

By the Committee on Health Regulation; and Senator Gardiner

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1 A bill to be entitled
2 An act relating to the Agency for Health Care
3 Administration; repealing s. 395.0199, F.S., relating
4 to private utilization review of health care services;
5 amending ss. 395.405 and 400.0712, F.S.; conforming
6 cross-references; repealing s. 400.118(2), F.S.;

7 removing provisions requiring quality-of-care monitors
8 for nursing facilities in agency district offices;
9 amending s. 400.141, F.S.; deleting a requirement that
10 licensed nursing home facilities provide the agency
11 with a monthly report on the number of vacant beds in
12 the facility; amending s. 400.147, F.S.; revising the
13 definition of the term "adverse incident" for
14 reporting purposes; requiring abuse, neglect, and
15 exploitation to be reported to the agency and the
16 Department of Children and Family Services; deleting a
17 requirement that the agency submit an annual report on
18 nursing home adverse incidents to the Legislature;
19 amending s. 400.162, F.S.; revising requirements for
20 policies and procedures regarding the safekeeping of a
21 resident's personal effects and property; amending s.
22 400.195, F.S.; conforming a cross-reference; amending
23 s. 400.23, F.S.; deleting the requirement of the
24 agency to adopt rules regarding the eating assistance
25 provided to residents; amending s. 400.506, F.S.;

26 providing an exception for the agency to deny,
27 suspend, or revoke the license of a nurse registry;
28 amending s. 400.9935, F.S.; revising accreditation
29 requirements for clinics providing magnetic resonance

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30 imaging services; amending s. 400.995, F.S.; revising
31 agency responsibilities with respect to agency
32 administrative penalties; amending s. 408.803, F.S.;
33 revising definitions applicable to part II of ch. 408,
34 F.S., the "Health Care Licensing Procedures Act";
35 amending s. 408.806, F.S.; revising contents of and
36 procedures relating to health care provider
37 applications for licensure; providing an exception
38 from certain licensure inspections for adult family-
39 care homes; authorizing the agency to provide
40 electronic access to certain information and
41 documents; amending s. 408.808, F.S.; providing for a
42 provisional license to be issued to applicants
43 applying for a change of ownership; providing a time
44 limit on provisional licenses; amending s. 408.809,
45 F.S.; revising provisions relating to background
46 screening of specified employees; requiring health
47 care providers to submit to the agency an affidavit of
48 compliance with background screening requirements at
49 the time of license renewal; deleting a provision to
50 conform to changes made by the act; amending s.
51 408.810, F.S.; revising provisions relating to
52 information required for licensure; amending s.
53 408.811, F.S.; providing for certain inspections to be
54 accepted in lieu of complete licensure inspections;
55 granting agency access to records requested during an
56 offsite review; providing timeframes for correction of
57 certain deficiencies and submission of plans to
58 correct the deficiencies; amending s. 408.813, F.S.;

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59 providing classifications of violations of part II of
60 ch. 408, F.S.; providing for fines; amending s.
61 408.820, F.S.; revising applicability of certain
62 exemptions from specified requirements of part II of
63 ch. 408, F.S.; creating s. 408.821, F.S.; requiring
64 entities regulated or licensed by the agency to
65 designate a liaison officer for emergency operations;
66 authorizing entities regulated or licensed by the
67 agency to temporarily exceed their licensed capacity
68 to act as receiving providers under specified
69 circumstances; providing requirements that apply while
70 such entities are in an overcapacity status; providing
71 for issuance of an inactive license to such licensees
72 under specified conditions; providing requirements and
73 procedures with respect to the issuance and
74 reactivation of an inactive license; authorizing the
75 agency to adopt rules; amending s. 408.831, F.S.;
76 deleting provisions relating to the authorization for
77 entities regulated or licensed by the agency to exceed
78 their licensed capacity to act as receiving facilities
79 and issuance and reactivation of inactive licenses;
80 amending s. 409.221, F.S.; conforming a cross-
81 reference; amending s. 409.901, F.S.; redefining the
82 term "change of ownership" as it relates to Medicaid
83 providers; repealing s. 429.071, F.S., relating to the
84 intergenerational respite care assisted living
85 facility pilot program; amending s. 429.08, F.S.;
86 authorizing the agency to provide information
87 regarding licensed assisted living facilities on its

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88 Internet website; abolishing local coordinating
89 workgroups established by agency field offices;
90 amending s. 429.14, F.S.; conforming a reference;
91 amending s. 429.19, F.S.; revising agency procedures
92 for imposition of fines for violations of part I of
93 ch. 429, F.S., the "Assisted Living Facilities Act";
94 amending s. 429.23, F.S.; redefining the term "adverse
95 incident" for reporting purposes; requiring abuse,
96 neglect, and exploitation to be reported to the agency
97 and the Department of Children and Family Services;
98 deleting a requirement that the agency submit an
99 annual report on assisted living facility adverse
100 incidents to the Legislature; repealing s. 429.26(9),
101 F.S., relating to the removal of the requirement for a
102 resident of an assisted living facility to undergo
103 examinations and evaluations under certain
104 circumstances; amending s. 430.80, F.S.; conforming a
105 cross-reference; amending ss. 435.04 and 435.05, F.S.;
106 requiring employers of certain employees to submit an
107 affidavit of compliance with level 2 screening
108 requirements at the time of license renewal; amending
109 s. 483.031, F.S.; revising a provision relating to the
110 exemption of certain clinical laboratories, to conform
111 to changes made by the act; amending s. 483.041, F.S.;
112 redefining the term "waived test" as it is used in
113 part I of ch. 483, F.S., the "Florida Clinical
114 Laboratory Law"; repealing s. 483.106, F.S., relating
115 to applications for certificates of exemption by
116 clinical laboratories that perform certain tests;

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117 amending ss. 483.172 and 651.118, F.S.; conforming
118 provisions and a cross-reference; providing an
119 effective date.

120

121 Be It Enacted by the Legislature of the State of Florida:

122

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

124 Section 2. Section 395.405, Florida Statutes, is amended to
125 read:

126 395.405 Rulemaking.—The department shall adopt and enforce
127 all rules necessary to administer ss. ~~395.0199~~, 395.401,
128 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.

129 Section 3. Subsection (1) of section 400.0712, Florida
130 Statutes, is amended to read:

131 400.0712 Application for inactive license.—

132 (1) As specified in ~~s. 408.831(4)~~ and this section, the
133 agency may issue an inactive license to a nursing home facility
134 for all or a portion of its beds. Any request by a licensee that
135 a nursing home or portion of a nursing home become inactive must
136 be submitted to the agency in the approved format. The facility
137 may not initiate any suspension of services, notify residents,
138 or initiate inactivity before receiving approval from the
139 agency; and a licensee that violates this provision may not be
140 issued an inactive license.

141 Section 4. Subsection (2) of section 400.118, Florida
142 Statutes, is repealed.

143 Section 5. Section 400.141, Florida Statutes, is amended to
144 read:

145 400.141 Administration and management of nursing home

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146 facilities.—

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

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

151 (b)~~(2)~~ Appoint a medical director licensed pursuant to
152 chapter 458 or chapter 459. The agency may establish by rule
153 more specific criteria for the appointment of a medical
154 director.

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

157 (d)~~(4)~~ Provide for resident use of a community pharmacy as
158 specified in s. 400.022(1)(q). Any other law to the contrary
159 notwithstanding, a registered pharmacist licensed in Florida,
160 that is under contract with a facility licensed under this
161 chapter or chapter 429, shall repackage a nursing facility
162 resident's bulk prescription medication which has been packaged
163 by another pharmacist licensed in any state in the United States
164 into a unit dose system compatible with the system used by the
165 nursing facility, if the pharmacist is requested to offer such
166 service. In order to be eligible for the repackaging, a resident
167 or the resident's spouse must receive prescription medication
168 benefits provided through a former employer as part of his or
169 her retirement benefits, a qualified pension plan as specified
170 in s. 4972 of the Internal Revenue Code, a federal retirement
171 program as specified under 5 C.F.R. s. 831, or a long-term care
172 policy as defined in s. 627.9404(1). A pharmacist who correctly
173 repackages and relabels the medication and the nursing facility
174 which correctly administers such repackaged medication under ~~the~~

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175 ~~provisions of this paragraph may subsection~~ shall not be held
176 liable in any civil or administrative action arising from the
177 repackaging. In order to be eligible for the repackaging, a
178 nursing facility resident for whom the medication is to be
179 repackaged shall sign an informed consent form provided by the
180 facility which includes an explanation of the repackaging
181 process and which notifies the resident of the immunities from
182 liability provided in this paragraph ~~herein~~. A pharmacist who
183 repackages and relabels prescription medications, as authorized
184 under this paragraph subsection, may charge a reasonable fee for
185 costs resulting from the implementation of this provision.

186 (e) ~~(5)~~ Provide for the access of the facility residents to
187 dental and other health-related services, recreational services,
188 rehabilitative services, and social work services appropriate to
189 their needs and conditions and not directly furnished by the
190 licensee. When a geriatric outpatient nurse clinic is conducted
191 in accordance with rules adopted by the agency, outpatients
192 attending such clinic shall not be counted as part of the
193 general resident population of the nursing home facility, nor
194 shall the nursing staff of the geriatric outpatient clinic be
195 counted as part of the nursing staff of the facility, until the
196 outpatient clinic load exceeds 15 a day.

197 (f) ~~(6)~~ Be allowed and encouraged by the agency to provide
198 other needed services under certain conditions. If the facility
199 has a standard licensure status, and has had no class I or class
200 II deficiencies during the past 2 years or has been awarded a
201 Gold Seal under the program established in s. 400.235, it may be
202 encouraged by the agency to provide services, including, but not
203 limited to, respite and adult day services, which enable

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204 individuals to move in and out of the facility. A facility is
205 not subject to any additional licensure requirements for
206 providing these services. Respite care may be offered to persons
207 in need of short-term or temporary nursing home services.
208 Respite care must be provided in accordance with this part and
209 rules adopted by the agency. However, the agency shall, by rule,
210 adopt modified requirements for resident assessment, resident
211 care plans, resident contracts, physician orders, and other
212 provisions, as appropriate, for short-term or temporary nursing
213 home services. The agency shall allow for shared programming and
214 staff in a facility which meets minimum standards and offers
215 services pursuant to this paragraph ~~subsection~~, but, if the
216 facility is cited for deficiencies in patient care, may require
217 additional staff and programs appropriate to the needs of
218 service recipients. A person who receives respite care may not
219 be counted as a resident of the facility for purposes of the
220 facility's licensed capacity unless that person receives 24-hour
221 respite care. A person receiving either respite care for 24
222 hours or longer or adult day services must be included when
223 calculating minimum staffing for the facility. Any costs and
224 revenues generated by a nursing home facility from
225 nonresidential programs or services shall be excluded from the
226 calculations of Medicaid per diems for nursing home
227 institutional care reimbursement.

228 (g) ~~(7)~~ If the facility has a standard license or is a Gold
229 Seal facility, exceeds the minimum required hours of licensed
230 nursing and certified nursing assistant direct care per resident
231 per day, and is part of a continuing care facility licensed
232 under chapter 651 or a retirement community that offers other

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233 services pursuant to part III of this chapter or part I or part
234 III of chapter 429 on a single campus, be allowed to share
235 programming and staff. At the time of inspection and in the
236 semiannual report required pursuant to paragraph (o) ~~subsection~~
237 ~~(15)~~, a continuing care facility or retirement community that
238 uses this option must demonstrate through staffing records that
239 minimum staffing requirements for the facility were met.
240 Licensed nurses and certified nursing assistants who work in the
241 nursing home facility may be used to provide services elsewhere
242 on campus if the facility exceeds the minimum number of direct
243 care hours required per resident per day and the total number of
244 residents receiving direct care services from a licensed nurse
245 or a certified nursing assistant does not cause the facility to
246 violate the staffing ratios required under s. 400.23(3)(a).
247 Compliance with the minimum staffing ratios shall be based on
248 total number of residents receiving direct care services,
249 regardless of where they reside on campus. If the facility
250 receives a conditional license, it may not share staff until the
251 conditional license status ends. This paragraph ~~subsection~~ does
252 not restrict the agency's authority under federal or state law
253 to require additional staff if a facility is cited for
254 deficiencies in care which are caused by an insufficient number
255 of certified nursing assistants or licensed nurses. The agency
256 may adopt rules for the documentation necessary to determine
257 compliance with this provision.

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

260 (i) ~~(9)~~ If the licensee furnishes food service, provide a
261 wholesome and nourishing diet sufficient to meet generally

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262 accepted standards of proper nutrition for its residents and
263 provide such therapeutic diets as may be prescribed by attending
264 physicians. In making rules to implement this paragraph
265 ~~subsection~~, the agency shall be guided by standards recommended
266 by nationally recognized professional groups and associations
267 with knowledge of dietetics.

268 (j)~~(10)~~ Keep full records of resident admissions and
269 discharges; medical and general health status, including medical
270 records, personal and social history, and identity and address
271 of next of kin or other persons who may have responsibility for
272 the affairs of the residents; and individual resident care plans
273 including, but not limited to, prescribed services, service
274 frequency and duration, and service goals. The records shall be
275 open to inspection by the agency.

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

279 (l)~~(12)~~ Furnish copies of personnel records for employees
280 affiliated with such facility, to any other facility licensed by
281 this state requesting this information pursuant to this part.
282 Such information contained in the records may include, but is
283 not limited to, disciplinary matters and any reason for
284 termination. Any facility releasing such records pursuant to
285 this part shall be considered to be acting in good faith and may
286 not be held liable for information contained in such records,
287 absent a showing that the facility maliciously falsified such
288 records.

289 (m)~~(13)~~ Publicly display a poster provided by the agency
290 containing the names, addresses, and telephone numbers for the

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291 state's abuse hotline, the State Long-Term Care Ombudsman, the
292 Agency for Health Care Administration consumer hotline, the
293 Advocacy Center for Persons with Disabilities, the Florida
294 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
295 with a clear description of the assistance to be expected from
296 each.

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

300 (o)~~1.~~~~(15)~~ Submit semiannually to the agency, or more
301 frequently if requested by the agency, information regarding
302 facility staff-to-resident ratios, staff turnover, and staff
303 stability, including information regarding certified nursing
304 assistants, licensed nurses, the director of nursing, and the
305 facility administrator. For purposes of this reporting:

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

310 b.~~(b)~~ Staff turnover must be reported for the most recent
311 12-month period ending on the last workday of the most recent
312 calendar quarter prior to the date the information is submitted.
313 The turnover rate must be computed quarterly, with the annual
314 rate being the cumulative sum of the quarterly rates. The
315 turnover rate is the total number of terminations or separations
316 experienced during the quarter, excluding any employee
317 terminated during a probationary period of 3 months or less,
318 divided by the total number of staff employed at the end of the
319 period for which the rate is computed, and expressed as a

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320 percentage.

321 c.~~(e)~~ The formula for determining staff stability is the
322 total number of employees that have been employed for more than
323 12 months, divided by the total number of employees employed at
324 the end of the most recent calendar quarter, and expressed as a
325 percentage.

326 d.~~(d)~~ A nursing facility that has failed to comply with
327 state minimum-staffing requirements for 2 consecutive days is
328 prohibited from accepting new admissions until the facility has
329 achieved the minimum-staffing requirements for a period of 6
330 consecutive days. For the purposes of this sub-subparagraph
331 ~~paragraph~~, any person who was a resident of the facility and was
332 absent from the facility for the purpose of receiving medical
333 care at a separate location or was on a leave of absence is not
334 considered a new admission. Failure to impose such an admissions
335 moratorium constitutes a class II deficiency.

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

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

343
344 2. ~~Nothing in This paragraph does not section shall~~ limit
345 the agency's ability to impose a deficiency or take other
346 actions if a facility does not have enough staff to meet the
347 residents' needs.

348 ~~(16) Report monthly the number of vacant beds in the~~

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349 ~~facility which are available for resident occupancy on the day~~
350 ~~the information is reported.~~

351 (p) ~~(17)~~ Notify a licensed physician when a resident
352 exhibits signs of dementia or cognitive impairment or has a
353 change of condition in order to rule out the presence of an
354 underlying physiological condition that may be contributing to
355 such dementia or impairment. The notification must occur within
356 30 days after the acknowledgment of such signs by facility
357 staff. If an underlying condition is determined to exist, the
358 facility shall arrange, with the appropriate health care
359 provider, the necessary care and services to treat the
360 condition.

361 (q) ~~(18)~~ If the facility implements a dining and hospitality
362 attendant program, ensure that the program is developed and
363 implemented under the supervision of the facility director of
364 nursing. A licensed nurse, licensed speech or occupational
365 therapist, or a registered dietitian must conduct training of
366 dining and hospitality attendants. A person employed by a
367 facility as a dining and hospitality attendant must perform
368 tasks under the direct supervision of a licensed nurse.

369 (r) ~~(19)~~ Report to the agency any filing for bankruptcy
370 protection by the facility or its parent corporation,
371 divestiture or spin-off of its assets, or corporate
372 reorganization within 30 days after the completion of such
373 activity.

374 (s) ~~(20)~~ Maintain general and professional liability
375 insurance coverage that is in force at all times. In lieu of
376 general and professional liability insurance coverage, a state-
377 designated teaching nursing home and its affiliated assisted

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378 living facilities created under s. 430.80 may demonstrate proof
379 of financial responsibility as provided in s. 430.80(3)(h).

380 (t)~~(21)~~ Maintain in the medical record for each resident a
381 daily chart of certified nursing assistant services provided to
382 the resident. The certified nursing assistant who is caring for
383 the resident must complete this record by the end of his or her
384 shift. This record must indicate assistance with activities of
385 daily living, assistance with eating, and assistance with
386 drinking, and must record each offering of nutrition and
387 hydration for those residents whose plan of care or assessment
388 indicates a risk for malnutrition or dehydration.

389 (u)~~(22)~~ Before November 30 of each year, subject to the
390 availability of an adequate supply of the necessary vaccine,
391 provide for immunizations against influenza viruses to all its
392 consenting residents in accordance with the recommendations of
393 the United States Centers for Disease Control and Prevention,
394 subject to exemptions for medical contraindications and
395 religious or personal beliefs. Subject to these exemptions, any
396 consenting person who becomes a resident of the facility after
397 November 30 but before March 31 of the following year must be
398 immunized within 5 working days after becoming a resident.
399 Immunization shall not be provided to any resident who provides
400 documentation that he or she has been immunized as required by
401 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not
402 prohibit a resident from receiving the immunization from his or
403 her personal physician if he or she so chooses. A resident who
404 chooses to receive the immunization from his or her personal
405 physician shall provide proof of immunization to the facility.
406 The agency may adopt and enforce any rules necessary to comply

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407 with or implement this subsection.

408 (v)~~(23)~~ Assess all residents for eligibility for
409 pneumococcal polysaccharide vaccination (PPV) and vaccinate
410 residents when indicated within 60 days after the effective date
411 of this act in accordance with the recommendations of the United
412 States Centers for Disease Control and Prevention, subject to
413 exemptions for medical contraindications and religious or
414 personal beliefs. Residents admitted after the effective date of
415 this act shall be assessed within 5 working days of admission
416 and, when indicated, vaccinated within 60 days in accordance
417 with the recommendations of the United States Centers for
418 Disease Control and Prevention, subject to exemptions for
419 medical contraindications and religious or personal beliefs.
420 Immunization shall not be provided to any resident who provides
421 documentation that he or she has been immunized as required by
422 this paragraph subsection. This paragraph subsection does not
423 prohibit a resident from receiving the immunization from his or
424 her personal physician if he or she so chooses. A resident who
425 chooses to receive the immunization from his or her personal
426 physician shall provide proof of immunization to the facility.
427 The agency may adopt and enforce any rules necessary to comply
428 with or implement this paragraph subsection.

429 (w)~~(24)~~ Annually encourage and promote to its employees the
430 benefits associated with immunizations against influenza viruses
431 in accordance with the recommendations of the United States
432 Centers for Disease Control and Prevention. The agency may adopt
433 and enforce any rules necessary to comply with or implement this
434 paragraph subsection.

435 (2) Facilities that have been awarded a Gold Seal under the

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436 program established in s. 400.235 may develop a plan to provide
437 certified nursing assistant training as prescribed by federal
438 regulations and state rules and may apply to the agency for
439 approval of their program.

440 Section 6. Subsections (5), (9), (10), (11), (12), (13),
441 (14), and (15) of section 400.147, Florida Statutes, are amended
442 to read:

443 400.147 Internal risk management and quality assurance
444 program.—

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

447 (a) An event over which facility personnel could exercise
448 control and which is associated in whole or in part with the
449 facility's intervention, rather than the condition for which
450 such intervention occurred, and which results in one of the
451 following:

452 1. Death;
453 2. Brain or spinal damage;
454 3. Permanent disfigurement;
455 4. Fracture or dislocation of bones or joints;
456 5. A limitation of neurological, physical, or sensory
457 function;

458 6. Any condition that required medical attention to which
459 the resident has not given his or her informed consent,
460 including failure to honor advanced directives; ~~or~~

461 7. Any condition that required the transfer of the
462 resident, within or outside the facility, to a unit providing a
463 more acute level of care due to the adverse incident, rather
464 than the resident's condition prior to the adverse incident; or

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465 8. An event that is reported to law enforcement or its
466 personnel for investigation; or

467 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
468 ~~415.102;~~

469 ~~(c) Abuse, neglect and harm as defined in s. 39.01;~~

470 (b)(d) Resident elopement, if the elopement places the
471 resident at risk of harm or injury.; ~~or~~

472 ~~(e) An event that is reported to law enforcement.~~

473 (9) Abuse, neglect, or exploitation must be reported to the
474 agency as required by 42 C.F.R. s. 483.13(c) and to the
475 department as required by chapters 39 and 415.

476 (10) ~~(9)~~ By the 10th of each month, each facility subject to
477 this section shall report any notice received pursuant to s.
478 400.0233(2) and each initial complaint that was filed with the
479 clerk of the court and served on the facility during the
480 previous month by a resident or a resident's family member,
481 guardian, conservator, or personal legal representative. The
482 report must include the name of the resident, the resident's
483 date of birth and social security number, the Medicaid
484 identification number for Medicaid-eligible persons, the date or
485 dates of the incident leading to the claim or dates of
486 residency, if applicable, and the type of injury or violation of
487 rights alleged to have occurred. Each facility shall also submit
488 a copy of the notices received pursuant to s. 400.0233(2) and
489 complaints filed with the clerk of the court. This report is
490 confidential as provided by law and is not discoverable or
491 admissible in any civil or administrative action, except in such
492 actions brought by the agency to enforce the provisions of this
493 part.

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494 (11)~~(10)~~ The agency shall review, as part of its licensure
495 inspection process, the internal risk management and quality
496 assurance program at each facility regulated by this section to
497 determine whether the program meets standards established in
498 statutory laws and rules, is being conducted in a manner
499 designed to reduce adverse incidents, and is appropriately
500 reporting incidents as required by this section.

501 (12)~~(11)~~ There is no monetary liability on the part of, and
502 a cause of action for damages may not arise against, any risk
503 manager for the implementation and oversight of the internal
504 risk management and quality assurance program in a facility
505 licensed under this part as required by this section, or for any
506 act or proceeding undertaken or performed within the scope of
507 the functions of such internal risk management and quality
508 assurance program if the risk manager acts without intentional
509 fraud.

510 (13)~~(12)~~ If the agency, through its receipt of the adverse
511 incident reports prescribed in subsection (7), or through any
512 investigation, has a reasonable belief that conduct by a staff
513 member or employee of a facility is grounds for disciplinary
514 action by the appropriate regulatory board, the agency shall
515 report this fact to the regulatory board.

516 (14)~~(13)~~ The agency may adopt rules to administer this
517 section.

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

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

522 ~~(b) A listing, by category, of the types of adverse~~

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523 ~~incidents, the number of incidents occurring within each~~
524 ~~category, and the type of staff involved.~~

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

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

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

531 (15) Information gathered by a credentialing organization
532 under a quality assurance program is not discoverable from the
533 credentialing organization. This subsection does not limit
534 discovery of, access to, or use of facility records, including
535 those records from which the credentialing organization gathered
536 its information.

537 Section 7. Subsection (3) of section 400.162, Florida
538 Statutes, is amended to read:

539 400.162 Property and personal affairs of residents.—

540 (3) A licensee shall provide for the safekeeping of
541 personal effects, funds, and other property of the resident in
542 the facility. Whenever necessary for the protection of
543 valuables, or in order to avoid unreasonable responsibility
544 therefor, the licensee may require that such valuables be
545 excluded or removed from the facility and kept at some place not
546 subject to the control of the licensee. At the request of a
547 resident, the facility shall mark the resident's personal
548 property with the resident's name or another type of
549 identification, without defacing the property. Any theft or loss
550 of a resident's personal property shall be documented by the
551 facility. The facility shall develop policies and procedures to

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552 minimize the risk of theft or loss of the personal property of
553 residents. A copy of the policy shall be provided to every
554 employee and to each resident and the resident's representative
555 if appropriate at admission and when revised. Facility policies
556 must include provisions related to reporting theft or loss of a
557 resident's property to law enforcement and any facility waiver
558 of liability for loss or theft. ~~The facility shall post notice~~
559 ~~of these policies and procedures, and any revision thereof, in~~
560 ~~places accessible to residents.~~

561 Section 8. Paragraph (d) of subsection (1) of section
562 400.195, Florida Statutes, is amended to read:

563 400.195 Agency reporting requirements.-

564 (1) For the period beginning June 30, 2001, and ending June
565 30, 2005, the Agency for Health Care Administration shall
566 provide a report to the Governor, the President of the Senate,
567 and the Speaker of the House of Representatives with respect to
568 nursing homes. The first report shall be submitted no later than
569 December 30, 2002, and subsequent reports shall be submitted
570 every 6 months thereafter. The report shall identify facilities
571 based on their ownership characteristics, size, business
572 structure, for-profit or not-for-profit status, and any other
573 characteristics the agency determines useful in analyzing the
574 varied segments of the nursing home industry and shall report:

575 (d) Information regarding deficiencies cited, including
576 information used to develop the Nursing Home Guide WATCH LIST
577 pursuant to s. 400.191, and applicable rules, a summary of data
578 generated on nursing homes by Centers for Medicare and Medicaid
579 Services Nursing Home Quality Information Project, and
580 information collected pursuant to s. 400.147(10) ~~s. 400.147(9)~~,

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581 relating to litigation.

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

584 400.23 Rules; evaluation and deficiencies; licensure
585 status.—

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

589 a. A minimum certified nursing assistant staffing of 2.6
590 hours of direct care per resident per day beginning January 1,
591 2003, and increasing to 2.7 hours of direct care per resident
592 per day beginning January 1, 2007. Beginning January 1, 2002, no
593 facility shall staff below one certified nursing assistant per
594 20 residents, and a minimum licensed nursing staffing of 1.0
595 hour of direct care per resident per day but never below one
596 licensed nurse per 40 residents.

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

601 2. Nursing assistants employed under s. 400.211(2) may be
602 included in computing the staffing ratio for certified nursing
603 assistants only if their job responsibilities include only
604 nursing-assistant-related duties.

605 3. Each nursing home must document compliance with staffing
606 standards as required under this paragraph and post daily the
607 names of staff on duty for the benefit of facility residents and
608 the public.

609 4. The agency shall recognize the use of licensed nurses

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610 for compliance with minimum staffing requirements for certified
611 nursing assistants, provided that the facility otherwise meets
612 the minimum staffing requirements for licensed nurses and that
613 the licensed nurses are performing the duties of a certified
614 nursing assistant. Unless otherwise approved by the agency,
615 licensed nurses counted toward the minimum staffing requirements
616 for certified nursing assistants must exclusively perform the
617 duties of a certified nursing assistant for the entire shift and
618 not also be counted toward the minimum staffing requirements for
619 licensed nurses. If the agency approved a facility's request to
620 use a licensed nurse to perform both licensed nursing and
621 certified nursing assistant duties, the facility must allocate
622 the amount of staff time specifically spent on certified nursing
623 assistant duties for the purpose of documenting compliance with
624 minimum staffing requirements for certified and licensed nursing
625 staff. In no event may the hours of a licensed nurse with dual
626 job responsibilities be counted twice.

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

637 (c) Licensed practical nurses licensed under chapter 464
638 who are providing nursing services in nursing home facilities

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639 under this part may supervise the activities of other licensed
640 practical nurses, certified nursing assistants, and other
641 unlicensed personnel providing services in such facilities in
642 accordance with rules adopted by the Board of Nursing.

643 Section 10. Paragraph (a) of subsection (15) of section
644 400.506, Florida Statutes, is amended to read:

645 400.506 Licensure of nurse registries; requirements;
646 penalties.—

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

650 1. Provides services to residents in an assisted living
651 facility for which the nurse registry does not receive fair
652 market value remuneration.

653 2. Provides staffing to an assisted living facility for
654 which the nurse registry does not receive fair market value
655 remuneration.

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

659 4. Gives remuneration to a case manager, discharge planner,
660 facility-based staff member, or third-party vendor who is
661 involved in the discharge planning process of a facility
662 licensed under chapter 395 or this chapter and from whom the
663 nurse registry receives referrals, except that this subparagraph
664 does not apply to a nurse registry that does not participate in
665 the Medicaid or Medicare program.

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

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668 physician, and the nurse registry received a patient referral in
669 the last 12 months from that physician or the physician's office
670 staff, except that this subparagraph does not apply to a nurse
671 registry that does not participate in the Medicaid or Medicare
672 program.

673 Section 11. Paragraph (a) of subsection (7) of section
674 400.9935, Florida Statutes, is amended to read:

675 400.9935 Clinic responsibilities.—

676 (7) (a) Each clinic engaged in magnetic resonance imaging
677 services must be accredited by the Joint Commission on
678 Accreditation of Healthcare Organizations, the American College
679 of Radiology, or the Accreditation Association for Ambulatory
680 Health Care, within 1 year after licensure. A clinic that is
681 accredited by the American College of Radiology or is within the
682 original 1-year period after licensure and replaces its core
683 magnetic resonance imaging equipment shall be given 1 year after
684 the date on which the equipment is replaced to attain
685 accreditation. However, a clinic may request a single, 6-month
686 extension if it provides evidence to the agency establishing
687 that, for good cause shown, such clinic cannot ~~can not~~ be
688 accredited within 1 year after licensure, and that such
689 accreditation will be completed within the 6-month extension.
690 After obtaining accreditation as required by this subsection,
691 each such clinic must maintain accreditation as a condition of
692 renewal of its license. A clinic that files a change of
693 ownership application must comply with the original
694 accreditation timeframe requirements of the transferor. The
695 agency shall deny a change of ownership application if the
696 clinic is not in compliance with the accreditation requirements.

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697 When a clinic adds, replaces, or modifies magnetic resonance
698 imaging equipment and the accreditation agency requires new
699 accreditation, the clinic must be accredited within 1 year after
700 the date of the addition, replacement, or modification but may
701 request a single, 6-month extension if the clinic provides
702 evidence of good cause to the agency.

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

705 400.995 Agency administrative penalties.—

706 (6) During an inspection, the agency,~~as an alternative to~~
707 ~~or in conjunction with an administrative action against a clinic~~
708 ~~for violations of this part and adopted rules,~~ shall make a
709 reasonable attempt to discuss each violation ~~and recommended~~
710 ~~corrective action~~ with the owner, medical director, or clinic
711 director of the clinic, prior to written notification. ~~The~~
712 ~~agency, instead of fixing a period within which the clinic shall~~
713 ~~enter into compliance with standards, may request a plan of~~
714 ~~corrective action from the clinic which demonstrates a good~~
715 ~~faith effort to remedy each violation by a specific date,~~
716 ~~subject to the approval of the agency.~~

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

719 408.803 Definitions.—As used in this part, the term:

720 (5) "Change of ownership" means:

721 (a) An event in which the licensee sells or otherwise
722 transfers its ownership ~~changes~~ to a different individual or
723 legal entity as evidenced by a change in federal employer
724 identification number or taxpayer identification number; or

725 (b) An event in which 51 ~~45~~ percent or more of the

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726 ownership, ~~voting~~ shares, membership, or controlling interest of
727 a licensee is in any manner transferred or otherwise assigned.

728 This paragraph does not apply to a licensee that is publicly
729 traded on a recognized stock exchange in a corporation whose
730 shares are not publicly traded on a recognized stock exchange is
731 transferred or assigned, including the final transfer or
732 assignment of multiple transfers or assignments over a 2-year
733 period that cumulatively total 45 percent or greater.

734
735 A change solely in the management company or board of directors
736 is not a change of ownership.

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

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

745 408.806 License application process.—

746 (1) An application for licensure must be made to the agency
747 on forms furnished by the agency, submitted under oath, and
748 accompanied by the appropriate fee in order to be accepted and
749 considered timely. The application must contain information
750 required by authorizing statutes and applicable rules and must
751 include:

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

753 1. The applicant;

754 2. The administrator or a similarly titled person who is

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755 responsible for the day-to-day operation of the provider;

756 3. The financial officer or similarly titled person who is
757 responsible for the financial operation of the licensee or
758 provider; and

759 4. Each controlling interest if the applicant or
760 controlling interest is an individual.

761 (2) (a) The applicant for a renewal license must submit an
762 application that must be received by the agency at least 60 days
763 but no more than 120 days before ~~prior to~~ the expiration of the
764 current license. An application received more than 120 days
765 before the expiration of the current license shall be returned
766 to the applicant. If the renewal application and fee are
767 received prior to the license expiration date, the license shall
768 not be deemed to have expired if the license expiration date
769 occurs during the agency's review of the renewal application.

770 (b) The applicant for initial licensure due to a change of
771 ownership must submit an application that must be received by
772 the agency at least 60 days prior to the date of change of
773 ownership.

774 (c) For any other application or request, the applicant
775 must submit an application or request that must be received by
776 the agency at least 60 days but no more than 120 days before
777 ~~prior to~~ the requested effective date, unless otherwise
778 specified in authorizing statutes or applicable rules. An
779 application received more than 120 days before the requested
780 effective date shall be returned to the applicant.

781 (d) The agency shall notify the licensee by mail or
782 electronically at least 90 days before ~~prior to~~ the expiration
783 of a license that a renewal license is necessary to continue

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784 operation. The failure to timely submit a renewal application
785 and license fee shall result in a \$50 per day late fee charged
786 to the licensee by the agency; however, the aggregate amount of
787 the late fee may not exceed 50 percent of the licensure fee or
788 \$500, whichever is less. If an application is received after the
789 required filing date and exhibits a hand-canceled postmark
790 obtained from a United States post office dated on or before the
791 required filing date, no fine will be levied.

792 (7)

793 (c) If an inspection is required by the authorizing statute
794 for a license application other than an initial application, the
795 inspection must be unannounced. This paragraph does not apply to
796 inspections required pursuant to ss. 383.324, 395.0161(4),
797 429.67(6), and 483.061(2).

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

801 (a) Licensure applications.

802 (b) Required signatures.

803 (c) Payment of fees.

804 (d) Notarization of applications.

805

806 Requirements for electronic submission of any documents required
807 by this part or authorizing statutes may be established by rule.
808 As an alternative to sending documents as required by
809 authorizing statutes, the agency may provide electronic access
810 to information or documents.

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

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813 408.808 License categories.—

814 (2) PROVISIONAL LICENSE.—A provisional license may be
815 issued to an applicant pursuant to s. 408.809(3). An applicant
816 against whom a proceeding denying or revoking a license is
817 pending at the time of license renewal may be issued a
818 provisional license effective until final action not subject to
819 further appeal. A provisional license may also be issued to an
820 applicant applying for a change of ownership. A provisional
821 license shall be limited in duration to a specific period of
822 time, not to exceed 12 months, as determined by the agency.

823 Section 16. Subsection (5) of section 408.809, Florida
824 Statutes, is amended, and subsection (6) is added to that
825 section, to read:

826 408.809 Background screening; prohibited offenses.—

827 (5) Effective October 1, 2009, in addition to the offenses
828 listed in ss. 435.03 and 435.04, all persons required to undergo
829 background screening pursuant to this part or authorizing
830 statutes must not have been found guilty of, regardless of
831 adjudication, or entered a plea of nolo contendere or guilty to,
832 any of the following offenses or any similar offense of another
833 jurisdiction:

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

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

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

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

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

841 (f) Chapter 784, relating to assault, battery, and culpable

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842 negligence, if the offense was a felony.

843 (g) Section 810.02, relating to burglary.

844 (h) Section 817.034, relating to fraudulent acts through
845 mail, wire, radio, electromagnetic, photoelectronic, or
846 photooptical systems.

847 (i) Section 817.234, relating to false and fraudulent
848 insurance claims.

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

850 (k) Section 817.568, relating to criminal use of personal
851 identification information.

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

854 (m) Section 817.61, relating to fraudulent use of credit
855 cards, if the offense was a felony.

856 (n) Section 831.01, relating to forgery.

857 (o) Section 831.02, relating to uttering forged
858 instruments.

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

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

863 (r) Section 831.30, relating to fraud in obtaining
864 medicinal drugs.

865 (s) Section 831.31, relating to the sale, manufacture,
866 delivery, or possession with the intent to sell, manufacture, or
867 deliver any counterfeit controlled substance, if the offense was
868 a felony.

869
870 A person who serves as a controlling interest of or is employed

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871 by a licensee on September 30, 2009, is not required by law to
872 submit to rescreening if that licensee has in its possession
873 written evidence that the person has been screened and qualified
874 according to the standards specified in s. 435.03 or s. 435.04.
875 However, if such person has a disqualifying offense listed in
876 this section, he or she may apply for an exemption from the
877 appropriate licensing agency before September 30, 2009, and if
878 agreed to by the employer, may continue to perform his or her
879 duties until the licensing agency renders a decision on the
880 application for exemption for offenses listed in this section.
881 Exemptions from disqualification may be granted pursuant to s.
882 435.07. ~~Background screening is not required to obtain a~~
883 ~~certificate of exemption issued under s. 483.106.~~

884 (6) The attestations required under ss. 435.04(5) and
885 435.05(3) must be submitted at the time of license renewal,
886 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)
887 which require annual submission of an affidavit of compliance
888 with background screening requirements.

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

891 408.810 Minimum licensure requirements.—In addition to the
892 licensure requirements specified in this part, authorizing
893 statutes, and applicable rules, each applicant and licensee must
894 comply with the requirements of this section in order to obtain
895 and maintain a license.

896 (3) Unless otherwise specified in this part, authorizing
897 statutes, or applicable rules, any information required to be
898 reported to the agency must be submitted within 21 calendar days
899 after the report period or effective date of the information,

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900 whichever is earlier, including, but not limited to, any change
901 of:

902 (a) Information contained in the most recent application
903 for licensure.

904 (b) Required insurance or bonds.

905 Section 18. Section 408.811, Florida Statutes, is amended
906 to read:

907 408.811 Right of inspection; copies; inspection reports;
908 plan for correction of deficiencies.-

909 (1) An authorized officer or employee of the agency may
910 make or cause to be made any inspection or investigation deemed
911 necessary by the agency to determine the state of compliance
912 with this part, authorizing statutes, and applicable rules. The
913 right of inspection extends to any business that the agency has
914 reason to believe is being operated as a provider without a
915 license, but inspection of any business suspected of being
916 operated without the appropriate license may not be made without
917 the permission of the owner or person in charge unless a warrant
918 is first obtained from a circuit court. Any application for a
919 license issued under this part, authorizing statutes, or
920 applicable rules constitutes permission for an appropriate
921 inspection to verify the information submitted on or in
922 connection with the application.

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

925 (b) Inspections for relicensure shall be conducted
926 biennially unless otherwise specified by authorizing statutes or
927 applicable rules.

928 (2) Inspections conducted in conjunction with

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929 certification, comparable licensure requirements, or a
930 recognized or approved accreditation organization may be
931 accepted in lieu of a complete licensure inspection. However, a
932 licensure inspection may also be conducted to review any
933 licensure requirements that are not also requirements for
934 certification.

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

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

942 (5) The agency may require an applicant or licensee to
943 submit a plan of correction for deficiencies. If required, the
944 plan of correction must be filed with the agency within 10
945 calendar days after notification unless an alternative timeframe
946 is required.

947 (6) (a) ~~(4) (a)~~ Each licensee shall maintain as public
948 information, available upon request, records of all inspection
949 reports pertaining to that provider that have been filed by the
950 agency unless those reports are exempt from or contain
951 information that is exempt from s. 119.07(1) and s. 24(a), Art.
952 I of the State Constitution or is otherwise made confidential by
953 law. Effective October 1, 2006, copies of such reports shall be
954 retained in the records of the provider for at least 3 years
955 following the date the reports are filed and issued, regardless
956 of a change of ownership.

957 (b) A licensee shall, upon the request of any person who

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958 has completed a written application with intent to be admitted
959 by such provider, any person who is a client of such provider,
960 or any relative, spouse, or guardian of any such person, furnish
961 to the requester a copy of the last inspection report pertaining
962 to the licensed provider that was issued by the agency or by an
963 accrediting organization if such report is used in lieu of a
964 licensure inspection.

965 Section 19. Section 408.813, Florida Statutes, is amended
966 to read:

967 408.813 Administrative fines; violations.—As a penalty for
968 any violation of this part, authorizing statutes, or applicable
969 rules, the agency may impose an administrative fine.

970 (1) Unless the amount or aggregate limitation of the fine
971 is prescribed by authorizing statutes or applicable rules, the
972 agency may establish criteria by rule for the amount or
973 aggregate limitation of administrative fines applicable to this
974 part, authorizing statutes, and applicable rules. Each day of
975 violation constitutes a separate violation and is subject to a
976 separate fine. For fines imposed by final order of the agency
977 and not subject to further appeal, the violator shall pay the
978 fine plus interest at the rate specified in s. 55.03 for each
979 day beyond the date set by the agency for payment of the fine.

980 (2) Violations of this part, authorizing statutes, or
981 applicable rules shall be classified according to the nature of
982 the violation and the gravity of its probable effect on clients.
983 The scope of a violation may be cited as an isolated, patterned,
984 or widespread deficiency. An isolated deficiency is a deficiency
985 affecting one or a very limited number of clients, or involving
986 one or a very limited number of staff, or a situation that

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987 occurred only occasionally or in a very limited number of
988 locations. A patterned deficiency is a deficiency in which more
989 than a very limited number of clients are affected, or more than
990 a very limited number of staff are involved, or the situation
991 has occurred in several locations, or the same client or clients
992 have been affected by repeated occurrences of the same deficient
993 practice but the effect of the deficient practice is not found
994 to be pervasive throughout the provider. A widespread deficiency
995 is a deficiency in which the problems causing the deficiency are
996 pervasive in the provider or represent systemic failure that has
997 affected or has the potential to affect a large portion of the
998 provider's clients. This subsection does not affect the
999 legislative determination of the amount of a fine imposed under
1000 authorizing statutes. Violations shall be classified on the
1001 written notice as follows:

1002 (a) Class "I" violations are those conditions or
1003 occurrences related to the operation and maintenance of a
1004 provider or to the care of clients which the agency determines
1005 present an imminent danger to the clients of the provider or a
1006 substantial probability that death or serious physical or
1007 emotional harm would result therefrom. The condition or practice
1008 constituting a class I violation shall be abated or eliminated
1009 within 24 hours, unless a fixed period, as determined by the
1010 agency, is required for correction. The agency shall impose an
1011 administrative fine as provided by law for a cited class I
1012 violation. A fine shall be levied notwithstanding the correction
1013 of the violation.

1014 (b) Class "II" violations are those conditions or
1015 occurrences related to the operation and maintenance of a

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1016 provider or to the care of clients which the agency determines
1017 directly threaten the physical or emotional health, safety, or
1018 security of the clients, other than class I violations. The
1019 agency shall impose an administrative fine as provided by law
1020 for a cited class II violation. A fine shall be levied
1021 notwithstanding the correction of the violation.

1022 (c) Class "III" violations are those conditions or
1023 occurrences related to the operation and maintenance of a
1024 provider or to the care of clients which the agency determines
1025 indirectly or potentially threaten the physical or emotional
1026 health, safety, or security of clients, other than class I or
1027 class II violations. The agency shall impose an administrative
1028 fine as provided in this section for a cited class III
1029 violation. A citation for a class III violation must specify the
1030 time within which the violation is required to be corrected. If
1031 a class III violation is corrected within the time specified, a
1032 fine may not be imposed.

1033 (d) Class "IV" violations are those conditions or
1034 occurrences related to the operation and maintenance of a
1035 provider or to required reports, forms, or documents that do not
1036 have the potential of negatively affecting clients. These
1037 violations are of a type that the agency determines do not
1038 threaten the health, safety, or security of clients. The agency
1039 shall impose an administrative fine as provided in this section
1040 for a cited class IV violation. A citation for a class IV
1041 violation must specify the time within which the violation is
1042 required to be corrected. If a class IV violation is corrected
1043 within the time specified, a fine may not be imposed.

1044 Section 20. Subsections (11), (12), (13), (14), (15), (16),

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1045 (17), (18), (19), (20), (21), (22), (23), (24), (25), (26),
1046 (27), (28), and (29) of section 408.820, Florida Statutes, are
1047 amended to read:

1048 408.820 Exemptions.—Except as prescribed in authorizing
1049 statutes, the following exemptions shall apply to specified
1050 requirements of this part:

1051 ~~(11) Private review agents, as provided under part I of~~
1052 ~~chapter 395, are exempt from ss. 408.806(7), 408.810, and~~
1053 ~~408.811.~~

1054 (11)~~(12)~~ Health care risk managers, as provided under part
1055 I of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-
1056 (10) ~~408.810~~, and 408.811.

1057 (12)~~(13)~~ Nursing homes, as provided under part II of
1058 chapter 400, are exempt from s. 408.810(7).

1059 (13)~~(14)~~ Assisted living facilities, as provided under part
1060 I of chapter 429, are exempt from s. 408.810(10).

1061 (14)~~(15)~~ Home health agencies, as provided under part III
1062 of chapter 400, are exempt from s. 408.810(10).

1063 (15)~~(16)~~ Nurse registries, as provided under part III of
1064 chapter 400, are exempt from s. 408.810(6) and (10).

1065 (16)~~(17)~~ Companion services or homemaker services
1066 providers, as provided under part III of chapter 400, are exempt
1067 from s. 408.810(6)-(10).

1068 (17)~~(18)~~ Adult day care centers, as provided under part III
1069 of chapter 429, are exempt from s. 408.810(10).

1070 (18)~~(19)~~ Adult family-care homes, as provided under part II
1071 of chapter 429, are exempt from s. 408.810(7)-(10).

1072 (18)~~(20)~~ Homes for special services, as provided under part
1073 V of chapter 400, are exempt from s. 408.810(7)-(10).

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1074 (20)~~(21)~~ Transitional living facilities, as provided under
 1075 part V of chapter 400, are exempt from s. 408.810(10) ~~s.~~
 1076 ~~408.810(7)-(10)~~.

1077 (21)~~(22)~~ Prescribed pediatric extended care centers, as
 1078 provided under part VI of chapter 400, are exempt from s.
 1079 408.810(10).

1080 (22)~~(23)~~ Home medical equipment providers, as provided
 1081 under part VII of chapter 400, are exempt from s. 408.810(10).

1082 (23)~~(24)~~ Intermediate care facilities for persons with
 1083 developmental disabilities, as provided under part VIII of
 1084 chapter 400, are exempt from s. 408.810(7).

1085 (24)~~(25)~~ Health care services pools, as provided under part
 1086 IX of chapter 400, are exempt from s. 408.810(6)-(10).

1087 (25)~~(26)~~ Health care clinics, as provided under part X of
 1088 chapter 400, are exempt from s. 408.810(6), (7), (10) ~~ss.~~
 1089 ~~408.809 and 408.810(1), (6), (7), and (10)~~.

1090 (26)~~(27)~~ Clinical laboratories, as provided under part I of
 1091 chapter 483, are exempt from s. 408.810(5)-(10).

1092 (27)~~(28)~~ Multiphasic health testing centers, as provided
 1093 under part II of chapter 483, are exempt from s. 408.810(5)-
 1094 (10).

1095 (28)~~(29)~~ Organ and tissue procurement agencies, as provided
 1096 under chapter 765, are exempt from s. 408.810(5)-(10).

1097 Section 21. Section 408.821, Florida Statutes, is created
 1098 to read:

1099 408.821 Emergency management planning; emergency
 1100 operations; inactive license.-

1101 (1) A licensee required by authorizing statutes to have an
 1102 emergency operations plan must designate a safety liaison to

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1103 serve as the primary contact for emergency operations.

1104 (2) An entity subject to this part may temporarily exceed
1105 its licensed capacity to act as a receiving provider in
1106 accordance with an approved emergency operations plan for up to
1107 15 days. While in an overcapacity status, each provider must
1108 furnish or arrange for appropriate care and services to all
1109 clients. In addition, the agency may approve requests for
1110 overcapacity in excess of 15 days, which approvals may be based
1111 upon satisfactory justification and need as provided by the
1112 receiving and sending providers.

1113 (3) (a) An inactive license may be issued to a licensee
1114 subject to this section when the provider is located in a
1115 geographic area in which a state of emergency was declared by
1116 the Governor if the provider:

1117 1. Suffered damage to its operation during the state of
1118 emergency.

1119 2. Is currently licensed.

1120 3. Does not have a provisional license.

1121 4. Will be temporarily unable to provide services but is
1122 reasonably expected to resume services within 12 months.

1123 (b) An inactive license may be issued for a period not to
1124 exceed 12 months but may be renewed by the agency for up to 12
1125 additional months upon demonstration to the agency of progress
1126 toward reopening. A request by a licensee for an inactive
1127 license or to extend the previously approved inactive period
1128 must be submitted in writing to the agency, accompanied by
1129 written justification for the inactive license, which states the
1130 beginning and ending dates of inactivity and includes a plan for
1131 the transfer of any clients to other providers and appropriate

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1132 licensure fees. Upon agency approval, the licensee shall notify
1133 clients of any necessary discharge or transfer as required by
1134 authorizing statutes or applicable rules. The beginning of the
1135 inactive licensure period shall be the date the provider ceases
1136 operations. The end of the inactive period shall become the
1137 license expiration date, and all licensure fees must be current,
1138 must be paid in full, and may be prorated. Reactivation of an
1139 inactive license requires the prior approval by the agency of a
1140 renewal application, including payment of licensure fees and
1141 agency inspections indicating compliance with all requirements
1142 of this part and applicable rules and statutes.

1143 (4) The agency may adopt rules relating to emergency
1144 management planning, communications, and operations. Licensees
1145 providing residential or inpatient services must utilize an
1146 online database approved by the agency to report information to
1147 the agency regarding the provider's emergency status, planning,
1148 or operations.

1149 Section 22. Section 408.831, Florida Statutes, is amended
1150 to read:

1151 408.831 Denial, suspension, or revocation of a license,
1152 registration, certificate, or application.-

1153 (1) In addition to any other remedies provided by law, the
1154 agency may deny each application or suspend or revoke each
1155 license, registration, or certificate of entities regulated or
1156 licensed by it:

1157 (a) If the applicant, licensee, or a licensee subject to
1158 this part which shares a common controlling interest with the
1159 applicant has failed to pay all outstanding fines, liens, or
1160 overpayments assessed by final order of the agency or final

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1161 order of the Centers for Medicare and Medicaid Services, not
1162 subject to further appeal, unless a repayment plan is approved
1163 by the agency; or

1164 (b) For failure to comply with any repayment plan.

1165 (2) In reviewing any application requesting a change of
1166 ownership or change of the licensee, registrant, or
1167 certificateholder, the transferor shall, prior to agency
1168 approval of the change, repay or make arrangements to repay any
1169 amounts owed to the agency. Should the transferor fail to repay
1170 or make arrangements to repay the amounts owed to the agency,
1171 the issuance of a license, registration, or certificate to the
1172 transferee shall be delayed until repayment or until
1173 arrangements for repayment are made.

1174 ~~(3) An entity subject to this section may exceed its~~
1175 ~~licensed capacity to act as a receiving facility in accordance~~
1176 ~~with an emergency operations plan for clients of evacuating~~
1177 ~~providers from a geographic area where an evacuation order has~~
1178 ~~been issued by a local authority having jurisdiction. While in~~
1179 ~~an overcapacity status, each provider must furnish or arrange~~
1180 ~~for appropriate care and services to all clients. In addition,~~
1181 ~~the agency may approve requests for overcapacity beyond 15 days,~~
1182 ~~which approvals may be based upon satisfactory justification and~~
1183 ~~need as provided by the receiving and sending facilities.~~

1184 ~~(4) (a) An inactive license may be issued to a licensee~~
1185 ~~subject to this section when the provider is located in a~~
1186 ~~geographic area where a state of emergency was declared by the~~
1187 ~~Governor if the provider:~~

1188 ~~1. Suffered damage to its operation during that state of~~
1189 ~~emergency.~~

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1190 ~~2. Is currently licensed.~~
1191 ~~3. Does not have a provisional license.~~
1192 ~~4. Will be temporarily unable to provide services but is~~
1193 ~~reasonably expected to resume services within 12 months.~~
1194 ~~(b) An inactive license may be issued for a period not to~~
1195 ~~exceed 12 months but may be renewed by the agency for up to 12~~
1196 ~~additional months upon demonstration to the agency of progress~~
1197 ~~toward reopening. A request by a licensee for an inactive~~
1198 ~~license or to extend the previously approved inactive period~~
1199 ~~must be submitted in writing to the agency, accompanied by~~
1200 ~~written justification for the inactive license, which states the~~
1201 ~~beginning and ending dates of inactivity and includes a plan for~~
1202 ~~the transfer of any clients to other providers and appropriate~~
1203 ~~licensure fees. Upon agency approval, the licensee shall notify~~
1204 ~~clients of any necessary discharge or transfer as required by~~
1205 ~~authorizing statutes or applicable rules. The beginning of the~~
1206 ~~inactive licensure period shall be the date the provider ceases~~
1207 ~~operations. The end of the inactive period shall become the~~
1208 ~~licensee expiration date, and all licensure fees must be~~
1209 ~~current, paid in full, and may be prorated. Reactivation of an~~
1210 ~~inactive license requires the prior approval by the agency of a~~
1211 ~~renewal application, including payment of licensure fees and~~
1212 ~~agency inspections indicating compliance with all requirements~~
1213 ~~of this part and applicable rules and statutes.~~
1214 (3)(5) This section provides standards of enforcement
1215 applicable to all entities licensed or regulated by the Agency
1216 for Health Care Administration. This section controls over any
1217 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
1218 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to

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1219 those chapters.

1220 Section 23. Paragraph (e) of subsection (4) of section
1221 409.221, Florida Statutes, is amended to read:

1222 409.221 Consumer-directed care program.—

1223 (4) CONSUMER-DIRECTED CARE.—

1224 (e) *Services*.—Consumers shall use the budget allowance only
1225 to pay for home and community-based services that meet the
1226 consumer's long-term care needs and are a cost-efficient use of
1227 funds. Such services may include, but are not limited to, the
1228 following:

1229 1. Personal care.

1230 2. Homemaking and chores, including housework, meals,
1231 shopping, and transportation.

1232 3. Home modifications and assistive devices which may
1233 increase the consumer's independence or make it possible to
1234 avoid institutional placement.

1235 4. Assistance in taking self-administered medication.

1236 5. Day care and respite care services, including those
1237 provided by nursing home facilities pursuant to s. 400.141(1)(f)
1238 ~~s. 400.141(6)~~ or by adult day care facilities licensed pursuant
1239 to s. 429.907.

1240 6. Personal care and support services provided in an
1241 assisted living facility.

1242 Section 24. Subsection (5) of section 409.901, Florida
1243 Statutes, is amended to read:

1244 409.901 Definitions; ss. 409.901-409.920.—As used in ss.
1245 409.901-409.920, except as otherwise specifically provided, the
1246 term:

1247 (5) "Change of ownership" means:

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1248 (a) An event in which the provider ownership changes to a
1249 different individual legal entity as evidenced by a change in
1250 federal employer identification number or taxpayer
1251 identification number; or

1252 (b) An event in which 51 45 percent or more of the
1253 ownership, voting shares, membership, or controlling interest of
1254 a provider is in any manner transferred or otherwise assigned.
1255 This paragraph does not apply to a licensee that is publicly
1256 traded on a recognized stock exchange; or

1257 (c) When the provider is licensed or registered by the
1258 agency, an event considered a change of ownership for licensure
1259 as defined in s. 408.803 in a corporation whose shares are not
1260 publicly traded on a recognized stock exchange is transferred or
1261 assigned, including the final transfer or assignment of multiple
1262 transfers or assignments over a 2-year period that cumulatively
1263 total 45 percent or more.

1264
1265 A change solely in the management company or board of directors
1266 is not a change of ownership.

1267 Section 25. Section 429.071, Florida Statutes, is repealed.

1268 Section 26. Paragraph (e) of subsection (1) and subsections
1269 (2) and (3) of section 429.08, Florida Statutes, are amended to
1270 read:

1271 429.08 Unlicensed facilities; referral of person for
1272 residency to unlicensed facility; penalties; verification of
1273 licensure status.—

1274 (1)

1275 (e) The agency shall publish ~~provide to the department's~~
1276 ~~elder information and referral providers~~ a list, by county, of

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1277 licensed assisted living facilities, ~~to assist persons who are~~
1278 ~~considering an assisted living facility placement in locating a~~
1279 ~~licensed facility.~~ This information may be provided
1280 electronically or through the agency's Internet site.

1281 ~~(2) Each field office of the Agency for Health Care~~
1282 ~~Administration shall establish a local coordinating workgroup~~
1283 ~~which includes representatives of local law enforcement~~
1284 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~
1285 ~~the Department of Legal Affairs, local fire authorities, the~~
1286 ~~Department of Children and Family Services, the district long-~~
1287 ~~term care ombudsman council, and the district human rights~~
1288 ~~advocacy committee to assist in identifying the operation of~~
1289 ~~unlicensed facilities and to develop and implement a plan to~~
1290 ~~ensure effective enforcement of state laws relating to such~~
1291 ~~facilities. The workgroup shall report its findings, actions,~~
1292 ~~and recommendations semiannually to the Director of Health~~
1293 ~~Quality Assurance of the agency.~~

1294 (2)~~(3)~~ It is unlawful to knowingly refer a person for
1295 residency to an unlicensed assisted living facility; to an
1296 assisted living facility the license of which is under denial or
1297 has been suspended or revoked; or to an assisted living facility
1298 that has a moratorium pursuant to part II of chapter 408. ~~Any~~
1299 ~~person who violates this subsection commits a noncriminal~~
1300 ~~violation, punishable by a fine not exceeding \$500 as provided~~
1301 ~~in s. 775.083.~~

1302 (a) Any health care practitioner, as defined in s. 456.001,
1303 who is aware of the operation of an unlicensed facility shall
1304 report that facility to the agency. Failure to report a facility
1305 that the practitioner knows or has reasonable cause to suspect

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1306 is unlicensed shall be reported to the practitioner's licensing
1307 board.

1308 (b) Any provider as defined in s. 408.803 ~~hospital or~~
1309 ~~community mental health center licensed under chapter 395 or~~
1310 ~~chapter 394~~ which knowingly discharges a patient or client to an
1311 unlicensed facility is subject to sanction by the agency.

1312 (c) Any employee of the agency or department, or the
1313 Department of Children and Family Services, who knowingly refers
1314 a person for residency to an unlicensed facility; to a facility
1315 the license of which is under denial or has been suspended or
1316 revoked; or to a facility that has a moratorium pursuant to part
1317 II of chapter 408 is subject to disciplinary action by the
1318 agency or department, or the Department of Children and Family
1319 Services.

1320 (d) The employer of any person who is under contract with
1321 the agency or department, or the Department of Children and
1322 Family Services, and who knowingly refers a person for residency
1323 to an unlicensed facility; to a facility the license of which is
1324 under denial or has been suspended or revoked; or to a facility
1325 that has a moratorium pursuant to part II of chapter 408 shall
1326 be fined and required to prepare a corrective action plan
1327 designed to prevent such referrals.

1328 ~~(e) The agency shall provide the department and the~~
1329 ~~Department of Children and Family Services with a list of~~
1330 ~~licensed facilities within each county and shall update the list~~
1331 ~~at least quarterly.~~

1332 ~~(f) At least annually, the agency shall notify, in~~
1333 ~~appropriate trade publications, physicians licensed under~~
1334 ~~chapter 458 or chapter 459, hospitals licensed under chapter~~

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1335 ~~395, nursing home facilities licensed under part II of chapter~~
1336 ~~400, and employees of the agency or the department, or the~~
1337 ~~Department of Children and Family Services, who are responsible~~
1338 ~~for referring persons for residency, that it is unlawful to~~
1339 ~~knowingly refer a person for residency to an unlicensed assisted~~
1340 ~~living facility and shall notify them of the penalty for~~
1341 ~~violating such prohibition. The department and the Department of~~
1342 ~~Children and Family Services shall, in turn, notify service~~
1343 ~~providers under contract to the respective departments who have~~
1344 ~~responsibility for resident referrals to facilities. Further,~~
1345 ~~the notice must direct each noticed facility and individual to~~
1346 ~~contact the appropriate agency office in order to verify the~~
1347 ~~licensure status of any facility prior to referring any person~~
1348 ~~for residency. Each notice must include the name, telephone~~
1349 ~~number, and mailing address of the appropriate office to~~
1350 ~~contact.~~

1351 Section 27. Paragraph (e) of subsection (1) of section
1352 429.14, Florida Statutes, is amended to read:

1353 429.14 Administrative penalties.—

1354 (1) In addition to the requirements of part II of chapter
1355 408, the agency may deny, revoke, and suspend any license issued
1356 under this part and impose an administrative fine in the manner
1357 provided in chapter 120 against a licensee of an assisted living
1358 facility for a violation of any provision of this part, part II
1359 of chapter 408, or applicable rules, or for any of the following
1360 actions by a licensee of an assisted living facility, for the
1361 actions of any person subject to level 2 background screening
1362 under s. 408.809, or for the actions of any facility employee:

1363 (e) A citation of any of the following deficiencies as

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1364 specified ~~defined~~ in s. 429.19:

- 1365 1. One or more cited class I deficiencies.
- 1366 2. Three or more cited class II deficiencies.
- 1367 3. Five or more cited class III deficiencies that have been
- 1368 cited on a single survey and have not been corrected within the
- 1369 times specified.

1370 Section 28. Section 429.19, Florida Statutes, is amended to

1371 read:

1372 429.19 Violations; imposition of administrative fines;

1373 grounds.—

1374 (1) In addition to the requirements of part II of chapter

1375 408, the agency shall impose an administrative fine in the

1376 manner provided in chapter 120 for the violation of any

1377 provision of this part, part II of chapter 408, and applicable

1378 rules by an assisted living facility, for the actions of any

1379 person subject to level 2 background screening under s. 408.809,

1380 for the actions of any facility employee, or for an intentional

1381 or negligent act seriously affecting the health, safety, or

1382 welfare of a resident of the facility.

1383 (2) Each violation of this part and adopted rules shall be

1384 classified according to the nature of the violation and the

1385 gravity of its probable effect on facility residents. The agency

1386 shall indicate the classification on the written notice of the

1387 violation as follows:

1388 (a) Class "I" violations are defined in s. 408.813 ~~those~~

1389 ~~conditions or occurrences related to the operation and~~

1390 ~~maintenance of a facility or to the personal care of residents~~

1391 ~~which the agency determines present an imminent danger to the~~

1392 ~~residents or guests of the facility or a substantial probability~~

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1393 ~~that death or serious physical or emotional harm would result~~
1394 ~~therefrom. The condition or practice constituting a class I~~
1395 ~~violation shall be abated or eliminated within 24 hours, unless~~
1396 ~~a fixed period, as determined by the agency, is required for~~
1397 ~~correction. The agency shall impose an administrative fine for a~~
1398 ~~cited class I violation in an amount not less than \$5,000 and~~
1399 ~~not exceeding \$10,000 for each violation. A fine may be levied~~
1400 ~~notwithstanding the correction of the violation.~~

1401 (b) Class "II" violations are defined in s. 408.813 ~~those~~
1402 ~~conditions or occurrences related to the operation and~~
1403 ~~maintenance of a facility or to the personal care of residents~~
1404 ~~which the agency determines directly threaten the physical or~~
1405 ~~emotional health, safety, or security of the facility residents,~~
1406 ~~other than class I violations. The agency shall impose an~~
1407 ~~administrative fine for a cited class II violation in an amount~~
1408 ~~not less than \$1,000 and not exceeding \$5,000 for each~~
1409 ~~violation. A fine shall be levied notwithstanding the correction~~
1410 ~~of the violation.~~

1411 (c) Class "III" violations are defined in s. 408.813 ~~those~~
1412 ~~conditions or occurrences related to the operation and~~
1413 ~~maintenance of a facility or to the personal care of residents~~
1414 ~~which the agency determines indirectly or potentially threaten~~
1415 ~~the physical or emotional health, safety, or security of~~
1416 ~~facility residents, other than class I or class II violations.~~
1417 The agency shall impose an administrative fine for a cited class
1418 III violation in an amount not less than \$500 and not exceeding
1419 \$1,000 for each violation. ~~A citation for a class III violation~~
1420 ~~must specify the time within which the violation is required to~~
1421 ~~be corrected. If a class III violation is corrected within the~~

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1422 ~~time specified, no fine may be imposed, unless it is a repeated~~
1423 ~~offense.~~

1424 (d) Class "IV" violations are defined in s. 408.813 ~~these~~
1425 ~~conditions or occurrences related to the operation and~~
1426 ~~maintenance of a building or to required reports, forms, or~~
1427 ~~documents that do not have the potential of negatively affecting~~
1428 ~~residents. These violations are of a type that the agency~~
1429 ~~determines do not threaten the health, safety, or security of~~
1430 ~~residents of the facility.~~ The agency shall impose an
1431 administrative fine for a cited class IV violation in an amount
1432 not less than \$100 and not exceeding \$200 for each violation. A
1433 ~~citation for a class IV violation must specify the time within~~
1434 ~~which the violation is required to be corrected. If a class IV~~
1435 ~~violation is corrected within the time specified, no fine shall~~
1436 ~~be imposed. Any class IV violation that is corrected during the~~
1437 ~~time an agency survey is being conducted will be identified as~~
1438 ~~an agency finding and not as a violation.~~

1439 (3) For purposes of this section, in determining if a
1440 penalty is to be imposed and in fixing the amount of the fine,
1441 the agency shall consider the following factors:

1442 (a) The gravity of the violation, including the probability
1443 that death or serious physical or emotional harm to a resident
1444 will result or has resulted, the severity of the action or
1445 potential harm, and the extent to which the provisions of the
1446 applicable laws or rules were violated.

1447 (b) Actions taken by the owner or administrator to correct
1448 violations.

1449 (c) Any previous violations.

1450 (d) The financial benefit to the facility of committing or

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1451 continuing the violation.

1452 (e) The licensed capacity of the facility.

1453 (4) Each day of continuing violation after the date fixed
1454 for termination of the violation, as ordered by the agency,
1455 constitutes an additional, separate, and distinct violation.

1456 (5) During an inspection, any action taken to correct a
1457 violation shall be documented in writing by the owner or
1458 administrator of the facility and verified through followup
1459 visits by agency personnel. The agency may impose a fine and, in
1460 the case of an owner-operated facility, revoke or deny a
1461 facility's license when a facility administrator fraudulently
1462 misrepresents action taken to correct a violation.

1463 (6) Any facility whose owner fails to apply for a change-
1464 of-ownership license in accordance with part II of chapter 408
1465 and operates the facility under the new ownership is subject to
1466 a fine of \$5,000.

1467 (7) In addition to any administrative fines imposed, the
1468 agency may assess a survey fee, equal to the lesser of one half
1469 of the facility's biennial license and bed fee or \$500, to cover
1470 the cost of conducting initial complaint investigations that
1471 result in the finding of a violation that was the subject of the
1472 complaint or monitoring visits conducted under s. 429.28(3)(c)
1473 to verify the correction of the violations.

1474 (8) The agency, ~~as an alternative to or in conjunction with~~
1475 ~~an administrative action against a facility for violations of~~
1476 ~~this part and adopted rules,~~ shall make a reasonable attempt to
1477 discuss each violation ~~and recommended corrective action~~ with
1478 the owner or administrator of the facility, prior to written
1479 notification. ~~The agency, instead of fixing a period within~~

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1480 ~~which the facility shall enter into compliance with standards,~~
1481 ~~may request a plan of corrective action from the facility which~~
1482 ~~demonstrates a good faith effort to remedy each violation by a~~
1483 ~~specific date, subject to the approval of the agency.~~

1484 (9) The agency shall develop and disseminate an annual list
1485 of all facilities sanctioned or fined ~~\$5,000 or more~~ for
1486 violations of state standards, the number and class of
1487 violations involved, the penalties imposed, and the current
1488 status of cases. The list shall be disseminated, at no charge,
1489 to the Department of Elderly Affairs, the Department of Health,
1490 the Department of Children and Family Services, the Agency for
1491 Persons with Disabilities, the area agencies on aging, the
1492 Florida Statewide Advocacy Council, and the state and local
1493 ombudsman councils. The Department of Children and Family
1494 Services shall disseminate the list to service providers under
1495 contract to the department who are responsible for referring
1496 persons to a facility for residency. The agency may charge a fee
1497 commensurate with the cost of printing and postage to other
1498 interested parties requesting a copy of this list. This
1499 information may be provided electronically or through the
1500 agency's Internet site.

1501 Section 29. Subsections (2) and (6) of section 429.23,
1502 Florida Statutes, are amended to read:

1503 429.23 Internal risk management and quality assurance
1504 program; adverse incidents and reporting requirements.—

1505 (2) Every facility licensed under this part is required to
1506 maintain adverse incident reports. For purposes of this section,
1507 the term, "adverse incident" means:

1508 (a) An event over which facility personnel could exercise

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1509 control rather than as a result of the resident's condition and
1510 results in:

- 1511 1. Death;
- 1512 2. Brain or spinal damage;
- 1513 3. Permanent disfigurement;
- 1514 4. Fracture or dislocation of bones or joints;
- 1515 5. Any condition that required medical attention to which
1516 the resident has not given his or her consent, including failure
1517 to honor advanced directives;

1518 6. Any condition that requires the transfer of the resident
1519 from the facility to a unit providing more acute care due to the
1520 incident rather than the resident's condition before the
1521 incident; ~~or-~~

1522 7. An event that is reported to law enforcement or its
1523 personnel for investigation; or

1524 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
1525 ~~415.102;~~

1526 ~~(c) Events reported to law enforcement; or~~

1527 (b)(d) Resident elopement, if the elopement places the
1528 resident at risk of harm or injury.

1529 (6) Abuse, neglect, or exploitation must be reported to the
1530 Department of Children and Family Services as required under
1531 chapter 415 ~~The agency shall annually submit to the Legislature~~
1532 ~~a report on assisted living facility adverse incident reports.~~
1533 ~~The report must include the following information arranged by~~
1534 ~~county:~~

1535 ~~(a) A total number of adverse incidents;~~

1536 ~~(b) A listing, by category, of the type of adverse~~
1537 ~~incidents occurring within each category and the type of staff~~

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1538 involved;

1539 ~~(c) A listing, by category, of the types of injuries, if~~
1540 ~~any, and the number of injuries occurring within each category;~~

1541 ~~(d) Types of liability claims filed based on an adverse~~
1542 ~~incident report or reportable injury; and~~

1543 ~~(e) Disciplinary action taken against staff, categorized by~~
1544 ~~the type of staff involved.~~

1545 Section 30. Subsection (9) of section 429.26, Florida
1546 Statutes, is repealed.

1547 Section 31. Subsection (3) of section 430.80, Florida
1548 Statutes, is amended to read:

1549 430.80 Implementation of a teaching nursing home pilot
1550 project.—

1551 (3) To be designated as a teaching nursing home, a nursing
1552 home licensee must, at a minimum:

1553 (a) Provide a comprehensive program of integrated senior
1554 services that include institutional services and community-based
1555 services;

1556 (b) Participate in a nationally recognized accreditation
1557 program and hold a valid accreditation, such as the
1558 accreditation awarded by the Joint Commission on Accreditation
1559 of Healthcare Organizations;

1560 (c) Have been in business in this state for a minimum of 10
1561 consecutive years;

1562 (d) Demonstrate an active program in multidisciplinary
1563 education and research that relates to gerontology;

1564 (e) Have a formalized contractual relationship with at
1565 least one accredited health profession education program located
1566 in this state;

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1567 (f) Have a formalized contractual relationship with an
1568 accredited hospital that is designated by law as a teaching
1569 hospital; and

1570 (g) Have senior staff members who hold formal faculty
1571 appointments at universities, which must include at least one
1572 accredited health profession education program.

1573 (h) Maintain insurance coverage pursuant to s.
1574 400.141(1)(s) ~~s. 400.141(20)~~ or proof of financial
1575 responsibility in a minimum amount of \$750,000. Such proof of
1576 financial responsibility may include:

- 1577 1. Maintaining an escrow account consisting of cash or
1578 assets eligible for deposit in accordance with s. 625.52; or
- 1579 2. Obtaining and maintaining pursuant to chapter 675 an
1580 unexpired, irrevocable, nontransferable and nonassignable letter
1581 of credit issued by any bank or savings association organized
1582 and existing under the laws of this state or any bank or savings
1583 association organized under the laws of the United States that
1584 has its principal place of business in this state or has a
1585 branch office which is authorized to receive deposits in this
1586 state. The letter of credit shall be used to satisfy the
1587 obligation of the facility to the claimant upon presentment of a
1588 final judgment indicating liability and awarding damages to be
1589 paid by the facility or upon presentment of a settlement
1590 agreement signed by all parties to the agreement when such final
1591 judgment or settlement is a result of a liability claim against
1592 the facility.

1593 Section 32. Subsection (5) of section 435.04, Florida
1594 Statutes, is amended to read:

1595 435.04 Level 2 screening standards.—

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1596 (5) Under penalty of perjury, all employees in such
1597 positions of trust or responsibility shall attest to meeting the
1598 requirements for qualifying for employment and agreeing to
1599 inform the employer immediately if convicted of any of the
1600 disqualifying offenses while employed by the employer. Each
1601 employer of employees in such positions of trust or
1602 responsibilities which is licensed or registered by a state
1603 agency shall submit to the licensing agency annually or at the
1604 time of license renewal, under penalty of perjury, an affidavit
1605 of compliance with the provisions of this section.

1606 Section 33. Subsection (3) of section 435.05, Florida
1607 Statutes, is amended to read:

1608 435.05 Requirements for covered employees.—Except as
1609 otherwise provided by law, the following requirements shall
1610 apply to covered employees:

1611 (3) Each employer required to conduct level 2 background
1612 screening must sign an affidavit annually or at the time of
1613 license renewal, under penalty of perjury, stating that all
1614 covered employees have been screened or are newly hired and are
1615 awaiting the results of the required screening checks.

1616 Section 34. Subsection (2) of section 483.031, Florida
1617 Statutes, is amended to read:

1618 483.031 Application of part; exemptions.—This part applies
1619 to all clinical laboratories within this state, except:

1620 (2) A clinical laboratory that performs only waived tests
1621 ~~and has received a certificate of exemption from the agency~~
1622 ~~under s. 483.106.~~

1623 Section 35. Subsection (10) of section 483.041, Florida
1624 Statutes, is amended to read:

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1625 483.041 Definitions.—As used in this part, the term:

1626 (10) "Waived test" means a test that the federal Centers

1627 for Medicare and Medicaid Services Health Care Financing

1628 ~~Administration~~ has determined qualifies for a certificate of

1629 waiver under the federal Clinical Laboratory Improvement

1630 Amendments of 1988, and the federal rules adopted thereunder.

1631 Section 36. Section 483.106, Florida Statutes, is repealed.

1632 Section 37. Subsection (3) of section 483.172, Florida

1633 Statutes, is amended to read:

1634 483.172 License fees.—

1635 (3) The agency shall assess a ~~biennial fee of \$100 for a~~

1636 ~~certificate of exemption and a \$100~~ biennial license fee under

1637 this section for facilities surveyed by an approved accrediting

1638 organization.

1639 Section 38. Subsection (13) of section 651.118, Florida

1640 Statutes, is amended to read:

1641 651.118 Agency for Health Care Administration; certificates

1642 of need; sheltered beds; community beds.—

1643 (13) Residents, as defined in this chapter, are not

1644 considered new admissions for the purpose of s. 400.141

1645 (1) (o) 1.d. s. 400.141 (15) (d).

1646 Section 39. This act shall take effect upon becoming a law.