1 Section 190. Subsections (1) and (2) of section  
2 483.172, Florida Statutes, are amended to read:

3 483.172 License fees.--

4 (1) In accordance with s. 408.805, an applicant or a  
5 licensee shall pay a fee for each license application  
6 submitted under this part, part II of chapter 408, and  
7 applicable rules. ~~The agency shall collect fees for all~~  
8 ~~licenses issued under this part. Each fee is due at the time~~  
9 ~~of application and must be payable to the agency to be~~  
10 ~~deposited in the Health Care Trust Fund administered by the~~  
11 ~~agency.~~

12 (2) The biennial license fee schedule is as follows:

13 (a) If a laboratory performs not more than 2,000 tests  
14 annually, the fee is \$400.

15 (b) If a laboratory performs not more than 3  
16 categories of procedures with a total annual volume of more  
17 than 2,000 but no more than 10,000 tests, the license fee is  
18 \$965.

19 (c) If a laboratory performs at least 4 categories of  
20 procedures with a total annual volume of not more than 10,000  
21 tests, the license fee is \$1,294.

22 (d) If a laboratory performs not more than 3  
23 categories of procedures with a total annual volume of more  
24 than 10,000 but not more than 25,000 tests, the license fee is  
25 \$1,592.

26 (e) If a laboratory performs at least 4 categories of  
27 procedures with a total annual volume of more than 10,000 but  
28 not more than 25,000 tests, the license fee is \$2,103.

29 (f) If a laboratory performs a total of more than  
30 25,000 but not more than 50,000 tests annually, the license  
31 fee is \$2,364.

1 (g) If a laboratory performs a total of more than  
2 50,000 but not more than 75,000 tests annually, the license  
3 fee is \$2,625.

4 (h) If a laboratory performs a total of more than  
5 75,000 but not more than 100,000 tests annually, the license  
6 fee is \$2,886.

7 (i) If a laboratory performs a total of more than  
8 100,000 but not more than 500,000 tests annually, the license  
9 fee is \$3,397.

10 (j) If a laboratory performs a total of more than  
11 500,000 but not more than 1 million tests annually, the  
12 license fee is \$3,658.

13 (k) If a laboratory performs a total of more than 1  
14 million tests annually, the license fee is \$3,919.

15 Section 191. Section 483.201, Florida Statutes, is  
16 amended to read:

17 483.201 Grounds for disciplinary action against  
18 clinical laboratories.--In addition to the requirements of  
19 part II of chapter 408, the following acts constitute grounds  
20 for which a disciplinary action specified in s. 483.221 may be  
21 taken against a clinical laboratory:

22 ~~(1) Making a fraudulent statement on an application~~  
23 ~~for a clinical laboratory license or any other document~~  
24 ~~required by the agency.~~

25 (1)(2) Permitting unauthorized persons to perform  
26 technical procedures or to issue reports.

27 (2)(3) Demonstrating incompetence or making consistent  
28 errors in the performance of clinical laboratory examinations  
29 and procedures or erroneous reporting.

30  
31

1           ~~(3)(4)~~ Performing a test and rendering a report  
2 thereon to a person not authorized by law to receive such  
3 services.

4           ~~(4)(5)~~ Knowingly having professional connection with  
5 or knowingly lending the use of the name of the licensed  
6 clinical laboratory or its director to an unlicensed clinical  
7 laboratory.

8           ~~(5)(6)~~ Violating or aiding and abetting in the  
9 violation of any provision of this part or the rules adopted  
10 under this part.

11           ~~(6)(7)~~ Failing to file any report required by the  
12 provisions of this part or the rules adopted under this part.

13           ~~(7)(8)~~ Reporting a test result for a clinical specimen  
14 if the test was not performed on the clinical specimen.

15           ~~(8)(9)~~ Performing and reporting tests in a specialty  
16 or subspecialty in which the laboratory is not licensed.

17           ~~(9)(10)~~ Knowingly advertising false services or  
18 credentials.

19           ~~(10)(11)~~ Failing to correct deficiencies within the  
20 time required by the agency.

21           Section 192. Section 483.221, Florida Statutes, is  
22 amended to read:

23           483.221 Administrative fines ~~penalties~~.--

24           ~~(1)(a)~~ In accordance with part II of chapter 408, the  
25 agency may ~~deny, suspend, revoke, annul, limit, or deny~~  
26 ~~renewal of a license or~~ impose an administrative fine, not to  
27 exceed \$1,000 per violation, for the violation of any  
28 provision of this part or rules adopted under this part. ~~Each~~  
29 ~~day of violation constitutes a separate violation and is~~  
30 ~~subject to a separate fine.~~

1           ~~(2)(b)~~ In determining the penalty to be imposed for a  
2 violation, as provided in subsection (1) ~~paragraph (a)~~, the  
3 following factors must be considered:

4           ~~(a)1-~~ The severity of the violation, including the  
5 probability that death or serious harm to the health or safety  
6 of any person will result or has resulted; the severity of the  
7 actual or potential harm; and the extent to which the  
8 provisions of this part were violated.

9           ~~(b)2-~~ Actions taken by the licensee to correct the  
10 violation or to remedy complaints.

11           ~~(c)3-~~ Any previous violation by the licensee.

12           ~~(d)4-~~ The financial benefit to the licensee of  
13 committing or continuing the violation.

14           ~~(c) All amounts collected under this section must be~~  
15 ~~deposited into the Health Care Trust Fund administered by the~~  
16 ~~agency.~~

17           ~~(2) The agency may issue an emergency order~~  
18 ~~immediately suspending, revoking, annulling, or limiting a~~  
19 ~~license if it determines that any condition in the licensed~~  
20 ~~facility presents a clear and present danger to public health~~  
21 ~~or safety.~~

22           Section 193. Section 483.25, Florida Statutes, is  
23 repealed.

24           Section 194. Section 483.291, Florida Statutes, is  
25 amended to read:

26           483.291 Powers and duties of the agency; rules.--The  
27 agency shall adopt rules to implement this part and part II of  
28 chapter 408, which rules must include the following:

29           (1) LICENSING STANDARDS.--The agency ~~shall license all~~  
30 ~~multiphasic health testing centers meeting the requirements of~~  
31

1 ~~this part and~~ shall prescribe standards necessary for  
2 licensure.

3 (2) FEES.--In accordance with s. 408.805, an applicant  
4 or a licensee shall pay a fee for each license application  
5 submitted under this part, part II of chapter 408, and  
6 applicable rules. ~~The agency shall establish annual fees,~~  
7 ~~which shall be reasonable in amount, for licensing of centers.~~  
8 ~~The fees must be sufficient in amount to cover the cost of~~  
9 ~~licensing and inspecting centers.~~

10 (a) ~~The annual licensure fee is due at the time of~~  
11 ~~application and is payable to the agency to be deposited in~~  
12 ~~the Health Care Trust Fund administered by the agency. The~~  
13 ~~license fee must be not less than \$600\$300 or more than~~  
14 ~~\$2,000\$1,000.~~

15 (b) ~~The fee for late filing of an application for~~  
16 ~~license renewal is \$200 and is in addition to the licensure~~  
17 ~~fee due for renewing the license.~~

18 (3) ~~ANNUAL LICENSING.~~ ~~The agency shall provide for~~  
19 ~~annual licensing of centers. Any center that fails to pay the~~  
20 ~~proper fee or otherwise fails to qualify by the date of~~  
21 ~~expiration of its license is delinquent, and its license is~~  
22 ~~automatically canceled without notice or further proceeding.~~  
23 ~~Upon cancellation of its license under this subsection, a~~  
24 ~~center may have its license reinstated only upon application~~  
25 ~~and qualification as provided for initial applicants and upon~~  
26 ~~payment of all delinquent fees.~~

27 (3)(4) STANDARDS OF PERFORMANCE.--~~The agency shall~~  
28 ~~prescribe standards for the performance of health testing~~  
29 ~~procedures.~~

30 (4)(5) CONSTRUCTION OF CENTERS.--~~The agency may adopt~~  
31 ~~rules to ensure that centers comply with all local, county,~~



1 state, and federal standards for the construction, renovation,  
2 maintenance, or repair of centers, which standards must ensure  
3 the conduct and operation of the centers in a manner that will  
4 protect the public health.

5 (5)~~(6)~~ SAFETY AND SANITARY CONDITIONS WITHIN THE  
6 CENTER AND ITS SURROUNDINGS.--The agency shall establish  
7 standards relating to safety and sanitary conditions within  
8 the center and its surroundings, including water supply;  
9 sewage; the handling of specimens; identification,  
10 segregation, and separation of biohazardous waste as required  
11 by s. 381.0098; storage of chemicals; workspace; firesafety;  
12 and general measures, which standards must ensure the  
13 protection of the public health. The agency shall determine  
14 compliance by a multiphasic health testing center with the  
15 requirements of s. 381.0098 by verifying that the center has  
16 obtained all required permits.

17 (6)~~(7)~~ EQUIPMENT.--The agency shall establish minimum  
18 standards for center equipment essential to the proper conduct  
19 and operation of the center.

20 (7)~~(8)~~ PERSONNEL.--The agency shall prescribe minimum  
21 qualifications for center personnel. A center may employ as a  
22 medical assistant a person who has at least one of the  
23 following qualifications:

24 (a) Prior experience of not less than 6 months as a  
25 medical assistant in the office of a licensed medical doctor  
26 or osteopathic physician or in a hospital, an ambulatory  
27 surgical center, a home health agency, or a health maintenance  
28 organization.

29 (b) Certification and registration by the American  
30 Medical Technologists Association or other similar  
31 professional association approved by the agency.

1 (c) Prior employment as a medical assistant in a  
2 licensed center for at least 6 consecutive months at some time  
3 during the preceding 2 years.

4 Section 195. Section 483.294, Florida Statutes, is  
5 amended to read:

6 483.294 Inspection of centers.--In accordance with s.  
7 408.811, the agency shall, at least once annually, inspect the  
8 premises and operations of all centers subject to licensure  
9 under this part, ~~without prior notice to the centers, for the~~  
10 ~~purpose of studying and evaluating the operation, supervision,~~  
11 ~~and procedures of such facilities, to determine their~~  
12 ~~compliance with agency standards and to determine their effect~~  
13 ~~upon the health and safety of the people of this state.~~

14 Section 196. Section 483.30, Florida Statutes, is  
15 amended to read:

16 483.30 Licensing of centers.--The requirements of part  
17 II of chapter 408 apply to the provision of services that  
18 require licensure pursuant to this part and part II of chapter  
19 408 and to entities licensed by or applying for such licensure  
20 from the agency pursuant to this part. A license issued by the  
21 agency is required in order to operate a center.

22 ~~(1) A person may not conduct, maintain, or operate a~~  
23 ~~multiphasic health testing center in this state without~~  
24 ~~obtaining a multiphasic health testing center license from the~~  
25 ~~agency. The license is valid only for the person or persons to~~  
26 ~~whom it is issued and may not be sold, assigned, or~~  
27 ~~transferred, voluntarily or involuntarily. A license is not~~  
28 ~~valid for any premises other than the center for which it is~~  
29 ~~issued. However, a new license may be secured for the new~~  
30 ~~location for a fixed center before the actual change, if the~~  
31 ~~contemplated change is in compliance with this part and the~~

1 rules adopted under this part. ~~A center must be relicensed if~~  
2 ~~a change of ownership occurs. Application for relicensure must~~  
3 ~~be made 60 days before the change of ownership.~~

4 ~~(2) Each applicant for licensure must comply with the~~  
5 ~~following requirements:~~

6 ~~(a) Upon receipt of a completed, signed, and dated~~  
7 ~~application, the agency shall require background screening, in~~  
8 ~~accordance with the level 2 standards for screening set forth~~  
9 ~~in chapter 435, of the managing employee, or other similarly~~  
10 ~~titled individual who is responsible for the daily operation~~  
11 ~~of the center, and of the financial officer, or other~~  
12 ~~similarly titled individual who is responsible for the~~  
13 ~~financial operation of the center, including billings for~~  
14 ~~patient services. The applicant must comply with the~~  
15 ~~procedures for level 2 background screening as set forth in~~  
16 ~~chapter 435, as well as the requirements of s. 435.03(3).~~

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

22 ~~(c) Proof of compliance with the level 2 background~~  
23 ~~screening requirements of chapter 435 which has been submitted~~  
24 ~~within the previous 5 years in compliance with any other~~  
25 ~~health care licensure requirements of this state is acceptable~~  
26 ~~in fulfillment of the requirements of paragraph (a).~~

27 ~~(d) A provisional license may be granted to an~~  
28 ~~applicant when each individual required by this section to~~  
29 ~~undergo background screening has met the standards for the~~  
30 ~~Department of Law Enforcement background check, but the agency~~  
31 ~~has not yet received background screening results from the~~

1 ~~Federal Bureau of Investigation, or a request for a~~  
2 ~~disqualification exemption has been submitted to the agency as~~  
3 ~~set forth in chapter 435 but a response has not yet been~~  
4 ~~issued. A license may be granted to the applicant upon the~~  
5 ~~agency's receipt of a report of the results of the Federal~~  
6 ~~Bureau of Investigation background screening for each~~  
7 ~~individual required by this section to undergo background~~  
8 ~~screening which confirms that all standards have been met, or~~  
9 ~~upon the granting of a disqualification exemption by the~~  
10 ~~agency as set forth in chapter 435. Any other person who is~~  
11 ~~required to undergo level 2 background screening may serve in~~  
12 ~~his or her capacity pending the agency's receipt of the report~~  
13 ~~from the Federal Bureau of Investigation. However, the person~~  
14 ~~may not continue to serve if the report indicates any~~  
15 ~~violation of background screening standards and a~~  
16 ~~disqualification exemption has not been requested of and~~  
17 ~~granted by the agency as set forth in chapter 435.~~

18 ~~(e) Each applicant must submit to the agency, with its~~  
19 ~~application, a description and explanation of any exclusions,~~  
20 ~~permanent suspensions, or terminations of the applicant from~~  
21 ~~the Medicare or Medicaid programs. Proof of compliance with~~  
22 ~~the requirements for disclosure of ownership and control~~  
23 ~~interests under the Medicaid or Medicare programs may be~~  
24 ~~accepted in lieu of this submission.~~

25 ~~(f) Each applicant must submit to the agency a~~  
26 ~~description and explanation of any conviction of an offense~~  
27 ~~prohibited under the level 2 standards of chapter 435 by a~~  
28 ~~member of the board of directors of the applicant, its~~  
29 ~~officers, or any individual owning 5 percent or more of the~~  
30 ~~applicant. This requirement does not apply to a director of a~~  
31 ~~not for profit corporation or organization if the director~~

1 ~~serves solely in a voluntary capacity for the corporation or~~  
2 ~~organization, does not regularly take part in the day to day~~  
3 ~~operational decisions of the corporation or organization,~~  
4 ~~receives no remuneration for his or her services on the~~  
5 ~~corporation or organization's board of directors, and has no~~  
6 ~~financial interest and has no family members with a financial~~  
7 ~~interest in the corporation or organization, provided that the~~  
8 ~~director and the not for profit corporation or organization~~  
9 ~~include in the application a statement affirming that the~~  
10 ~~director's relationship to the corporation satisfies the~~  
11 ~~requirements of this paragraph.~~

12 ~~(g) A license may not be granted to an applicant if~~  
13 ~~the applicant or managing employee has been found guilty of,~~  
14 ~~regardless of adjudication, or has entered a plea of nolo~~  
15 ~~contendere or guilty to, any offense prohibited under the~~  
16 ~~level 2 standards for screening set forth in chapter 435,~~  
17 ~~unless an exemption from disqualification has been granted by~~  
18 ~~the agency as set forth in chapter 435.~~

19 ~~(h) The agency may deny or revoke licensure if the~~  
20 ~~applicant:~~

21 ~~1. Has falsely represented a material fact in the~~  
22 ~~application required by paragraph (c) or paragraph (f), or has~~  
23 ~~omitted any material fact from the application required by~~  
24 ~~paragraph (c) or paragraph (f); or~~

25 ~~2. Has had prior action taken against the applicant~~  
26 ~~under the Medicaid or Medicare program as set forth in~~  
27 ~~paragraph (c).~~

28 ~~(i) An application for license renewal must contain~~  
29 ~~the information required under paragraphs (c) and (f).~~

30 Section 197. Section 483.302, Florida Statutes, is  
31 amended to read:

1           483.302 Application for license.--  
2           ~~(1) Application for a license as required by s. 483.30~~  
3 ~~must be made to the agency on forms furnished by it and must~~  
4 ~~be accompanied by the appropriate license fee.~~  
5           ~~(2) The application for a license must shall contain:~~  
6           ~~(1)(a) A determination as to whether the facility will~~  
7 ~~be fixed or mobile and the location for a fixed facility.~~  
8           ~~(b) The name and address of the owner if an~~  
9 ~~individual; if the owner is a firm, partnership, or~~  
10 ~~association, the name and address of every member thereof; if~~  
11 ~~the owner is a corporation, its name and address and the name~~  
12 ~~and address of its medical director and officers and of each~~  
13 ~~person having at least a 10 percent interest in the~~  
14 ~~corporation.~~  
15           ~~(2)(c) The name of any person whose name is required~~  
16 ~~on the application under the provisions of paragraph (b) and~~  
17 ~~who owns at least a 10 percent interest in any professional~~  
18 ~~service, firm, association, partnership, or corporation~~  
19 ~~providing goods, leases, or services to the center for which~~  
20 ~~the application is made, and the name and address of the~~  
21 ~~professional service, firm, association, partnership, or~~  
22 ~~corporation in which such interest is held.~~  
23           ~~(d) The name by which the facility is to be known.~~  
24           ~~(3)(e) The name, address, and Florida physician's~~  
25 ~~license number of the medical director.~~  
26           Section 198. Section 483.311, Florida Statutes, is  
27 repealed.  
28           Section 199. Subsections (2) through (8) of section  
29 483.317, Florida Statutes, are renumbered as subsections (1)  
30 through (7), respectively, and present subsection (1) of that  
31 section is amended to read:

1 483.317 Grounds for disciplinary action against  
2 centers.--The following acts constitute grounds for which a  
3 disciplinary action specified in s. 483.32 may be taken  
4 against a center:

5 ~~(1) Making a fraudulent statement on an application~~  
6 ~~for a license or on any other document required by the agency~~  
7 ~~pursuant to this part.~~

8 Section 200. Section 483.32, Florida Statutes, is  
9 amended to read:

10 483.32 Administrative fines ~~penalties~~.--

11 (1)(a) The agency may ~~deny, suspend, revoke, annul,~~  
12 ~~limit, or deny renewal of a license or~~ impose an  
13 administrative fine, not to exceed \$500 per violation, for the  
14 violation of any provision of this part, part II of chapter  
15 408, or applicable rules ~~adopted under this part. Each day of~~  
16 ~~violation constitutes a separate violation and is subject to a~~  
17 ~~separate fine.~~

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

21 ~~(a)1-~~ The severity of the violation, including the  
22 probability that death or serious harm to the health or safety  
23 of any person will result or has resulted; the severity of the  
24 actual or potential harm; and the extent to which the  
25 provisions of this part were violated.

26 ~~(b)2-~~ Actions taken by the licensee to correct the  
27 violation or to remedy complaints.

28 ~~(c)3-~~ Any previous violation by the licensee.

29 ~~(d)4-~~ The financial benefit to the licensee of  
30 committing or continuing the violation.

31

1 ~~(c) All amounts collected under this section must be~~  
2 ~~deposited into the Health Care Trust Fund administered by the~~  
3 ~~agency.~~

4 ~~(2) The agency may issue an emergency order~~  
5 ~~immediately suspending, revoking, annulling, or limiting a~~  
6 ~~license when it determines that any condition in the licensed~~  
7 ~~facility presents a clear and present danger to public health~~  
8 ~~and safety.~~

9 Section 201. Subsections (2) and (3) of section  
10 483.322, Florida Statutes, are renumbered as subsections (1)  
11 and (2), respectively, and present subsection (1) of that  
12 section is amended to read:

13 483.322 Offenses.--It is unlawful for any person to:

14 ~~(1) Operate, maintain, direct, or engage in the~~  
15 ~~business of operating a multiphasic health testing center~~  
16 ~~unless the person has obtained a license for the center.~~

17 Section 202. Section 483.328, Florida Statutes, is  
18 repealed.

19 Section 203. Subsection (2) of section 765.541,  
20 Florida Statutes, is amended to read:

21 765.541 Certification of organizations engaged in the  
22 practice of cadaveric organ and tissue procurement.--The  
23 Agency for Health Care Administration shall:

24 (2) Adopt rules that set forth appropriate standards  
25 and guidelines for the program in accordance with ss.  
26 765.541-765.546 and part II of chapter 408. These standards  
27 and guidelines must be substantially based on the existing  
28 laws of the Federal Government and this state and the existing  
29 standards and guidelines of the United Network for Organ  
30 Sharing (UNOS), the American Association of Tissue Banks  
31 (AATB), the South-Eastern Organ Procurement Foundation



1 (SEOPF), the North American Transplant Coordinators  
2 Organization (NATCO), and the Eye Bank Association of America  
3 (EBAA). In addition, the Agency for Health Care Administration  
4 shall, before adopting these standards and guidelines, seek  
5 input from all organ procurement organizations, tissue banks,  
6 and eye banks based in this state;

7 Section 204. Subsection (1) of section 765.542,  
8 Florida Statutes, is amended to read:

9 765.542 Certification of organ procurement  
10 organizations, tissue banks, and eye banks.--

11 (1) The requirements of part II of chapter 408 apply  
12 to the provision of services that require licensure pursuant  
13 to ss. 765.541-765.546 and part II of chapter 408 and to  
14 entities licensed or certified by or applying for such  
15 licensure or certification from the Agency for Health Care  
16 Administration pursuant to ss. 765.541-765.546. An  
17 organization, agency, or other entity may not engage in the  
18 practice of organ procurement in this state without being  
19 designated as an organ procurement organization by the  
20 secretary of the United States Department of Health and Human  
21 Services and being appropriately certified by the Agency for  
22 Health Care Administration. As used in this subsection, the  
23 term "procurement" includes the retrieval, processing, or  
24 distribution of human organs. A physician or organ procurement  
25 organization based outside this state is exempt from these  
26 certification requirements if:

27 (a) The organs are procured for an out-of-state  
28 patient who is listed on, or referred through, the United  
29 Network for Organ Sharing System; and

30 (b) The organs are procured through an agreement of an  
31 organ procurement organization certified by the state.

1 Section 205. Section 765.544, Florida Statutes, is  
2 amended to read:

3 765.544 Fees; Florida Organ and Tissue Donor Education  
4 and Procurement Trust Fund.--

5 (1) In accordance with s. 408.805, an applicant or a  
6 certificateholder shall pay a fee for each application  
7 submitted under this part, part II of chapter 408, and  
8 applicable rules. The amount of the fee shall be as follows:

9 ~~The Agency for Health Care Administration shall collect~~

10 (a) An initial application fee of \$1,000 from organ  
11 procurement organizations and tissue banks and \$500 from eye  
12 banks. ~~The fee must be submitted with each application for~~  
13 ~~initial certification and is nonrefundable.~~

14 (b)(2) ~~The Agency for Health Care Administration shall~~  
15 ~~assess~~ Annual fees to be used, in the following order of  
16 priority, for the certification program, the advisory board,  
17 maintenance of the organ and tissue donor registry, and the  
18 organ and tissue donor education program in the following  
19 amounts, which may not exceed \$35,000 per organization:

20 1.(a) Each general organ procurement organization  
21 shall pay the greater of \$1,000 or 0.25 percent of its total  
22 revenues produced from procurement activity in this state by  
23 the certificateholder during its most recently completed  
24 fiscal year or operational year.

25 2.(b) Each bone and tissue procurement agency or bone  
26 and tissue bank shall pay the greater of \$1,000 or 0.25  
27 percent of its total revenues from procurement and processing  
28 activity in this state by the certificateholder during its  
29 most recently completed fiscal year or operational year.

30 3.(c) Each eye bank shall pay the greater of \$500 or  
31 0.25 percent of its total revenues produced from procurement

1 activity in this state by the certificateholder during its  
2 most recently completed fiscal year or operational year.

3 ~~(2)(3)~~ The Agency for Health Care Administration shall  
4 specify ~~provide~~ by rule the ~~for~~ administrative penalties for  
5 the purpose of ensuring adherence to the standards of quality  
6 and practice required by this chapter, part II of chapter 408,  
7 and applicable rules of the agency for continued  
8 certification.

9 ~~(3)(4)~~(a) Proceeds from fees, administrative  
10 penalties, and surcharges collected pursuant to this section  
11 ~~subsections (2) and (3)~~ must be deposited into the Florida  
12 Organ and Tissue Donor Education and Procurement Trust Fund  
13 created by s. 765.52155.

14 (b) Moneys deposited in the trust fund pursuant to  
15 this section must be used exclusively for the implementation,  
16 administration, and operation of the certification program and  
17 the advisory board, for maintaining the organ and tissue donor  
18 registry, and for organ and tissue donor education.

19 ~~(4)(5)~~ As used in this section, the term "procurement  
20 activity in this state" includes the bringing into this state  
21 for processing, storage, distribution, or transplantation of  
22 organs or tissues that are initially procured in another state  
23 or country.

24 Section 206. Subsection (4) of section 766.118,  
25 Florida Statutes, is amended to read:

26 766.118 Determination of noneconomic damages.--

27 (4) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE  
28 OF PRACTITIONERS PROVIDING EMERGENCY SERVICES AND  
29 CARE.--Notwithstanding subsections (2) and (3), with respect  
30 to a cause of action for personal injury or wrongful death  
31 arising from medical negligence of practitioners providing

1 | emergency services and care, as defined in s. 395.002(9)~~(10)~~,  
2 | or providing services as provided in s. 401.265, or providing  
3 | services pursuant to obligations imposed by 42 U.S.C. s.  
4 | 1395dd to persons with whom the practitioner does not have a  
5 | then-existing health care patient-practitioner relationship  
6 | for that medical condition:

7 |       (a) Regardless of the number of such practitioner  
8 | defendants, noneconomic damages shall not exceed \$150,000 per  
9 | claimant.

10 |       (b) Notwithstanding paragraph (a), the total  
11 | noneconomic damages recoverable by all claimants from all such  
12 | practitioners shall not exceed \$300,000.

13 |  
14 | The limitation provided by this subsection applies only to  
15 | noneconomic damages awarded as a result of any act or omission  
16 | of providing medical care or treatment, including diagnosis  
17 | that occurs prior to the time the patient is stabilized and is  
18 | capable of receiving medical treatment as a nonemergency  
19 | patient, unless surgery is required as a result of the  
20 | emergency within a reasonable time after the patient is  
21 | stabilized, in which case the limitation provided by this  
22 | subsection applies to any act or omission of providing medical  
23 | care or treatment which occurs prior to the stabilization of  
24 | the patient following the surgery.

25 |       Section 207. Section 766.316, Florida Statutes, is  
26 | amended to read:

27 |       766.316 Notice to obstetrical patients of  
28 | participation in the plan.--Each hospital with a participating  
29 | physician on its staff and each participating physician, other  
30 | than residents, assistant residents, and interns deemed to be  
31 | participating physicians under s. 766.314(4)(c), under the

1 Florida Birth-Related Neurological Injury Compensation Plan  
2 shall provide notice to the obstetrical patients as to the  
3 limited no-fault alternative for birth-related neurological  
4 injuries. Such notice shall be provided on forms furnished by  
5 the association and shall include a clear and concise  
6 explanation of a patient's rights and limitations under the  
7 plan. The hospital or the participating physician may elect to  
8 have the patient sign a form acknowledging receipt of the  
9 notice form. Signature of the patient acknowledging receipt of  
10 the notice form raises a rebuttable presumption that the  
11 notice requirements of this section have been met. Notice need  
12 not be given to a patient when the patient has an emergency  
13 medical condition as defined in s. 395.002(8)(9)(b) or when  
14 notice is not practicable.

15 Section 208. Paragraph (b) of subsection (2) of  
16 section 812.014, Florida Statutes, is amended to read:

17 812.014 Theft.--

18 (2)

19 (b)1. If the property stolen is valued at \$20,000 or  
20 more, but less than \$100,000;

21 2. The property stolen is cargo valued at less than  
22 \$50,000 that has entered the stream of interstate or  
23 intrastate commerce from the shipper's loading platform to the  
24 consignee's receiving dock; or

25 3. The property stolen is emergency medical equipment,  
26 valued at \$300 or more, that is taken from a facility licensed  
27 under chapter 395 or from an aircraft or vehicle permitted  
28 under chapter 401,

29  
30 the offender commits grand theft in the second degree,  
31 punishable as a felony of the second degree, as provided in s.

1 | 775.082, s. 775.083, or s. 775.084. Emergency medical  
2 | equipment means mechanical or electronic apparatus used to  
3 | provide emergency services and care as defined in s.  
4 | 395.002(9)(10) or to treat medical emergencies.

5 | Section 209. This act shall take effect July 1, 2007.

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8 | SENATE SUMMARY

9 | Provides applicability of licensure requirements of  
10 | health care providers under part II of chapter 408,  
11 | Florida Statutes.

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