



425866

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
	.	
	.	
	.	

The Committee on Health and Human Services Appropriations
(Gaetz) recommended the following:

Senate Amendment (with title amendment)

Between lines 1593 and 1594

insert:

Section 29. Section 395.0199, Florida Statutes, is repealed.

Section 30. Section 395.405, Florida Statutes, is amended to read:

395.405 Rulemaking.—The department shall adopt and enforce all rules necessary to administer ss. ~~395.0199~~, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.



425866

12 Section 31. Subsection (1) of section 400.0712, Florida
13 Statutes, is amended to read:

14 400.0712 Application for inactive license.—

15 (1) As specified in ~~s. 408.831(4)~~ and this section, the
16 agency may issue an inactive license to a nursing home facility
17 for all or a portion of its beds. Any request by a licensee that
18 a nursing home or portion of a nursing home become inactive must
19 be submitted to the agency in the approved format. The facility
20 may not initiate any suspension of services, notify residents,
21 or initiate inactivity before receiving approval from the
22 agency; and a licensee that violates this provision may not be
23 issued an inactive license.

24 Section 32. Subsection (2) of section 400.118, Florida
25 Statutes, is repealed.

26 Section 33. Section 400.141, Florida Statutes, is amended
27 to read:

28 400.141 Administration and management of nursing home
29 facilities.—

30 (1) Every licensed facility shall comply with all
31 applicable standards and rules of the agency and shall:

32 (a) ~~(1)~~ Be under the administrative direction and charge of
33 a licensed administrator.

34 (b) ~~(2)~~ Appoint a medical director licensed pursuant to
35 chapter 458 or chapter 459. The agency may establish by rule
36 more specific criteria for the appointment of a medical
37 director.

38 (c) ~~(3)~~ Have available the regular, consultative, and
39 emergency services of physicians licensed by the state.

40 (d) ~~(4)~~ Provide for resident use of a community pharmacy as



425866

41 specified in s. 400.022(1)(q). Any other law to the contrary
42 notwithstanding, a registered pharmacist licensed in Florida,
43 that is under contract with a facility licensed under this
44 chapter or chapter 429, shall repackage a nursing facility
45 resident's bulk prescription medication which has been packaged
46 by another pharmacist licensed in any state in the United States
47 into a unit dose system compatible with the system used by the
48 nursing facility, if the pharmacist is requested to offer such
49 service. In order to be eligible for the repackaging, a resident
50 or the resident's spouse must receive prescription medication
51 benefits provided through a former employer as part of his or
52 her retirement benefits, a qualified pension plan as specified
53 in s. 4972 of the Internal Revenue Code, a federal retirement
54 program as specified under 5 C.F.R. s. 831, or a long-term care
55 policy as defined in s. 627.9404(1). A pharmacist who correctly
56 repackages and relabels the medication and the nursing facility
57 which correctly administers such repackaged medication under ~~the~~
58 ~~provisions of this paragraph may subsection shall~~ not be held
59 liable in any civil or administrative action arising from the
60 repackaging. In order to be eligible for the repackaging, a
61 nursing facility resident for whom the medication is to be
62 repackaged shall sign an informed consent form provided by the
63 facility which includes an explanation of the repackaging
64 process and which notifies the resident of the immunities from
65 liability provided in this paragraph ~~herein~~. A pharmacist who
66 repackages and relabels prescription medications, as authorized
67 under this paragraph subsection, may charge a reasonable fee for
68 costs resulting from the implementation of this provision.

69 (e)(5) Provide for the access of the facility residents to



425866

70 dental and other health-related services, recreational services,
71 rehabilitative services, and social work services appropriate to
72 their needs and conditions and not directly furnished by the
73 licensee. When a geriatric outpatient nurse clinic is conducted
74 in accordance with rules adopted by the agency, outpatients
75 attending such clinic shall not be counted as part of the
76 general resident population of the nursing home facility, nor
77 shall the nursing staff of the geriatric outpatient clinic be
78 counted as part of the nursing staff of the facility, until the
79 outpatient clinic load exceeds 15 a day.

80 (f) ~~(6)~~ Be allowed and encouraged by the agency to provide
81 other needed services under certain conditions. If the facility
82 has a standard licensure status, and has had no class I or class
83 II deficiencies during the past 2 years or has been awarded a
84 Gold Seal under the program established in s. 400.235, it may be
85 encouraged by the agency to provide services, including, but not
86 limited to, respite and adult day services, which enable
87 individuals to move in and out of the facility. A facility is
88 not subject to any additional licensure requirements for
89 providing these services. Respite care may be offered to persons
90 in need of short-term or temporary nursing home services.
91 Respite care must be provided in accordance with this part and
92 rules adopted by the agency. However, the agency shall, by rule,
93 adopt modified requirements for resident assessment, resident
94 care plans, resident contracts, physician orders, and other
95 provisions, as appropriate, for short-term or temporary nursing
96 home services. The agency shall allow for shared programming and
97 staff in a facility which meets minimum standards and offers
98 services pursuant to this paragraph ~~subsection~~, but, if the



425866

99 facility is cited for deficiencies in patient care, may require
100 additional staff and programs appropriate to the needs of
101 service recipients. A person who receives respite care may not
102 be counted as a resident of the facility for purposes of the
103 facility's licensed capacity unless that person receives 24-hour
104 respite care. A person receiving either respite care for 24
105 hours or longer or adult day services must be included when
106 calculating minimum staffing for the facility. Any costs and
107 revenues generated by a nursing home facility from
108 nonresidential programs or services shall be excluded from the
109 calculations of Medicaid per diems for nursing home
110 institutional care reimbursement.

111 (g) ~~(7)~~ If the facility has a standard license or is a Gold
112 Seal facility, exceeds the minimum required hours of licensed
113 nursing and certified nursing assistant direct care per resident
114 per day, and is part of a continuing care facility licensed
115 under chapter 651 or a retirement community that offers other
116 services pursuant to part III of this chapter or part I or part
117 III of chapter 429 on a single campus, be allowed to share
118 programming and staff. At the time of inspection and in the
119 semiannual report required pursuant to paragraph (o) ~~subsection~~
120 ~~(15)~~, a continuing care facility or retirement community that
121 uses this option must demonstrate through staffing records that
122 minimum staffing requirements for the facility were met.
123 Licensed nurses and certified nursing assistants who work in the
124 nursing home facility may be used to provide services elsewhere
125 on campus if the facility exceeds the minimum number of direct
126 care hours required per resident per day and the total number of
127 residents receiving direct care services from a licensed nurse



425866

128 or a certified nursing assistant does not cause the facility to
129 violate the staffing ratios required under s. 400.23(3)(a).
130 Compliance with the minimum staffing ratios shall be based on
131 total number of residents receiving direct care services,
132 regardless of where they reside on campus. If the facility
133 receives a conditional license, it may not share staff until the
134 conditional license status ends. This paragraph ~~subsection~~ does
135 not restrict the agency's authority under federal or state law
136 to require additional staff if a facility is cited for
137 deficiencies in care which are caused by an insufficient number
138 of certified nursing assistants or licensed nurses. The agency
139 may adopt rules for the documentation necessary to determine
140 compliance with this provision.

141 (h) ~~(8)~~ Maintain the facility premises and equipment and
142 conduct its operations in a safe and sanitary manner.

143 (i) ~~(9)~~ If the licensee furnishes food service, provide a
144 wholesome and nourishing diet sufficient to meet generally
145 accepted standards of proper nutrition for its residents and
146 provide such therapeutic diets as may be prescribed by attending
147 physicians. In making rules to implement this paragraph
148 ~~subsection~~, the agency shall be guided by standards recommended
149 by nationally recognized professional groups and associations
150 with knowledge of dietetics.

151 (j) ~~(10)~~ Keep full records of resident admissions and
152 discharges; medical and general health status, including medical
153 records, personal and social history, and identity and address
154 of next of kin or other persons who may have responsibility for
155 the affairs of the residents; and individual resident care plans
156 including, but not limited to, prescribed services, service



425866

157 frequency and duration, and service goals. The records shall be
158 open to inspection by the agency.

159 (k)~~(11)~~ Keep such fiscal records of its operations and
160 conditions as may be necessary to provide information pursuant
161 to this part.

162 (l)~~(12)~~ Furnish copies of personnel records for employees
163 affiliated with such facility, to any other facility licensed by
164 this state requesting this information pursuant to this part.
165 Such information contained in the records may include, but is
166 not limited to, disciplinary matters and any reason for
167 termination. Any facility releasing such records pursuant to
168 this part shall be considered to be acting in good faith and may
169 not be held liable for information contained in such records,
170 absent a showing that the facility maliciously falsified such
171 records.

172 (m)~~(13)~~ Publicly display a poster provided by the agency
173 containing the names, addresses, and telephone numbers for the
174 state's abuse hotline, the State Long-Term Care Ombudsman, the
175 Agency for Health Care Administration consumer hotline, the
176 Advocacy Center for Persons with Disabilities, the Florida
177 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
178 with a clear description of the assistance to be expected from
179 each.

180 (n)~~(14)~~ Submit to the agency the information specified in
181 s. 400.071(1)(b) for a management company within 30 days after
182 the effective date of the management agreement.

183 (o)1.~~(15)~~ Submit semiannually to the agency, or more
184 frequently if requested by the agency, information regarding
185 facility staff-to-resident ratios, staff turnover, and staff



425866

186 stability, including information regarding certified nursing
187 assistants, licensed nurses, the director of nursing, and the
188 facility administrator. For purposes of this reporting:

189 a.~~(a)~~ Staff-to-resident ratios must be reported in the
190 categories specified in s. 400.23(3)(a) and applicable rules.
191 The ratio must be reported as an average for the most recent
192 calendar quarter.

193 b.~~(b)~~ Staff turnover must be reported for the most recent
194 12-month period ending on the last workday of the most recent
195 calendar quarter prior to the date the information is submitted.
196 The turnover rate must be computed quarterly, with the annual
197 rate being the cumulative sum of the quarterly rates. The
198 turnover rate is the total number of terminations or separations
199 experienced during the quarter, excluding any employee
200 terminated during a probationary period of 3 months or less,
201 divided by the total number of staff employed at the end of the
202 period for which the rate is computed, and expressed as a
203 percentage.

204 c.~~(c)~~ The formula for determining staff stability is the
205 total number of employees that have been employed for more than
206 12 months, divided by the total number of employees employed at
207 the end of the most recent calendar quarter, and expressed as a
208 percentage.

209 d.~~(d)~~ A nursing facility that has failed to comply with
210 state minimum-staffing requirements for 2 consecutive days is
211 prohibited from accepting new admissions until the facility has
212 achieved the minimum-staffing requirements for a period of 6
213 consecutive days. For the purposes of this sub-subparagraph
214 ~~paragraph~~, any person who was a resident of the facility and was



425866

215 absent from the facility for the purpose of receiving medical
216 care at a separate location or was on a leave of absence is not
217 considered a new admission. Failure to impose such an admissions
218 moratorium constitutes a class II deficiency.

219 e.~~(e)~~ A nursing facility which does not have a conditional
220 license may be cited for failure to comply with the standards in
221 s. 400.23(3)(a)1.a. only if it has failed to meet those
222 standards on 2 consecutive days or if it has failed to meet at
223 least 97 percent of those standards on any one day.

224 f.~~(f)~~ A facility which has a conditional license must be in
225 compliance with the standards in s. 400.23(3)(a) at all times.
226

227 2. ~~Nothing in This paragraph does not section shall~~ limit
228 the agency's ability to impose a deficiency or take other
229 actions if a facility does not have enough staff to meet the
230 residents' needs.

231 ~~(16) Report monthly the number of vacant beds in the~~
232 ~~facility which are available for resident occupancy on the day~~
233 ~~the information is reported.~~

234 (p)~~(17)~~ Notify a licensed physician when a resident
235 exhibits signs of dementia or cognitive impairment or has a
236 change of condition in order to rule out the presence of an
237 underlying physiological condition that may be contributing to
238 such dementia or impairment. The notification must occur within
239 30 days after the acknowledgment of such signs by facility
240 staff. If an underlying condition is determined to exist, the
241 facility shall arrange, with the appropriate health care
242 provider, the necessary care and services to treat the
243 condition.



425866

244 (q)~~(18)~~ If the facility implements a dining and hospitality
245 attendant program, ensure that the program is developed and
246 implemented under the supervision of the facility director of
247 nursing. A licensed nurse, licensed speech or occupational
248 therapist, or a registered dietitian must conduct training of
249 dining and hospitality attendants. A person employed by a
250 facility as a dining and hospitality attendant must perform
251 tasks under the direct supervision of a licensed nurse.

252 (r)~~(19)~~ Report to the agency any filing for bankruptcy
253 protection by the facility or its parent corporation,
254 divestiture or spin-off of its assets, or corporate
255 reorganization within 30 days after the completion of such
256 activity.

257 (s)~~(20)~~ Maintain general and professional liability
258 insurance coverage that is in force at all times. In lieu of
259 general and professional liability insurance coverage, a state-
260 designated teaching nursing home and its affiliated assisted
261 living facilities created under s. 430.80 may demonstrate proof
262 of financial responsibility as provided in s. 430.80(3)(h).

263 (t)~~(21)~~ Maintain in the medical record for each resident a
264 daily chart of certified nursing assistant services provided to
265 the resident. The certified nursing assistant who is caring for
266 the resident must complete this record by the end of his or her
267 shift. This record must indicate assistance with activities of
268 daily living, assistance with eating, and assistance with
269 drinking, and must record each offering of nutrition and
270 hydration for those residents whose plan of care or assessment
271 indicates a risk for malnutrition or dehydration.

272 (u)~~(22)~~ Before November 30 of each year, subject to the



425866

273 availability of an adequate supply of the necessary vaccine,
274 provide for immunizations against influenza viruses to all its
275 consenting residents in accordance with the recommendations of
276 the United States Centers for Disease Control and Prevention,
277 subject to exemptions for medical contraindications and
278 religious or personal beliefs. Subject to these exemptions, any
279 consenting person who becomes a resident of the facility after
280 November 30 but before March 31 of the following year must be
281 immunized within 5 working days after becoming a resident.
282 Immunization shall not be provided to any resident who provides
283 documentation that he or she has been immunized as required by
284 this paragraph subsection. This paragraph subsection does not
285 prohibit a resident from receiving the immunization from his or
286 her personal physician if he or she so chooses. A resident who
287 chooses to receive the immunization from his or her personal
288 physician shall provide proof of immunization to the facility.
289 The agency may adopt and enforce any rules necessary to comply
290 with or implement this subsection.

291 (v) ~~(23)~~ Assess all residents for eligibility for
292 pneumococcal polysaccharide vaccination (PPV) and vaccinate
293 residents when indicated within 60 days after the effective date
294 of this act in accordance with the recommendations of the United
295 States Centers for Disease Control and Prevention, subject to
296 exemptions for medical contraindications and religious or
297 personal beliefs. Residents admitted after the effective date of
298 this act shall be assessed within 5 working days of admission
299 and, when indicated, vaccinated within 60 days in accordance
300 with the recommendations of the United States Centers for
301 Disease Control and Prevention, subject to exemptions for



425866

302 medical contraindications and religious or personal beliefs.
303 Immunization shall not be provided to any resident who provides
304 documentation that he or she has been immunized as required by
305 this paragraph subsection. This paragraph subsection does not
306 prohibit a resident from receiving the immunization from his or
307 her personal physician if he or she so chooses. A resident who
308 chooses to receive the immunization from his or her personal
309 physician shall provide proof of immunization to the facility.
310 The agency may adopt and enforce any rules necessary to comply
311 with or implement this paragraph subsection.

312 (w) ~~(24)~~ Annually encourage and promote to its employees the
313 benefits associated with immunizations against influenza viruses
314 in accordance with the recommendations of the United States
315 Centers for Disease Control and Prevention. The agency may adopt
316 and enforce any rules necessary to comply with or implement this
317 paragraph subsection.

318 (2) Facilities that have been awarded a Gold Seal under the
319 program established in s. 400.235 may develop a plan to provide
320 certified nursing assistant training as prescribed by federal
321 regulations and state rules and may apply to the agency for
322 approval of their program.

323 Section 34. Subsections (5), (9), (10), (11), (12), (13),
324 (14), and (15) of section 400.147, Florida Statutes, are amended
325 to read:

326 400.147 Internal risk management and quality assurance
327 program.—

328 (5) For purposes of reporting to the agency under this
329 section, the term "adverse incident" means:

330 (a) An event over which facility personnel could exercise



425866

331 control and which is associated in whole or in part with the
332 facility's intervention, rather than the condition for which
333 such intervention occurred, and which results in one of the
334 following:

- 335 1. Death;
- 336 2. Brain or spinal damage;
- 337 3. Permanent disfigurement;
- 338 4. Fracture or dislocation of bones or joints;
- 339 5. A limitation of neurological, physical, or sensory
340 function;
- 341 6. Any condition that required medical attention to which
342 the resident has not given his or her informed consent,
343 including failure to honor advanced directives; ~~or~~
- 344 7. Any condition that required the transfer of the
345 resident, within or outside the facility, to a unit providing a
346 more acute level of care due to the adverse incident, rather
347 than the resident's condition prior to the adverse incident; or
- 348 8. An event that is reported to law enforcement or its
349 personnel for investigation; or
350 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
351 ~~415.102;~~
352 ~~(c) Abuse, neglect and harm as defined in s. 39.01;~~
353 (b)(d) Resident elopement, if the elopement places the
354 resident at risk of harm or injury.; ~~or~~
355 ~~(e) An event that is reported to law enforcement.~~
356 (9) Abuse, neglect, or exploitation must be reported to the
357 agency as required by 42 C.F.R. s. 483.13(c) and to the
358 department as required by chapters 39 and 415.
359 (10) ~~(9)~~ By the 10th of each month, each facility subject to



425866

360 this section shall report any notice received pursuant to s.
361 400.0233(2) and each initial complaint that was filed with the
362 clerk of the court and served on the facility during the
363 previous month by a resident or a resident's family member,
364 guardian, conservator, or personal legal representative. The
365 report must include the name of the resident, the resident's
366 date of birth and social security number, the Medicaid
367 identification number for Medicaid-eligible persons, the date or
368 dates of the incident leading to the claim or dates of
369 residency, if applicable, and the type of injury or violation of
370 rights alleged to have occurred. Each facility shall also submit
371 a copy of the notices received pursuant to s. 400.0233(2) and
372 complaints filed with the clerk of the court. This report is
373 confidential as provided by law and is not discoverable or
374 admissible in any civil or administrative action, except in such
375 actions brought by the agency to enforce the provisions of this
376 part.

377 (11)~~(10)~~ The agency shall review, as part of its licensure
378 inspection process, the internal risk management and quality
379 assurance program at each facility regulated by this section to
380 determine whether the program meets standards established in
381 statutory laws and rules, is being conducted in a manner
382 designed to reduce adverse incidents, and is appropriately
383 reporting incidents as required by this section.

384 (12)~~(11)~~ There is no monetary liability on the part of, and
385 a cause of action for damages may not arise against, any risk
386 manager for the implementation and oversight of the internal
387 risk management and quality assurance program in a facility
388 licensed under this part as required by this section, or for any



425866

389 act or proceeding undertaken or performed within the scope of
390 the functions of such internal risk management and quality
391 assurance program if the risk manager acts without intentional
392 fraud.

393 ~~(13)~~ (12) If the agency, through its receipt of the adverse
394 incident reports prescribed in subsection (7), or through any
395 investigation, has a reasonable belief that conduct by a staff
396 member or employee of a facility is grounds for disciplinary
397 action by the appropriate regulatory board, the agency shall
398 report this fact to the regulatory board.

399 ~~(14)~~ (13) The agency may adopt rules to administer this
400 section.

401 ~~(14) The agency shall annually submit to the Legislature a~~
402 ~~report on nursing home adverse incidents. The report must~~
403 ~~include the following information arranged by county:~~

404 ~~(a) The total number of adverse incidents.~~

405 ~~(b) A listing, by category, of the types of adverse~~
406 ~~incidents, the number of incidents occurring within each~~
407 ~~category, and the type of staff involved.~~

408 ~~(c) A listing, by category, of the types of injury caused~~
409 ~~and the number of injuries occurring within each category.~~

410 ~~(d) Types of liability claims filed based on an adverse~~
411 ~~incident or reportable injury.~~

412 ~~(e) Disciplinary action taken against staff, categorized by~~
413 ~~type of staff involved.~~

414 (15) Information gathered by a credentialing organization
415 under a quality assurance program is not discoverable from the
416 credentialing organization. This subsection does not limit
417 discovery of, access to, or use of facility records, including



425866

418 those records from which the credentialing organization gathered
419 its information.

420 Section 35. Subsection (3) of section 400.162, Florida
421 Statutes, is amended to read:

422 400.162 Property and personal affairs of residents.—

423 (3) A licensee shall provide for the safekeeping of
424 personal effects, funds, and other property of the resident in
425 the facility. Whenever necessary for the protection of
426 valuables, or in order to avoid unreasonable responsibility
427 therefor, the licensee may require that such valuables be
428 excluded or removed from the facility and kept at some place not
429 subject to the control of the licensee. At the request of a
430 resident, the facility shall mark the resident's personal
431 property with the resident's name or another type of
432 identification, without defacing the property. Any theft or loss
433 of a resident's personal property shall be documented by the
434 facility. The facility shall develop policies and procedures to
435 minimize the risk of theft or loss of the personal property of
436 residents. A copy of the policy shall be provided to every
437 employee and to each resident and the resident's representative
438 if appropriate at admission and when revised. Facility policies
439 must include provisions related to reporting theft or loss of a
440 resident's property to law enforcement and any facility waiver
441 of liability for loss or theft. ~~The facility shall post notice~~
442 ~~of these policies and procedures, and any revision thereof, in~~
443 ~~places accessible to residents.~~

444 Section 36. Paragraphs (a) and (b) of subsection (2) of
445 section 400.191, Florida Statutes, are amended to read:

446 400.191 Availability, distribution, and posting of reports



425866

447 and records.-

448 (2) The agency shall publish the Nursing Home Guide
449 ~~annually in consumer friendly printed form~~ and quarterly in
450 electronic form to assist consumers and their families in
451 comparing and evaluating nursing home facilities.

452 (a) The agency shall provide an Internet site which shall
453 include at least the following information either directly or
454 indirectly through a link to another established site or sites
455 of the agency's choosing:

456 1. A section entitled "Have you considered programs that
457 provide alternatives to nursing home care?" which shall be the
458 first section of the Nursing Home Guide and which shall
459 prominently display information about available alternatives to
460 nursing homes and how to obtain additional information regarding
461 these alternatives. The Nursing Home Guide shall explain that
462 this state offers alternative programs that permit qualified
463 elderly persons to stay in their homes instead of being placed
464 in nursing homes and shall encourage interested persons to call
465 the Comprehensive Assessment Review and Evaluation for Long-Term
466 Care Services (CARES) Program to inquire if they qualify. The
467 Nursing Home Guide shall list available home and community-based
468 programs which shall clearly state the services that are
469 provided and indicate whether nursing home services are included
470 if needed.

471 2. A list by name and address of all nursing home
472 facilities in this state, including any prior name by which a
473 facility was known during the previous 24-month period.

474 3. Whether such nursing home facilities are proprietary or
475 nonproprietary.



425866

476 4. The current owner of the facility's license and the year
477 that that entity became the owner of the license.

478 5. The name of the owner or owners of each facility and
479 whether the facility is affiliated with a company or other
480 organization owning or managing more than one nursing facility
481 in this state.

482 6. The total number of beds in each facility and the most
483 recently available occupancy levels.

484 7. The number of private and semiprivate rooms in each
485 facility.

486 8. The religious affiliation, if any, of each facility.

487 9. The languages spoken by the administrator and staff of
488 each facility.

489 10. Whether or not each facility accepts Medicare or
490 Medicaid recipients or insurance, health maintenance
491 organization, Veterans Administration, CHAMPUS program, or
492 workers' compensation coverage.

493 11. Recreational and other programs available at each
494 facility.

495 12. Special care units or programs offered at each
496 facility.

497 13. Whether the facility is a part of a retirement
498 community that offers other services pursuant to part III of
499 this chapter or part I or part III of chapter 429.

500 14. Survey and deficiency information, including all
501 federal and state recertification, licensure, revisit, and
502 complaint survey information, for each facility for the past 30
503 months. For noncertified nursing homes, state survey and
504 deficiency information, including licensure, revisit, and



425866

505 complaint survey information for the past 30 months shall be
506 provided.

507 ~~15. A summary of the deficiency data for each facility over~~
508 ~~the past 30 months. The summary may include a score, rating, or~~
509 ~~comparison ranking with respect to other facilities based on the~~
510 ~~number of citations received by the facility on recertification,~~
511 ~~licensure, revisit, and complaint surveys; the severity and~~
512 ~~scope of the citations; and the number of recertification~~
513 ~~surveys the facility has had during the past 30 months. The~~
514 ~~score, rating, or comparison ranking may be presented in either~~
515 ~~numeric or symbolic form for the intended consumer audience.~~

516 ~~(b) The agency shall provide the following information in~~
517 ~~printed form:~~

518 ~~1. A section entitled "Have you considered programs that~~
519 ~~provide alternatives to nursing home care?" which shall be the~~
520 ~~first section of the Nursing Home Guide and which shall~~
521 ~~prominently display information about available alternatives to~~
522 ~~nursing homes and how to obtain additional information regarding~~
523 ~~these alternatives. The Nursing Home Guide shall explain that~~
524 ~~this state offers alternative programs that permit qualified~~
525 ~~elderly persons to stay in their homes instead of being placed~~
526 ~~in nursing homes and shall encourage interested persons to call~~
527 ~~the Comprehensive Assessment Review and Evaluation for Long-Term~~
528 ~~Care Services (CARES) Program to inquire if they qualify. The~~
529 ~~Nursing Home Guide shall list available home and community-based~~
530 ~~programs which shall clearly state the services that are~~
531 ~~provided and indicate whether nursing home services are included~~
532 ~~if needed.~~

533 ~~2. A list by name and address of all nursing home~~



425866

- 534 ~~facilities in this state.~~
- 535 ~~3. Whether the nursing home facilities are proprietary or~~
536 ~~nonproprietary.~~
- 537 ~~4. The current owner or owners of the facility's license~~
538 ~~and the year that entity became the owner of the license.~~
- 539 ~~5. The total number of beds, and of private and semiprivate~~
540 ~~rooms, in each facility.~~
- 541 ~~6. The religious affiliation, if any, of each facility.~~
- 542 ~~7. The name of the owner of each facility and whether the~~
543 ~~facility is affiliated with a company or other organization~~
544 ~~owning or managing more than one nursing facility in this state.~~
- 545 ~~8. The languages spoken by the administrator and staff of~~
546 ~~each facility.~~
- 547 ~~9. Whether or not each facility accepts Medicare or~~
548 ~~Medicaid recipients or insurance, health maintenance~~
549 ~~organization, Veterans Administration, CHAMPUS program, or~~
550 ~~workers' compensation coverage.~~
- 551 ~~10. Recreational programs, special care units, and other~~
552 ~~programs available at each facility.~~
- 553 ~~11. The Internet address for the site where more detailed~~
554 ~~information can be seen.~~
- 555 ~~12. A statement advising consumers that each facility will~~
556 ~~have its own policies and procedures related to protecting~~
557 ~~resident property.~~
- 558 ~~13. A summary of the deficiency data for each facility over~~
559 ~~the past 30 months. The summary may include a score, rating, or~~
560 ~~comparison ranking with respect to other facilities based on the~~
561 ~~number of citations received by the facility on recertification,~~
562 ~~licensure, revisit, and complaint surveys; the severity and~~



425866

563 ~~scope of the citations; the number of citations; and the number~~
564 ~~of recertification surveys the facility has had during the past~~
565 ~~30 months. The score, rating, or comparison ranking may be~~
566 ~~presented in either numeric or symbolic form for the intended~~
567 ~~consumer audience.~~

568 Section 37. Paragraph (d) of subsection (1) of section
569 400.195, Florida Statutes, is amended to read:

570 400.195 Agency reporting requirements.—

571 (1) For the period beginning June 30, 2001, and ending June
572 30, 2005, the Agency for Health Care Administration shall
573 provide a report to the Governor, the President of the Senate,
574 and the Speaker of the House of Representatives with respect to
575 nursing homes. The first report shall be submitted no later than
576 December 30, 2002, and subsequent reports shall be submitted
577 every 6 months thereafter. The report shall identify facilities
578 based on their ownership characteristics, size, business
579 structure, for-profit or not-for-profit status, and any other
580 characteristics the agency determines useful in analyzing the
581 varied segments of the nursing home industry and shall report:

582 (d) Information regarding deficiencies cited, including
583 information used to develop the Nursing Home Guide WATCH LIST
584 pursuant to s. 400.191, and applicable rules, a summary of data
585 generated on nursing homes by Centers for Medicare and Medicaid
586 Services Nursing Home Quality Information Project, and
587 information collected pursuant to s. 400.147(10) ~~s. 400.147(9)~~,
588 relating to litigation.

589 Section 38. Subsection (3) of section 400.23, Florida
590 Statutes, is amended to read:

591 400.23 Rules; evaluation and deficiencies; licensure



425866

592 status.-

593 (3)(a)1. The agency shall adopt rules providing minimum
594 staffing requirements for nursing homes. These requirements
595 shall include, for each nursing home facility:

596 a. A minimum certified nursing assistant staffing of 2.6
597 hours of direct care per resident per day beginning January 1,
598 2003, and increasing to 2.7 hours of direct care per resident
599 per day beginning January 1, 2007. Beginning January 1, 2002, no
600 facility shall staff below one certified nursing assistant per
601 20 residents, and a minimum licensed nursing staffing of 1.0
602 hour of direct care per resident per day but never below one
603 licensed nurse per 40 residents.

604 b. Beginning January 1, 2007, a minimum weekly average
605 certified nursing assistant staffing of 2.9 hours of direct care
606 per resident per day. For the purpose of this sub-subparagraph,
607 a week is defined as Sunday through Saturday.

608 2. Nursing assistants employed under s. 400.211(2) may be
609 included in computing the staffing ratio for certified nursing
610 assistants only if their job responsibilities include only
611 nursing-assistant-related duties.

612 3. Each nursing home must document compliance with staffing
613 standards as required under this paragraph and post daily the
614 names of staff on duty for the benefit of facility residents and
615 the public.

616 4. The agency shall recognize the use of licensed nurses
617 for compliance with minimum staffing requirements for certified
618 nursing assistants, provided that the facility otherwise meets
619 the minimum staffing requirements for licensed nurses and that
620 the licensed nurses are performing the duties of a certified



425866

621 nursing assistant. Unless otherwise approved by the agency,
622 licensed nurses counted toward the minimum staffing requirements
623 for certified nursing assistants must exclusively perform the
624 duties of a certified nursing assistant for the entire shift and
625 not also be counted toward the minimum staffing requirements for
626 licensed nurses. If the agency approved a facility's request to
627 use a licensed nurse to perform both licensed nursing and
628 certified nursing assistant duties, the facility must allocate
629 the amount of staff time specifically spent on certified nursing
630 assistant duties for the purpose of documenting compliance with
631 minimum staffing requirements for certified and licensed nursing
632 staff. In no event may the hours of a licensed nurse with dual
633 job responsibilities be counted twice.

634 ~~(b) The agency shall adopt rules to allow properly trained~~
635 ~~staff of a nursing facility, in addition to certified nursing~~
636 ~~assistants and licensed nurses, to assist residents with eating.~~
637 ~~The rules shall specify the minimum training requirements and~~
638 ~~shall specify the physiological conditions or disorders of~~
639 ~~residents which would necessitate that the eating assistance be~~
640 ~~provided by nursing personnel of the facility. Nonnursing staff~~
641 ~~providing eating assistance to residents under the provisions of~~
642 ~~this subsection shall not count toward compliance with minimum~~
643 ~~staffing standards.~~

644 (c) Licensed practical nurses licensed under chapter 464
645 who are providing nursing services in nursing home facilities
646 under this part may supervise the activities of other licensed
647 practical nurses, certified nursing assistants, and other
648 unlicensed personnel providing services in such facilities in
649 accordance with rules adopted by the Board of Nursing.



425866

650 Section 39. Paragraph (a) of subsection (7) of section
651 400.9935, Florida Statutes, is amended to read:
652 400.9935 Clinic responsibilities.—
653 (7) (a) Each clinic engaged in magnetic resonance imaging
654 services must be accredited by the Joint Commission on
655 Accreditation of Healthcare Organizations, the American College
656 of Radiology, or the Accreditation Association for Ambulatory
657 Health Care, within 1 year after licensure. A clinic that is
658 accredited by the American College of Radiology or is within the
659 original 1-year period after licensure and replaces its core
660 magnetic resonance imaging equipment shall be given 1 year after
661 the date on which the equipment is replaced to attain
662 accreditation. However, a clinic may request a single, 6-month
663 extension if it provides evidence to the agency establishing
664 that, for good cause shown, such clinic cannot ~~can not~~ be
665 accredited within 1 year after licensure, and that such
666 accreditation will be completed within the 6-month extension.
667 After obtaining accreditation as required by this subsection,
668 each such clinic must maintain accreditation as a condition of
669 renewal of its license. A clinic that files a change of
670 ownership application must comply with the original
671 accreditation timeframe requirements of the transferor. The
672 agency shall deny a change of ownership application if the
673 clinic is not in compliance with the accreditation requirements.
674 When a clinic adds, replaces, or modifies magnetic resonance
675 imaging equipment and the accreditation agency requires new
676 accreditation, the clinic must be accredited within 1 year after
677 the date of the addition, replacement, or modification but may
678 request a single, 6-month extension if the clinic provides



425866

679 evidence of good cause to the agency.

680 Section 40. Subsection (6) of section 400.995, Florida
681 Statutes, is amended to read:

682 400.995 Agency administrative penalties.—

683 (6) During an inspection, ~~the agency, as an alternative to~~
684 ~~or in conjunction with an administrative action against a clinic~~
685 ~~for violations of this part and adopted rules,~~ shall make a
686 reasonable attempt to discuss each violation ~~and recommended~~
687 ~~corrective action~~ with the owner, medical director, or clinic
688 director of the clinic, prior to written notification. ~~The~~
689 ~~agency, instead of fixing a period within which the clinic shall~~
690 ~~enter into compliance with standards,~~ may request a plan of
691 ~~corrective action from the clinic which demonstrates a good~~
692 ~~faith effort to remedy each violation by a specific date,~~
693 ~~subject to the approval of the agency.~~

694 Section 41. Subsections (5), (9), and (13) of section
695 408.803, Florida Statutes, are amended to read:

696 408.803 Definitions.—As used in this part, the term:

697 (5) "Change of ownership" means:

698 (a) An event in which the licensee sells or otherwise
699 transfers its ownership changes to a different individual or
700 legal entity as evidenced by a change in federal employer
701 identification number or taxpayer identification number; or

702 (b) An event in which 51 45 percent or more of the
703 ownership, voting shares, membership, or controlling interest of
704 a licensee is in any manner transferred or otherwise assigned.

705 This paragraph does not apply to a licensee that is publicly
706 traded on a recognized stock exchange ~~in a corporation whose~~
707 ~~shares are not publicly traded on a recognized stock exchange is~~



425866

708 ~~transferred or assigned, including the final transfer or~~
709 ~~assignment of multiple transfers or assignments over a 2-year~~
710 ~~period that cumulatively total 45 percent or greater.~~

711
712 A change solely in the management company or board of directors
713 is not a change of ownership.

714 (9) "Licensee" means an individual, corporation,
715 partnership, firm, association, ~~or~~ governmental entity, or other
716 entity that is issued a permit, registration, certificate, or
717 license by the agency. The licensee is legally responsible for
718 all aspects of the provider operation.

719 (13) "Voluntary board member" means a board member or
720 officer of a not-for-profit corporation or organization who
721 serves solely in a voluntary capacity, does not receive any
722 remuneration for his or her services on the board of directors,
723 and has no financial interest in the corporation or
724 organization. ~~The agency shall recognize a person as a voluntary~~
725 ~~board member following submission of a statement to the agency~~
726 ~~by the board member and the not-for-profit corporation or~~
727 ~~organization that affirms that the board member conforms to this~~
728 ~~definition. The statement affirming the status of the board~~
729 ~~member must be submitted to the agency on a form provided by the~~
730 ~~agency.~~

731 Section 42. Paragraph (a) of subsection (1), subsection
732 (2), paragraph (c) of subsection (7), and subsection (8) of
733 section 408.806, Florida Statutes, are amended to read:

734 408.806 License application process.—

735 (1) An application for licensure must be made to the agency
736 on forms furnished by the agency, submitted under oath, and



425866

737 accompanied by the appropriate fee in order to be accepted and
738 considered timely. The application must contain information
739 required by authorizing statutes and applicable rules and must
740 include:

741 (a) The name, address, and social security number of:

742 1. The applicant;

743 2. The administrator or a similarly titled person who is
744 responsible for the day-to-day operation of the provider;

745 3. The financial officer or similarly titled person who is
746 responsible for the financial operation of the licensee or
747 provider; and

748 4. Each controlling interest if the applicant or
749 controlling interest is an individual.

750 (2) (a) The applicant for a renewal license must submit an
751 application that must be received by the agency at least 60 days
752 but no more than 120 days before ~~prior to~~ the expiration of the
753 current license. An application received more than 120 days
754 before the expiration of the current license shall be returned
755 to the applicant. If the renewal application and fee are
756 received prior to the license expiration date, the license shall
757 not be deemed to have expired if the license expiration date
758 occurs during the agency's review of the renewal application.

759 (b) The applicant for initial licensure due to a change of
760 ownership must submit an application that must be received by
761 the agency at least 60 days prior to the date of change of
762 ownership.

763 (c) For any other application or request, the applicant
764 must submit an application or request that must be received by
765 the agency at least 60 days but no more than 120 days before



425866

766 ~~prior to~~ the requested effective date, unless otherwise
767 specified in authorizing statutes or applicable rules. An
768 application received more than 120 days before the requested
769 effective date shall be returned to the applicant.

770 (d) The agency shall notify the licensee by mail or
771 electronically at least 90 days before ~~prior to~~ the expiration
772 of a license that a renewal license is necessary to continue
773 operation. The failure to timely submit a renewal application
774 and license fee shall result in a \$50 per day late fee charged
775 to the licensee by the agency; however, the aggregate amount of
776 the late fee may not exceed 50 percent of the licensure fee or
777 \$500, whichever is less. If an application is received after the
778 required filing date and exhibits a hand-canceled postmark
779 obtained from a United States post office dated on or before the
780 required filing date, no fine will be levied.

781 (7)

782 (c) If an inspection is required by the authorizing statute
783 for a license application other than an initial application, the
784 inspection must be unannounced. This paragraph does not apply to
785 inspections required pursuant to ss. 383.324, 395.0161(4),
786 429.67(6), and 483.061(2).

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

- 790 (a) Licensure applications.
- 791 (b) Required signatures.
- 792 (c) Payment of fees.
- 793 (d) Notarization of applications.

794



425866

795 Requirements for electronic submission of any documents
796 required by this part or authorizing statutes may be established
797 by rule. As an alternative to sending documents as required by
798 authorizing statutes, the agency may provide electronic access
799 to information or documents.

800 Section 43. Subsection (2) of section 408.808, Florida
801 Statutes, is amended to read:

802 408.808 License categories.—

803 (2) PROVISIONAL LICENSE.—A provisional license may be
804 issued to an applicant pursuant to s. 408.809(3). An applicant
805 against whom a proceeding denying or revoking a license is
806 pending at the time of license renewal may be issued a
807 provisional license effective until final action not subject to
808 further appeal. A provisional license may also be issued to an
809 applicant applying for a change of ownership. A provisional
810 license shall be limited in duration to a specific period of
811 time, not to exceed 12 months, as determined by the agency.

812 Section 44. Subsection (5) of section 408.809, Florida
813 Statutes, is amended, and subsection (6) is added to that
814 section, to read:

815 408.809 Background screening; prohibited offenses.—

816 (5) Effective October 1, 2009, in addition to the offenses
817 listed in ss. 435.03 and 435.04, all persons required to undergo
818 background screening pursuant to this part or authorizing
819 statutes must not have been found guilty of, regardless of
820 adjudication, or entered a plea of nolo contendere or guilty to,
821 any of the following offenses or any similar offense of another
822 jurisdiction:

823 (a) Any authorizing statutes, if the offense was a felony.



425866

- 824 (b) This chapter, if the offense was a felony.
- 825 (c) Section 409.920, relating to Medicaid provider fraud,
826 if the offense was a felony.
- 827 (d) Section 409.9201, relating to Medicaid fraud, if the
828 offense was a felony.
- 829 (e) Section 741.28, relating to domestic violence.
- 830 (f) Chapter 784, relating to assault, battery, and culpable
831 negligence, if the offense was a felony.
- 832 (g) Section 810.02, relating to burglary.
- 833 (h) Section 817.034, relating to fraudulent acts through
834 mail, wire, radio, electromagnetic, photoelectronic, or
835 photooptical systems.
- 836 (i) Section 817.234, relating to false and fraudulent
837 insurance claims.
- 838 (j) Section 817.505, relating to patient brokering.
- 839 (k) Section 817.568, relating to criminal use of personal
840 identification information.
- 841 (l) Section 817.60, relating to obtaining a credit card
842 through fraudulent means.
- 843 (m) Section 817.61, relating to fraudulent use of credit
844 cards, if the offense was a felony.
- 845 (n) Section 831.01, relating to forgery.
- 846 (o) Section 831.02, relating to uttering forged
847 instruments.
- 848 (p) Section 831.07, relating to forging bank bills, checks,
849 drafts, or promissory notes.
- 850 (q) Section 831.09, relating to uttering forged bank bills,
851 checks, drafts, or promissory notes.
- 852 (r) Section 831.30, relating to fraud in obtaining



425866

853 medicinal drugs.

854 (s) Section 831.31, relating to the sale, manufacture,
855 delivery, or possession with the intent to sell, manufacture, or
856 deliver any counterfeit controlled substance, if the offense was
857 a felony.

858
859 A person who serves as a controlling interest of or is
860 employed by a licensee on September 30, 2009, is not required by
861 law to submit to rescreening if that licensee has in its
862 possession written evidence that the person has been screened
863 and qualified according to the standards specified in s. 435.03
864 or s. 435.04. However, if such person has a disqualifying
865 offense listed in this section, he or she may apply for an
866 exemption from the appropriate licensing agency before September
867 30, 2009, and if agreed to by the employer, may continue to
868 perform his or her duties until the licensing agency renders a
869 decision on the application for exemption for offenses listed in
870 this section. Exemptions from disqualification may be granted
871 pursuant to s. 435.07. ~~Background screening is not required to~~
872 ~~obtain a certificate of exemption issued under s. 483.106.~~

873 (6) The attestations required under ss. 435.04(5) and
874 435.05(3) must be submitted at the time of license renewal,
875 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)
876 which require annual submission of an affidavit of compliance
877 with background screening requirements.

878 Section 45. Section 408.811, Florida Statutes, is amended
879 to read:

880 408.811 Right of inspection; copies; inspection reports;
881 plan for correction of deficiencies.-



425866

882 (1) An authorized officer or employee of the agency may
883 make or cause to be made any inspection or investigation deemed
884 necessary by the agency to determine the state of compliance
885 with this part, authorizing statutes, and applicable rules. The
886 right of inspection extends to any business that the agency has
887 reason to believe is being operated as a provider without a
888 license, but inspection of any business suspected of being
889 operated without the appropriate license may not be made without
890 the permission of the owner or person in charge unless a warrant
891 is first obtained from a circuit court. Any application for a
892 license issued under this part, authorizing statutes, or
893 applicable rules constitutes permission for an appropriate
894 inspection to verify the information submitted on or in
895 connection with the application.

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

898 (b) Inspections for relicensure shall be conducted
899 biennially unless otherwise specified by authorizing statutes or
900 applicable rules.

901 (2) Inspections conducted in conjunction with
902 certification, comparable licensure requirements, or a
903 recognized or approved accreditation organization may be
904 accepted in lieu of a complete licensure inspection. However, a
905 licensure inspection may also be conducted to review any
906 licensure requirements that are not also requirements for
907 certification.

908 (3) The agency shall have access to and the licensee shall
909 provide, or if requested send, copies of all provider records
910 required during an inspection or other review at no cost to the



425866

911 agency, including records requested during an offsite review.

912 (4) A deficiency must be corrected within 30 calendar days
913 after the provider is notified of inspection results unless an
914 alternative timeframe is required or approved by the agency.

915 (5) The agency may require an applicant or licensee to
916 submit a plan of correction for deficiencies. If required, the
917 plan of correction must be filed with the agency within 10
918 calendar days after notification unless an alternative timeframe
919 is required.

920 (6) (a) ~~(4) (a)~~ Each licensee shall maintain as public
921 information, available upon request, records of all inspection
922 reports pertaining to that provider that have been filed by the
923 agency unless those reports are exempt from or contain
924 information that is exempt from s. 119.07(1) and s. 24(a), Art.
925 I of the State Constitution or is otherwise made confidential by
926 law. Effective October 1, 2006, copies of such reports shall be
927 retained in the records of the provider for at least 3 years
928 following the date the reports are filed and issued, regardless
929 of a change of ownership.

930 (b) A licensee shall, upon the request of any person who
931 has completed a written application with intent to be admitted
932 by such provider, any person who is a client of such provider,
933 or any relative, spouse, or guardian of any such person, furnish
934 to the requester a copy of the last inspection report pertaining
935 to the licensed provider that was issued by the agency or by an
936 accrediting organization if such report is used in lieu of a
937 licensure inspection.

938 Section 46. Section 408.813, Florida Statutes, is amended
939 to read:



425866

940 408.813 Administrative fines; violations.—As a penalty for
941 any violation of this part, authorizing statutes, or applicable
942 rules, the agency may impose an administrative fine.

943 (1) Unless the amount or aggregate limitation of the fine
944 is prescribed by authorizing statutes or applicable rules, the
945 agency may establish criteria by rule for the amount or
946 aggregate limitation of administrative fines applicable to this
947 part, authorizing statutes, and applicable rules. Each day of
948 violation constitutes a separate violation and is subject to a
949 separate fine. For fines imposed by final order of the agency
950 and not subject to further appeal, the violator shall pay the
951 fine plus interest at the rate specified in s. 55.03 for each
952 day beyond the date set by the agency for payment of the fine.

953 (2) Violations of this part, authorizing statutes, or
954 applicable rules shall be classified according to the nature of
955 the violation and the gravity of its probable effect on clients.
956 The scope of a violation may be cited as an isolated, patterned,
957 or widespread deficiency. An isolated deficiency is a deficiency
958 affecting one or a very limited number of clients, or involving
959 one or a very limited number of staff, or a situation that
960 occurred only occasionally or in a very limited number of
961 locations. A patterned deficiency is a deficiency in which more
962 than a very limited number of clients are affected, or more than
963 a very limited number of staff are involved, or the situation
964 has occurred in several locations, or the same client or clients
965 have been affected by repeated occurrences of the same deficient
966 practice but the effect of the deficient practice is not found
967 to be pervasive throughout the provider. A widespread deficiency
968 is a deficiency in which the problems causing the deficiency are



425866

969 pervasive in the provider or represent systemic failure that has
970 affected or has the potential to affect a large portion of the
971 provider's clients. This subsection does not affect the
972 legislative determination of the amount of a fine imposed under
973 authorizing statutes. Violations shall be classified on the
974 written notice as follows:

975 (a) Class "I" violations are those conditions or
976 occurrences related to the operation and maintenance of a
977 provider or to the care of clients which the agency determines
978 present an imminent danger to the clients of the provider or a
979 substantial probability that death or serious physical or
980 emotional harm would result therefrom. The condition or practice
981 constituting a class I violation shall be abated or eliminated
982 within 24 hours, unless a fixed period, as determined by the
983 agency, is required for correction. The agency shall impose an
984 administrative fine as provided by law for a cited class I
985 violation. A fine shall be levied notwithstanding the correction
986 of the violation.

987 (b) Class "II" violations are those conditions or
988 occurrences related to the operation and maintenance of a
989 provider or to the care of clients which the agency determines
990 directly threaten the physical or emotional health, safety, or
991 security of the clients, other than class I violations. The
992 agency shall impose an administrative fine as provided by law
993 for a cited class II violation. A fine shall be levied
994 notwithstanding the correction of the violation.

995 (c) Class "III" violations are those conditions or
996 occurrences related to the operation and maintenance of a
997 provider or to the care of clients which the agency determines



425866

998 indirectly or potentially threaten the physical or emotional
999 health, safety, or security of clients, other than class I or
1000 class II violations. The agency shall impose an administrative
1001 fine as provided in this section for a cited class III
1002 violation. A citation for a class III violation must specify the
1003 time within which the violation is required to be corrected. If
1004 a class III violation is corrected within the time specified, a
1005 fine may not be imposed.

1006 (d) Class "IV" violations are those conditions or
1007 occurrences related to the operation and maintenance of a
1008 provider or to required reports, forms, or documents that do not
1009 have the potential of negatively affecting clients. These
1010 violations are of a type that the agency determines do not
1011 threaten the health, safety, or security of clients. The agency
1012 shall impose an administrative fine as provided in this section
1013 for a cited class IV violation. A citation for a class IV
1014 violation must specify the time within which the violation is
1015 required to be corrected. If a class IV violation is corrected
1016 within the time specified, a fine may not be imposed.

1017 Section 47. Subsections (11), (12), (13), (14), (15), (16),
1018 (17), (18), (19), (20), (21), (22), (23), (24), (25), (26),
1019 (27), (28), and (29) of section 408.820, Florida Statutes, are
1020 amended to read:

1021 408.820 Exemptions.—Except as prescribed in authorizing
1022 statutes, the following exemptions shall apply to specified
1023 requirements of this part:

1024 ~~(11) Private review agents, as provided under part I of~~
1025 ~~chapter 395, are exempt from ss. 408.806(7), 408.810, and~~
1026 ~~408.811.~~



425866

1027 ~~(11)-(12)~~ Health care risk managers, as provided under part
1028 I of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-
1029 (10) ~~408.810~~, and 408.811.

1030 ~~(12)-(13)~~ Nursing homes, as provided under part II of
1031 chapter 400, are exempt from ss. 408.810(7) and 408.813(2) ~~s.~~
1032 ~~408.810(7)~~.

1033 ~~(13)-(14)~~ Assisted living facilities, as provided under part
1034 I of chapter 429, are exempt from s. 408.810(10).

1035 ~~(14)-(15)~~ Home health agencies, as provided under part III
1036 of chapter 400, are exempt from s. 408.810(10).

1037 ~~(15)-(16)~~ Nurse registries, as provided under part III of
1038 chapter 400, are exempt from s. 408.810(6) and (10).

1039 ~~(16)-(17)~~ Companion services or homemaker services
1040 providers, as provided under part III of chapter 400, are exempt
1041 from s. 408.810(6)-(10).

1042 ~~(17)-(18)~~ Adult day care centers, as provided under part III
1043 of chapter 429, are exempt from s. 408.810(10).

1044 ~~(18)-(19)~~ Adult family-care homes, as provided under part II
1045 of chapter 429, are exempt from s. 408.810(7)-(10).

1046 ~~(18)-(20)~~ Homes for special services, as provided under part
1047 V of chapter 400, are exempt from s. 408.810(7)-(10).

1048 ~~(20)-(21)~~ Transitional living facilities, as provided under
1049 part V of chapter 400, are exempt from s. 408.810(10) ~~s.~~
1050 ~~408.810(7)-(10)~~.

1051 ~~(21)-(22)~~ Prescribed pediatric extended care centers, as
1052 provided under part VI of chapter 400, are exempt from s.
1053 408.810(10).

1054 ~~(22)-(23)~~ Home medical equipment providers, as provided
1055 under part VII of chapter 400, are exempt from s. 408.810(10).



425866

1056 ~~(23)(24)~~ Intermediate care facilities for persons with
1057 developmental disabilities, as provided under part VIII of
1058 chapter 400, are exempt from s. 408.810(7).

1059 ~~(24)(25)~~ Health care services pools, as provided under part
1060 IX of chapter 400, are exempt from s. 408.810(6)-(10).

1061 ~~(25)(26)~~ Health care clinics, as provided under part X of
1062 chapter 400, are exempt from s. 408.810(6), (7), (10) ss.
1063 ~~408.809 and 408.810(1), (6), (7), and (10).~~

1064 ~~(26)(27)~~ Clinical laboratories, as provided under part I of
1065 chapter 483, are exempt from s. 408.810(5)-(10).

1066 ~~(27)(28)~~ Multiphasic health testing centers, as provided
1067 under part II of chapter 483, are exempt from s. 408.810(5)-
1068 (10).

1069 ~~(28)(29)~~ Organ and tissue procurement agencies, as provided
1070 under chapter 765, are exempt from s. 408.810(5)-(10).

1071 Section 48. Section 408.821, Florida Statutes, is created
1072 to read:

1073 408.821 Emergency management planning; emergency
1074 operations; inactive license.-

1075 (1) A licensee required by authorizing statutes to have an
1076 emergency operations plan must designate a safety liaison to
1077 serve as the primary contact for emergency operations.

1078 (2) An entity subject to this part may temporarily exceed
1079 its licensed capacity to act as a receiving provider in
1080 accordance with an approved emergency operations plan for up to
1081 15 days. While in an overcapacity status, each provider must
1082 furnish or arrange for appropriate care and services to all
1083 clients. In addition, the agency may approve requests for
1084 overcapacity in excess of 15 days, which approvals may be based



425866

1085 upon satisfactory justification and need as provided by the
1086 receiving and sending providers.

1087 (3) (a) An inactive license may be issued to a licensee
1088 subject to this section when the provider is located in a
1089 geographic area in which a state of emergency was declared by
1090 the Governor if the provider:

1091 1. Suffered damage to its operation during the state of
1092 emergency.

1093 2. Is currently licensed.

1094 3. Does not have a provisional license.

1095 4. Will be temporarily unable to provide services but is
1096 reasonably expected to resume services within 12 months.

1097 (b) An inactive license may be issued for a period not to
1098 exceed 12 months but may be renewed by the agency for up to 12
1099 additional months upon demonstration to the agency of progress
1100 toward reopening. A request by a licensee for an inactive
1101 license or to extend the previously approved inactive period
1102 must be submitted in writing to the agency, accompanied by
1103 written justification for the inactive license, which states the
1104 beginning and ending dates of inactivity and includes a plan for
1105 the transfer of any clients to other providers and appropriate
1106 licensure fees. Upon agency approval, the licensee shall notify
1107 clients of any necessary discharge or transfer as required by
1108 authorizing statutes or applicable rules. The beginning of the
1109 inactive licensure period shall be the date the provider ceases
1110 operations. The end of the inactive period shall become the
1111 license expiration date, and all licensure fees must be current,
1112 must be paid in full, and may be prorated. Reactivation of an
1113 inactive license requires the prior approval by the agency of a



425866

1114 renewal application, including payment of licensure fees and
1115 agency inspections indicating compliance with all requirements
1116 of this part and applicable rules and statutes.

1117 (4) The agency may adopt rules relating to emergency
1118 management planning, communications, and operations. Licensees
1119 providing residential or inpatient services must utilize an
1120 online database approved by the agency to report information to
1121 the agency regarding the provider's emergency status, planning,
1122 or operations.

1123 Section 49. Section 408.831, Florida Statutes, is amended
1124 to read:

1125 408.831 Denial, suspension, or revocation of a license,
1126 registration, certificate, or application.-

1127 (1) In addition to any other remedies provided by law, the
1128 agency may deny each application or suspend or revoke each
1129 license, registration, or certificate of entities regulated or
1130 licensed by it:

1131 (a) If the applicant, licensee, or a licensee subject to
1132 this part which shares a common controlling interest with the
1133 applicant has failed to pay all outstanding fines, liens, or
1134 overpayments assessed by final order of the agency or final
1135 order of the Centers for Medicare and Medicaid Services, not
1136 subject to further appeal, unless a repayment plan is approved
1137 by the agency; or

1138 (b) For failure to comply with any repayment plan.

1139 (2) In reviewing any application requesting a change of
1140 ownership or change of the licensee, registrant, or
1141 certificateholder, the transferor shall, prior to agency
1142 approval of the change, repay or make arrangements to repay any



425866

1143 amounts owed to the agency. Should the transferor fail to repay
1144 or make arrangements to repay the amounts owed to the agency,
1145 the issuance of a license, registration, or certificate to the
1146 transferee shall be delayed until repayment or until
1147 arrangements for repayment are made.

1148 ~~(3) An entity subject to this section may exceed its~~
1149 ~~licensed capacity to act as a receiving facility in accordance~~
1150 ~~with an emergency operations plan for clients of evacuating~~
1151 ~~providers from a geographic area where an evacuation order has~~
1152 ~~been issued by a local authority having jurisdiction. While in~~
1153 ~~an overcapacity status, each provider must furnish or arrange~~
1154 ~~for appropriate care and services to all clients. In addition,~~
1155 ~~the agency may approve requests for overcapacity beyond 15 days,~~
1156 ~~which approvals may be based upon satisfactory justification and~~
1157 ~~need as provided by the receiving and sending facilities.~~

1158 ~~(4) (a) An inactive license may be issued to a licensee~~
1159 ~~subject to this section when the provider is located in a~~
1160 ~~geographic area where a state of emergency was declared by the~~
1161 ~~Governor if the provider:~~

1162 ~~1. Suffered damage to its operation during that state of~~
1163 ~~emergency.~~

1164 ~~2. Is currently licensed.~~

1165 ~~3. Does not have a provisional license.~~

1166 ~~4. Will be temporarily unable to provide services but is~~
1167 ~~reasonably expected to resume services within 12 months.~~

1168 ~~(b) An inactive license may be issued for a period not to~~
1169 ~~exceed 12 months but may be renewed by the agency for up to 12~~
1170 ~~additional months upon demonstration to the agency of progress~~
1171 ~~toward reopening. A request by a licensee for an inactive~~



425866

1172 ~~license or to extend the previously approved inactive period~~
1173 ~~must be submitted in writing to the agency, accompanied by~~
1174 ~~written justification for the inactive license, which states the~~
1175 ~~beginning and ending dates of inactivity and includes a plan for~~
1176 ~~the transfer of any clients to other providers and appropriate~~
1177 ~~licensure fees. Upon agency approval, the licensee shall notify~~
1178 ~~clients of any necessary discharge or transfer as required by~~
1179 ~~authorizing statutes or applicable rules. The beginning of the~~
1180 ~~inactive licensure period shall be the date the provider ceases~~
1181 ~~operations. The end of the inactive period shall become the~~
1182 ~~licensee expiration date, and all licensure fees must be~~
1183 ~~current, paid in full, and may be prorated. Reactivation of an~~
1184 ~~inactive license requires the prior approval by the agency of a~~
1185 ~~renewal application, including payment of licensure fees and~~
1186 ~~agency inspections indicating compliance with all requirements~~
1187 ~~of this part and applicable rules and statutes.~~

1188 ~~(3)(5)~~ This section provides standards of enforcement
1189 applicable to all entities licensed or regulated by the Agency
1190 for Health Care Administration. This section controls over any
1191 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
1192 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to
1193 those chapters.

1194 Section 50. Subsection (2) of section 408.918, Florida
1195 Statutes, is amended, and subsection (3) is added to that
1196 section, to read:

1197 408.918 Florida 211 Network; uniform certification
1198 requirements.—

1199 (2) In order to participate in the Florida 211 Network, a
1200 211 provider must be fully accredited by the National certified



425866

1201 ~~by the Agency for Health Care Administration. The agency shall~~
1202 ~~develop criteria for certification, as recommended by the~~
1203 ~~Florida Alliance of Information and Referral Services or have~~
1204 ~~received approval to operate, pending accreditation, from its~~
1205 ~~affiliate, the Florida Alliance of Information and Referral~~
1206 ~~Services, and shall adopt the criteria as administrative rules.~~

1207 ~~(a) If any provider of information and referral services or~~
1208 ~~other entity leases a 211 number from a local exchange company~~
1209 ~~and is not authorized as described in this section, certified by~~
1210 ~~the agency, the agency shall, after consultation with the local~~
1211 ~~exchange company and the Public Service Commission shall,~~
1212 ~~request that the Federal Communications Commission direct the~~
1213 ~~local exchange company to revoke the use of the 211 number.~~

1214 ~~(b) The agency shall seek the assistance and guidance of~~
1215 ~~the Public Service Commission and the Federal Communications~~
1216 ~~Commission in resolving any disputes arising over jurisdiction~~
1217 ~~related to 211 numbers.~~

1218 (3) The Florida Alliance of Information and Referral
1219 Services is the 211 collaborative organization for the state
1220 which is responsible for studying, designing, implementing,
1221 supporting, and coordinating the Florida 211 Network and for
1222 receiving federal grants.

1223 Section 51. Paragraph (e) of subsection (4) of section
1224 409.221, Florida Statutes, is amended to read:

1225 409.221 Consumer-directed care program.—

1226 (4) CONSUMER-DIRECTED CARE.—

1227 (e) *Services.*—Consumers shall use the budget allowance only
1228 to pay for home and community-based services that meet the
1229 consumer's long-term care needs and are a cost-efficient use of



425866

1230 funds. Such services may include, but are not limited to, the
1231 following:

1232 1. Personal care.

1233 2. Homemaking and chores, including housework, meals,
1234 shopping, and transportation.

1235 3. Home modifications and assistive devices which may
1236 increase the consumer's independence or make it possible to
1237 avoid institutional placement.

1238 4. Assistance in taking self-administered medication.

1239 5. Day care and respite care services, including those
1240 provided by nursing home facilities pursuant to s. 400.141(1)(f)
1241 ~~s. 400.141(6)~~ or by adult day care facilities licensed pursuant
1242 to s. 429.907.

1243 6. Personal care and support services provided in an
1244 assisted living facility.

1245 Section 52. Subsection (5) of section 409.901, Florida
1246 Statutes, is amended to read:

1247 409.901 Definitions; ss. 409.901-409.920.—As used in ss.
1248 409.901-409.920, except as otherwise specifically provided, the
1249 term:

1250 (5) "Change of ownership" means:

1251 (a) An event in which the provider ownership changes to a
1252 different individual legal entity as evidenced by a change in
1253 federal employer identification number or taxpayer
1254 identification number; ~~or~~

1255 (b) An event in which 51 45 percent or more of the
1256 ownership, ~~voting~~ shares, membership, or controlling interest of
1257 a provider is in any manner transferred or otherwise assigned.

1258 This paragraph does not apply to a licensee that is publicly



425866

1259 traded on a recognized stock exchange; or

1260 (c) When the provider is licensed or registered by the
1261 agency, an event considered a change of ownership for licensure
1262 as defined in s. 408.803 in a corporation whose shares are not
1263 publicly traded on a recognized stock exchange is transferred or
1264 assigned, including the final transfer or assignment of multiple
1265 transfers or assignments over a 2-year period that cumulatively
1266 total 45 percent or more.

1267
1268 A change solely in the management company or board of directors
1269 is not a change of ownership.

1270 Section 53. Section 429.071, Florida Statutes, is repealed.

1271 Section 54. Paragraph (e) of subsection (1) and subsections
1272 (2) and (3) of section 429.08, Florida Statutes, are amended to
1273 read:

1274 429.08 Unlicensed facilities; referral of person for
1275 residency to unlicensed facility; penalties; verification of
1276 licensure status.-

1277 (1)

1278 (e) The agency shall publish ~~provide to the department's~~
1279 ~~elder information and referral providers~~ a list, by county, of
1280 licensed assisted living facilities, ~~to assist persons who are~~
1281 ~~considering an assisted living facility placement in locating a~~
1282 licensed facility. This information may be provided
1283 electronically or through the agency's Internet site.

1284 ~~(2) Each field office of the Agency for Health Care~~
1285 ~~Administration shall establish a local coordinating workgroup~~
1286 ~~which includes representatives of local law enforcement~~
1287 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~



425866

1288 ~~the Department of Legal Affairs, local fire authorities, the~~
1289 ~~Department of Children and Family Services, the district long-~~
1290 ~~term care ombudsman council, and the district human rights~~
1291 ~~advocacy committee to assist in identifying the operation of~~
1292 ~~unlicensed facilities and to develop and implement a plan to~~
1293 ~~ensure effective enforcement of state laws relating to such~~
1294 ~~facilities. The workgroup shall report its findings, actions,~~
1295 ~~and recommendations semiannually to the Director of Health~~
1296 ~~Quality Assurance of the agency.~~

1297 (2)~~(3)~~ It is unlawful to knowingly refer a person for
1298 residency to an unlicensed assisted living facility; to an
1299 assisted living facility the license of which is under denial or
1300 has been suspended or revoked; or to an assisted living facility
1301 that has a moratorium pursuant to part II of chapter 408. ~~Any~~
1302 ~~person who violates this subsection commits a noncriminal~~
1303 ~~violation, punishable by a fine not exceeding \$500 as provided~~
1304 ~~in s. 775.083.~~

1305 (a) Any health care practitioner, as defined in s. 456.001,
1306 who is aware of the operation of an unlicensed facility shall
1307 report that facility to the agency. Failure to report a facility
1308 that the practitioner knows or has reasonable cause to suspect
1309 is unlicensed shall be reported to the practitioner's licensing
1310 board.

1311 (b) Any provider as defined in s. 408.803 ~~hospital or~~
1312 ~~community mental health center licensed under chapter 395 or~~
1313 ~~chapter 394~~ which knowingly discharges a patient or client to an
1314 unlicensed facility is subject to sanction by the agency.

1315 (c) Any employee of the agency or department, or the
1316 Department of Children and Family Services, who knowingly refers



425866

1317 a person for residency to an unlicensed facility; to a facility
1318 the license of which is under denial or has been suspended or
1319 revoked; or to a facility that has a moratorium pursuant to part
1320 II of chapter 408 is subject to disciplinary action by the
1321 agency or department, or the Department of Children and Family
1322 Services.

1323 (d) The employer of any person who is under contract with
1324 the agency or department, or the Department of Children and
1325 Family Services, and who knowingly refers a person for residency
1326 to an unlicensed facility; to a facility the license of which is
1327 under denial or has been suspended or revoked; or to a facility
1328 that has a moratorium pursuant to part II of chapter 408 shall
1329 be fined and required to prepare a corrective action plan
1330 designed to prevent such referrals.

1331 ~~(e) The agency shall provide the department and the~~
1332 ~~Department of Children and Family Services with a list of~~
1333 ~~licensed facilities within each county and shall update the list~~
1334 ~~at least quarterly.~~

1335 ~~(f) At least annually, the agency shall notify, in~~
1336 ~~appropriate trade publications, physicians licensed under~~
1337 ~~chapter 458 or chapter 459, hospitals licensed under chapter~~
1338 ~~395, nursing home facilities licensed under part II of chapter~~
1339 ~~400, and employees of the agency or the department, or the~~
1340 ~~Department of Children and Family Services, who are responsible~~
1341 ~~for referring persons for residency, that it is unlawful to~~
1342 ~~knowingly refer a person for residency to an unlicensed assisted~~
1343 ~~living facility and shall notify them of the penalty for~~
1344 ~~violating such prohibition. The department and the Department of~~
1345 ~~Children and Family Services shall, in turn, notify service~~



425866

1346 ~~providers under contract to the respective departments who have~~
1347 ~~responsibility for resident referrals to facilities. Further,~~
1348 ~~the notice must direct each noticed facility and individual to~~
1349 ~~contact the appropriate agency office in order to verify the~~
1350 ~~licensure status of any facility prior to referring any person~~
1351 ~~for residency. Each notice must include the name, telephone~~
1352 ~~number, and mailing address of the appropriate office to~~
1353 ~~contact.~~

1354 Section 55. Paragraph (e) of subsection (1) of section
1355 429.14, Florida Statutes, is amended to read:

1356 429.14 Administrative penalties.-

1357 (1) In addition to the requirements of part II of chapter
1358 408, the agency may deny, revoke, and suspend any license issued
1359 under this part and impose an administrative fine in the manner
1360 provided in chapter 120 against a licensee of an assisted living
1361 facility for a violation of any provision of this part, part II
1362 of chapter 408, or applicable rules, or for any of the following
1363 actions by a licensee of an assisted living facility, for the
1364 actions of any person subject to level 2 background screening
1365 under s. 408.809, or for the actions of any facility employee:

1366 (e) A citation of any of the following deficiencies as
1367 specified ~~defined~~ in s. 429.19:

- 1368 1. One or more cited class I deficiencies.
1369 2. Three or more cited class II deficiencies.
1370 3. Five or more cited class III deficiencies that have been
1371 cited on a single survey and have not been corrected within the
1372 times specified.

1373 Section 56. Section 429.19, Florida Statutes, is amended to
1374 read:



425866

1375 429.19 Violations; imposition of administrative fines;
1376 grounds.—

1377 (1) In addition to the requirements of part II of chapter
1378 408, the agency shall impose an administrative fine in the
1379 manner provided in chapter 120 for the violation of any
1380 provision of this part, part II of chapter 408, and applicable
1381 rules by an assisted living facility, for the actions of any
1382 person subject to level 2 background screening under s. 408.809,
1383 for the actions of any facility employee, or for an intentional
1384 or negligent act seriously affecting the health, safety, or
1385 welfare of a resident of the facility.

1386 (2) Each violation of this part and adopted rules shall be
1387 classified according to the nature of the violation and the
1388 gravity of its probable effect on facility residents. The agency
1389 shall indicate the classification on the written notice of the
1390 violation as follows:

1391 (a) Class "I" violations are defined in s. 408.813 ~~those~~
1392 ~~conditions or occurrences related to the operation and~~
1393 ~~maintenance of a facility or to the personal care of residents~~
1394 ~~which the agency determines present an imminent danger to the~~
1395 ~~residents or guests of the facility or a substantial probability~~
1396 ~~that death or serious physical or emotional harm would result~~
1397 ~~therefrom. The condition or practice constituting a class I~~
1398 ~~violation shall be abated or eliminated within 24 hours, unless~~
1399 ~~a fixed period, as determined by the agency, is required for~~
1400 ~~correction.~~ The agency shall impose an administrative fine for a
1401 cited class I violation in an amount not less than \$5,000 and
1402 not exceeding \$10,000 for each violation. ~~A fine may be levied~~
1403 ~~notwithstanding the correction of the violation.~~



425866

1404 (b) Class "II" violations are defined in s. 408.813 ~~those~~
1405 ~~conditions or occurrences related to the operation and~~
1406 ~~maintenance of a facility or to the personal care of residents~~
1407 ~~which the agency determines directly threaten the physical or~~
1408 ~~emotional health, safety, or security of the facility residents,~~
1409 ~~other than class I violations.~~ The agency shall impose an
1410 administrative fine for a cited class II violation in an amount
1411 not less than \$1,000 and not exceeding \$5,000 for each
1412 violation. ~~A fine shall be levied notwithstanding the correction~~
1413 ~~of the violation.~~

1414 (c) Class "III" violations are defined in s. 408.813 ~~those~~
1415 ~~conditions or occurrences related to the operation and~~
1416 ~~maintenance of a facility or to the personal care of residents~~
1417 ~~which the agency determines indirectly or potentially threaten~~
1418 ~~the physical or emotional health, safety, or security of~~
1419 ~~facility residents, other than class I or class II violations.~~
1420 The agency shall impose an administrative fine for a cited class
1421 III violation in an amount not less than \$500 and not exceeding
1422 \$1,000 for each violation. ~~A citation for a class III violation~~
1423 ~~must specify the time within which the violation is required to~~
1424 ~~be corrected. If a class III violation is corrected within the~~
1425 ~~time specified, no fine may be imposed, unless it is a repeated~~
1426 ~~offense.~~

1427 (d) Class "IV" violations are defined in s. 408.813 ~~those~~
1428 ~~conditions or occurrences related to the operation and~~
1429 ~~maintenance of a building or to required reports, forms, or~~
1430 ~~documents that do not have the potential of negatively affecting~~
1431 ~~residents. These violations are of a type that the agency~~
1432 ~~determines do not threaten the health, safety, or security of~~



425866

1433 ~~residents of the facility.~~ The agency shall impose an
1434 administrative fine for a cited class IV violation in an amount
1435 not less than \$100 and not exceeding \$200 for each violation. A
1436 ~~citation for a class IV violation must specify the time within~~
1437 ~~which the violation is required to be corrected. If a class IV~~
1438 ~~violation is corrected within the time specified, no fine shall~~
1439 ~~be imposed. Any class IV violation that is corrected during the~~
1440 ~~time an agency survey is being conducted will be identified as~~
1441 ~~an agency finding and not as a violation.~~

1442 (3) For purposes of this section, in determining if a
1443 penalty is to be imposed and in fixing the amount of the fine,
1444 the agency shall consider the following factors:

1445 (a) The gravity of the violation, including the probability
1446 that death or serious physical or emotional harm to a resident
1447 will result or has resulted, the severity of the action or
1448 potential harm, and the extent to which the provisions of the
1449 applicable laws or rules were violated.

1450 (b) Actions taken by the owner or administrator to correct
1451 violations.

1452 (c) Any previous violations.

1453 (d) The financial benefit to the facility of committing or
1454 continuing the violation.

1455 (e) The licensed capacity of the facility.

1456 (4) Each day of continuing violation after the date fixed
1457 for termination of the violation, as ordered by the agency,
1458 constitutes an additional, separate, and distinct violation.

1459 (5) Any action taken to correct a violation shall be
1460 documented in writing by the owner or administrator of the
1461 facility and verified through followup visits by agency



425866

1462 personnel. The agency may impose a fine and, in the case of an
1463 owner-operated facility, revoke or deny a facility's license
1464 when a facility administrator fraudulently misrepresents action
1465 taken to correct a violation.

1466 (6) Any facility whose owner fails to apply for a change-
1467 of-ownership license in accordance with part II of chapter 408
1468 and operates the facility under the new ownership is subject to
1469 a fine of \$5,000.

1470 (7) In addition to any administrative fines imposed, the
1471 agency may assess a survey fee, equal to the lesser of one half
1472 of the facility's biennial license and bed fee or \$500, to cover
1473 the cost of conducting initial complaint investigations that
1474 result in the finding of a violation that was the subject of the
1475 complaint or monitoring visits conducted under s. 429.28(3)(c)
1476 to verify the correction of the violations.

1477 (8) During an inspection, the agency, ~~as an alternative to~~
1478 ~~or in conjunction with an administrative action against a~~
1479 ~~facility for violations of this part and adopted rules,~~ shall
1480 make a reasonable attempt to discuss each violation ~~and~~
1481 ~~recommended corrective action~~ with the owner or administrator of
1482 the facility, prior to written notification. ~~The agency, instead~~
1483 ~~of fixing a period within which the facility shall enter into~~
1484 ~~compliance with standards,~~ may request a plan of corrective
1485 ~~action from the facility which demonstrates a good faith effort~~
1486 ~~to remedy each violation by a specific date,~~ subject to the
1487 ~~approval of the agency.~~

1488 (9) The agency shall develop and disseminate an annual list
1489 of all facilities sanctioned or fined ~~\$5,000 or more~~ for
1490 violations of state standards, the number and class of



425866

1491 violations involved, the penalties imposed, and the current
1492 status of cases. The list shall be disseminated, at no charge,
1493 to the Department of Elderly Affairs, the Department of Health,
1494 the Department of Children and Family Services, the Agency for
1495 Persons with Disabilities, the area agencies on aging, the
1496 Florida Statewide Advocacy Council, and the state and local
1497 ombudsman councils. The Department of Children and Family
1498 Services shall disseminate the list to service providers under
1499 contract to the department who are responsible for referring
1500 persons to a facility for residency. The agency may charge a fee
1501 commensurate with the cost of printing and postage to other
1502 interested parties requesting a copy of this list. This
1503 information may be provided electronically or through the
1504 agency's Internet site.

1505 Section 57. Subsections (2) and (6) of section 429.23,
1506 Florida Statutes, are amended to read:

1507 429.23 Internal risk management and quality assurance
1508 program; adverse incidents and reporting requirements.—

1509 (2) Every facility licensed under this part is required to
1510 maintain adverse incident reports. For purposes of this section,
1511 the term, "adverse incident" means:

1512 (a) An event over which facility personnel could exercise
1513 control rather than as a result of the resident's condition and
1514 results in:

- 1515 1. Death;
- 1516 2. Brain or spinal damage;
- 1517 3. Permanent disfigurement;
- 1518 4. Fracture or dislocation of bones or joints;
- 1519 5. Any condition that required medical attention to which



425866

1520 the resident has not given his or her consent, including failure
1521 to honor advanced directives;

1522 6. Any condition that requires the transfer of the resident
1523 from the facility to a unit providing more acute care due to the
1524 incident rather than the resident's condition before the
1525 incident; or-

1526 7. An event that is reported to law enforcement or its
1527 personnel for investigation; or

1528 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
1529 ~~415.102;~~

1530 ~~(c) Events reported to law enforcement; or~~

1531 ~~(b)(d) Resident elopement, if the elopement places the~~
1532 ~~resident at risk of harm or injury.~~

1533 (6) Abuse, neglect, or exploitation must be reported to the
1534 Department of Children and Family Services as required under
1535 chapter 415 ~~The agency shall annually submit to the Legislature~~
1536 ~~a report on assisted living facility adverse incident reports.~~
1537 ~~The report must include the following information arranged by~~
1538 ~~county:~~

1539 ~~(a) A total number of adverse incidents;~~

1540 ~~(b) A listing, by category, of the type of adverse~~
1541 ~~incidents occurring within each category and the type of staff~~
1542 ~~involved;~~

1543 ~~(c) A listing, by category, of the types of injuries, if~~
1544 ~~any, and the number of injuries occurring within each category;~~

1545 ~~(d) Types of liability claims filed based on an adverse~~
1546 ~~incident report or reportable injury; and~~

1547 ~~(e) Disciplinary action taken against staff, categorized by~~
1548 ~~the type of staff involved.~~



425866

1549 Section 58. Subsection (9) of section 429.26, Florida
1550 Statutes, is repealed.

1551 Section 59. Subsection (3) of section 430.80, Florida
1552 Statutes, is amended to read:

1553 430.80 Implementation of a teaching nursing home pilot
1554 project.—

1555 (3) To be designated as a teaching nursing home, a nursing
1556 home licensee must, at a minimum:

1557 (a) Provide a comprehensive program of integrated senior
1558 services that include institutional services and community-based
1559 services;

1560 (b) Participate in a nationally recognized accreditation
1561 program and hold a valid accreditation, such as the
1562 accreditation awarded by the Joint Commission on Accreditation
1563 of Healthcare Organizations;

1564 (c) Have been in business in this state for a minimum of 10
1565 consecutive years;

1566 (d) Demonstrate an active program in multidisciplinary
1567 education and research that relates to gerontology;

1568 (e) Have a formalized contractual relationship with at
1569 least one accredited health profession education program located
1570 in this state;

1571 (f) Have a formalized contractual relationship with an
1572 accredited hospital that is designated by law as a teaching
1573 hospital; and

1574 (g) Have senior staff members who hold formal faculty
1575 appointments at universities, which must include at least one
1576 accredited health profession education program.

1577 (h) Maintain insurance coverage pursuant to s.



425866

1578 400.141(1)(s) ~~s. 400.141(20)~~ or proof of financial
1579 responsibility in a minimum amount of \$750,000. Such proof of
1580 financial responsibility may include:

- 1581 1. Maintaining an escrow account consisting of cash or
1582 assets eligible for deposit in accordance with s. 625.52; or
1583 2. Obtaining and maintaining pursuant to chapter 675 an
1584 unexpired, irrevocable, nontransferable and nonassignable letter
1585 of credit issued by any bank or savings association organized
1586 and existing under the laws of this state or any bank or savings
1587 association organized under the laws of the United States that
1588 has its principal place of business in this state or has a
1589 branch office which is authorized to receive deposits in this
1590 state. The letter of credit shall be used to satisfy the
1591 obligation of the facility to the claimant upon presentment of a
1592 final judgment indicating liability and awarding damages to be
1593 paid by the facility or upon presentment of a settlement
1594 agreement signed by all parties to the agreement when such final
1595 judgment or settlement is a result of a liability claim against
1596 the facility.

1597 Section 60. Subsection (5) of section 435.04, Florida
1598 Statutes, is amended to read:

1599 435.04 Level 2 screening standards.—

1600 (5) Under penalty of perjury, all employees in such
1601 positions of trust or responsibility shall attest to meeting the
1602 requirements for qualifying for employment and agreeing to
1603 inform the employer immediately if convicted of any of the
1604 disqualifying offenses while employed by the employer. Each
1605 employer of employees in such positions of trust or
1606 responsibilities which is licensed or registered by a state



425866

1607 agency shall submit to the licensing agency annually or at the
1608 time of license renewal, under penalty of perjury, an affidavit
1609 of compliance with the provisions of this section.

1610 Section 61. Subsection (3) of section 435.05, Florida
1611 Statutes, is amended to read:

1612 435.05 Requirements for covered employees.—Except as
1613 otherwise provided by law, the following requirements shall
1614 apply to covered employees:

1615 (3) Each employer required to conduct level 2 background
1616 screening must sign an affidavit annually or at the time of
1617 license renewal, under penalty of perjury, stating that all
1618 covered employees have been screened or are newly hired and are
1619 awaiting the results of the required screening checks.

1620 Section 62. Subsection (2) of section 483.031, Florida
1621 Statutes, is amended to read:

1622 483.031 Application of part; exemptions.—This part applies
1623 to all clinical laboratories within this state, except:

1624 (2) A clinical laboratory that performs only waived tests
1625 ~~and has received a certificate of exemption from the agency~~
1626 ~~under s. 483.106.~~

1627 Section 63. Subsection (10) of section 483.041, Florida
1628 Statutes, is amended to read:

1629 483.041 Definitions.—As used in this part, the term:

1630 (10) "Waived test" means a test that the federal Centers
1631 for Medicare and Medicaid Services ~~Health Care Financing~~
1632 ~~Administration~~ has determined qualifies for a certificate of
1633 waiver under the federal Clinical Laboratory Improvement
1634 Amendments of 1988, and the federal rules adopted thereunder.

1635 Section 64. Section 483.106, Florida Statutes, is repealed.



425866

1636 Section 65. Subsection (3) of section 483.172, Florida
1637 Statutes, is amended to read:

1638 483.172 License fees.—

1639 (3) The agency shall assess ~~a biennial fee of \$100 for a~~
1640 ~~certificate of exemption and a \$100 biennial~~ license fee under
1641 this section for facilities surveyed by an approved accrediting
1642 organization.

1643 Section 66. Paragraph (b) of subsection (1) of section
1644 627.4239, Florida Statutes, is amended to read:

1645 627.4239 Coverage for use of drugs in treatment of cancer.—

1646 (1) DEFINITIONS.—As used in this section, the term:

1647 (b) "Standard reference compendium" means authoritative
1648 compendia identified by the Secretary of the United States
1649 Department of Health and Human Services and recognized by the
1650 federal Centers for Medicare and Medicaid Services;

1651 ~~1. The United States Pharmacopeia Drug Information;~~
1652 ~~2. The American Medical Association Drug Evaluations; or~~
1653 ~~3. The American Hospital Formulary Service Drug~~
1654 ~~Information.~~

1655 Section 67. Subsection (13) of section 651.118, Florida
1656 Statutes, is amended to read:

1657 651.118 Agency for Health Care Administration; certificates
1658 of need; sheltered beds; community beds.—

1659 (13) Residents, as defined in this chapter, are not
1660 considered new admissions for the purpose of s. 400.141

1661 (1) (o) 1.d. s. 400.141(15) (d).

1662
1663 ===== T I T L E A M E N D M E N T =====

1664 And the title is amended as follows:



425866

1665 Delete line 153
1666 and insert:
1667 changes made by the act; repealing s. 395.0199, F.S.,
1668 relating to private utilization review of health care
1669 services; amending ss. 395.405 and 400.0712, F.S.;
1670 conforming cross-references; repealing s. 400.118(2),
1671 F.S.; removing provisions requiring quality-of-care
1672 monitors for nursing facilities in agency district
1673 offices; amending s. 400.141, F.S.; deleting a
1674 requirement that licensed nursing home facilities
1675 provide the agency with a monthly report on the number
1676 of vacant beds in the facility; amending s. 400.147,
1677 F.S.; revising the definition of the term "adverse
1678 incident" for reporting purposes; requiring abuse,
1679 neglect, and exploitation to be reported to the agency
1680 and the Department of Children and Family Services;
1681 deleting a requirement that the agency submit an
1682 annual report on nursing home adverse incidents to the
1683 Legislature; amending s. 400.162, F.S.; revising
1684 requirements for policies and procedures regarding the
1685 safekeeping of a resident's personal effects and
1686 property; amending s. 400.191; F.S.; revising the
1687 information on the agency's Internet site regarding
1688 nursing homes; deleting the provision that requires
1689 the agency to provide information about nursing homes
1690 in printed form; amending s. 400.195, F.S.; conforming
1691 a cross-reference; amending s. 400.23, F.S.; deleting
1692 the requirement of the agency to adopt rules regarding
1693 the eating assistance provided to residents; amending



425866

1694 s. 400.9935, F.S.; revising accreditation requirements
1695 for clinics providing magnetic resonance imaging
1696 services; amending s. 400.995, F.S.; revising agency
1697 responsibilities with respect to agency administrative
1698 penalties; amending s. 408.803, F.S.; revising
1699 definitions applicable to part II of ch. 408, F.S.,
1700 the "Health Care Licensing Procedures Act"; amending
1701 s. 408.806, F.S.; revising contents of and procedures
1702 relating to health care provider applications for
1703 licensure; providing an exception from certain
1704 licensure inspections for adult family-care homes;
1705 authorizing the agency to provide electronic access to
1706 certain information and documents; amending s.
1707 408.808, F.S.; providing for a provisional license to
1708 be issued to applicants applying for a change of
1709 ownership; providing a time limit on provisional
1710 licenses; amending s. 408.809, F.S.; revising
1711 provisions relating to background screening of
1712 specified employees; requiring health care providers
1713 to submit to the agency an affidavit of compliance
1714 with background screening requirements at the time of
1715 license renewal; deleting a provision to conform to
1716 changes made by the act; amending s. 408.811, F.S.;
1717 providing for certain inspections to be accepted in
1718 lieu of complete licensure inspections; granting
1719 agency access to records requested during an offsite
1720 review; providing timeframes for correction of certain
1721 deficiencies and submission of plans to correct the
1722 deficiencies; amending s. 408.813, F.S.; providing



425866

1723 classifications of violations of part II of ch. 408,
1724 F.S.; providing for fines; amending s. 408.820, F.S.;
1725 revising applicability of certain exemptions from
1726 specified requirements of part II of ch. 408, F.S.;
1727 creating s. 408.821, F.S.; requiring entities
1728 regulated or licensed by the agency to designate a
1729 liaison officer for emergency operations; authorizing
1730 entities regulated or licensed by the agency to
1731 temporarily exceed their licensed capacity to act as
1732 receiving providers under specified circumstances;
1733 providing requirements that apply while such entities
1734 are in an overcapacity status; providing for issuance
1735 of an inactive license to such licensees under
1736 specified conditions; providing requirements and
1737 procedures with respect to the issuance and
1738 reactivation of an inactive license; authorizing the
1739 agency to adopt rules; amending s. 408.831, F.S.;
1740 deleting provisions relating to the authorization for
1741 entities regulated or licensed by the agency to exceed
1742 their licensed capacity to act as receiving facilities
1743 and issuance and reactivation of inactive licenses;
1744 amending s. 408.918, F.S.; revising the requirements
1745 of a provider to participate in the Florida 211
1746 network; requiring the Public Service Commission to
1747 request the Federal Communications Commission to
1748 direct the revocation of a 211 number under certain
1749 circumstances; deleting the requirement for the Agency
1750 for Health Care Administration to seek assistance in
1751 resolving jurisdictional disputes related to 211



425866

1752 numbers; providing that the Florida Alliance of
1753 Information and Referral Services is the collaborative
1754 organization for the state; amending s. 409.221, F.S.;
1755 conforming a cross-reference; amending s. 409.901,
1756 F.S.; redefining the term "change of ownership" as it
1757 relates to Medicaid providers; repealing s. 429.071,
1758 F.S., relating to the intergenerational respite care
1759 assisted living facility pilot program; amending s.
1760 429.08, F.S.; authorizing the agency to provide
1761 information regarding licensed assisted living
1762 facilities on its Internet website; abolishing local
1763 coordinating workgroups established by agency field
1764 offices; amending s. 429.14, F.S.; conforming a
1765 reference; amending s. 429.19, F.S.; revising agency
1766 procedures for imposition of fines for violations of
1767 part I of ch. 429, F.S., the "Assisted Living
1768 Facilities Act"; amending s. 429.23, F.S.; redefining
1769 the term "adverse incident" for reporting purposes;
1770 requiring abuse, neglect, and exploitation to be
1771 reported to the agency and the Department of Children
1772 and Family Services; deleting a requirement that the
1773 agency submit an annual report on assisted living
1774 facility adverse incidents to the Legislature;
1775 repealing s. 429.26(9), F.S., relating to the removal
1776 of the requirement for a resident of an assisted
1777 living facility to undergo examinations and
1778 evaluations under certain circumstances; amending s.
1779 430.80, F.S.; conforming a cross-reference; amending
1780 ss. 435.04 and 435.05, F.S.; requiring employers of



425866

1781 certain employees to submit an affidavit of compliance
1782 with level 2 screening requirements at the time of
1783 license renewal; amending s. 483.031, F.S.; revising a
1784 provision relating to the exemption of certain
1785 clinical laboratories, to conform to changes made by
1786 the act; amending s. 483.041, F.S.; redefining the
1787 term "waived test" as it is used in part I of ch. 483,
1788 F.S., the "Florida Clinical Laboratory Law"; repealing
1789 s. 483.106, F.S., relating to applications for
1790 certificates of exemption by clinical laboratories
1791 that perform certain tests; amending ss. 483.172,
1792 F.S.; conforming provisions; amending s. 627.4239,
1793 F.S.; revising the term "standard reference
1794 compendium"; amending s. 651.118, F.S.; conforming a
1795 cross-reference; providing an effective date.