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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 does not provide skilled care,
56 or provides only physical, occupational, or speech therapy
57 from requirements related to a director of nursing;
58 providing training requirements for certified nursing

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

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

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

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

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

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

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

491 Section 4. Section 400.474, Florida Statutes, is amended to
492 read:

493 400.474 Administrative penalties.--

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494 (1) The agency may deny, revoke, and suspend a license and
495 impose an administrative fine in the manner provided in chapter
496 120.

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

499 (a) Violation of this part, part II of chapter 408, or of
500 applicable rules.

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

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

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

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

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

519 (a) Documents of training for home health aides or
520 certified nursing assistants; or

521 (b) Health statements for staff providing direct care to
522 patients.

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524 A pattern may be demonstrated by a showing of at least three
525 fraudulent entries or documents. The fine shall be imposed for
526 each fraudulent document or, if multiple staff members are
527 included on one document, for each fraudulent entry on the
528 document.

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

535 (a) Require payback of all funds;

536 (b) Revoke the license; or

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

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

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552 failing to provide a service specified in the home health
553 agency's written agreement with a patient or the plan of care for
554 that patient.

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

558 (a) Gives remuneration for staffing services to:

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

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

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

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

580 (c) Provides staffing to an assisted living facility for

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581 which the home health agency does not receive fair market value
582 remuneration.

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

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

591 (f) Fails to submit to the agency, within 15 days after the
592 end of each calendar quarter, a written report that includes the
593 following data based on data as it existed on the last day of the
594 quarter:

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

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

599 3. The number of patients receiving home health services
600 from that home health agency; and

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

605 (g) Gives cash, or its equivalent, to a Medicare or
606 Medicaid beneficiary.

607 (h) Has more than one medical director contract in effect
608 at one time or more than one medical director contract and one
609 contract with a physician-specialist whose services are mandated

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610 for the home health agency in order to qualify to participate in
611 a federal or state health care program at one time.

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

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

615 2. Provide for remuneration that is at fair market value
616 for an hourly rate, which must be supported by invoices submitted
617 by the medical director describing the work performed, the dates
618 on which that work was performed, and the duration of that work;
619 and

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

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

627 (j) Gives remuneration to:

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

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

631 3. An immediate family member of the physician,

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

636 (k) Fails to provide to the agency, upon request, copies of
637 all contracts with a medical director which were executed within
638 5 years before the request.

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639 ~~(7)(3)~~(a) In addition to the requirements of s. 408.813,
640 any person, partnership, or corporation that violates s. 408.812
641 or s. 408.813 and that previously operated a licensed home health
642 agency or concurrently operates both a licensed home health
643 agency and an unlicensed home health agency commits a felony of
644 the third degree punishable as provided in s. 775.082, s.
645 775.083, or s. 775.084.

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

651 Section 5. Section 400.476, Florida Statutes, is created to
652 read:

653 400.476 Staffing requirements; notifications; limitations
654 on staffing services.--

655 (1) ADMINISTRATOR.--

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

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668 writing, for each licensed entity, a qualified alternate
669 administrator to serve during the administrator's absence.

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

678 (2) DIRECTOR OF NURSING.--

679 (a) A director of nursing may be the director of nursing
680 for:

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

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

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

688 b. All of the home health agencies are located within one
689 agency geographic service area or within an immediately
690 contiguous county; and

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

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697 If a home health agency licensed under this chapter is part of a
698 retirement community that provides multiple levels of care, an
699 employee of the retirement community may serve as the director of
700 nursing of the home health agency and up to a maximum of four
701 entities, other than home health agencies, licensed under this
702 chapter or chapter 429 which all have identical controlling
703 interests as defined in s. 408.803.

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

725 (c) A home health agency that does not provide skilled

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726 care, or provides only physical, occupational, or speech therapy
727 is not required to have a director of nursing and is exempt from
728 paragraph (b).

729 (3) TRAINING.--A home health agency shall ensure that each
730 certified nursing assistant employed by or under contract with
731 the home health agency and each home health aide employed by or
732 under contract with the home health agency is adequately trained
733 to perform the tasks of a home health aide in the home setting.

734 (4) STAFFING.--Staffing services may be provided anywhere
735 within the state.

736 Section 6. Section 400.484, Florida Statutes, is amended to
737 read:

738 400.484 Right of inspection; deficiencies; fines.--

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

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

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

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755 (b) A class II deficiency is any act, omission, or practice
756 that has a direct adverse effect on the health, safety, or
757 security of a patient. Upon finding a class II deficiency, the
758 agency shall ~~may~~ impose an administrative fine in the amount of
759 \$5,000 ~~\$1,000~~ for each occurrence and each day that the
760 deficiency exists.

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

767 (d) A class IV deficiency is any act, omission, or practice
768 related to required reports, forms, or documents which does not
769 have the potential of negatively affecting patients. These
770 violations are of a type that the agency determines do not
771 threaten the health, safety, or security of patients. Upon
772 finding an uncorrected or repeated class IV deficiency, the
773 agency shall ~~may~~ impose an administrative fine not to exceed \$500
774 ~~\$200~~ for each occurrence and each day that the uncorrected or
775 repeated deficiency exists.

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

780 Section 7. Section 400.488, Florida Statutes, is amended to
781 read:

782 400.488 Nurse delegation ~~Assistance with self-~~
783 ~~administration of medication.~~--A home health agency nurse may

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784 delegate nursing tasks as provided in chapter 464 and related
785 rules.

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

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

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

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

811 ~~(3) Assistance with self-administration of medication~~
812 ~~includes:~~

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

816 ~~(b) In the presence of the patient, reading the label,~~
817 ~~opening the container, removing a prescribed amount of medication~~
818 ~~from the container, and closing the container.~~

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

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

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

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

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

827 ~~(a) Mixing, compounding, converting, or calculating~~
828 ~~medication doses, except for measuring a prescribed amount of~~
829 ~~liquid medication or breaking a scored tablet or crushing a~~
830 ~~tablet as prescribed.~~

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

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

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

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

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

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

841 ~~(h) Medications ordered by the physician or health care~~

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842 ~~professional with prescriptive authority to be given "as needed,"~~
843 ~~unless the order is written with specific parameters that~~
844 ~~preclude independent judgment on the part of the unlicensed~~
845 ~~person, and at the request of a competent patient.~~

846 ~~(i) Medications for which the time of administration, the~~
847 ~~amount, the strength of dosage, the method of administration, or~~
848 ~~the reason for administration requires judgment or discretion on~~
849 ~~the part of the unlicensed person.~~

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

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

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

857 400.491 Clinical records.--

858 (2) The home health agency must maintain for each client
859 who receives nonskilled care a service provision plan. Such
860 records must be maintained by the home health agency for 3 years
861 ~~1 year~~ following termination of services.

862 Section 9. Present subsections (5), (6), (7), and (8) of
863 section 400.497, Florida Statutes, are renumbered as subsections
864 (7), (8), (9), and (10), respectively, and a new subsections (5)
865 and (6) are added to that section, to read:

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

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

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

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

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

884 (6) Conditions for using a recent unannounced licensure
885 inspection for the inspection required in s. 408.806 related to a
886 licensure application associated with a change in ownership of a
887 licensed home health agency.

888 Section 10. Paragraph (a) of subsection (6) of section
889 400.506, Florida Statutes, is amended, present subsections (15)
890 and (16) of that section are renumbered as subsections (16) and
891 (17), respectively, and a new subsection (15) is added to that
892 section, to read:

893 400.506 Licensure of nurse registries; requirements;
894 penalties.--

895 (6) (a) A nurse registry may refer for contract in private
896 residences registered nurses and licensed practical nurses
897 registered and licensed under part I of chapter 464, certified
898 nursing assistants certified under part II of chapter 464, home
899 health aides who present documented proof of successful

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900 completion of the training required by rule of the agency, and
901 companions or homemakers for the purposes of providing those
902 services authorized under s. 400.509(1). A licensed nurse
903 registry shall ensure that each certified nursing assistant
904 referred for contract by the nurse registry and each home health
905 aide referred for contract by the nurse registry is adequately
906 trained to perform the tasks of a home health aide in the home
907 setting. Each person referred by a nurse registry must provide
908 current documentation that he or she is free from communicable
909 diseases.

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

913 1. Provides services to residents in an assisted living
914 facility for which the nurse registry does not receive fair
915 market value remuneration.

916 2. Provides staffing to an assisted living facility for
917 which the nurse registry does not receive fair market value
918 remuneration.

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

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

927 5. Gives remuneration to a physician, a member of the
928 physician's office staff, or an immediate family member of the

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929 physician, and the nurse registry received a patient referral
930 in the last 12 months from that physician or the physician's
931 office staff.

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

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

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

941 400.518 Prohibited referrals to home health agencies.--

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

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

950 409.906 Optional Medicaid services.--Subject to specific
951 appropriations, the agency may make payments for services which
952 are optional to the state under Title XIX of the Social Security
953 Act and are furnished by Medicaid providers to recipients who are
954 determined to be eligible on the dates on which the services were
955 provided. Any optional service that is provided shall be provided
956 only when medically necessary and in accordance with state and
957 federal law. Optional services rendered by providers in mobile

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958 units to Medicaid recipients may be restricted or prohibited by
959 the agency. Nothing in this section shall be construed to prevent
960 or limit the agency from adjusting fees, reimbursement rates,
961 lengths of stay, number of visits, or number of services, or
962 making any other adjustments necessary to comply with the
963 availability of moneys and any limitations or directions provided
964 for in the General Appropriations Act or chapter 216. If
965 necessary to safeguard the state's systems of providing services
966 to elderly and disabled persons and subject to the notice and
967 review provisions of s. 216.177, the Governor may direct the
968 Agency for Health Care Administration to amend the Medicaid state
969 plan to delete the optional Medicaid service known as
970 "Intermediate Care Facilities for the Developmentally Disabled."
971 Optional services may include:

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

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

984 (b) Durable medical equipment and medical supply providers
985 must have a physical business location with durable medical
986 equipment and medical supplies on site and must be readily

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987 available to the general public. A licensed orthotist or
988 prosthetist that provides only orthotic or prosthetic devices as
989 a Medicaid durable medical equipment provider is exempt from the
990 requirements of subparagraph 2., subparagraph 4., and
991 subparagraph 6. The physical business location must meet the
992 following criteria:

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

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

1000 3. The location must have a functional landline business
1001 telephone;

1002 4. The physical business location may not be located within
1003 or at the same numbered street address as another Medicaid-
1004 enrolled durable medical equipment and medical supply provider or
1005 an enrolled Medicaid pharmacy that is also enrolled as a durable
1006 medical equipment provider. A location within or at the same
1007 numbered street address includes unique suite or storefront
1008 numbers assigned by the United States Postal Service or the
1009 building's owner;

1010 5. For out-of-state providers, the physical business
1011 location must be no more than 50 miles from the Florida state
1012 line. Exceptions may be made for manufacturers of a specific type
1013 of unique durable medical equipment that is not otherwise
1014 available from other durable medical equipment distributors or
1015 providers located within the state; and

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1016 6. Unless the provider is an out-of-state manufacturer
1017 business that is located more than 50 miles from the Florida
1018 state line and is excepted from sub-paragraph 5., the location
1019 must be easily accessible to the public during normal, scheduled,
1020 and posted business hours and must operate no less than 5 hours a
1021 day, and no less than 5 days a week, with the exception of
1022 scheduled and posted holidays.

1023 (c) Durable medical equipment and medical supply providers
1024 must obtain a \$50,000 surety bond for each provider location, up
1025 to a maximum of five bonds statewide or an aggregate bond of
1026 \$250,000 statewide as identified per federal employer
1027 identification number. Providers who qualify for a statewide or
1028 an aggregate bond must identify all of their locations in any
1029 enrollment application or bond renewal as a Medicaid durable
1030 medical equipment and medical supply provider. Each provider
1031 location's surety bond must be renewed annually and the provider
1032 must submit proof of renewal, even if the original bond is a
1033 continuous bond. A licensed orthotist or prosthetist that
1034 provides only orthotic or prosthetic devices as a Medicaid
1035 durable medical equipment provider is exempt from the provisions
1036 in this paragraph.

1037 (d) A level 2 background screening, as described in s.
1038 435.04, is required as a condition of employment for provider
1039 staff in direct contact with and providing direct services to
1040 recipients of durable medical equipment and medical supplies in
1041 their homes. This requirement includes, but is not limited to,
1042 repair and service technicians, fitters, and delivery staff.

1043 (e) The following providers are exempt from paragraphs (a)
1044 and (c):

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1045 1. A durable medical equipment and medical supply provider
1046 owned and operated by a governmental entity;

1047 2. A durable medical equipment and medical supply provider
1048 that is operating within a pharmacy that is currently enrolled as
1049 a Medicaid pharmacy provider; and

1050 3. An active Medicaid-enrolled orthopedic physician's
1051 group, primarily owned by physicians, which is providing only
1052 orthotic and prosthetic devices.

1053 Section 13. The Agency for Health Care Administration shall
1054 review the process, procedures, and contractor's performance for
1055 the prior authorization of home health agency visits that are in
1056 excess of 60 visits over the lifetime of a Medicaid recipient.
1057 The agency shall determine whether modifications are necessary in
1058 order to reduce Medicaid fraud and abuse related to home health
1059 services for a Medicaid recipient which are not medically
1060 necessary. If modifications to the prior authorization function
1061 are necessary, the agency shall amend the contract to require
1062 contractor performance that reduces potential Medicaid fraud and
1063 abuse with respect to home health agency visits.

1064 Section 14. The Agency for Health Care Administration shall
1065 report to the Legislature by January 1, 2009, on the feasibility
1066 and costs of accessing the Medicare system to disallow Medicaid
1067 payment for home health services that are paid for under the
1068 Medicare prospective payment system for recipients who are dually
1069 eligible for Medicaid and Medicare.

1070 Section 15. The sum of \$614,831 is appropriated to the
1071 Agency for Health Care Administration from the Health Care Trust
1072 Fund for the 2008-2009 fiscal year, and six full-time equivalent
1073 positions along with an associated salary rate of 331,602 are

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1074 authorized for the purpose of implementing the provisions of this
1075 act.

1076 Section 16. The sum of \$282,078 is appropriated to the
1077 Agency for Health Care Administration from the Medical Care Trust
1078 Fund for the 2008-2009 fiscal year, and four full-time equivalent
1079 positions along with an associated salary rate of 174,752 are
1080 authorized for the purpose of implementing the provisions of this
1081 act.

1082 Section 17. This act shall take effect July 1, 2008.