

By the Committees on Banking and Insurance; Health Regulation;
Health Regulation; and Senator Jones

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1 A bill to be entitled
2 An act relating to home health care; amending s. 400.462,
3 F.S.; revising and adding definitions; amending s.
4 400.464, F.S.; authorizing a home infusion therapy
5 provider to be licensed as a nurse registry; deleting
6 provisions related to Medicare reimbursement; amending s.
7 400.471, F.S.; requiring an applicant for a home health
8 agency license to submit to the Agency for Health Care
9 Administration a business plan and evidence of contingency
10 funding, and disclose other controlling ownership
11 interests in health care entities; requiring certain
12 standards in documentation demonstrating financial ability
13 to operate; requiring an applicant for a new home health
14 agency license to submit a surety bond of a specified
15 amount to the Agency for Health Care Administration;
16 authorizing the agency to adopt rules for the submission
17 of other forms of security; providing procedures for the
18 agency with respect to making a claim against a surety
19 bond or security; limiting the timing of receipt and the
20 number of applications for a new home health agency
21 license which the agency may accept each quarter;
22 providing an exception under certain circumstances for a
23 home health agency that is part of a retirement community;
24 specifying a procedure for the agency to follow in
25 selecting applications to process for a new home health
26 agency license; providing for the future expiration of
27 such provisions; prohibiting the agency from issuing an
28 initial license to a home health agency licensure
29 applicant located within 20 miles of a licensed home

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30 health agency that has common controlling interests;
31 prohibiting the transfer of an application to another home
32 health agency; requiring submission of an initial
33 application to relocate a licensed home health to another
34 geographic service area; imposing the burden of proof on
35 an applicant to demonstrate that a factual determination
36 made by the agency is not supported by a preponderance of
37 the evidence; amending s. 400.474, F.S.; providing
38 additional grounds under which the Agency for Health Care
39 Administration may take disciplinary action against a
40 home health agency; creating s. 400.476, F.S.;

41 establishing staffing requirements for home health
42 agencies; reducing the number of home health agencies that
43 an administrator or director of nursing may serve;
44 requiring that an alternate administrator be designated in
45 writing; limiting the period that a home health agency
46 that provides skilled nursing care may operate without a
47 director of nursing; requiring notification upon the
48 termination and replacement of a director of nursing;
49 requiring the Agency for Health Care Administration to
50 take administrative enforcement action against a home
51 health agency for noncompliance with the notification and
52 staffing requirements for a director of nursing; exempting
53 a home health agency that provides only physical,
54 occupational, or speech therapy from requirements related
55 to a director of nursing; providing training requirements
56 for certified nursing assistants and home health aides;
57 amending s. 400.484, F.S.; requiring the agency to conduct
58 the first unannounced survey of a newly licensed home

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59 health agency within a specified period after issuing the
60 license; requiring that the agency impose administrative
61 fines for certain deficiencies; increasing the
62 administrative fines imposed for certain deficiencies;
63 amending s. 400.488, F.S.; deleting provisions authorizing
64 the administration of medication to home health patients
65 by unlicensed staff; providing for the delegation of
66 nursing tasks as provided in ch. 464, F.S., and related
67 rules; amending s. 400.491, F.S.; extending the period
68 that a home health agency must retain records of the
69 nonskilled care it provides; amending s. 400.497, F.S.;
70 requiring that the Agency for Health Care Administration
71 adopt rules related to standards for the director of
72 nursing of a home health agency, requirements for a
73 director of nursing to submit certified staff activity
74 logs pursuant to an agency request, quality assurance
75 programs, and inspections related to an application for a
76 change in ownership; amending s. 400.506, F.S.; providing
77 training requirements for certified nursing assistants and
78 home health aides referred for contract by a nurse
79 registry; providing for the denial, suspension, or
80 revocation of nurse registry license and fines for paying
81 remuneration to certain entities in exchange for patient
82 referrals or refusing fair remuneration in exchange for
83 patient referrals; amending s. 400.518, F.S.; providing
84 for a fine to be imposed against a home health agency that
85 provides complimentary staffing to an assisted care
86 community in exchange for patient referrals; amending s.
87 409.906, F.S.; requiring durable medical equipment

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88 providers enrolled in the Medicaid program to be
89 accredited and have a physical business location that
90 meets specified conditions; providing for exceptions of
91 certain business location criteria; requiring a durable
92 medical equipment provider enrolled in the Medicaid
93 program to obtain a surety bond of a specified amount and
94 for certain staff to undergo background screening;
95 providing for exemptions from accreditation and the surety
96 bond for specified durable medical equipment providers;
97 requiring the Agency for Health Care Administration to
98 review the process for prior authorization of home health
99 agency visits and determine whether modifications to the
100 process are necessary; requiring the agency to report to
101 the Legislature on the feasibility of accessing the
102 Medicare system to determine recipient eligibility for
103 home health services; providing an effective date.
104

105 Be It Enacted by the Legislature of the State of Florida:
106

107 Section 1. Section 400.462, Florida Statutes, is amended to
108 read:

109 400.462 Definitions.--As used in this part, the term:

110 (1) "Administrator" means a direct employee, as defined in
111 subsection (9), who is. ~~The administrator must be~~ a licensed
112 physician, physician assistant, or registered nurse licensed to
113 practice in this state or an individual having at least 1 year of
114 supervisory or administrative experience in home health care or
115 in a facility licensed under chapter 395, under part II of this
116 chapter, or under part I of chapter 429. ~~An administrator may~~

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117 ~~manage a maximum of five licensed home health agencies located~~
118 ~~within one agency service district or within an immediately~~
119 ~~contiguous county. If the home health agency is licensed under~~
120 ~~this chapter and is part of a retirement community that provides~~
121 ~~multiple levels of care, an employee of the retirement community~~
122 ~~may administer the home health agency and up to a maximum of four~~
123 ~~entities licensed under this chapter or chapter 429 that are~~
124 ~~owned, operated, or managed by the same corporate entity. An~~
125 ~~administrator shall designate, in writing, for each licensed~~
126 ~~entity, a qualified alternate administrator to serve during~~
127 ~~absences.~~

128 (2) "Admission" means a decision by the home health agency,
129 during or after an evaluation visit to the patient's home, that
130 there is reasonable expectation that the patient's medical,
131 nursing, and social needs for skilled care can be adequately met
132 by the agency in the patient's place of residence. Admission
133 includes completion of an agreement with the patient or the
134 patient's legal representative to provide home health services as
135 required in s. 400.487(1).

136 (3) "Advanced registered nurse practitioner" means a person
137 licensed in this state to practice professional nursing and
138 certified in advanced or specialized nursing practice, as defined
139 in s. 464.003.

140 (4) "Agency" means the Agency for Health Care
141 Administration.

142 (5) "Certified nursing assistant" means any person who has
143 been issued a certificate under part II of chapter 464. ~~The~~
144 ~~licensed home health agency or licensed nurse registry shall~~
145 ~~ensure that the certified nursing assistant employed by or under~~

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146 ~~contract with the home health agency or licensed nurse registry~~
147 ~~is adequately trained to perform the tasks of a home health aide~~
148 ~~in the home setting.~~

149 (6) "Client" means an elderly, handicapped, or convalescent
150 individual who receives companion services or homemaker services
151 in the individual's home or place of residence.

152 (7) "Companion" or "sitter" means a person who spends time
153 with or cares for an elderly, handicapped, or convalescent
154 individual and accompanies such individual on trips and outings
155 and may prepare and serve meals to such individual. A companion
156 may not provide hands-on personal care to a client.

157 (8) "Department" means the Department of Children and
158 Family Services.

159 (9) "Direct employee" means an employee for whom one of the
160 following entities pays withholding taxes: a home health agency;
161 a management company that has a contract to manage the home
162 health agency on a day-to-day basis; or an employee leasing
163 company that has a contract with the home health agency to handle
164 the payroll and payroll taxes for the home health agency.

165 (10) "Director of nursing" means a registered nurse who is
166 a direct employee, as defined in subsection (9), of the agency
167 and who is a graduate of an approved school of nursing and is
168 licensed in this state; who has at least 1 year of supervisory
169 experience as a registered nurse; and who is responsible for
170 overseeing the professional nursing and home health aid delivery
171 of services of the agency. ~~A director of nursing may be the~~
172 ~~director of a maximum of five licensed home health agencies~~
173 ~~operated by a related business entity and located within one~~
174 ~~agency service district or within an immediately contiguous~~

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175 ~~county. If the home health agency is licensed under this chapter~~
176 ~~and is part of a retirement community that provides multiple~~
177 ~~levels of care, an employee of the retirement community may serve~~
178 ~~as the director of nursing of the home health agency and of up to~~
179 ~~four entities licensed under this chapter or chapter 429 which~~
180 ~~are owned, operated, or managed by the same corporate entity.~~

181 (11) "Fair market value" means the value in arms length
182 transactions, consistent with the price that an asset would bring
183 as the result of bona fide bargaining between well-informed
184 buyers and sellers who are not otherwise in a position to
185 generate business for the other party, or the compensation that
186 would be included in a service agreement as the result of bona
187 fide bargaining between well-informed parties to the agreement
188 who are not otherwise in a position to generate business for the
189 other party, on the date of acquisition of the asset or at the
190 time of the service agreement.

191 ~~(12)-(11)~~ "Home health agency" means an organization that
192 provides home health services and staffing services.

193 ~~(13)-(12)~~ "Home health agency personnel" means persons who
194 are employed by or under contract with a home health agency and
195 enter the home or place of residence of patients at any time in
196 the course of their employment or contract.

197 ~~(14)-(13)~~ "Home health services" means health and medical
198 services and medical supplies furnished by an organization to an
199 individual in the individual's home or place of residence. The
200 term includes organizations that provide one or more of the
201 following:

202 (a) Nursing care.

203 (b) Physical, occupational, respiratory, or speech therapy.

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204 (c) Home health aide services.

205 (d) Dietetics and nutrition practice and nutrition
206 counseling.

207 (e) Medical supplies, restricted to drugs and biologicals
208 prescribed by a physician.

209 (15)~~(14)~~ "Home health aide" means a person who is trained
210 or qualified, as provided by rule, and who provides hands-on
211 personal care, performs simple procedures as an extension of
212 therapy or nursing services, assists in ambulation or exercises,
213 or assists in administering medications as permitted in rule and
214 for which the person has received training established by the
215 agency under s. 400.497(1). ~~The licensed home health agency or~~
216 ~~licensed nurse registry shall ensure that the home health aide~~
217 ~~employed by or under contract with the home health agency or~~
218 ~~licensed nurse registry is adequately trained to perform the~~
219 ~~tasks of a home health aide in the home setting.~~

220 (16)~~(15)~~ "Homemaker" means a person who performs household
221 chores that include housekeeping, meal planning and preparation,
222 shopping assistance, and routine household activities for an
223 elderly, handicapped, or convalescent individual. A homemaker may
224 not provide hands-on personal care to a client.

225 (17)~~(16)~~ "Home infusion therapy provider" means an
226 organization that employs, contracts with, or refers a licensed
227 professional who has received advanced training and experience in
228 intravenous infusion therapy and who administers infusion therapy
229 to a patient in the patient's home or place of residence.

230 (18)~~(17)~~ "Home infusion therapy" means the administration
231 of intravenous pharmacological or nutritional products to a
232 patient in his or her home.

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233 (19) "Immediate family member" means a husband or wife; a
234 birth or adoptive parent, child, or sibling; a stepparent,
235 stepchild, stepbrother, or stepsister; a father-in-law, mother-
236 in-law, son-in-law, daughter-in-law, brother-in-law, or sister-
237 in-law; a grandparent or grandchild; or a spouse of a grandparent
238 or grandchild.

239 (20) "Medical director" means a physician who is a
240 volunteer with, or who receives remuneration from, a home health
241 agency.

242 (21)~~(18)~~ "Nurse registry" means any person that procures,
243 offers, promises, or attempts to secure health-care-related
244 contracts for registered nurses, licensed practical nurses,
245 certified nursing assistants, home health aides, companions, or
246 homemakers, who are compensated by fees as independent
247 contractors, including, but not limited to, contracts for the
248 provision of services to patients and contracts to provide
249 private duty or staffing services to health care facilities
250 licensed under chapter 395, this chapter, or chapter 429 or other
251 business entities.

252 (22)~~(19)~~ "Organization" means a corporation, government or
253 governmental subdivision or agency, partnership or association,
254 or any other legal or commercial entity, any of which involve
255 more than one health care professional discipline; a health care
256 professional and a home health aide or certified nursing
257 assistant; more than one home health aide; more than one
258 certified nursing assistant; or a home health aide and a
259 certified nursing assistant. The term does not include an entity
260 that provides services using only volunteers or only individuals
261 related by blood or marriage to the patient or client.

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262 (23)~~(20)~~ "Patient" means any person who receives home
263 health services in his or her home or place of residence.

264 (24)~~(21)~~ "Personal care" means assistance to a patient in
265 the activities of daily living, such as dressing, bathing,
266 eating, or personal hygiene, and assistance in physical transfer,
267 ambulation, and in administering medications as permitted by
268 rule.

269 (25)~~(22)~~ "Physician" means a person licensed under chapter
270 458, chapter 459, chapter 460, or chapter 461.

271 (26)~~(23)~~ "Physician assistant" means a person who is a
272 graduate of an approved program or its equivalent, or meets
273 standards approved by the boards, and is licensed to perform
274 medical services delegated by the supervising physician, as
275 defined in s. 458.347 or s. 459.022.

276 (27) "Remuneration" means any payment or other benefit made
277 directly or indirectly, overtly or covertly, in cash or in kind.

278 (28)~~(24)~~ "Skilled care" means nursing services or
279 therapeutic services required by law to be delivered by a health
280 care professional who is licensed under part I of chapter 464;
281 part I, part III, or part V of chapter 468; or chapter 486 and
282 who is employed by or under contract with a licensed home health
283 agency or is referred by a licensed nurse registry.

284 (29)~~(25)~~ "Staffing services" means services provided to a
285 health care facility, school, or other business entity on a
286 temporary or school-year basis pursuant to a written contract by
287 licensed health care personnel and by certified nursing
288 assistants and home health aides who are employed by, or work
289 under the auspices of, a licensed home health agency or who are
290 registered with a licensed nurse registry. ~~Staffing services may~~

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291 ~~be provided anywhere within the state.~~

292 Section 2. Subsection (3) of section 400.464, Florida
293 Statutes, is amended to read:

294 400.464 Home Health agencies to be licensed; expiration of
295 license; exemptions; unlawful acts; penalties.--

296 (3) A ~~Any~~ home infusion therapy provider must ~~shall~~ be
297 licensed as a home health agency or nurse registry. ~~Any infusion~~
298 ~~therapy provider currently authorized to receive Medicare~~
299 ~~reimbursement under a DME - Part B Provider number for the~~
300 ~~provision of infusion therapy shall be licensed as a non~~
301 ~~certified home health agency. Such a provider shall continue to~~
302 ~~receive that specified Medicare reimbursement without being~~
303 ~~certified so long as the reimbursement is limited to those items~~
304 ~~authorized pursuant to the DME - Part B Provider Agreement and~~
305 ~~the agency is licensed in compliance with the other provisions of~~
306 ~~this part.~~

307 Section 3. Section 400.471, Florida Statutes, is amended to
308 read:

309 400.471 Application for license; fee; bond; limitation on
310 applications accepted.--

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

313 (2) In addition to the requirements of part II of chapter
314 408, the initial applicant must file with the application
315 satisfactory proof that the home health agency is in compliance
316 with this part and applicable rules, including:

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

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320 (b) The number and discipline of professional staff to be
321 employed.

322 (c) Completion of questions concerning volume data on the
323 renewal application as determined by rule.

324 (d) A business plan, signed by the applicant, which details
325 the home health agency's methods to obtain patients and its plan
326 to recruit and maintain staff.

327 (e) Evidence of contingency funding equal to 1 month's
328 average operating expense over the first year of operation.

329 (f) A balance sheet, income and expense statement, and
330 statement of cash flows for the first 2 years of operation which
331 provide evidence of having sufficient assets, credit, and
332 projected revenues to cover liabilities and expenses. The
333 applicant has demonstrated financial ability to operate if the
334 applicant's assets, credit, and projected revenues meet or exceed
335 projected liabilities and expenses. An applicant may not project
336 an operating margin for any month in the first year of operation
337 of 15 percent or greater. All documents required under this
338 paragraph must be prepared in accordance with generally accepted
339 accounting principles and compiled and signed by a certified
340 public accountant.

341 (g) All other ownership interests in health care entities
342 for each controlling interest, as defined in part II of chapter
343 408.

344 (3) In addition to the requirements of s. 408.810, the home
345 health agency must also obtain and maintain the following
346 insurance coverage in an amount of not less than \$250,000 per
347 claim, and the home health agency must submit proof of coverage
348 with an initial application for licensure and with each

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349 application for license renewal:

350 (a) Malpractice insurance as defined in s. 624.605(1)(k).

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

352 (4) The agency shall accept, in lieu of its own periodic
353 licensure survey, submission of the survey of an accrediting
354 organization that is recognized by the agency if the
355 accreditation of the licensed home health agency is not
356 provisional and if the licensed home health agency authorizes
357 release of, and the agency receives the report of, the
358 accrediting organization.

359 (5) In accordance with s. 408.805, an applicant or licensee
360 shall pay a fee for each license application submitted under this
361 part, part II of chapter 408, and applicable rules. The amount of
362 the fee shall be established by rule and shall be set at an
363 amount that is sufficient to cover the agency's costs in carrying
364 out its responsibilities under this part, but not to exceed
365 \$2,000 per biennium. However, state, county, or municipal
366 governments applying for licenses under this part are exempt from
367 the payment of license fees.

368 (6) The agency may not issue a license designated as
369 certified to a home health agency that fails to satisfy the
370 requirements of a Medicare certification survey from the agency.

371 (7) An applicant for a new home health agency license must
372 submit a surety bond of \$50,000, or other equivalent means of
373 security acceptable to the agency, such as an irrevocable letter
374 of credit or a deposit in a trust account or financial
375 institution, payable to the Agency for Health Care
376 Administration. A surety bond is the only form of security that
377 may be submitted until the agency has adopted a rule providing

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378 for other equivalent means of security. A surety bond or other
379 equivalent means of security must be valid from initial licensure
380 until the end of the first license-renewal period. The purpose of
381 this bond is to secure payment of any administrative penalties
382 imposed by the agency and any fees and costs incurred by the
383 agency regarding the home health agency license which are
384 authorized under state law and which the licensee fails to pay 30
385 days after the fine or costs become final. The agency may make a
386 claim against the surety bond or security until the later of:

387 (a) One year after the license ceases to be valid if the
388 license is not renewed for a second biennial period;

389 (b) One year after the license has been renewed a second
390 time; or

391 (c) Sixty days after any administrative or legal
392 proceeding, including any appeal, is concluded involving an
393 administrative penalty, fees, or costs for an act or omission
394 that occurred at any time during the first 4 years after the
395 license was initially issued.

396 (8) (a) The agency may accept for processing for a new home
397 health agency license only the following number of applications
398 quarterly, as determined using the number of licensed home health
399 agencies in each geographic service area on June 1, 2008, and the
400 Florida Population Estimates for Counties and Municipalities,
401 April 1, 2007, as published by the Office of Economic and
402 Demographic Research of the Legislature:

403 1. Five for each geographic service area in which the
404 number of residents over the age of 64 per number of licensed
405 home health agencies in that geographic service area is between
406 2,000 and 2,999;

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407 2. Four for each geographic service area in which the
408 number of residents over the age of 64 per number of licensed
409 home health agencies in that geographic service area is between
410 1,000 and 1,999; and

411 3. Three for each geographic service area in which the
412 number of residents over the age of 64 per number of licensed
413 home health agencies in that geographic service area is between 0
414 and 999.

415
416 However, an application for a new home health agency license that
417 is part of a retirement community providing multiple levels of
418 care and that will provide home health services exclusively to
419 residents of that facility is not subject to the quarterly
420 limitation and may not be counted as a new application for
421 purposes of the quarterly limitation. If the home health agency
422 provides home health services to persons outside that facility,
423 the agency shall impose a moratorium on the license in accordance
424 with s. 408.814 and revoke the home health agency license. The
425 home health agency may reapply for a new home health agency
426 license and is subject to the limits on the agency's acceptance
427 of new applications.

428 (b) The agency shall accept applications for a new home
429 health agency license only during the first 5 business days of a
430 calendar quarter. Applications for a new home health agency
431 license received during this period, except an application for a
432 new home health agency license that is part of a retirement
433 community providing multiple levels of care and that will provide
434 home health services exclusively to residents of that facility,
435 must be grouped according to the geographic service area in which

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436 the home health agency is to be located. When the number of
437 applications received for a geographic service area exceeds the
438 number of applications authorized to be accepted for processing
439 in paragraph (a), the agency shall use a lottery system to select
440 the applications to be accepted for processing for that
441 geographic service area as follows:

442 1. A number shall be assigned to each application received
443 for that geographic service area.

444 2. For each geographic service area, the agency shall put
445 the numbers assigned to each application in an opaque container.

446 3. The agency shall select the applicable quantity of
447 numbers for that geographic service area without viewing the
448 contents of the container.

449 4. The application that corresponds to the selected number
450 shall be accepted for processing.

451
452 The selection of applications to be accepted for processing must
453 be a public process conducted in Tallahassee and noticed for a
454 date during the first 6 through 10 business days of the calendar
455 quarter.

456 (c) Notwithstanding ss. 120.60 or 408.806(3), the agency
457 shall return to the sender all applications and fees for a new
458 home health agency license which were received:

459 1. And not accepted for processing pursuant to the lottery-
460 selection process set forth in paragraph (b); or

461 2. Before or after the first 5 business days of a calendar
462 quarter.

463 (d) This subsection expires July 1, 2011.

464 (9) The agency may not issue an initial license to a home

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465 health agency licensure applicant if the applicant shares common
466 controlling interests with another licensed home health agency
467 that is located within 20 miles of the applicant. The agency must
468 return the application and fees to the applicant.

469 (10) An application for a home health agency license may
470 not be transferred to another home health agency or controlling
471 interest prior to issuance of the license.

472 (11) A licensed home health agency that seeks to relocate
473 to a different geographic service area not listed on its license
474 must submit an initial application for a home health agency
475 license for the new location.

476 (12) When an applicant alleges that a factual determination
477 made by the agency is incorrect, the burden of proof is on the
478 applicant to demonstrate that such determination is, in light of
479 the total record, not supported by the preponderance of the
480 evidence.

481 Section 4. Section 400.474, Florida Statutes, is amended to
482 read:

483 400.474 Administrative penalties.--

484 (1) The agency may deny, revoke, and suspend a license and
485 impose an administrative fine in the manner provided in chapter
486 120.

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

489 (a) Violation of this part, part II of chapter 408, or of
490 applicable rules.

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

493 (c) Knowingly providing home health services in an

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494 unlicensed assisted living facility or unlicensed adult family-
495 care home, unless the home health agency or employee reports the
496 unlicensed facility or home to the agency within 72 hours after
497 providing the services.

498 (d) Preparing or maintaining fraudulent patient records,
499 such as, but not limited to, charting ahead, recording vital
500 signs or symptoms that were not personally obtained or observed
501 by the home health agency's staff at the time indicated,
502 borrowing patients or patient records from other home health
503 agencies to pass a survey or inspection, or falsifying
504 signatures.

505 (e) Failing to provide at least one service directly to a
506 patient for a period of 60 days.

507 (3) The agency shall impose a fine of \$1,000 against a home
508 health agency that demonstrates a pattern of falsifying:

509 (a) Documents of training for home health aides or
510 certified nursing assistants; or

511 (b) Health statements for staff providing direct care to
512 patients.

513
514 A pattern may be demonstrated by a showing of at least three
515 fraudulent entries or documents. The fine shall be imposed for
516 each fraudulent document or, if multiple staff members are
517 included on one document, for each fraudulent entry on the
518 document.

519 (4) The agency shall impose a fine of \$5,000 against a home
520 health agency that demonstrates a pattern of billing any payor
521 for services not provided. A pattern may be demonstrated by a
522 showing of at least three billings for services not provided

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523 within a 12-month period. The fine must be imposed for each
524 incident that is falsely billed. The agency may also:

525 (a) Require payback of all funds;
526 (b) Revoke the license; or
527 (c) Issue a moratorium in accordance with s. 408.814.
528 (5) The agency shall impose a fine of \$5,000 against a home
529 health agency that demonstrates a pattern of failing to provide a
530 service specified in the home health agency's written agreement
531 with a patient or the patient's legal representative, or the plan
532 of care for that patient, unless a reduction in service is
533 mandated by Medicare, Medicaid, or a state program or as provided
534 in s. 400.492(3). A pattern may be demonstrated by a showing of
535 at least three incidences, regardless of the patient or service,
536 where the home health agency did not provide a service specified
537 in a written agreement or plan of care during a 3-month period.
538 The agency shall impose the fine for each occurrence. The agency
539 may also impose additional administrative fines under s. 400.484
540 for the direct or indirect harm to a patient, or deny, revoke, or
541 suspend the license of the home health agency for a pattern of
542 failing to provide a service specified in the home health
543 agency's written agreement with a patient or the plan of care for
544 that patient.

545 (6) The agency may deny, revoke, or suspend the license of
546 a home health agency and shall impose a fine of \$5,000 against a
547 home health agency that:

548 (a) Gives remuneration for staffing services to:
549 1. Another home health agency with which it has formal or
550 informal patient-referral transactions or arrangements; or
551 2. A health services pool with which it has formal or

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552 informal patient-referral transactions or arrangements,
553
554 unless the home health agency has activated its comprehensive
555 emergency management plan in accordance with s. 400.492. This
556 paragraph does not apply to a Medicare-certified home health
557 agency that provides fair market value remuneration for staffing
558 services to a non-Medicare-certified home health agency that is
559 part of a continuing care facility licensed under chapter 651 for
560 providing services to its own residents if each resident
561 receiving home health services pursuant to this arrangement
562 attests in writing that he or she made a decision without
563 influence from staff of the facility to select, from a list of
564 Medicare-certified home health agencies provided by the facility,
565 that Medicare-certified home health agency to provide the
566 services.

567 (b) Provides services to residents in an assisted living
568 facility for which the home health agency does not receive fair
569 market value remuneration.

570 (c) Provides staffing to an assisted living facility for
571 which the home health agency does not receive fair market value
572 remuneration.

573 (d) Fails to provide the agency, upon request, with copies
574 of all contracts with assisted living facilities which were
575 executed within 5 years before the request.

576 (e) Gives remuneration to a case manager, discharge
577 planner, facility-based staff member, or third-party vendor who
578 is involved in the discharge-planning process of a facility
579 licensed under chapter 395 or this chapter from whom the home
580 health agency receives referrals.

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581 (f) Fails to submit to the agency, within 10 days after the
582 end of each calendar quarter, a written report that includes the
583 following data based on data as it existed on the last day of the
584 quarter:

585 1. The number of insulin-dependent diabetic patients
586 receiving insulin-injection services from the home health agency;

587 2. The number of patients receiving both home health
588 services from the home health agency and hospice services;

589 3. The number of patients receiving home health services
590 from that home health agency; and

591 4. The names and license numbers of nurses whose primary
592 job responsibility is to provide home health services to patients
593 and who received remuneration from the home health agency in
594 excess of \$25,000 during the calendar quarter.

595 (g) Gives cash, or its equivalent, to a Medicare or
596 Medicaid beneficiary.

597 (h) Has more than one medical director contract in effect
598 at one time or more than one medical director contract and one
599 contract with a physician-specialist whose services are mandated
600 for the home health agency in order to qualify to participate in
601 a federal or state health care program at one time.

602 (i) Gives remuneration to a physician without a medical
603 director contract being in effect. The contract must:

604 1. Be in writing and signed by both parties;

605 2. Provide for remuneration that is at fair market value
606 for an hourly rate, which must be supported by invoices submitted
607 by the medical director describing the work performed, the dates
608 on which that work was performed, and the duration of that work;
609 and

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610 3. Be for a term of at least 1 year.

611
612 The hourly rate specified in the contract may not be increased
613 during the term of the contract. The home health agency may not
614 execute a subsequent contract with that physician which has an
615 increased hourly rate and covers any portion of the term that was
616 in the original contract.

617 (j) Gives remuneration to:

618 1. A physician, and the home health agency is in violation
619 of paragraph (h) or paragraph (i);

620 2. A member of the physician's office staff; or

621 3. An immediate family member of the physician,

622
623 if the home health agency has received a patient referral in the
624 preceding 12 months from that physician or physician's office
625 staff.

626 (k) Fails to provide to the agency, upon request, copies of
627 all contracts with a medical director which were executed within
628 5 years before the request.

629 (7)(3)(a) In addition to the requirements of s. 408.813,
630 any person, partnership, or corporation that violates s. 408.812
631 or s. 408.813 and that previously operated a licensed home health
632 agency or concurrently operates both a licensed home health
633 agency and an unlicensed home health agency commits a felony of
634 the third degree punishable as provided in s. 775.082, s.
635 775.083, or s. 775.084.

636 (b) If any home health agency is found to be operating
637 without a license and that home health agency has received any
638 government reimbursement for services, the agency shall make a

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639 fraud referral to the appropriate government reimbursement
640 program.

641 Section 5. Section 400.476, Florida Statutes, is created to
642 read:

643 400.476 Staffing requirements; notifications; limitations
644 on staffing services.--

645 (1) ADMINISTRATOR.--

646 (a) An administrator may manage only one home health
647 agency, except that an administrator may manage up to five home
648 health agencies if all five home health agencies have identical
649 controlling interests as defined in s. 408.803 and are located
650 within one agency geographic service area or within an
651 immediately contiguous county. If the home health agency is
652 licensed under this chapter and is part of a retirement community
653 that provides multiple levels of care, an employee of the
654 retirement community may administer the home health agency and up
655 to a maximum of four entities licensed under this chapter or
656 chapter 429 which all have identical controlling interests as
657 defined in s. 408.803. An administrator shall designate, in
658 writing, for each licensed entity, a qualified alternate
659 administrator to serve during the administrator's absence.

660 (b) An administrator of a home health agency who is a
661 licensed physician, physician assistant, or registered nurse
662 licensed to practice in this state may also be the director of
663 nursing for a home health agency. An administrator may serve as a
664 director of nursing for up to the number of entities authorized
665 in subsection (2) only if there are 10 or fewer full-time
666 equivalent employees and contracted personnel in each home health
667 agency.

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- 668 (2) DIRECTOR OF NURSING.--
- 669 (a) A director of nursing may be the director of nursing
670 for:
- 671 1. Up to two licensed home health agencies if the agencies
672 have identical controlling interests as defined in s. 408.803 and
673 are located within one agency geographic service area or within
674 an immediately contiguous county; or
- 675 2. Up to five licensed home health agencies if:
- 676 a. All of the home health agencies have identical
677 controlling interests as defined in s. 408.803;
- 678 b. All of the home health agencies are located within one
679 agency geographic service area or within an immediately
680 contiguous county; and
- 681 c. Each home health agency has a registered nurse who meets
682 the qualifications of a director of nursing and who has a written
683 delegation from the director of nursing to serve as the director
684 of nursing for that home health agency when the director of
685 nursing is not present.
- 686
- 687 If a home health agency licensed under this chapter is part of a
688 retirement community that provides multiple levels of care, an
689 employee of the retirement community may serve as the director of
690 nursing of the home health agency and up to a maximum of four
691 entities, other than home health agencies, licensed under this
692 chapter or chapter 429 which all have identical controlling
693 interests as defined in s. 408.803.
- 694 (b) A home health agency that provides skilled nursing care
695 may not operate for more than 30 calendar days without a director
696 of nursing. A home health agency that provides skilled nursing

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697 care and the director of nursing of a home health agency must
698 notify the agency within 10 business days after termination of
699 the services of the director of nursing for the home health
700 agency. A home health agency that provides skilled nursing care
701 must notify the agency of the identity and qualifications of the
702 new director of nursing within 10 days after the new director is
703 hired. If a home health agency that provides skilled nursing care
704 operates for more than 30 calendar days without a director of
705 nursing, the home health agency commits a class II deficiency. In
706 addition to the fine for a class II deficiency, the agency may
707 issue a moratorium in accordance with s. 408.814 or revoke the
708 license. The agency shall fine a home health agency that fails to
709 notify the agency as required in this paragraph \$1,000 for the
710 first violation and \$2,000 for a repeat violation. The agency may
711 not take administrative action against a home health agency if
712 the director of nursing fails to notify the department upon
713 termination of services as the director of nursing for the home
714 health agency.

715 (c) A home health agency that provides only physical,
716 occupational, or speech therapy is not required to have a
717 director of nursing and is exempt from paragraph (b).

718 (3) TRAINING.--A home health agency shall ensure that each
719 certified nursing assistant employed by or under contract with
720 the home health agency and each home health aide employed by or
721 under contract with the home health agency is adequately trained
722 to perform the tasks of a home health aide in the home setting.

723 (4) STAFFING.--Staffing services may be provided anywhere
724 within the state.

725 Section 6. Section 400.484, Florida Statutes, is amended to

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726 read:

727 400.484 Right of inspection; deficiencies; fines.--

728 (1) In addition to the requirements of s. 408.811, the
729 agency may make such inspections and investigations as are
730 necessary in order to determine the state of compliance with this
731 part, part II of chapter 408, and applicable rules. The agency
732 shall conduct an unannounced survey of each home health agency
733 within 15 months after issuing a new license to the home health
734 agency.

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

737 (a) A class I deficiency is any act, omission, or practice
738 that results in a patient's death, disablement, or permanent
739 injury, or places a patient at imminent risk of death,
740 disablement, or permanent injury. Upon finding a class I
741 deficiency, the agency shall ~~may~~ impose an administrative fine in
742 the amount of \$15,000 ~~\$5,000~~ for each occurrence and each day
743 that the deficiency exists.

744 (b) A class II deficiency is any act, omission, or practice
745 that has a direct adverse effect on the health, safety, or
746 security of a patient. Upon finding a class II deficiency, the
747 agency shall ~~may~~ impose an administrative fine in the amount of
748 \$5,000 ~~\$1,000~~ for each occurrence and each day that the
749 deficiency exists.

750 (c) A class III deficiency is any act, omission, or
751 practice that has an indirect, adverse effect on the health,
752 safety, or security of a patient. Upon finding an uncorrected or
753 repeated class III deficiency, the agency shall ~~may~~ impose an
754 administrative fine not to exceed \$1,000 ~~\$500~~ for each occurrence

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755 and each day that the uncorrected or repeated deficiency exists.

756 (d) A class IV deficiency is any act, omission, or practice
757 related to required reports, forms, or documents which does not
758 have the potential of negatively affecting patients. These
759 violations are of a type that the agency determines do not
760 threaten the health, safety, or security of patients. Upon
761 finding an uncorrected or repeated class IV deficiency, the
762 agency shall ~~may~~ impose an administrative fine not to exceed \$500
763 ~~\$200~~ for each occurrence and each day that the uncorrected or
764 repeated deficiency exists.

765 (3) In addition to any other penalties imposed pursuant to
766 this section or part, the agency may assess costs related to an
767 investigation that results in a successful prosecution, excluding
768 costs associated with an attorney's time.

769 Section 7. Section 400.488, Florida Statutes, is amended to
770 read:

771 400.488 Nurse delegation Assistance with self-
772 administration of medication.--A home health agency nurse may
773 delegate nursing tasks as provided in chapter 464 and related
774 rules.

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

776 ~~(a) "Informed consent" means advising the patient, or the~~
777 ~~patient's surrogate, guardian, or attorney in fact, that the~~
778 ~~patient may be receiving assistance with self-administration of~~
779 ~~medication from an unlicensed person.~~

780 ~~(b) "Unlicensed person" means an individual not currently~~
781 ~~licensed to practice nursing or medicine who is employed by or~~
782 ~~under contract to a home health agency and who has received~~
783 ~~training with respect to assisting with the self-administration~~

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784 ~~of medication as provided by agency rule.~~

785 ~~(2) Patients who are capable of self-administering their~~
786 ~~own medications without assistance shall be encouraged and~~
787 ~~allowed to do so. However, an unlicensed person may, consistent~~
788 ~~with a dispensed prescription's label or the package directions~~
789 ~~of an over-the-counter medication, assist a patient whose~~
790 ~~condition is medically stable with the self-administration of~~
791 ~~routine, regularly scheduled medications that are intended to be~~
792 ~~self-administered. Assistance with self-medication by an~~
793 ~~unlicensed person may occur only upon a documented request by,~~
794 ~~and the written informed consent of, a patient or the patient's~~
795 ~~surrogate, guardian, or attorney in fact. For purposes of this~~
796 ~~section, self-administered medications include both legend and~~
797 ~~over-the-counter oral dosage forms, topical dosage forms, and~~
798 ~~topical ophthalmic, otic, and nasal dosage forms, including~~
799 ~~solutions, suspensions, sprays, and inhalers.~~

800 ~~(3) Assistance with self-administration of medication~~
801 ~~includes:~~

802 ~~(a) Taking the medication, in its previously dispensed,~~
803 ~~properly labeled container, from where it is stored and bringing~~
804 ~~it to the patient.~~

805 ~~(b) In the presence of the patient, reading the label,~~
806 ~~opening the container, removing a prescribed amount of medication~~
807 ~~from the container, and closing the container.~~

808 ~~(c) Placing an oral dosage in the patient's hand or placing~~
809 ~~the dosage in another container and helping the patient by~~
810 ~~lifting the container to his or her mouth.~~

811 ~~(d) Applying topical medications.~~

812 ~~(e) Returning the medication container to proper storage.~~

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813 ~~(f) Keeping a record of when a patient receives assistance~~
814 ~~with self-administration under this section.~~

815 ~~(4) Assistance with self-administration does not include:~~

816 ~~(a) Mixing, compounding, converting, or calculating~~
817 ~~medication doses, except for measuring a prescribed amount of~~
818 ~~liquid medication or breaking a scored tablet or crushing a~~
819 ~~tablet as prescribed.~~

820 ~~(b) The preparation of syringes for injection or the~~
821 ~~administration of medications by any injectable route.~~

822 ~~(c) Administration of medications through intermittent~~
823 ~~positive pressure breathing machines or a nebulizer.~~

824 ~~(d) Administration of medications by way of a tube inserted~~
825 ~~in a cavity of the body.~~

826 ~~(e) Administration of parenteral preparations.~~

827 ~~(f) Irrigations or debriding agents used in the treatment~~
828 ~~of a skin condition.~~

829 ~~(g) Rectal, urethral, or vaginal preparations.~~

830 ~~(h) Medications ordered by the physician or health care~~
831 ~~professional with prescriptive authority to be given "as needed,"~~
832 ~~unless the order is written with specific parameters that~~
833 ~~preclude independent judgment on the part of the unlicensed~~
834 ~~person, and at the request of a competent patient.~~

835 ~~(i) Medications for which the time of administration, the~~
836 ~~amount, the strength of dosage, the method of administration, or~~
837 ~~the reason for administration requires judgment or discretion on~~
838 ~~the part of the unlicensed person.~~

839 ~~(5) Assistance with the self-administration of medication~~
840 ~~by an unlicensed person as described in this section does not~~
841 ~~constitute administration as defined in s. 465.003.~~

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842 ~~(6) The agency may by rule establish procedures and~~
843 ~~interpret terms as necessary to administer this section.~~

844 Section 8. Subsection (2) of section 400.491, Florida
845 Statutes, is amended to read:

846 400.491 Clinical records.--

847 (2) The home health agency must maintain for each client
848 who receives nonskilled care a service provision plan. Such
849 records must be maintained by the home health agency for 3 years
850 ~~1 year~~ following termination of services.

851 Section 9. Present subsections (5), (6), (7), and (8) of
852 section 400.497, Florida Statutes, are renumbered as subsections
853 (7), (8), (9), and (10), respectively, and a new subsections (5)
854 and (6) are added to that section, to read:

855 400.497 Rules establishing minimum standards.--The agency
856 shall adopt, publish, and enforce rules to implement part II of
857 chapter 408 and this part, including, as applicable, ss. 400.506
858 and 400.509, which must provide reasonable and fair minimum
859 standards relating to:

860 (5) Oversight by the director of nursing. The agency shall
861 develop rules related to:

862 (a) Standards that address oversight responsibilities by
863 the director of nursing of skilled nursing and personal care
864 services provided by the home health agency's staff;

865 (b) Requirements for a director of nursing to provide to
866 the agency, upon request, a certified daily report of the home
867 health services provided by a specified direct employee or
868 contracted staff member on behalf of the home health agency. The
869 agency may request a certified daily report only for a period not
870 to exceed 2 years prior to the date of the request; and

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871 (c) A quality assurance program for home health services
872 provided by the home health agency.

873 (6) Conditions for using a recent unannounced licensure
874 inspection for the inspection required in s. 408.806 related to a
875 licensure application associated with a change in ownership of a
876 licensed home health agency.

877 Section 10. Paragraph (a) of subsection (6) of section
878 400.506, Florida Statutes, is amended, present subsections (15)
879 and (16) of that section are renumbered as subsections (16) and
880 (17), respectively, and a new subsection (15) is added to that
881 section, to read:

882 400.506 Licensure of nurse registries; requirements;
883 penalties.--

884 (6) (a) A nurse registry may refer for contract in private
885 residences registered nurses and licensed practical nurses
886 registered and licensed under part I of chapter 464, certified
887 nursing assistants certified under part II of chapter 464, home
888 health aides who present documented proof of successful
889 completion of the training required by rule of the agency, and
890 companions or homemakers for the purposes of providing those
891 services authorized under s. 400.509(1). A licensed nurse
892 registry shall ensure that each certified nursing assistant
893 referred for contract by the nurse registry and each home health
894 aide referred for contract by the nurse registry is adequately
895 trained to perform the tasks of a home health aide in the home
896 setting. Each person referred by a nurse registry must provide
897 current documentation that he or she is free from communicable
898 diseases.

899 (15) (a) The agency may deny, suspend, or revoke the

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900 license of a nurse registry and shall impose a fine of \$5,000
901 against a nurse registry that:

902 1. Provides services to residents in an assisted living
903 facility for which the nurse registry does not receive fair
904 market value remuneration.

905 2. Provides staffing to an assisted living facility for
906 which the nurse registry does not receive fair market value
907 remuneration.

908 3. Fails to provide the agency, upon request, with copies
909 of all contracts with assisted living facilities which were
910 executed within the last 5 years.

911 4. Gives remuneration to a case manager, discharge
912 planner, facility-based staff member, or third-party vendor who
913 is involved in the discharge-planning process of a facility
914 licensed under chapter 395 or this chapter and from whom the
915 nurse registry receives referrals.

916 5. Gives remuneration to a physician, a member of the
917 physician's office staff, or an immediate family member of the
918 physician, and the nurse registry received a patient referral
919 in the last 12 months from that physician or the physician's
920 office staff.

921 (b) The agency shall also impose an administrative fine
922 of \$15,000 if the nurse registry refers nurses, certified
923 nursing assistants, home health aides, or other staff without
924 charge to a facility licensed under chapter 429 in return for
925 patient referrals from the facility.

926 (c) The proceeds of all fines collected under this
927 subsection shall be deposited into the Health Care Trust Fund.

928 Section 11. Subsection (4) is added to section 400.518,

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929 Florida Statutes, to read:

930 400.518 Prohibited referrals to home health agencies.--

931 (4) The agency shall impose an administrative fine of
932 \$15,000 if a home health agency provides nurses, certified
933 nursing assistants, home health aides, or other staff without
934 charge to a facility licensed under chapter 429 in return for
935 patient referrals from the facility. The proceeds of such fines
936 shall be deposited into the Health Care Trust Fund.

937 Section 12. Subsection (10) of section 409.906, Florida
938 Statutes, is amended to read:

939 409.906 Optional Medicaid services.--Subject to specific
940 appropriations, the agency may make payments for services which
941 are optional to the state under Title XIX of the Social Security
942 Act and are furnished by Medicaid providers to recipients who are
943 determined to be eligible on the dates on which the services were
944 provided. Any optional service that is provided shall be provided
945 only when medically necessary and in accordance with state and
946 federal law. Optional services rendered by providers in mobile
947 units to Medicaid recipients may be restricted or prohibited by
948 the agency. Nothing in this section shall be construed to prevent
949 or limit the agency from adjusting fees, reimbursement rates,
950 lengths of stay, number of visits, or number of services, or
951 making any other adjustments necessary to comply with the
952 availability of moneys and any limitations or directions provided
953 for in the General Appropriations Act or chapter 216. If
954 necessary to safeguard the state's systems of providing services
955 to elderly and disabled persons and subject to the notice and
956 review provisions of s. 216.177, the Governor may direct the
957 Agency for Health Care Administration to amend the Medicaid state

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958 | plan to delete the optional Medicaid service known as
959 | "Intermediate Care Facilities for the Developmentally Disabled."
960 | Optional services may include:

961 | (10) DURABLE MEDICAL EQUIPMENT.--The agency may authorize
962 | and pay for certain durable medical equipment and supplies
963 | provided to a Medicaid recipient as medically necessary. As of
964 | January 1, 2009, the agency shall limit payment for durable
965 | medical equipment and supplies to providers who meet all of the
966 | criteria in this subsection.

967 | (a) Durable medical equipment and medical supply providers
968 | must be accredited by an Agency for Health Care Administration
969 | approved accreditation organization specifically designated as a
970 | durable medical equipment accrediting organization. The provider
971 | must be re-accredited periodically and is subject to unannounced
972 | reviews by the accrediting organization.

973 | (b) Durable medical equipment and medical supply providers
974 | must have a physical business location with durable medical
975 | equipment and medical supplies on site and must be readily
976 | available to the general public. The physical business location
977 | must meet the following criteria:

978 | 1. The location must maintain a substantial inventory that
979 | is readily available and sufficient to meet the needs of the
980 | durable medical equipment business location's customers;

981 | 2. The location must be clearly identified with signage
982 | that can be read from 20 feet away which readily identifies the
983 | business location as a business that furnishes durable medical
984 | equipment, medical supplies, or both;

985 | 3. The location must have a functional landline business
986 | telephone;

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987 4. The physical business location may not be located within
988 or at the same numbered street address as another Medicaid-
989 enrolled durable medical equipment and medical supply provider or
990 an enrolled Medicaid pharmacy that is also enrolled as a durable
991 medical equipment provider. A location within or at the same
992 numbered street address includes unique suite or storefront
993 numbers assigned by the United States Postal Service or the
994 building's owner;

995 5. For out-of-state providers, the physical business
996 location must be no more than 50 miles from the Florida state
997 line. Exceptions may be made for manufacturers of a specific type
998 of unique durable medical equipment that is not otherwise
999 available from other durable medical equipment distributors or
1000 providers located within the state; and

1001 6. Unless the provider is an out-of-state manufacturer
1002 business that is located more than 50 miles from the Florida
1003 state line and is excepted from sub-paragraph 5., the location
1004 must be easily accessible to the public during normal, scheduled,
1005 and posted business hours and must operate no less than 5 hours a
1006 day, and no less than 5 days a week, with the exception of
1007 scheduled and posted holidays.

1008 (c) Durable medical equipment and medical supply providers
1009 must obtain a \$50,000 surety bond for each provider location, up
1010 to a maximum of five bonds statewide or an aggregate bond of
1011 \$250,000 statewide as identified per federal employer
1012 identification number. Providers who qualify for a statewide or
1013 an aggregate bond must identify all of their locations in any
1014 enrollment application or bond renewal as a Medicaid durable
1015 medical equipment and medical supply provider. Each provider

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1016 location's surety bond must be renewed annually and the provider
1017 must submit proof of renewal, even if the original bond is a
1018 continuous bond.

1019 (d) A level 2 background screening, as described in s.
1020 435.04, is required as a condition of employment for provider
1021 staff in direct contact with and providing direct services to
1022 recipients of durable medical equipment and medical supplies in
1023 their homes. This requirement includes, but is not limited to,
1024 repair and service technicians, fitters, and delivery staff.

1025 (e) The following providers are exempt from paragraphs (a)
1026 and (c):

1027 1. A durable medical equipment and medical supply provider
1028 owned and operated by a governmental entity;

1029 2. A durable medical equipment and medical supply provider
1030 that is operating within a pharmacy that is currently enrolled as
1031 a Medicaid pharmacy provider; and

1032 3. An active Medicaid-enrolled orthopedic physician's
1033 group, primarily owned by physicians, which is providing only
1034 orthotic and prosthetic devices.

1035 Section 13. The Agency for Health Care Administration shall
1036 review the process, procedures, and contractor's performance for
1037 the prior authorization of home health agency visits that are in
1038 excess of 60 visits over the lifetime of a Medicaid recipient.
1039 The agency shall determine whether modifications are necessary in
1040 order to reduce Medicaid fraud and abuse related to home health
1041 services for a Medicaid recipient which are not medically
1042 necessary. If modifications to the prior authorization function
1043 are necessary, the agency shall amend the contract to require
1044 contractor performance that reduces potential Medicaid fraud and

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1045 abuse with respect to home health agency visits.

1046 Section 14. The Agency for Health Care Administration shall
1047 report to the Legislature by January 1, 2009, on the feasibility
1048 and costs of accessing the Medicare system to disallow Medicaid
1049 payment for home health services that are paid for under the
1050 Medicare prospective payment system for recipients who are dually
1051 eligible for Medicaid and Medicare.

1052 Section 15. This act shall take effect July 1, 2008.