

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

603-06504-08

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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 that the change of ownership of
27 a home health agency that is licensed at the time of the
28 sale is not restricted or limited; providing for the
29 future expiration of such provisions; prohibiting the

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30 agency from issuing an initial license to a home health
31 agency licensure applicant located within 20 miles of a
32 licensed home health agency that has common controlling
33 interests; prohibiting the transfer of an application to
34 another home health agency; requiring submission of an
35 initial application to relocate a licensed home health to
36 another geographic service area; imposing the burden of
37 proof on an applicant to demonstrate that a factual
38 determination made by the agency is not supported by a
39 preponderance of the evidence; amending s. 400.474, F.S.;
40 providing additional grounds under which the Agency for
41 Health Care Administration may take disciplinary action
42 against a home health agency; creating s. 400.476, F.S.;
43 establishing staffing requirements for home health
44 agencies; reducing the number of home health agencies that
45 an administrator or director of nursing may serve;
46 requiring that an alternate administrator be designated in
47 writing; limiting the period that a home health agency
48 that provides skilled nursing care may operate without a
49 director of nursing; requiring notification upon the
50 termination and replacement of a director of nursing;
51 requiring the Agency for Health Care Administration to
52 take administrative enforcement action against a home
53 health agency for noncompliance with the notification and
54 staffing requirements for a director of nursing; exempting
55 a home health agency that provides only physical,
56 occupational, or speech therapy from requirements related
57 to a director of nursing; providing training requirements
58 for certified nursing assistants and home health aides;

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59 | amending s. 400.484, F.S.; requiring the agency to conduct
60 | the first unannounced survey of a newly licensed home
61 | health agency within a specified period after issuing the
62 | license; requiring that the agency impose administrative
63 | fines for certain deficiencies; increasing the
64 | administrative fines imposed for certain deficiencies;
65 | amending s. 400.488, F.S.; deleting provisions authorizing
66 | the administration of medication to home health patients
67 | by unlicensed staff; providing for the delegation of
68 | nursing tasks as provided in ch. 464, F.S., and related
69 | rules; amending s. 400.491, F.S.; extending the period
70 | that a home health agency must retain records of the
71 | nonskilled care it provides; amending s. 400.497, F.S.;
72 | requiring that the Agency for Health Care Administration
73 | adopt rules related to standards for the director of
74 | nursing of a home health agency, requirements for a
75 | director of nursing to submit certified staff activity
76 | logs pursuant to an agency request, quality assurance
77 | programs, and inspections related to an application for a
78 | change in ownership; amending s. 400.506, F.S.; providing
79 | training requirements for certified nursing assistants and
80 | home health aides referred for contract by a nurse
81 | registry; providing for the denial, suspension, or
82 | revocation of nurse registry license and fines for paying
83 | remuneration to certain entities in exchange for patient
84 | referrals or refusing fair remuneration in exchange for
85 | patient referrals; amending s. 400.518, F.S.; providing
86 | for a fine to be imposed against a home health agency that
87 | provides complimentary staffing to an assisted care

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88 community in exchange for patient referrals; amending s.
89 409.906, F.S.; requiring durable medical equipment
90 providers enrolled in the Medicaid program to be
91 accredited and have a physical business location that
92 meets specified conditions; providing for exceptions of
93 certain business location criteria; requiring a durable
94 medical equipment provider enrolled in the Medicaid
95 program to obtain a surety bond of a specified amount and
96 for certain staff to undergo background screening;
97 providing for exemptions from accreditation and the surety
98 bond for specified durable medical equipment providers;
99 requiring the Agency for Health Care Administration to
100 review the process for prior authorization of home health
101 agency visits and determine whether modifications to the
102 process are necessary; requiring the agency to report to
103 the Legislature on the feasibility of accessing the
104 Medicare system to determine recipient eligibility for
105 home health services; providing appropriations and
106 authorizing additional positions; providing an effective
107 date.

108
109 Be It Enacted by the Legislature of the State of Florida:

110
111 Section 1. Section 400.462, Florida Statutes, is amended to
112 read:

113 400.462 Definitions.--As used in this part, the term:

114 (1) "Administrator" means a direct employee, as defined in
115 subsection (9), who is. ~~The administrator must be a licensed~~
116 physician, physician assistant, or registered nurse licensed to

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117 | practice in this state or an individual having at least 1 year of
118 | supervisory or administrative experience in home health care or
119 | in a facility licensed under chapter 395, under part II of this
120 | chapter, or under part I of chapter 429. ~~An administrator may~~
121 | ~~manage a maximum of five licensed home health agencies located~~
122 | ~~within one agency service district or within an immediately~~
123 | ~~contiguous county. If the home health agency is licensed under~~
124 | ~~this chapter and is part of a retirement community that provides~~
125 | ~~multiple levels of care, an employee of the retirement community~~
126 | ~~may administer the home health agency and up to a maximum of four~~
127 | ~~entities licensed under this chapter or chapter 429 that are~~
128 | ~~owned, operated, or managed by the same corporate entity. An~~
129 | ~~administrator shall designate, in writing, for each licensed~~
130 | ~~entity, a qualified alternate administrator to serve during~~
131 | ~~absences.~~

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

140 | (3) "Advanced registered nurse practitioner" means a person
141 | licensed in this state to practice professional nursing and
142 | certified in advanced or specialized nursing practice, as defined
143 | in s. 464.003.

144 | (4) "Agency" means the Agency for Health Care
145 | Administration.

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146 (5) "Certified nursing assistant" means any person who has
147 been issued a certificate under part II of chapter 464. ~~The~~
148 ~~licensed home health agency or licensed nurse registry shall~~
149 ~~ensure that the certified nursing assistant employed by or under~~
150 ~~contract with the home health agency or licensed nurse registry~~
151 ~~is adequately trained to perform the tasks of a home health aide~~
152 ~~in the home setting.~~

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

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

161 (8) "Department" means the Department of Children and
162 Family Services.

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

169 (10) "Director of nursing" means a registered nurse who is
170 a direct employee, as defined in subsection (9), of the agency
171 and who is a graduate of an approved school of nursing and is
172 licensed in this state; who has at least 1 year of supervisory
173 experience as a registered nurse; and who is responsible for
174 overseeing the professional nursing and home health aid delivery

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175 of services of the agency. ~~A director of nursing may be the~~
176 ~~director of a maximum of five licensed home health agencies~~
177 ~~operated by a related business entity and located within one~~
178 ~~agency service district or within an immediately contiguous~~
179 ~~county. If the home health agency is licensed under this chapter~~
180 ~~and is part of a retirement community that provides multiple~~
181 ~~levels of care, an employee of the retirement community may serve~~
182 ~~as the director of nursing of the home health agency and of up to~~
183 ~~four entities licensed under this chapter or chapter 429 which~~
184 ~~are owned, operated, or managed by the same corporate entity.~~

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

195 (12)~~(11)~~ "Home health agency" means an organization that
196 provides home health services and staffing services.

197 (13)~~(12)~~ "Home health agency personnel" means persons who
198 are employed by or under contract with a home health agency and
199 enter the home or place of residence of patients at any time in
200 the course of their employment or contract.

201 (14)~~(13)~~ "Home health services" means health and medical
202 services and medical supplies furnished by an organization to an
203 individual in the individual's home or place of residence. The

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204 term includes organizations that provide one or more of the
205 following:

- 206 (a) Nursing care.
- 207 (b) Physical, occupational, respiratory, or speech therapy.
- 208 (c) Home health aide services.
- 209 (d) Dietetics and nutrition practice and nutrition
210 counseling.
- 211 (e) Medical supplies, restricted to drugs and biologicals
212 prescribed by a physician.

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

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

229 (17)~~(16)~~ "Home infusion therapy provider" means an
230 organization that employs, contracts with, or refers a licensed
231 professional who has received advanced training and experience in
232 intravenous infusion therapy and who administers infusion therapy

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233 | to a patient in the patient's home or place of residence.

234 | ~~(18)~~~~(17)~~ "Home infusion therapy" means the administration
235 | of intravenous pharmacological or nutritional products to a
236 | patient in his or her home.

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

243 | (20) "Medical director" means a physician who is a
244 | volunteer with, or who receives remuneration from, a home health
245 | agency.

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

256 | ~~(22)~~~~(19)~~ "Organization" means a corporation, government or
257 | governmental subdivision or agency, partnership or association,
258 | or any other legal or commercial entity, any of which involve
259 | more than one health care professional discipline; a health care
260 | professional and a home health aide or certified nursing
261 | assistant; more than one home health aide; more than one

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262 certified nursing assistant; or a home health aide and a
263 certified nursing assistant. The term does not include an entity
264 that provides services using only volunteers or only individuals
265 related by blood or marriage to the patient or client.

266 (23)~~(20)~~ "Patient" means any person who receives home
267 health services in his or her home or place of residence.

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

273 (25)~~(22)~~ "Physician" means a person licensed under chapter
274 458, chapter 459, chapter 460, or chapter 461.

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

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

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

288 (29)~~(25)~~ "Staffing services" means services provided to a
289 health care facility, school, or other business entity on a
290 temporary or school-year basis pursuant to a written contract by

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291 licensed health care personnel and by certified nursing
292 assistants and home health aides who are employed by, or work
293 under the auspices of, a licensed home health agency or who are
294 registered with a licensed nurse registry. ~~Staffing services may~~
295 ~~be provided anywhere within the state.~~

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

298 400.464 Home Health agencies to be licensed; expiration of
299 license; exemptions; unlawful acts; penalties.--

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

311 Section 3. Section 400.471, Florida Statutes, is amended to
312 read:

313 400.471 Application for license; fee; bond; limitation on
314 applications accepted.--

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

317 (2) In addition to the requirements of part II of chapter
318 408, the initial applicant must file with the application
319 satisfactory proof that the home health agency is in compliance

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320 | with this part and applicable rules, including:

321 | (a) A listing of services to be provided, either directly
322 | by the applicant or through contractual arrangements with
323 | existing providers.

324 | (b) The number and discipline of professional staff to be
325 | employed.

326 | (c) Completion of questions concerning volume data on the
327 | renewal application as determined by rule.

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

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

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

345 | (g) All other ownership interests in health care entities
346 | for each controlling interest, as defined in part II of chapter
347 | 408.

348 | (3) In addition to the requirements of s. 408.810, the home

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349 health agency must also obtain and maintain the following
350 insurance coverage in an amount of not less than \$250,000 per
351 claim, and the home health agency must submit proof of coverage
352 with an initial application for licensure and with each
353 application for license renewal:

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

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

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

363 (5) In accordance with s. 408.805, an applicant or licensee
364 shall pay a fee for each license application submitted under this
365 part, part II of chapter 408, and applicable rules. The amount of
366 the fee shall be established by rule and shall be set at an
367 amount that is sufficient to cover the agency's costs in carrying
368 out its responsibilities under this part, but not to exceed
369 \$2,000 per biennium. However, state, county, or municipal
370 governments applying for licenses under this part are exempt from
371 the payment of license fees.

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

375 (7) An applicant for a new home health agency license must
376 submit a surety bond of \$50,000, or other equivalent means of
377 security acceptable to the agency, such as an irrevocable letter

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378 of credit or a deposit in a trust account or financial
379 institution, payable to the Agency for Health Care
380 Administration. A surety bond is the only form of security that
381 may be submitted until the agency has adopted a rule providing
382 for other equivalent means of security. A surety bond or other
383 equivalent means of security must be valid from initial licensure
384 until the end of the first license-renewal period. The purpose of
385 this bond is to secure payment of any administrative penalties
386 imposed by the agency and any fees and costs incurred by the
387 agency regarding the home health agency license which are
388 authorized under state law and which the licensee fails to pay 30
389 days after the fine or costs become final. The agency may make a
390 claim against the surety bond or security until the later of:
391 (a) One year after the license ceases to be valid if the
392 license is not renewed for a second biennial period;
393 (b) One year after the license has been renewed a second
394 time; or
395 (c) Sixty days after any administrative or legal
396 proceeding, including any appeal, is concluded involving an
397 administrative penalty, fees, or costs for an act or omission
398 that occurred at any time during the first 4 years after the
399 license was initially issued.
400 (8) (a) The agency may accept for processing for a new home
401 health agency license only the following number of applications
402 quarterly, as determined using the number of licensed home health
403 agencies in each geographic service area on June 1, 2008, and the
404 Florida Population Estimates for Counties and Municipalities,
405 April 1, 2007, as published by the Office of Economic and
406 Demographic Research of the Legislature:

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407 1. Five 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 2,000 and 2,999;

411 2. Four 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
414 1,000 and 1,999; and

415 3. Three for each geographic service area in which the
416 number of residents over the age of 64 per number of licensed
417 home health agencies in that geographic service area is between 0
418 and 999.

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

432 (b) The agency shall accept applications for a new home
433 health agency license only during the first 5 business days of a
434 calendar quarter. Applications for a new home health agency
435 license received during this period, except an application for a

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436 new home health agency license that is part of a retirement
437 community providing multiple levels of care and that will provide
438 home health services exclusively to residents of that facility,
439 must be grouped according to the geographic service area in which
440 the home health agency is to be located. When the number of
441 applications received for a geographic service area exceeds the
442 number of applications authorized to be accepted for processing
443 in paragraph (a), the agency shall use a lottery system to select
444 the applications to be accepted for processing for that
445 geographic service area as follows:

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

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

450 3. The agency shall select the applicable quantity of
451 numbers for that geographic service area without viewing the
452 contents of the container.

453 4. The application that corresponds to the selected number
454 shall be accepted for processing.

455
456 The selection of applications to be accepted for processing must
457 be a public process conducted in Tallahassee and noticed for a
458 date during the first 6 through 10 business days of the calendar
459 quarter.

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

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

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465 2. Before or after the first 5 business days of a calendar
466 quarter.

467 (d) This subsection does not restrict or limit the change
468 of ownership of a home health agency that is licensed at the time
469 of the sale.

470 (e) This subsection expires July 1, 2011.

471 (9) The agency may not issue an initial license to a home
472 health agency licensure applicant if the applicant shares common
473 controlling interests with another licensed home health agency
474 that is located within 20 miles of the applicant. The agency must
475 return the application and fees to the applicant.

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

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

483 (12) When an applicant alleges that a factual determination
484 made by the agency is incorrect, the burden of proof is on the
485 applicant to demonstrate that such determination is, in light of
486 the total record, not supported by the preponderance of the
487 evidence.

488 Section 4. Section 400.474, Florida Statutes, is amended to
489 read:

490 400.474 Administrative penalties.--

491 (1) The agency may deny, revoke, and suspend a license and
492 impose an administrative fine in the manner provided in chapter
493 120.

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

496 (a) Violation of this part, part II of chapter 408, or of
497 applicable rules.

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

500 (c) Knowingly providing home health services in an
501 unlicensed assisted living facility or unlicensed adult family-
502 care home, unless the home health agency or employee reports the
503 unlicensed facility or home to the agency within 72 hours after
504 providing the services.

505 (d) Preparing or maintaining fraudulent patient records,
506 such as, but not limited to, charting ahead, recording vital
507 signs or symptoms that were not personally obtained or observed
508 by the home health agency's staff at the time indicated,
509 borrowing patients or patient records from other home health
510 agencies to pass a survey or inspection, or falsifying
511 signatures.

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

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

516 (a) Documents of training for home health aides or
517 certified nursing assistants; or

518 (b) Health statements for staff providing direct care to
519 patients.

520
521 A pattern may be demonstrated by a showing of at least three
522 fraudulent entries or documents. The fine shall be imposed for

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523 each fraudulent document or, if multiple staff members are
524 included on one document, for each fraudulent entry on the
525 document.

526 (4) The agency shall impose a fine of \$5,000 against a home
527 health agency that demonstrates a pattern of billing any payor
528 for services not provided. A pattern may be demonstrated by a
529 showing of at least three billings for services not provided
530 within a 12-month period. The fine must be imposed for each
531 incident that is falsely billed. The agency may also:

532 (a) Require payback of all funds;

533 (b) Revoke the license; or

534 (c) Issue a moratorium in accordance with s. 408.814.

535 (5) The agency shall impose a fine of \$5,000 against a home
536 health agency that demonstrates a pattern of failing to provide a
537 service specified in the home health agency's written agreement
538 with a patient or the patient's legal representative, or the plan
539 of care for that patient, unless a reduction in service is
540 mandated by Medicare, Medicaid, or a state program or as provided
541 in s. 400.492(3). A pattern may be demonstrated by a showing of
542 at least three incidences, regardless of the patient or service,
543 where the home health agency did not provide a service specified
544 in a written agreement or plan of care during a 3-month period.
545 The agency shall impose the fine for each occurrence. The agency
546 may also impose additional administrative fines under s. 400.484
547 for the direct or indirect harm to a patient, or deny, revoke, or
548 suspend the license of the home health agency for a pattern of
549 failing to provide a service specified in the home health
550 agency's written agreement with a patient or the plan of care for
551 that patient.

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

555 (a) Gives remuneration for staffing services to:

556 1. Another home health agency with which it has formal or
557 informal patient-referral transactions or arrangements; or

558 2. A health services pool with which it has formal or
559 informal patient-referral transactions or arrangements,

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

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

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

580 (d) Fails to provide the agency, upon request, with copies

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581 of all contracts with assisted living facilities which were
582 executed within 5 years before the request.

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

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

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

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

596 3. The number of patients receiving home health services
597 from that home health agency; and

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

602 (g) Gives cash, or its equivalent, to a Medicare or
603 Medicaid beneficiary.

604 (h) Has more than one medical director contract in effect
605 at one time or more than one medical director contract and one
606 contract with a physician-specialist whose services are mandated
607 for the home health agency in order to qualify to participate in
608 a federal or state health care program at one time.

609 (i) Gives remuneration to a physician without a medical

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610 director contract being in effect. The contract must:
611 1. Be in writing and signed by both parties;
612 2. Provide for remuneration that is at fair market value
613 for an hourly rate, which must be supported by invoices submitted
614 by the medical director describing the work performed, the dates
615 on which that work was performed, and the duration of that work;
616 and
617 3. Be for a term of at least 1 year.

618
619 The hourly rate specified in the contract may not be increased
620 during the term of the contract. The home health agency may not
621 execute a subsequent contract with that physician which has an
622 increased hourly rate and covers any portion of the term that was
623 in the original contract.

624 (j) Gives remuneration to:
625 1. A physician, and the home health agency is in violation
626 of paragraph (h) or paragraph (i);
627 2. A member of the physician's office staff; or
628 3. An immediate family member of the physician,

629
630 if the home health agency has received a patient referral in the
631 preceding 12 months from that physician or physician's office
632 staff.

633 (k) Fails to provide to the agency, upon request, copies of
634 all contracts with a medical director which were executed within
635 5 years before the request.

636 (7)~~(3)~~(a) In addition to the requirements of s. 408.813,
637 any person, partnership, or corporation that violates s. 408.812
638 or s. 408.813 and that previously operated a licensed home health

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639 agency or concurrently operates both a licensed home health
640 agency and an unlicensed home health agency commits a felony of
641 the third degree punishable as provided in s. 775.082, s.
642 775.083, or s. 775.084.

643 (b) If any home health agency is found to be operating
644 without a license and that home health agency has received any
645 government reimbursement for services, the agency shall make a
646 fraud referral to the appropriate government reimbursement
647 program.

648 Section 5. Section 400.476, Florida Statutes, is created to
649 read:

650 400.476 Staffing requirements; notifications; limitations
651 on staffing services.--

652 (1) ADMINISTRATOR.--

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

667 (b) An administrator of a home health agency who is a

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668 licensed physician, physician assistant, or registered nurse
669 licensed to practice in this state may also be the director of
670 nursing for a home health agency. An administrator may serve as a
671 director of nursing for up to the number of entities authorized
672 in subsection (2) only if there are 10 or fewer full-time
673 equivalent employees and contracted personnel in each home health
674 agency.

675 (2) DIRECTOR OF NURSING.--

676 (a) A director of nursing may be the director of nursing
677 for:

678 1. Up to two licensed home health agencies if the agencies
679 have identical controlling interests as defined in s. 408.803 and
680 are located within one agency geographic service area or within
681 an immediately contiguous county; or

682 2. Up to five licensed home health agencies if:

683 a. All of the home health agencies have identical
684 controlling interests as defined in s. 408.803;

685 b. All of the home health agencies are located within one
686 agency geographic service area or within an immediately
687 contiguous county; and

688 c. Each home health agency has a registered nurse who meets
689 the qualifications of a director of nursing and who has a written
690 delegation from the director of nursing to serve as the director
691 of nursing for that home health agency when the director of
692 nursing is not present.

693
694 If a home health agency licensed under this chapter is part of a
695 retirement community that provides multiple levels of care, an
696 employee of the retirement community may serve as the director of

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697 nursing of the home health agency and up to a maximum of four
698 entities, other than home health agencies, licensed under this
699 chapter or chapter 429 which all have identical controlling
700 interests as defined in s. 408.803.

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

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

725 (3) TRAINING.--A home health agency shall ensure that each

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726 certified nursing assistant employed by or under contract with
727 the home health agency and each home health aide employed by or
728 under contract with the home health agency is adequately trained
729 to perform the tasks of a home health aide in the home setting.

730 (4) STAFFING.--Staffing services may be provided anywhere
731 within the state.

732 Section 6. Section 400.484, Florida Statutes, is amended to
733 read:

734 400.484 Right of inspection; deficiencies; fines.--

735 (1) In addition to the requirements of s. 408.811, the
736 agency may make such inspections and investigations as are
737 necessary in order to determine the state of compliance with this
738 part, part II of chapter 408, and applicable rules. The agency
739 shall conduct an unannounced survey of each home health agency
740 within 15 months after issuing a new license to the home health
741 agency.

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

744 (a) A class I deficiency is any act, omission, or practice
745 that results in a patient's death, disablement, or permanent
746 injury, or places a patient at imminent risk of death,
747 disablement, or permanent injury. Upon finding a class I
748 deficiency, the agency shall ~~may~~ impose an administrative fine in
749 the amount of \$15,000 ~~\$5,000~~ for each occurrence and each day
750 that the deficiency exists.

751 (b) A class II deficiency is any act, omission, or practice
752 that has a direct adverse effect on the health, safety, or
753 security of a patient. Upon finding a class II deficiency, the
754 agency shall ~~may~~ impose an administrative fine in the amount of

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755 \$5,000 ~~\$1,000~~ for each occurrence and each day that the
756 deficiency exists.

757 (c) A class III deficiency is any act, omission, or
758 practice that has an indirect, adverse effect on the health,
759 safety, or security of a patient. Upon finding an uncorrected or
760 repeated class III deficiency, the agency shall ~~may~~ impose an
761 administrative fine not to exceed \$1,000 ~~\$500~~ for each occurrence
762 and each day that the uncorrected or repeated deficiency exists.

763 (d) A class IV deficiency is any act, omission, or practice
764 related to required reports, forms, or documents which does not
765 have the potential of negatively affecting patients. These
766 violations are of a type that the agency determines do not
767 threaten the health, safety, or security of patients. Upon
768 finding an uncorrected or repeated class IV deficiency, the
769 agency shall ~~may~~ impose an administrative fine not to exceed \$500
770 ~~\$200~~ for each occurrence and each day that the uncorrected or
771 repeated deficiency exists.

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

776 Section 7. Section 400.488, Florida Statutes, is amended to
777 read:

778 400.488 Nurse delegation Assistance with self-
779 ~~administration of medication.--~~A home health agency nurse may
780 delegate nursing tasks as provided in chapter 464 and related
781 rules.

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

783 ~~(a) "Informed consent" means advising the patient, or the~~

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784 ~~patient's surrogate, guardian, or attorney in fact, that the~~
785 ~~patient may be receiving assistance with self-administration of~~
786 ~~medication from an unlicensed person.~~

787 ~~(b) "Unlicensed person" means an individual not currently~~
788 ~~licensed to practice nursing or medicine who is employed by or~~
789 ~~under contract to a home health agency and who has received~~
790 ~~training with respect to assisting with the self-administration~~
791 ~~of medication as provided by agency rule.~~

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

807 ~~(3) Assistance with self-administration of medication~~
808 ~~includes:~~

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

812 ~~(b) In the presence of the patient, reading the label,~~

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813 ~~opening the container, removing a prescribed amount of medication~~
814 ~~from the container, and closing the container.~~

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

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

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

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

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

823 ~~(a) Mixing, compounding, converting, or calculating~~
824 ~~medication doses, except for measuring a prescribed amount of~~
825 ~~liquid medication or breaking a scored tablet or crushing a~~
826 ~~tablet as prescribed.~~

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

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

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

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

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

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

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

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842 ~~(i) Medications for which the time of administration, the~~
843 ~~amount, the strength of dosage, the method of administration, or~~
844 ~~the reason for administration requires judgment or discretion on~~
845 ~~the part of the unlicensed person.~~

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

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

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

853 400.491 Clinical records.--

854 (2) The home health agency must maintain for each client
855 who receives nonskilled care a service provision plan. Such
856 records must be maintained by the home health agency for 3 years
857 ~~1 year~~ following termination of services.

858 Section 9. Present subsections (5), (6), (7), and (8) of
859 section 400.497, Florida Statutes, are renumbered as subsections
860 (7), (8), (9), and (10), respectively, and a new subsections (5)
861 and (6) are added to that section, to read:

862 400.497 Rules establishing minimum standards.--The agency
863 shall adopt, publish, and enforce rules to implement part II of
864 chapter 408 and this part, including, as applicable, ss. 400.506
865 and 400.509, which must provide reasonable and fair minimum
866 standards relating to:

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

869 (a) Standards that address oversight responsibilities by
870 the director of nursing of skilled nursing and personal care

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871 services provided by the home health agency's staff;

872 (b) Requirements for a director of nursing to provide to
873 the agency, upon request, a certified daily report of the home
874 health services provided by a specified direct employee or
875 contracted staff member on behalf of the home health agency. The
876 agency may request a certified daily report only for a period not
877 to exceed 2 years prior to the date of the request; and

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

880 (6) Conditions for using a recent unannounced licensure
881 inspection for the inspection required in s. 408.806 related to a
882 licensure application associated with a change in ownership of a
883 licensed home health agency.

884 Section 10. Paragraph (a) of subsection (6) of section
885 400.506, Florida Statutes, is amended, present subsections (15)
886 and (16) of that section are renumbered as subsections (16) and
887 (17), respectively, and a new subsection (15) is added to that
888 section, to read:

889 400.506 Licensure of nurse registries; requirements;
890 penalties.--

891 (6) (a) A nurse registry may refer for contract in private
892 residences registered nurses and licensed practical nurses
893 registered and licensed under part I of chapter 464, certified
894 nursing assistants certified under part II of chapter 464, home
895 health aides who present documented proof of successful
896 completion of the training required by rule of the agency, and
897 companions or homemakers for the purposes of providing those
898 services authorized under s. 400.509(1). A licensed nurse
899 registry shall ensure that each certified nursing assistant

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900 referred for contract by the nurse registry and each home health
901 aide referred for contract by the nurse registry is adequately
902 trained to perform the tasks of a home health aide in the home
903 setting. Each person referred by a nurse registry must provide
904 current documentation that he or she is free from communicable
905 diseases.

906 (15) (a) The agency may deny, suspend, or revoke the
907 license of a nurse registry and shall impose a fine of \$5,000
908 against a nurse registry that:

909 1. Provides services to residents in an assisted living
910 facility for which the nurse registry does not receive fair
911 market value remuneration.

912 2. Provides staffing to an assisted living facility for
913 which the nurse registry does not receive fair market value
914 remuneration.

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

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

923 5. Gives remuneration to a physician, a member of the
924 physician's office staff, or an immediate family member of the
925 physician, and the nurse registry received a patient referral
926 in the last 12 months from that physician or the physician's
927 office staff.

928 (b) The agency shall also impose an administrative fine

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929 of \$15,000 if the nurse registry refers nurses, certified
930 nursing assistants, home health aides, or other staff without
931 charge to a facility licensed under chapter 429 in return for
932 patient referrals from the facility.

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

935 Section 11. Subsection (4) is added to section 400.518,
936 Florida Statutes, to read:

937 400.518 Prohibited referrals to home health agencies.--

938 (4) The agency shall impose an administrative fine of
939 \$15,000 if a home health agency provides nurses, certified
940 nursing assistants, home health aides, or other staff without
941 charge to a facility licensed under chapter 429 in return for
942 patient referrals from the facility. The proceeds of such fines
943 shall be deposited into the Health Care Trust Fund.

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

946 409.906 Optional Medicaid services.--Subject to specific
947 appropriations, the agency may make payments for services which
948 are optional to the state under Title XIX of the Social Security
949 Act and are furnished by Medicaid providers to recipients who are
950 determined to be eligible on the dates on which the services were
951 provided. Any optional service that is provided shall be provided
952 only when medically necessary and in accordance with state and
953 federal law. Optional services rendered by providers in mobile
954 units to Medicaid recipients may be restricted or prohibited by
955 the agency. Nothing in this section shall be construed to prevent
956 or limit the agency from adjusting fees, reimbursement rates,
957 lengths of stay, number of visits, or number of services, or

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958 making any other adjustments necessary to comply with the
959 availability of moneys and any limitations or directions provided
960 for in the General Appropriations Act or chapter 216. If
961 necessary to safeguard the state's systems of providing services
962 to elderly and disabled persons and subject to the notice and
963 review provisions of s. 216.177, the Governor may direct the
964 Agency for Health Care Administration to amend the Medicaid state
965 plan to delete the optional Medicaid service known as
966 "Intermediate Care Facilities for the Developmentally Disabled."
967 Optional services may include:

968 (10) DURABLE MEDICAL EQUIPMENT.--The agency may authorize
969 and pay for certain durable medical equipment and supplies
970 provided to a Medicaid recipient as medically necessary. As of
971 January 1, 2009, the agency shall limit payment for durable
972 medical equipment and supplies to providers who meet all of the
973 criteria in this subsection.

974 (a) Durable medical equipment and medical supply providers
975 must be accredited by an Agency for Health Care Administration
976 approved accreditation organization specifically designated as a
977 durable medical equipment accrediting organization. The provider
978 must be re-accredited periodically and is subject to unannounced
979 reviews by the accrediting organization.

980 (b) Durable medical equipment and medical supply providers
981 must have a physical business location with durable medical
982 equipment and medical supplies on site and must be readily
983 available to the general public. The physical business location
984 must meet the following criteria:

985 1. The location must maintain a substantial inventory that
986 is readily available and sufficient to meet the needs of the

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987 durable medical equipment business location's customers;

988 2. The location must be clearly identified with signage
989 that can be read from 20 feet away which readily identifies the
990 business location as a business that furnishes durable medical
991 equipment, medical supplies, or both;

992 3. The location must have a functional landline business
993 telephone;

994 4. The physical business location may not be located within
995 or at the same numbered street address as another Medicaid-
996 enrolled durable medical equipment and medical supply provider or
997 an enrolled Medicaid pharmacy that is also enrolled as a durable
998 medical equipment provider. A location within or at the same
999 numbered street address includes unique suite or storefront
1000 numbers assigned by the United States Postal Service or the
1001 building's owner;

1002 5. For out-of-state providers, the physical business
1003 location must be no more than 50 miles from the Florida state
1004 line. Exceptions may be made for manufacturers of a specific type
1005 of unique durable medical equipment that is not otherwise
1006 available from other durable medical equipment distributors or
1007 providers located within the state; and

1008 6. Unless the provider is an out-of-state manufacturer
1009 business that is located more than 50 miles from the Florida
1010 state line and is excepted from sub-paragraph 5., the location
1011 must be easily accessible to the public during normal, scheduled,
1012 and posted business hours and must operate no less than 5 hours a
1013 day, and no less than 5 days a week, with the exception of
1014 scheduled and posted holidays.

1015 (c) Durable medical equipment and medical supply providers

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1016 must obtain a \$50,000 surety bond for each provider location, up
1017 to a maximum of five bonds statewide or an aggregate bond of
1018 \$250,000 statewide as identified per federal employer
1019 identification number. Providers who qualify for a statewide or
1020 an aggregate bond must identify all of their locations in any
1021 enrollment application or bond renewal as a Medicaid durable
1022 medical equipment and medical supply provider. Each provider
1023 location's surety bond must be renewed annually and the provider
1024 must submit proof of renewal, even if the original bond is a
1025 continuous bond.

1026 (d) A level 2 background screening, as described in s.
1027 435.04, is required as a condition of employment for provider
1028 staff in direct contact with and providing direct services to
1029 recipients of durable medical equipment and medical supplies in
1030 their homes. This requirement includes, but is not limited to,
1031 repair and service technicians, fitters, and delivery staff.

1032 (e) The following providers are exempt from paragraphs (a)
1033 and (c):

1034 1. A durable medical equipment and medical supply provider
1035 owned and operated by a governmental entity;

1036 2. A durable medical equipment and medical supply provider
1037 that is operating within a pharmacy that is currently enrolled as
1038 a Medicaid pharmacy provider; and

1039 3. An active Medicaid-enrolled orthopedic physician's
1040 group, primarily owned by physicians, which is providing only
1041 orthotic and prosthetic devices.

1042 Section 13. The Agency for Health Care Administration shall
1043 review the process, procedures, and contractor's performance for
1044 the prior authorization of home health agency visits that are in

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1045 excess of 60 visits over the lifetime of a Medicaid recipient.
1046 The agency shall determine whether modifications are necessary in
1047 order to reduce Medicaid fraud and abuse related to home health
1048 services for a Medicaid recipient which are not medically
1049 necessary. If modifications to the prior authorization function
1050 are necessary, the agency shall amend the contract to require
1051 contractor performance that reduces potential Medicaid fraud and
1052 abuse with respect to home health agency visits.

1053 Section 14. The Agency for Health Care Administration shall
1054 report to the Legislature by January 1, 2009, on the feasibility
1055 and costs of accessing the Medicare system to disallow Medicaid
1056 payment for home health services that are paid for under the
1057 Medicare prospective payment system for recipients who are dually
1058 eligible for Medicaid and Medicare.

1059 Section 15. The sum of \$614,831 is appropriated to the
1060 Agency for Health Care Administration from the Health Care Trust
1061 Fund for the 2008-2009 fiscal year, and six full-time equivalent
1062 positions along with an associated salary rate of 331,602 are
1063 authorized for the purpose of implementing the provisions of this
1064 act.

1065 Section 16. The sum of \$282,078 is appropriated to the
1066 Agency for Health Care Administration from the Administrative
1067 Trust Fund for the 2008-2009 fiscal year, and four full-time
1068 equivalent positions along with an associated salary rate of
1069 174,752 are authorized for the purpose of implementing the
1070 provisions of this act.

1071 Section 17. This act shall take effect July 1, 2008.