



181138

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Health Regulation (Gardiner) recommended the following:

1           **Senate** ~~Substitute for Amendment (705470)~~ **(with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 395.0199, Florida Statutes, is repealed.

7           Section 2. Section 395.405, Florida Statutes, is amended to  
8 read:

9           395.405 Rulemaking.—The department shall adopt and enforce  
10 all rules necessary to administer ss. ~~395.0199~~, 395.401,  
11 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.

12           Section 3. Subsection (1) of section 400.0712, Florida



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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 4. Subsection (2) of section 400.118, Florida  
25 Statutes, is repealed.

26 Section 5. Section 400.141, Florida Statutes, is amended to  
27 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  
41 specified in s. 400.022(1)(q). Any other law to the contrary



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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  
70 dental and other health-related services, recreational services,



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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  
99 facility is cited for deficiencies in patient care, may require



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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  
128 or a certified nursing assistant does not cause the facility to



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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  
157 frequency and duration, and service goals. The records shall be



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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  
186 stability, including information regarding certified nursing



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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  
215 absent from the facility for the purpose of receiving medical





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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.

244 (q)~~(18)~~ If the facility implements a dining and hospitality



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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  
273 availability of an adequate supply of the necessary vaccine,



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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  
302 medical contraindications and religious or personal beliefs.



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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 6. 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  
331 control and which is associated in whole or in part with the



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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  
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  
389 act or proceeding undertaken or performed within the scope of



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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  
418 those records from which the credentialing organization gathered



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419 its information.

420 Section 7. 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 8. Paragraph (d) of subsection (1) of section  
445 400.195, Florida Statutes, is amended to read:

446 400.195 Agency reporting requirements.-

447 (1) For the period beginning June 30, 2001, and ending June





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448 30, 2005, the Agency for Health Care Administration shall  
449 provide a report to the Governor, the President of the Senate,  
450 and the Speaker of the House of Representatives with respect to  
451 nursing homes. The first report shall be submitted no later than  
452 December 30, 2002, and subsequent reports shall be submitted  
453 every 6 months thereafter. The report shall identify facilities  
454 based on their ownership characteristics, size, business  
455 structure, for-profit or not-for-profit status, and any other  
456 characteristics the agency determines useful in analyzing the  
457 varied segments of the nursing home industry and shall report:

458 (d) Information regarding deficiencies cited, including  
459 information used to develop the Nursing Home Guide WATCH LIST  
460 pursuant to s. 400.191, and applicable rules, a summary of data  
461 generated on nursing homes by Centers for Medicare and Medicaid  
462 Services Nursing Home Quality Information Project, and  
463 information collected pursuant to s. 400.147(10) ~~s. 400.147(9)~~,  
464 relating to litigation.

465 Section 9. Subsection (3) of section 400.23, Florida  
466 Statutes, is amended to read:

467 400.23 Rules; evaluation and deficiencies; licensure  
468 status.—

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

472 a. A minimum certified nursing assistant staffing of 2.6  
473 hours of direct care per resident per day beginning January 1,  
474 2003, and increasing to 2.7 hours of direct care per resident  
475 per day beginning January 1, 2007. Beginning January 1, 2002, no  
476 facility shall staff below one certified nursing assistant per



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477 20 residents, and a minimum licensed nursing staffing of 1.0  
478 hour of direct care per resident per day but never below one  
479 licensed nurse per 40 residents.

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

484 2. Nursing assistants employed under s. 400.211(2) may be  
485 included in computing the staffing ratio for certified nursing  
486 assistants only if their job responsibilities include only  
487 nursing-assistant-related duties.

488 3. Each nursing home must document compliance with staffing  
489 standards as required under this paragraph and post daily the  
490 names of staff on duty for the benefit of facility residents and  
491 the public.

492 4. The agency shall recognize the use of licensed nurses  
493 for compliance with minimum staffing requirements for certified  
494 nursing assistants, provided that the facility otherwise meets  
495 the minimum staffing requirements for licensed nurses and that  
496 the licensed nurses are performing the duties of a certified  
497 nursing assistant. Unless otherwise approved by the agency,  
498 licensed nurses counted toward the minimum staffing requirements  
499 for certified nursing assistants must exclusively perform the  
500 duties of a certified nursing assistant for the entire shift and  
501 not also be counted toward the minimum staffing requirements for  
502 licensed nurses. If the agency approved a facility's request to  
503 use a licensed nurse to perform both licensed nursing and  
504 certified nursing assistant duties, the facility must allocate  
505 the amount of staff time specifically spent on certified nursing



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506 assistant duties for the purpose of documenting compliance with  
507 minimum staffing requirements for certified and licensed nursing  
508 staff. In no event may the hours of a licensed nurse with dual  
509 job responsibilities be counted twice.

510 ~~(b) The agency shall adopt rules to allow properly trained~~  
511 ~~staff of a nursing facility, in addition to certified nursing~~  
512 ~~assistants and licensed nurses, to assist residents with eating.~~  
513 ~~The rules shall specify the minimum training requirements and~~  
514 ~~shall specify the physiological conditions or disorders of~~  
515 ~~residents which would necessitate that the eating assistance be~~  
516 ~~provided by nursing personnel of the facility. Nonnursing staff~~  
517 ~~providing eating assistance to residents under the provisions of~~  
518 ~~this subsection shall not count toward compliance with minimum~~  
519 ~~staffing standards.~~

520 (c) Licensed practical nurses licensed under chapter 464  
521 who are providing nursing services in nursing home facilities  
522 under this part may supervise the activities of other licensed  
523 practical nurses, certified nursing assistants, and other  
524 unlicensed personnel providing services in such facilities in  
525 accordance with rules adopted by the Board of Nursing.

526 Section 10. Paragraph (a) of subsection (15) of section  
527 400.506, Florida Statutes, is amended to read:

528 400.506 Licensure of nurse registries; requirements;  
529 penalties.—

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

533 1. Provides services to residents in an assisted living  
534 facility for which the nurse registry does not receive fair



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535 market value remuneration.

536 2. Provides staffing to an assisted living facility for  
537 which the nurse registry does not receive fair market value  
538 remuneration.

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

542 4. Gives remuneration to a case manager, discharge planner,  
543 facility-based staff member, or third-party vendor who is  
544 involved in the discharge planning process of a facility  
545 licensed under chapter 395 or this chapter and from whom the  
546 nurse registry receives referrals, except that this subparagraph  
547 does not apply to a nurse registry that does not participate in  
548 the Medicaid or Medicare program.

549 5. Gives remuneration to a physician, a member of the  
550 physician's office staff, or an immediate family member of the  
551 physician, and the nurse registry received a patient referral in  
552 the last 12 months from that physician or the physician's office  
553 staff, except that this subparagraph does not apply to a nurse  
554 registry that does not participate in the Medicaid or Medicare  
555 program.

556 Section 11. Paragraph (a) of subsection (7) of section  
557 400.9935, Florida Statutes, is amended to read:

558 400.9935 Clinic responsibilities.—

559 (7) (a) Each clinic engaged in magnetic resonance imaging  
560 services must be accredited by the Joint Commission on  
561 Accreditation of Healthcare Organizations, the American College  
562 of Radiology, or the Accreditation Association for Ambulatory  
563 Health Care, within 1 year after licensure. A clinic that is



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564 accredited by the American College of Radiology or is within the  
565 original 1-year period after licensure and replaces its core  
566 magnetic resonance imaging equipment shall be given 1 year after  
567 the date on which the equipment is replaced to attain  
568 accreditation. However, a clinic may request a single, 6-month  
569 extension if it provides evidence to the agency establishing  
570 that, for good cause shown, such clinic cannot ~~can not~~ be  
571 accredited within 1 year after licensure, and that such  
572 accreditation will be completed within the 6-month extension.  
573 After obtaining accreditation as required by this subsection,  
574 each such clinic must maintain accreditation as a condition of  
575 renewal of its license. A clinic that files a change of  
576 ownership application must comply with the original  
577 accreditation timeframe requirements of the transferor. The  
578 agency shall deny a change of ownership application if the  
579 clinic is not in compliance with the accreditation requirements.  
580 When a clinic adds, replaces, or modifies magnetic resonance  
581 imaging equipment and the accreditation agency requires new  
582 accreditation, the clinic must be accredited within 1 year after  
583 the date of the addition, replacement, or modification but may  
584 request a single, 6-month extension if the clinic provides  
585 evidence of good cause to the agency.

586 Section 12. Subsection (6) of section 400.995, Florida  
587 Statutes, is amended to read:

588 400.995 Agency administrative penalties.—

589 (6) During an inspection, the agency, ~~as an alternative to~~  
590 ~~or in conjunction with an administrative action against a clinic~~  
591 ~~for violations of this part and adopted rules,~~ shall make a  
592 reasonable attempt to discuss each violation and ~~recommended~~



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593 ~~corrective action~~ with the owner, medical director, or clinic  
594 director of the clinic, prior to written notification. ~~The~~  
595 ~~agency, instead of fixing a period within which the clinic shall~~  
596 ~~enter into compliance with standards, may request a plan of~~  
597 ~~corrective action from the clinic which demonstrates a good~~  
598 ~~faith effort to remedy each violation by a specific date,~~  
599 ~~subject to the approval of the agency.~~

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

602 408.803 Definitions.—As used in this part, the term:

603 (5) "Change of ownership" means:

604 (a) An event in which the licensee sells or otherwise  
605 transfers its ownership changes to a different individual or  
606 legal entity as evidenced by a change in federal employer  
607 identification number or taxpayer identification number; or

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

611 This paragraph does not apply to a licensee that is publicly  
612 traded on a recognized stock exchange in a corporation whose  
613 shares are not publicly traded on a recognized stock exchange is  
614 transferred or assigned, including the final transfer or  
615 assignment of multiple transfers or assignments over a 2-year  
616 period that cumulatively total 45 percent or greater.

617  
618 A change solely in the management company or board of directors  
619 is not a change of ownership.

620 (9) "Licensee" means an individual, corporation,  
621 partnership, firm, association, ~~or~~ governmental entity, or other



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622 entity that is issued a permit, registration, certificate, or  
623 license by the agency. The licensee is legally responsible for  
624 all aspects of the provider operation.

625 Section 14. Paragraph (a) of subsection (1), subsection  
626 (2), paragraph (c) of subsection (7), and subsection (8) of  
627 section 408.806, Florida Statutes, are amended to read:

628 408.806 License application process.—

629 (1) An application for licensure must be made to the agency  
630 on forms furnished by the agency, submitted under oath, and  
631 accompanied by the appropriate fee in order to be accepted and  
632 considered timely. The application must contain information  
633 required by authorizing statutes and applicable rules and must  
634 include:

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

636 1. The applicant;

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

639 3. The financial officer or similarly titled person who is  
640 responsible for the financial operation of the licensee or  
641 provider; and

642 4. Each controlling interest if the applicant or  
643 controlling interest is an individual.

644 (2) (a) The applicant for a renewal license must submit an  
645 application that must be received by the agency at least 60 days  
646 but no more than 120 days before ~~prior to~~ the expiration of the  
647 current license. An application received more than 120 days  
648 before the expiration of the current license shall be returned  
649 to the applicant. If the renewal application and fee are  
650 received prior to the license expiration date, the license shall



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651 not be deemed to have expired if the license expiration date  
652 occurs during the agency's review of the renewal application.

653 (b) The applicant for initial licensure due to a change of  
654 ownership must submit an application that must be received by  
655 the agency at least 60 days prior to the date of change of  
656 ownership.

657 (c) For any other application or request, the applicant  
658 must submit an application or request that must be received by  
659 the agency at least 60 days but no more than 120 days before  
660 ~~prior to~~ the requested effective date, unless otherwise  
661 specified in authorizing statutes or applicable rules. An  
662 application received more than 120 days before the requested  
663 effective date shall be returned to the applicant.

664 (d) The agency shall notify the licensee by mail or  
665 electronically at least 90 days before ~~prior to~~ the expiration  
666 of a license that a renewal license is necessary to continue  
667 operation. The failure to timely submit a renewal application  
668 and license fee shall result in a \$50 per day late fee charged  
669 to the licensee by the agency; however, the aggregate amount of  
670 the late fee may not exceed 50 percent of the licensure fee or  
671 \$500, whichever is less. If an application is received after the  
672 required filing date and exhibits a hand-canceled postmark  
673 obtained from a United States post office dated on or before the  
674 required filing date, no fine will be levied.

675 (7)

676 (c) If an inspection is required by the authorizing statute  
677 for a license application other than an initial application, the  
678 inspection must be unannounced. This paragraph does not apply to  
679 inspections required pursuant to ss. 383.324, 395.0161(4),





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680 429.67(6), and 483.061(2).

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

- 684 (a) Licensure applications.
- 685 (b) Required signatures.
- 686 (c) Payment of fees.
- 687 (d) Notarization of applications.

688

689 Requirements for electronic submission of any documents required  
690 by this part or authorizing statutes may be established by rule.  
691 As an alternative to sending documents as required by  
692 authorizing statutes, the agency may provide electronic access  
693 to information or documents.

694 Section 15. Subsection (2) of section 408.808, Florida  
695 Statutes, is amended to read:

696 408.808 License categories.—

697 (2) PROVISIONAL LICENSE.—A provisional license may be  
698 issued to an applicant pursuant to s. 408.809(3). An applicant  
699 against whom a proceeding denying or revoking a license is  
700 pending at the time of license renewal may be issued a  
701 provisional license effective until final action not subject to  
702 further appeal. A provisional license may also be issued to an  
703 applicant applying for a change of ownership. A provisional  
704 license shall be limited in duration to a specific period of  
705 time, not to exceed 12 months, as determined by the agency.

706 Section 16. Subsection (5) of section 408.809, Florida  
707 Statutes, is amended, and subsection (6) is added to that  
708 section, to read:



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709 408.809 Background screening; prohibited offenses.-

710 (5) Effective October 1, 2009, in addition to the offenses  
711 listed in ss. 435.03 and 435.04, all persons required to undergo  
712 background screening pursuant to this part or authorizing  
713 statutes must not have been found guilty of, regardless of  
714 adjudication, or entered a plea of nolo contendere or guilty to,  
715 any of the following offenses or any similar offense of another  
716 jurisdiction:

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

718 (b) This chapter, if the offense was a felony.

719 (c) Section 409.920, relating to Medicaid provider fraud,  
720 if the offense was a felony.

721 (d) Section 409.9201, relating to Medicaid fraud, if the  
722 offense was a felony.

723 (e) Section 741.28, relating to domestic violence.

724 (f) Chapter 784, relating to assault, battery, and culpable  
725 negligence, if the offense was a felony.

726 (g) Section 810.02, relating to burglary.

727 (h) Section 817.034, relating to fraudulent acts through  
728 mail, wire, radio, electromagnetic, photoelectronic, or  
729 photooptical systems.

730 (i) Section 817.234, relating to false and fraudulent  
731 insurance claims.

732 (j) Section 817.505, relating to patient brokering.

733 (k) Section 817.568, relating to criminal use of personal  
734 identification information.

735 (l) Section 817.60, relating to obtaining a credit card  
736 through fraudulent means.

737 (m) Section 817.61, relating to fraudulent use of credit



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738 cards, if the offense was a felony.

739 (n) Section 831.01, relating to forgery.

740 (o) Section 831.02, relating to uttering forged  
741 instruments.

742 (p) Section 831.07, relating to forging bank bills, checks,  
743 drafts, or promissory notes.

744 (q) Section 831.09, relating to uttering forged bank bills,  
745 checks, drafts, or promissory notes.

746 (r) Section 831.30, relating to fraud in obtaining  
747 medicinal drugs.

748 (s) Section 831.31, relating to the sale, manufacture,  
749 delivery, or possession with the intent to sell, manufacture, or  
750 deliver any counterfeit controlled substance, if the offense was  
751 a felony.

752  
753 A person who serves as a controlling interest of or is employed  
754 by a licensee on September 30, 2009, is not required by law to  
755 submit to rescreening if that licensee has in its possession  
756 written evidence that the person has been screened and qualified  
757 according to the standards specified in s. 435.03 or s. 435.04.  
758 However, if such person has a disqualifying offense listed in  
759 this section, he or she may apply for an exemption from the  
760 appropriate licensing agency before September 30, 2009, and if  
761 agreed to by the employer, may continue to perform his or her  
762 duties until the licensing agency renders a decision on the  
763 application for exemption for offenses listed in this section.  
764 Exemptions from disqualification may be granted pursuant to s.  
765 435.07. Background screening is not required to obtain a  
766 certificate of exemption issued under s. 483.106.



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767           (6) The attestations required under ss. 435.04(5) and  
768 435.05(3) must be submitted at the time of license renewal,  
769 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)  
770 which require annual submission of an affidavit of compliance  
771 with background screening requirements.

772           Section 17. Subsection (3) of section 408.810, Florida  
773 Statutes, is amended to read:

774           408.810 Minimum licensure requirements.—In addition to the  
775 licensure requirements specified in this part, authorizing  
776 statutes, and applicable rules, each applicant and licensee must  
777 comply with the requirements of this section in order to obtain  
778 and maintain a license.

779           (3) Unless otherwise specified in this part, authorizing  
780 statutes, or applicable rules, any information required to be  
781 reported to the agency must be submitted within 21 calendar days  
782 after the report period or effective date of the information,  
783 whichever is earlier, including, but not limited to, any change  
784 of:

785           (a) Information contained in the most recent application  
786 for licensure.

787           (b) Required insurance or bonds.

788           Section 18. Section 408.811, Florida Statutes, is amended  
789 to read:

790           408.811 Right of inspection; copies; inspection reports;  
791 plan for correction of deficiencies.—

792           (1) An authorized officer or employee of the agency may  
793 make or cause to be made any inspection or investigation deemed  
794 necessary by the agency to determine the state of compliance  
795 with this part, authorizing statutes, and applicable rules. The



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796 right of inspection extends to any business that the agency has  
797 reason to believe is being operated as a provider without a  
798 license, but inspection of any business suspected of being  
799 operated without the appropriate license may not be made without  
800 the permission of the owner or person in charge unless a warrant  
801 is first obtained from a circuit court. Any application for a  
802 license issued under this part, authorizing statutes, or  
803 applicable rules constitutes permission for an appropriate  
804 inspection to verify the information submitted on or in  
805 connection with the application.

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

808 (b) Inspections for relicensure shall be conducted  
809 biennially unless otherwise specified by authorizing statutes or  
810 applicable rules.

811 (2) Inspections conducted in conjunction with  
812 certification, comparable licensure requirements, or a  
813 recognized or approved accreditation organization may be  
814 accepted in lieu of a complete licensure inspection. However, a  
815 licensure inspection may also be conducted to review any  
816 licensure requirements that are not also requirements for  
817 certification.

818 (3) The agency shall have access to and the licensee shall  
819 provide, or if requested send, copies of all provider records  
820 required during an inspection or other review at no cost to the  
821 agency, including records requested during an offsite review.

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



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825           (5) The agency may require an applicant or licensee to  
826 submit a plan of correction for deficiencies. If required, the  
827 plan of correction must be filed with the agency within 10  
828 calendar days after notification unless an alternative timeframe  
829 is required.

830           (6) (a) ~~(4) (a)~~ Each licensee shall maintain as public  
831 information, available upon request, records of all inspection  
832 reports pertaining to that provider that have been filed by the  
833 agency unless those reports are exempt from or contain  
834 information that is exempt from s. 119.07(1) and s. 24(a), Art.  
835 I of the State Constitution or is otherwise made confidential by  
836 law. Effective October 1, 2006, copies of such reports shall be  
837 retained in the records of the provider for at least 3 years  
838 following the date the reports are filed and issued, regardless  
839 of a change of ownership.

840           (b) A licensee shall, upon the request of any person who  
841 has completed a written application with intent to be admitted  
842 by such provider, any person who is a client of such provider,  
843 or any relative, spouse, or guardian of any such person, furnish  
844 to the requester a copy of the last inspection report pertaining  
845 to the licensed provider that was issued by the agency or by an  
846 accrediting organization if such report is used in lieu of a  
847 licensure inspection.

848           Section 19. Section 408.813, Florida Statutes, is amended  
849 to read:

850           408.813 Administrative fines; violations.—As a penalty for  
851 any violation of this part, authorizing statutes, or applicable  
852 rules, the agency may impose an administrative fine.

853           (1) Unless the amount or aggregate limitation of the fine



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854 is prescribed by authorizing statutes or applicable rules, the  
855 agency may establish criteria by rule for the amount or  
856 aggregate limitation of administrative fines applicable to this  
857 part, authorizing statutes, and applicable rules. Each day of  
858 violation constitutes a separate violation and is subject to a  
859 separate fine. For fines imposed by final order of the agency  
860 and not subject to further appeal, the violator shall pay the  
861 fine plus interest at the rate specified in s. 55.03 for each  
862 day beyond the date set by the agency for payment of the fine.

863 (2) Violations of this part, authorizing statutes, or  
864 applicable rules shall be classified according to the nature of  
865 the violation and the gravity of its probable effect on clients.  
866 The scope of a violation may be cited as an isolated, patterned,  
867 or widespread deficiency. An isolated deficiency is a deficiency  
868 affecting one or a very limited number of clients, or involving  
869 one or a very limited number of staff, or a situation that  
870 occurred only occasionally or in a very limited number of  
871 locations. A patterned deficiency is a deficiency in which more  
872 than a very limited number of clients are affected, or more than  
873 a very limited number of staff are involved, or the situation  
874 has occurred in several locations, or the same client or clients  
875 have been affected by repeated occurrences of the same deficient  
876 practice but the effect of the deficient practice is not found  
877 to be pervasive throughout the provider. A widespread deficiency  
878 is a deficiency in which the problems causing the deficiency are  
879 pervasive in the provider or represent systemic failure that has  
880 affected or has the potential to affect a large portion of the  
881 provider's clients. This subsection does not affect the  
882 legislative determination of the amount of a fine imposed under



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883 authorizing statutes. Violations shall be classified on the  
884 written notice as follows:

885 (a) Class "I" violations are those conditions or  
886 occurrences related to the operation and maintenance of a  
887 provider or to the care of clients which the agency determines  
888 present an imminent danger to the clients of the provider or a  
889 substantial probability that death or serious physical or  
890 emotional harm would result therefrom. The condition or practice  
891 constituting a class I violation shall be abated or eliminated  
892 within 24 hours, unless a fixed period, as determined by the  
893 agency, is required for correction. The agency shall impose an  
894 administrative fine as provided by law for a cited class I  
895 violation. A fine shall be levied notwithstanding the correction  
896 of the violation.

897 (b) Class "II" violations are those conditions or  
898 occurrences related to the operation and maintenance of a  
899 provider or to the care of clients which the agency determines  
900 directly threaten the physical or emotional health, safety, or  
901 security of the clients, other than class I violations. The  
902 agency shall impose an administrative fine as provided by law  
903 for a cited class II violation. A fine shall be levied  
904 notwithstanding the correction of the violation.

905 (c) Class "III" violations are those conditions or  
906 occurrences related to the operation and maintenance of a  
907 provider or to the care of clients which the agency determines  
908 indirectly or potentially threaten the physical or emotional  
909 health, safety, or security of clients, other than class I or  
910 class II violations. The agency shall impose an administrative  
911 fine as provided in this section for a cited class III





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912 violation. A citation for a class III violation must specify the  
913 time within which the violation is required to be corrected. If  
914 a class III violation is corrected within the time specified, a  
915 fine may not be imposed.

916 (d) Class "IV" violations are those conditions or  
917 occurrences related to the operation and maintenance of a  
918 provider or to required reports, forms, or documents that do not  
919 have the potential of negatively affecting clients. These  
920 violations are of a type that the agency determines do not  
921 threaten the health, safety, or security of clients. The agency  
922 shall impose an administrative fine as provided in this section  
923 for a cited class IV violation. A citation for a class IV  
924 violation must specify the time within which the violation is  
925 required to be corrected. If a class IV violation is corrected  
926 within the time specified, a fine may not be imposed.

927 Section 20. Subsections (11), (12), (13), (14), (15), (16),  
928 (17), (18), (19), (20), (21), (22), (23), (24), (25), (26),  
929 (27), (28), and (29) of section 408.820, Florida Statutes, are  
930 amended to read:

931 408.820 Exemptions.—Except as prescribed in authorizing  
932 statutes, the following exemptions shall apply to specified  
933 requirements of this part:

934 ~~(11) Private review agents, as provided under part I of~~  
935 ~~chapter 395, are exempt from ss. 408.806(7), 408.810, and~~  
936 ~~408.811.~~

937 ~~(11)~~~~(12)~~ Health care risk managers, as provided under part  
938 I of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-  
939 (10) ~~408.810~~, and 408.811.

940 ~~(12)~~~~(13)~~ Nursing homes, as provided under part II of



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941 chapter 400, are exempt from s. 408.810(7).  
942 ~~(13)(14)~~ Assisted living facilities, as provided under part  
943 I of chapter 429, are exempt from s. 408.810(10).  
944 ~~(14)(15)~~ Home health agencies, as provided under part III  
945 of chapter 400, are exempt from s. 408.810(10).  
946 ~~(15)(16)~~ Nurse registries, as provided under part III of  
947 chapter 400, are exempt from s. 408.810(6) and (10).  
948 ~~(16)(17)~~ Companion services or homemaker services  
949 providers, as provided under part III of chapter 400, are exempt  
950 from s. 408.810(6)-(10).  
951 ~~(17)(18)~~ Adult day care centers, as provided under part III  
952 of chapter 429, are exempt from s. 408.810(10).  
953 ~~(18)(19)~~ Adult family-care homes, as provided under part II  
954 of chapter 429, are exempt from s. 408.810(7)-(10).  
955 ~~(18)(20)~~ Homes for special services, as provided under part  
956 V of chapter 400, are exempt from s. 408.810(7)-(10).  
957 ~~(20)(21)~~ Transitional living facilities, as provided under  
958 part V of chapter 400, are exempt from s. 408.810(10) ~~s.~~  
959 ~~408.810(7)-(10)~~.  
960 ~~(21)(22)~~ Prescribed pediatric extended care centers, as  
961 provided under part VI of chapter 400, are exempt from s.  
962 408.810(10).  
963 ~~(22)(23)~~ Home medical equipment providers, as provided  
964 under part VII of chapter 400, are exempt from s. 408.810(10).  
965 ~~(23)(24)~~ Intermediate care facilities for persons with  
966 developmental disabilities, as provided under part VIII of  
967 chapter 400, are exempt from s. 408.810(7).  
968 ~~(24)(25)~~ Health care services pools, as provided under part  
969 IX of chapter 400, are exempt from s. 408.810(6)-(10).



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970           ~~(25)(26)~~ Health care clinics, as provided under part X of  
971 chapter 400, are exempt from s. 408.810(6), (7), (10) ~~ss.~~  
972 ~~408.809 and 408.810(1), (6), (7), and (10).~~

973           ~~(26)(27)~~ Clinical laboratories, as provided under part I of  
974 chapter 483, are exempt from s. 408.810(5)-(10).

975           ~~(27)(28)~~ Multiphasic health testing centers, as provided  
976 under part II of chapter 483, are exempt from s. 408.810(5)-  
977 (10).

978           ~~(28)(29)~~ Organ and tissue procurement agencies, as provided  
979 under chapter 765, are exempt from s. 408.810(5)-(10).

980           Section 21. Section 408.821, Florida Statutes, is created  
981 to read:

982           408.821 Emergency management planning; emergency  
983 operations; inactive license.-

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

987           (2) An entity subject to this part may temporarily exceed  
988 its licensed capacity to act as a receiving provider in  
989 accordance with an approved emergency operations plan for up to  
990 15 days. While in an overcapacity status, each provider must  
991 furnish or arrange for appropriate care and services to all  
992 clients. In addition, the agency may approve requests for  
993 overcapacity in excess of 15 days, which approvals may be based  
994 upon satisfactory justification and need as provided by the  
995 receiving and sending providers.

996           (3) (a) An inactive license may be issued to a licensee  
997 subject to this section when the provider is located in a  
998 geographic area in which a state of emergency was declared by



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999 the Governor if the provider:

1000 1. Suffered damage to its operation during the state of  
1001 emergency.

1002 2. Is currently licensed.

1003 3. Does not have a provisional license.

1004 4. Will be temporarily unable to provide services but is  
1005 reasonably expected to resume services within 12 months.

1006 (b) An inactive license may be issued for a period not to  
1007 exceed 12 months but may be renewed by the agency for up to 12  
1008 additional months upon demonstration to the agency of progress  
1009 toward reopening. A request by a licensee for an inactive  
1010 license or to extend the previously approved inactive period  
1011 must be submitted in writing to the agency, accompanied by  
1012 written justification for the inactive license, which states the  
1013 beginning and ending dates of inactivity and includes a plan for  
1014 the transfer of any clients to other providers and appropriate  
1015 licensure fees. Upon agency approval, the licensee shall notify  
1016 clients of any necessary discharge or transfer as required by  
1017 authorizing statutes or applicable rules. The beginning of the  
1018 inactive licensure period shall be the date the provider ceases  
1019 operations. The end of the inactive period shall become the  
1020 license expiration date, and all licensure fees must be current,  
1021 must be paid in full, and may be prorated. Reactivation of an  
1022 inactive license requires the prior approval by the agency of a  
1023 renewal application, including payment of licensure fees and  
1024 agency inspections indicating compliance with all requirements  
1025 of this part and applicable rules and statutes.

1026 (4) The agency may adopt rules relating to emergency  
1027 management planning, communications, and operations. Licensees



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1028 providing residential or inpatient services must utilize an  
1029 online database approved by the agency to report information to  
1030 the agency regarding the provider's emergency status, planning,  
1031 or operations.

1032 Section 22. Section 408.831, Florida Statutes, is amended  
1033 to read:

1034 408.831 Denial, suspension, or revocation of a license,  
1035 registration, certificate, or application.—

1036 (1) In addition to any other remedies provided by law, the  
1037 agency may deny each application or suspend or revoke each  
1038 license, registration, or certificate of entities regulated or  
1039 licensed by it:

1040 (a) If the applicant, licensee, or a licensee subject to  
1041 this part which shares a common controlling interest with the  
1042 applicant has failed to pay all outstanding fines, liens, or  
1043 overpayments assessed by final order of the agency or final  
1044 order of the Centers for Medicare and Medicaid Services, not  
1045 subject to further appeal, unless a repayment plan is approved  
1046 by the agency; or

1047 (b) For failure to comply with any repayment plan.

1048 (2) In reviewing any application requesting a change of  
1049 ownership or change of the licensee, registrant, or  
1050 certificateholder, the transferor shall, prior to agency  
1051 approval of the change, repay or make arrangements to repay any  
1052 amounts owed to the agency. Should the transferor fail to repay  
1053 or make arrangements to repay the amounts owed to the agency,  
1054 the issuance of a license, registration, or certificate to the  
1055 transferee shall be delayed until repayment or until  
1056 arrangements for repayment are made.



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1057           ~~(3) An entity subject to this section may exceed its~~  
1058 ~~licensed capacity to act as a receiving facility in accordance~~  
1059 ~~with an emergency operations plan for clients of evacuating~~  
1060 ~~providers from a geographic area where an evacuation order has~~  
1061 ~~been issued by a local authority having jurisdiction. While in~~  
1062 ~~an overcapacity status, each provider must furnish or arrange~~  
1063 ~~for appropriate care and services to all clients. In addition,~~  
1064 ~~the agency may approve requests for overcapacity beyond 15 days,~~  
1065 ~~which approvals may be based upon satisfactory justification and~~  
1066 ~~need as provided by the receiving and sending facilities.~~

1067           ~~(4) (a) An inactive license may be issued to a licensee~~  
1068 ~~subject to this section when the provider is located in a~~  
1069 ~~geographic area where a state of emergency was declared by the~~  
1070 ~~Governor if the provider:~~

1071                 ~~1. Suffered damage to its operation during that state of~~  
1072 ~~emergency.~~

1073                 ~~2. Is currently licensed.~~

1074                 ~~3. Does not have a provisional license.~~

1075                 ~~4. Will be temporarily unable to provide services but is~~  
1076 ~~reasonably expected to resume services within 12 months.~~

1077           ~~(b) An inactive license may be issued for a period not to~~  
1078 ~~exceed 12 months but may be renewed by the agency for up to 12~~  
1079 ~~additional months upon demonstration to the agency of progress~~  
1080 ~~toward reopening. A request by a licensee for an inactive~~  
1081 ~~license or to extend the previously approved inactive period~~  
1082 ~~must be submitted in writing to the agency, accompanied by~~  
1083 ~~written justification for the inactive license, which states the~~  
1084 ~~beginning and ending dates of inactivity and includes a plan for~~  
1085 ~~the transfer of any clients to other providers and appropriate~~



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1086 ~~licensure fees. Upon agency approval, the licensee shall notify~~  
1087 ~~clients of any necessary discharge or transfer as required by~~  
1088 ~~authorizing statutes or applicable rules. The beginning of the~~  
1089 ~~inactive licensure period shall be the date the provider ceases~~  
1090 ~~operations. The end of the inactive period shall become the~~  
1091 ~~licensee expiration date, and all licensure fees must be~~  
1092 ~~current, paid in full, and may be prorated. Reactivation of an~~  
1093 ~~inactive license requires the prior approval by the agency of a~~  
1094 ~~renewal application, including payment of licensure fees and~~  
1095 ~~agency inspections indicating compliance with all requirements~~  
1096 ~~of this part and applicable rules and statutes.~~

1097       (3)(5) This section provides standards of enforcement  
1098 applicable to all entities licensed or regulated by the Agency  
1099 for Health Care Administration. This section controls over any  
1100 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,  
1101 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to  
1102 those chapters.

1103       Section 23. Paragraph (e) of subsection (4) of section  
1104 409.221, Florida Statutes, is amended to read:

1105       409.221 Consumer-directed care program.—

1106       (4) CONSUMER-DIRECTED CARE.—

1107       (e) *Services.*—Consumers shall use the budget allowance only  
1108 to pay for home and community-based services that meet the  
1109 consumer's long-term care needs and are a cost-efficient use of  
1110 funds. Such services may include, but are not limited to, the  
1111 following:

1112           1. Personal care.

1113           2. Homemaking and chores, including housework, meals,  
1114 shopping, and transportation.



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1115 3. Home modifications and assistive devices which may  
1116 increase the consumer's independence or make it possible to  
1117 avoid institutional placement.

1118 4. Assistance in taking self-administered medication.

1119 5. Day care and respite care services, including those  
1120 provided by nursing home facilities pursuant to s. 400.141(1)(f)  
1121 ~~s. 400.141(6)~~ or by adult day care facilities licensed pursuant  
1122 to s. 429.907.

1123 6. Personal care and support services provided in an  
1124 assisted living facility.

1125 Section 24. Subsection (5) of section 409.901, Florida  
1126 Statutes, is amended to read:

1127 409.901 Definitions; ss. 409.901-409.920.—As used in ss.  
1128 409.901-409.920, except as otherwise specifically provided, the  
1129 term:

1130 (5) "Change of ownership" means:

1131 (a) An event in which the provider ownership changes to a  
1132 different individual legal entity as evidenced by a change in  
1133 federal employer identification number or taxpayer  
1134 identification number; or

1135 (b) An event in which 51 ~~45~~ percent or more of the  
1136 ownership, ~~voting~~ shares, membership, or controlling interest of  
1137 a provider is in any manner transferred or otherwise assigned.  
1138 This paragraph does not apply to a licensee that is publicly  
1139 traded on a recognized stock exchange; or

1140 (c) When the provider is licensed or registered by the  
1141 agency, an event considered a change of ownership for licensure  
1142 as defined in s. 408.803 in a corporation whose shares are not  
1143 publicly traded on a recognized stock exchange is transferred or





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1144 ~~assigned, including the final transfer or assignment of multiple~~  
1145 ~~transfers or assignments over a 2-year period that cumulatively~~  
1146 ~~total 45 percent or more.~~

1147  
1148 A change solely in the management company or board of directors  
1149 is not a change of ownership.

1150 Section 25. Section 429.071, Florida Statutes, is repealed.

1151 Section 26. Paragraph (e) of subsection (1) and subsections  
1152 (2) and (3) of section 429.08, Florida Statutes, are amended to  
1153 read:

1154 429.08 Unlicensed facilities; referral of person for  
1155 residency to unlicensed facility; penalties; verification of  
1156 licensure status.-

1157 (1)

1158 (e) The agency shall publish ~~provide to the department's~~  
1159 ~~elder information and referral providers a list, by county, of~~  
1160 ~~licensed assisted living facilities, to assist persons who are~~  
1161 ~~considering an assisted living facility placement in locating a~~  
1162 ~~licensed facility. This information may be provided~~  
1163 electronically or through the agency's Internet site.

1164 ~~(2) Each field office of the Agency for Health Care~~  
1165 ~~Administration shall establish a local coordinating workgroup~~  
1166 ~~which includes representatives of local law enforcement~~  
1167 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~  
1168 ~~the Department of Legal Affairs, local fire authorities, the~~  
1169 ~~Department of Children and Family Services, the district long-~~  
1170 ~~term care ombudsman council, and the district human rights~~  
1171 ~~advocacy committee to assist in identifying the operation of~~  
1172 ~~unlicensed facilities and to develop and implement a plan to~~



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1173 ~~ensure effective enforcement of state laws relating to such~~  
1174 ~~facilities. The workgroup shall report its findings, actions,~~  
1175 ~~and recommendations semiannually to the Director of Health~~  
1176 ~~Quality Assurance of the agency.~~

1177 ~~(2)(3) It is unlawful to knowingly refer a person for~~  
1178 ~~residency to an unlicensed assisted living facility; to an~~  
1179 ~~assisted living facility the license of which is under denial or~~  
1180 ~~has been suspended or revoked; or to an assisted living facility~~  
1181 ~~that has a moratorium pursuant to part II of chapter 408. Any~~  
1182 ~~person who violates this subsection commits a noncriminal~~  
1183 ~~violation, punishable by a fine not exceeding \$500 as provided~~  
1184 ~~in s. 775.083.~~

1185 (a) Any health care practitioner, as defined in s. 456.001,  
1186 who is aware of the operation of an unlicensed facility shall  
1187 report that facility to the agency. Failure to report a facility  
1188 that the practitioner knows or has reasonable cause to suspect  
1189 is unlicensed shall be reported to the practitioner's licensing  
1190 board.

1191 (b) Any provider as defined in s. 408.803 ~~hospital or~~  
1192 ~~community mental health center licensed under chapter 395 or~~  
1193 ~~chapter 394~~ which knowingly discharges a patient or client to an  
1194 unlicensed facility is subject to sanction by the agency.

1195 (c) Any employee of the agency or department, or the  
1196 Department of Children and Family Services, who knowingly refers  
1197 a person for residency to an unlicensed facility; to a facility  
1198 the license of which is under denial or has been suspended or  
1199 revoked; or to a facility that has a moratorium pursuant to part  
1200 II of chapter 408 is subject to disciplinary action by the  
1201 agency or department, or the Department of Children and Family



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1202 Services.

1203 (d) The employer of any person who is under contract with  
1204 the agency or department, or the Department of Children and  
1205 Family Services, and who knowingly refers a person for residency  
1206 to an unlicensed facility; to a facility the license of which is  
1207 under denial or has been suspended or revoked; or to a facility  
1208 that has a moratorium pursuant to part II of chapter 408 shall  
1209 be fined and required to prepare a corrective action plan  
1210 designed to prevent such referrals.

1211 ~~(e) The agency shall provide the department and the~~  
1212 ~~Department of Children and Family Services with a list of~~  
1213 ~~licensed facilities within each county and shall update the list~~  
1214 ~~at least quarterly.~~

1215 ~~(f) At least annually, the agency shall notify, in~~  
1216 ~~appropriate trade publications, physicians licensed under~~  
1217 ~~chapter 458 or chapter 459, hospitals licensed under chapter~~  
1218 ~~395, nursing home facilities licensed under part II of chapter~~  
1219 ~~400, and employees of the agency or the department, or the~~  
1220 ~~Department of Children and Family Services, who are responsible~~  
1221 ~~for referring persons for residency, that it is unlawful to~~  
1222 ~~knowingly refer a person for residency to an unlicensed assisted~~  
1223 ~~living facility and shall notify them of the penalty for~~  
1224 ~~violating such prohibition. The department and the Department of~~  
1225 ~~Children and Family Services shall, in turn, notify service~~  
1226 ~~providers under contract to the respective departments who have~~  
1227 ~~responsibility for resident referrals to facilities. Further,~~  
1228 ~~the notice must direct each noticed facility and individual to~~  
1229 ~~contact the appropriate agency office in order to verify the~~  
1230 ~~licensure status of any facility prior to referring any person~~



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1231 ~~for residency. Each notice must include the name, telephone~~  
1232 ~~number, and mailing address of the appropriate office to~~  
1233 ~~contact.~~

1234 Section 27. Paragraph (e) of subsection (1) of section  
1235 429.14, Florida Statutes, is amended to read:

1236 429.14 Administrative penalties.—

1237 (1) In addition to the requirements of part II of chapter  
1238 408, the agency may deny, revoke, and suspend any license issued  
1239 under this part and impose an administrative fine in the manner  
1240 provided in chapter 120 against a licensee of an assisted living  
1241 facility for a violation of any provision of this part, part II  
1242 of chapter 408, or applicable rules, or for any of the following  
1243 actions by a licensee of an assisted living facility, for the  
1244 actions of any person subject to level 2 background screening  
1245 under s. 408.809, or for the actions of any facility employee:

1246 (e) A citation of any of the following deficiencies as  
1247 specified ~~defined~~ in s. 429.19:

- 1248 1. One or more cited class I deficiencies.
- 1249 2. Three or more cited class II deficiencies.
- 1250 3. Five or more cited class III deficiencies that have been  
1251 cited on a single survey and have not been corrected within the  
1252 times specified.

1253 Section 28. Section 429.19, Florida Statutes, is amended to  
1254 read:

1255 429.19 Violations; imposition of administrative fines;  
1256 grounds.—

1257 (1) In addition to the requirements of part II of chapter  
1258 408, the agency shall impose an administrative fine in the  
1259 manner provided in chapter 120 for the violation of any



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1260 provision of this part, part II of chapter 408, and applicable  
1261 rules by an assisted living facility, for the actions of any  
1262 person subject to level 2 background screening under s. 408.809,  
1263 for the actions of any facility employee, or for an intentional  
1264 or negligent act seriously affecting the health, safety, or  
1265 welfare of a resident of the facility.

1266 (2) Each violation of this part and adopted rules shall be  
1267 classified according to the nature of the violation and the  
1268 gravity of its probable effect on facility residents. The agency  
1269 shall indicate the classification on the written notice of the  
1270 violation as follows:

1271 (a) Class "I" violations are defined in s. 408.813 ~~those~~  
1272 ~~conditions or occurrences related to the operation and~~  
1273 ~~maintenance of a facility or to the personal care of residents~~  
1274 ~~which the agency determines present an imminent danger to the~~  
1275 ~~residents or guests of the facility or a substantial probability~~  
1276 ~~that death or serious physical or emotional harm would result~~  
1277 ~~therefrom. The condition or practice constituting a class I~~  
1278 ~~violation shall be abated or eliminated within 24 hours, unless~~  
1279 ~~a fixed period, as determined by the agency, is required for~~  
1280 ~~correction.~~ The agency shall impose an administrative fine for a  
1281 cited class I violation in an amount not less than \$5,000 and  
1282 not exceeding \$10,000 for each violation. ~~A fine may be levied~~  
1283 ~~notwithstanding the correction of the violation.~~

1284 (b) Class "II" violations are defined in s. 408.813 ~~those~~  
1285 ~~conditions or occurrences related to the operation and~~  
1286 ~~maintenance of a facility or to the personal care of residents~~  
1287 ~~which the agency determines directly threaten the physical or~~  
1288 ~~emotional health, safety, or security of the facility residents,~~



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1289 ~~other than class I violations.~~ The agency shall impose an  
1290 administrative fine for a cited class II violation in an amount  
1291 not less than \$1,000 and not exceeding \$5,000 for each  
1292 violation. ~~A fine shall be levied notwithstanding the correction~~  
1293 ~~of the violation.~~

1294 (c) Class "III" violations are defined in s. 408.813 ~~those~~  
1295 ~~conditions or occurrences related to the operation and~~  
1296 ~~maintenance of a facility or to the personal care of residents~~  
1297 ~~which the agency determines indirectly or potentially threaten~~  
1298 ~~the physical or emotional health, safety, or security of~~  
1299 ~~facility residents, other than class I or class II violations.~~  
1300 The agency shall impose an administrative fine for a cited class  
1301 III violation in an amount not less than \$500 and not exceeding  
1302 \$1,000 for each violation. ~~A citation for a class III violation~~  
1303 ~~must specify the time within which the violation is required to~~  
1304 ~~be corrected. If a class III violation is corrected within the~~  
1305 ~~time specified, no fine may be imposed, unless it is a repeated~~  
1306 ~~offense.~~

1307 (d) Class "IV" violations are defined in s. 408.813 ~~those~~  
1308 ~~conditions or occurrences related to the operation and~~  
1309 ~~maintenance of a building or to required reports, forms, or~~  
1310 ~~documents that do not have the potential of negatively affecting~~  
1311 ~~residents. These violations are of a type that the agency~~  
1312 ~~determines do not threaten the health, safety, or security of~~  
1313 ~~residents of the facility.~~ The agency shall impose an  
1314 administrative fine for a cited class IV violation in an amount  
1315 not less than \$100 and not exceeding \$200 for each violation. ~~A~~  
1316 ~~citation for a class IV violation must specify the time within~~  
1317 ~~which the violation is required to be corrected. If a class IV~~



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1318 ~~violation is corrected within the time specified, no fine shall~~  
1319 ~~be imposed. Any class IV violation that is corrected during the~~  
1320 ~~time an agency survey is being conducted will be identified as~~  
1321 ~~an agency finding and not as a violation.~~

1322 (3) For purposes of this section, in determining if a  
1323 penalty is to be imposed and in fixing the amount of the fine,  
1324 the agency shall consider the following factors:

1325 (a) The gravity of the violation, including the probability  
1326 that death or serious physical or emotional harm to a resident  
1327 will result or has resulted, the severity of the action or  
1328 potential harm, and the extent to which the provisions of the  
1329 applicable laws or rules were violated.

1330 (b) Actions taken by the owner or administrator to correct  
1331 violations.

1332 (c) Any previous violations.

1333 (d) The financial benefit to the facility of committing or  
1334 continuing the violation.

1335 (e) The licensed capacity of the facility.

1336 (4) Each day of continuing violation after the date fixed  
1337 for termination of the violation, as ordered by the agency,  
1338 constitutes an additional, separate, and distinct violation.

1339 (5) During an inspection, any action taken to correct a  
1340 violation shall be documented in writing by the owner or  
1341 administrator of the facility and verified through followup  
1342 visits by agency personnel. The agency may impose a fine and, in  
1343 the case of an owner-operated facility, revoke or deny a  
1344 facility's license when a facility administrator fraudulently  
1345 misrepresents action taken to correct a violation.

1346 (6) Any facility whose owner fails to apply for a change-



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1347 of-ownership license in accordance with part II of chapter 408  
1348 and operates the facility under the new ownership is subject to  
1349 a fine of \$5,000.

1350 (7) In addition to any administrative fines imposed, the  
1351 agency may assess a survey fee, equal to the lesser of one half  
1352 of the facility's biennial license and bed fee or \$500, to cover  
1353 the cost of conducting initial complaint investigations that  
1354 result in the finding of a violation that was the subject of the  
1355 complaint or monitoring visits conducted under s. 429.28(3)(c)  
1356 to verify the correction of the violations.

1357 (8) The agency, ~~as an alternative to or in conjunction with~~  
1358 ~~an administrative action against a facility for violations of~~  
1359 ~~this part and adopted rules,~~ shall make a reasonable attempt to  
1360 discuss each violation ~~and recommended corrective action~~ with  
1361 the owner or administrator of the facility, prior to written  
1362 notification. ~~The agency, instead of fixing a period within~~  
1363 ~~which the facility shall enter into compliance with standards,~~  
1364 ~~may request a plan of corrective action from the facility which~~  
1365 ~~demonstrates a good faith effort to remedy each violation by a~~  
1366 ~~specific date, subject to the approval of the agency.~~

1367 (9) The agency shall develop and disseminate an annual list  
1368 of all facilities sanctioned or fined ~~\$5,000 or more~~ for  
1369 violations of state standards, the number and class of  
1370 violations involved, the penalties imposed, and the current  
1371 status of cases. The list shall be disseminated, at no charge,  
1372 to the Department of Elderly Affairs, the Department of Health,  
1373 the Department of Children and Family Services, the Agency for  
1374 Persons with Disabilities, the area agencies on aging, the  
1375 Florida Statewide Advocacy Council, and the state and local





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1376 ombudsman councils. The Department of Children and Family  
1377 Services shall disseminate the list to service providers under  
1378 contract to the department who are responsible for referring  
1379 persons to a facility for residency. The agency may charge a fee  
1380 commensurate with the cost of printing and postage to other  
1381 interested parties requesting a copy of this list. This  
1382 information may be provided electronically or through the  
1383 agency's Internet site.

1384 Section 29. Subsections (2) and (6) of section 429.23,  
1385 Florida Statutes, are amended to read:

1386 429.23 Internal risk management and quality assurance  
1387 program; adverse incidents and reporting requirements.—

1388 (2) Every facility licensed under this part is required to  
1389 maintain adverse incident reports. For purposes of this section,  
1390 the term, "adverse incident" means:

1391 (a) An event over which facility personnel could exercise  
1392 control rather than as a result of the resident's condition and  
1393 results in:

- 1394 1. Death;
- 1395 2. Brain or spinal damage;
- 1396 3. Permanent disfigurement;
- 1397 4. Fracture or dislocation of bones or joints;
- 1398 5. Any condition that required medical attention to which  
1399 the resident has not given his or her consent, including failure  
1400 to honor advanced directives;

- 1401 6. Any condition that requires the transfer of the resident  
1402 from the facility to a unit providing more acute care due to the  
1403 incident rather than the resident's condition before the  
1404 incident; or-



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1405           7. An event that is reported to law enforcement or its  
1406 personnel for investigation; or

1407           ~~(b) Abuse, neglect, or exploitation as defined in s.~~  
1408 ~~415.102;~~

1409           ~~(c) Events reported to law enforcement; or~~

1410           (b) ~~(d)~~ Resident elopement, if the elopement places the  
1411 resident at risk of harm or injury.

1412           (6) Abuse, neglect, or exploitation must be reported to the  
1413 Department of Children and Family Services as required under  
1414 chapter 415 ~~The agency shall annually submit to the Legislature~~  
1415 ~~a report on assisted living facility adverse incident reports.~~  
1416 ~~The report must include the following information arranged by~~  
1417 ~~county:~~

1418           ~~(a) A total number of adverse incidents;~~

1419           ~~(b) A listing, by category, of the type of adverse~~  
1420 ~~incidents occurring within each category and the type of staff~~  
1421 ~~involved;~~

1422           ~~(c) A listing, by category, of the types of injuries, if~~  
1423 ~~any, and the number of injuries occurring within each category;~~

1424           ~~(d) Types of liability claims filed based on an adverse~~  
1425 ~~incident report or reportable injury; and~~

1426           ~~(e) Disciplinary action taken against staff, categorized by~~  
1427 ~~the type of staff involved.~~

1428           Section 30. Subsection (9) of section 429.26, Florida  
1429 Statutes, is repealed.

1430           Section 31. Subsection (3) of section 430.80, Florida  
1431 Statutes, is amended to read:

1432           430.80 Implementation of a teaching nursing home pilot  
1433 project.-



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- 1434           (3) To be designated as a teaching nursing home, a nursing  
1435 home licensee must, at a minimum:
- 1436           (a) Provide a comprehensive program of integrated senior  
1437 services that include institutional services and community-based  
1438 services;
- 1439           (b) Participate in a nationally recognized accreditation  
1440 program and hold a valid accreditation, such as the  
1441 accreditation awarded by the Joint Commission on Accreditation  
1442 of Healthcare Organizations;
- 1443           (c) Have been in business in this state for a minimum of 10  
1444 consecutive years;
- 1445           (d) Demonstrate an active program in multidisciplinary  
1446 education and research that relates to gerontology;
- 1447           (e) Have a formalized contractual relationship with at  
1448 least one accredited health profession education program located  
1449 in this state;
- 1450           (f) Have a formalized contractual relationship with an  
1451 accredited hospital that is designated by law as a teaching  
1452 hospital; and
- 1453           (g) Have senior staff members who hold formal faculty  
1454 appointments at universities, which must include at least one  
1455 accredited health profession education program.
- 1456           (h) Maintain insurance coverage pursuant to s.  
1457 400.141(1)(s) ~~s. 400.141(20)~~ or proof of financial  
1458 responsibility in a minimum amount of \$750,000. Such proof of  
1459 financial responsibility may include:
- 1460           1. Maintaining an escrow account consisting of cash or  
1461 assets eligible for deposit in accordance with s. 625.52; or  
1462           2. Obtaining and maintaining pursuant to chapter 675 an



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1463 unexpired, irrevocable, nontransferable and nonassignable letter  
1464 of credit issued by any bank or savings association organized  
1465 and existing under the laws of this state or any bank or savings  
1466 association organized under the laws of the United States that  
1467 has its principal place of business in this state or has a  
1468 branch office which is authorized to receive deposits in this  
1469 state. The letter of credit shall be used to satisfy the  
1470 obligation of the facility to the claimant upon presentment of a  
1471 final judgment indicating liability and awarding damages to be  
1472 paid by the facility or upon presentment of a settlement  
1473 agreement signed by all parties to the agreement when such final  
1474 judgment or settlement is a result of a liability claim against  
1475 the facility.

1476 Section 32. Subsection (5) of section 435.04, Florida  
1477 Statutes, is amended to read:

1478 435.04 Level 2 screening standards.—

1479 (5) Under penalty of perjury, all employees in such  
1480 positions of trust or responsibility shall attest to meeting the  
1481 requirements for qualifying for employment and agreeing to  
1482 inform the employer immediately if convicted of any of the  
1483 disqualifying offenses while employed by the employer. Each  
1484 employer of employees in such positions of trust or  
1485 responsibilities which is licensed or registered by a state  
1486 agency shall submit to the licensing agency annually or at the  
1487 time of license renewal, under penalty of perjury, an affidavit  
1488 of compliance with the provisions of this section.

1489 Section 33. Subsection (3) of section 435.05, Florida  
1490 Statutes, is amended to read:

1491 435.05 Requirements for covered employees.—Except as



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1492 otherwise provided by law, the following requirements shall  
1493 apply to covered employees:

1494 (3) Each employer required to conduct level 2 background  
1495 screening must sign an affidavit annually or at the time of  
1496 license renewal, under penalty of perjury, stating that all  
1497 covered employees have been screened or are newly hired and are  
1498 awaiting the results of the required screening checks.

1499 Section 34. Subsection (2) of section 483.031, Florida  
1500 Statutes, is amended to read:

1501 483.031 Application of part; exemptions.—This part applies  
1502 to all clinical laboratories within this state, except:

1503 (2) A clinical laboratory that performs only waived tests  
1504 ~~and has received a certificate of exemption from the agency~~  
1505 ~~under s. 483.106.~~

1506 Section 35. Subsection (10) of section 483.041, Florida  
1507 Statutes, is amended to read:

1508 483.041 Definitions.—As used in this part, the term:

1509 (10) "Waived test" means a test that the federal Centers  
1510 for Medicare and Medicaid Services Health Care Financing  
1511 ~~Administration~~ has determined qualifies for a certificate of  
1512 waiver under the federal Clinical Laboratory Improvement  
1513 Amendments of 1988, and the federal rules adopted thereunder.

1514 Section 36. Section 483.106, Florida Statutes, is repealed.

1515 Section 37. Subsection (3) of section 483.172, Florida  
1516 Statutes, is amended to read:

1517 483.172 License fees.—

1518 (3) The agency shall assess a ~~biennial fee of \$100 for a~~  
1519 ~~certificate of exemption and~~ a \$100 biennial license fee under  
1520 this section for facilities surveyed by an approved accrediting



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1521 organization.

1522 Section 38. Subsection (13) of section 651.118, Florida  
1523 Statutes, is amended to read:

1524 651.118 Agency for Health Care Administration; certificates  
1525 of need; sheltered beds; community beds.—

1526 (13) Residents, as defined in this chapter, are not  
1527 considered new admissions for the purpose of s. 400.141  
1528 (1) (o) 1.d. s. 400.141(15) (d).

1529 Section 39. This act shall take effect upon becoming a law.

1530

1531 ===== T I T L E A M E N D M E N T =====

1532 And the title is amended as follows:

1533 Delete everything before the enacting clause  
1534 and insert:

1535 A bill to be entitled  
1536 An act relating to the Agency for Health Care  
1537 Administration; repealing s. 395.0199, F.S., relating  
1538 to private utilization review of health care services;  
1539 amending ss. 395.405 and 400.0712, F.S.; conforming  
1540 cross-references; repealing s. 400.118(2), F.S.;  
1541 removing provisions requiring quality-of-care monitors  
1542 for nursing facilities in agency district offices;  
1543 amending s. 400.141, F.S.; deleting a requirement that  
1544 licensed nursing home facilities provide the agency  
1545 with a monthly report on the number of vacant beds in  
1546 the facility; amending s. 400.147, F.S.; revising the  
1547 definition of the term "adverse incident" for  
1548 reporting purposes; requiring abuse, neglect, and  
1549 exploitation to be reported to the agency and the



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1550 Department of Children and Family Services; deleting a  
1551 requirement that the agency submit an annual report on  
1552 nursing home adverse incidents to the Legislature;  
1553 amending s. 400.162, F.S.; revising requirements for  
1554 policies and procedures regarding the safekeeping of a  
1555 resident's personal effects and property; amending s.  
1556 400.195, F.S.; conforming a cross-reference; amending  
1557 s. 400.23, F.S.; deleting the requirement of the  
1558 agency to adopt rules regarding the eating assistance  
1559 provided to residents; amending s. 400.506, F.S.;  
1560 providing an exception for the agency to deny,  
1561 suspend, or revoke the license of a nurse registry;  
1562 amending s. 400.9935, F.S.; revising accreditation  
1563 requirements for clinics providing magnetic resonance  
1564 imaging services; amending s. 400.995, F.S.; revising  
1565 agency responsibilities with respect to agency  
1566 administrative penalties; amending s. 408.803, F.S.;  
1567 revising definitions applicable to part II of ch. 408,  
1568 F.S., the "Health Care Licensing Procedures Act";  
1569 amending s. 408.806, F.S.; revising contents of and  
1570 procedures relating to health care provider  
1571 applications for licensure; providing an exception  
1572 from certain licensure inspections for adult family-  
1573 care homes; authorizing the agency to provide  
1574 electronic access to certain information and  
1575 documents; amending s. 408.808, F.S.; providing for a  
1576 provisional license to be issued to applicants  
1577 applying for a change of ownership; providing a time  
1578 limit on provisional licenses; amending s. 408.809,



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1579 F.S.; revising provisions relating to background  
1580 screening of specified employees; requiring health  
1581 care providers to submit to the agency an affidavit of  
1582 compliance with background screening requirements at  
1583 the time of license renewal; deleting a provision to  
1584 conform to changes made by the act; amending s.  
1585 408.810, F.S.; revising provisions relating to  
1586 information required for licensure; amending s.  
1587 408.811, F.S.; providing for certain inspections to be  
1588 accepted in lieu of complete licensure inspections;  
1589 granting agency access to records requested during an  
1590 offsite review; providing timeframes for correction of  
1591 certain deficiencies and submission of plans to  
1592 correct the deficiencies; amending s. 408.813, F.S.;  
1593 providing classifications of violations of part II of  
1594 ch. 408, F.S.; providing for fines; amending s.  
1595 408.820, F.S.; revising applicability of certain  
1596 exemptions from specified requirements of part II of  
1597 ch. 408, F.S.; creating s. 408.821, F.S.; requiring  
1598 entities regulated or licensed by the agency to  
1599 designate a liaison officer for emergency operations;  
1600 authorizing entities regulated or licensed by the  
1601 agency to temporarily exceed their licensed capacity  
1602 to act as receiving providers under specified  
1603 circumstances; providing requirements that apply while  
1604 such entities are in an overcapacity status; providing  
1605 for issuance of an inactive license to such licensees  
1606 under specified conditions; providing requirements and  
1607 procedures with respect to the issuance and





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1608 reactivation of an inactive license; authorizing the  
1609 agency to adopt rules; amending s. 408.831, F.S.;

1610 deleting provisions relating to the authorization for  
1611 entities regulated or licensed by the agency to exceed  
1612 their licensed capacity to act as receiving facilities  
1613 and issuance and reactivation of inactive licenses;

1614 amending s. 409.221, F.S.; conforming a cross-  
1615 reference; amending s. 409.901, F.S.; redefining the  
1616 term "change of ownership" as it relates to Medicaid  
1617 providers; repealing s. 429.071, F.S., relating to the  
1618 intergenerational respite care assisted living  
1619 facility pilot program; amending s. 429.08, F.S.;

1620 authorizing the agency to provide information  
1621 regarding licensed assisted living facilities on its  
1622 Internet website; abolishing local coordinating  
1623 workgroups established by agency field offices;

1624 amending s. 429.14, F.S.; conforming a reference;  
1625 amending s. 429.19, F.S.; revising agency procedures  
1626 for imposition of fines for violations of part I of  
1627 ch. 429, F.S., the "Assisted Living Facilities Act";

1628 amending s. 429.23, F.S.; redefining the term "adverse  
1629 incident" for reporting purposes; requiring abuse,  
1630 neglect, and exploitation to be reported to the agency  
1631 and the Department of Children and Family Services;

1632 deleting a requirement that the agency submit an  
1633 annual report on assisted living facility adverse  
1634 incidents to the Legislature; repealing s. 429.26(9),  
1635 F.S., relating to the removal of the requirement for a  
1636 resident of an assisted living facility to undergo



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1637 examinations and evaluations under certain  
1638 circumstances; amending s. 430.80, F.S.; conforming a  
1639 cross-reference; amending ss. 435.04 and 435.05, F.S.;  
1640 requiring employers of certain employees to submit an  
1641 affidavit of compliance with level 2 screening  
1642 requirements at the time of license renewal; amending  
1643 s. 483.031, F.S.; revising a provision relating to the  
1644 exemption of certain clinical laboratories, to conform  
1645 to changes made by the act; amending s. 483.041, F.S.;  
1646 redefining the term "waived test" as it is used in  
1647 part I of ch. 483, F.S., the "Florida Clinical  
1648 Laboratory Law"; repealing s. 483.106, F.S., relating  
1649 to applications for certificates of exemption by  
1650 clinical laboratories that perform certain tests;  
1651 amending ss. 483.172 and 651.118, F.S.; conforming  
1652 provisions and a cross-reference; providing an  
1653 effective date.