

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 to
4 private utilization review of health care services;
5 amending ss. 395.405 and 400.0712, F.S.; conforming cross-
6 references; amending s. 400.118, F.S.; removing provisions
7 requiring quality-of-care monitors for nursing facilities
8 in agency district offices; amending s. 400.141, F.S.;
9 revising reporting requirements for facility staff-to-
10 resident ratios; deleting a requirement that licensed
11 nursing home facilities provide the agency with a monthly
12 report on the number of vacant beds in the facility;
13 amending s. 400.147, F.S.; revising reporting requirements
14 under facility internal risk management and quality
15 assurance programs; revising the definition of the term
16 "adverse incident" for reporting purposes; requiring
17 abuse, neglect, and exploitation to be reported to the
18 agency and the Department of Children and Family Services;
19 deleting a requirement that the agency submit an annual
20 report on nursing home adverse incidents to the
21 Legislature; amending s. 400.195, F.S.; conforming a
22 cross-reference; amending s. 400.464, F.S.; revising
23 grounds for imposition of penalties with regard to home
24 health agencies under certain circumstances; amending s.
25 400.497, F.S.; conforming a cross-reference; repealing s.
26 400.509, F.S., relating to the registration and regulation
27 of providers that offer companion or homemaker services
28 and are exempt from licensure; amending ss. 400.506 and

29 400.512, F.S.; deleting references to companion and
30 homemaker services to conform to changes made by the act;
31 amending s. 400.9935, F.S.; revising responsibilities of
32 medical and health care clinic directors relating to
33 referral of patients; deleting a penalty; revising
34 accreditation requirements for clinics providing magnetic
35 resonance imaging services; amending s. 400.995, F.S.;
36 revising agency responsibilities with respect to personnel
37 and operations in certain injunctive proceedings; amending
38 s. 408.803, F.S.; revising definitions applicable to pt.
39 II of ch. 408, F.S., the "Health Care Licensing Procedures
40 Act"; amending s. 408.806, F.S.; revising contents of and
41 procedures relating to health care provider applications
42 for licensure; providing an exception from certain
43 licensure inspections for adult family-care homes;
44 authorizing the agency to provide electronic access to
45 certain information and documents; amending s. 408.807,
46 F.S.; providing procedure and time limits for transfer of
47 ownership and applications for licensure; amending s.
48 408.808, F.S.; providing for a provisional license to be
49 issued to applicants applying for a change of ownership;
50 providing a time limit on provisional licenses; amending
51 s. 408.809, F.S.; revising provisions relating to
52 background screening of specified employees; requiring
53 health care providers to submit to the agency an affidavit
54 of compliance with background screening requirements at
55 the time of license renewal; deleting a provision to
56 conform to changes made by the act; amending s. 408.810,

57 F.S.; revising provisions relating to information required
58 for licensure; amending s. 408.811, F.S.; providing for
59 certain inspections to be accepted in lieu of complete
60 licensure inspections; granting agency access to records
61 requested during an offsite review; providing timeframes
62 for correction of certain deficiencies and submission of
63 plans to correct such deficiencies; amending s. 408.813,
64 F.S.; providing classifications of violations of pt. II of
65 ch. 408, F.S.; providing for fines; amending s. 408.820,
66 F.S.; revising applicability of exemptions from specified
67 requirements of pt. II of ch. 408, F.S.; creating s.
68 408.821, F.S.; requiring entities regulated or licensed by
69 the agency to designate a safety officer for emergency
70 operations; providing that entities regulated or licensed
71 by the agency may temporarily exceed their licensed
72 capacity to act as receiving providers under specified
73 circumstances; providing requirements while such entities
74 are in an overcapacity status; providing for issuance of
75 an inactive license to such licensees under specified
76 conditions; providing requirements and procedures with
77 respect to the issuance and reactivation of an inactive
78 license; authorizing the agency to adopt rules; amending
79 s. 408.831, F.S.; deleting provisions relating to
80 authorization for entities regulated or licensed by the
81 agency to exceed their licensed capacity to act as
82 receiving facilities and issuance and reactivation of
83 inactive licenses; amending s. 409.221, F.S.; conforming a
84 cross-reference; amending s. 409.901, F.S.; revising a

85 definition applicable to Medicaid providers; repealing s.
86 429.071, F.S., relating to the intergenerational respite
87 care assisted living facility pilot program; amending s.
88 429.08, F.S.; authorizing the agency to provide
89 information regarding licensed assisted living facilities
90 on its Internet website; abolishing local coordinating
91 workgroups established by agency field offices; amending
92 s. 429.14, F.S.; conforming a reference; amending s.
93 429.19, F.S.; revising agency procedures for imposition of
94 fines for violations of pt. I of ch. 429, F.S., the
95 "Assisted Living Facilities Act"; amending s. 429.23,
96 F.S.; revising the definition of the term "adverse
97 incident" for reporting purposes; requiring abuse,
98 neglect, and exploitation to be reported to the agency and
99 the Department of Children and Family Services; deleting a
100 requirement that the agency submit an annual report on
101 assisted living facility adverse incidents to the
102 Legislature; amending s. 429.26, F.S.; removing
103 requirement for a resident of an assisted living facility
104 to undergo examinations and evaluations under certain
105 circumstances; amending s. 430.80, F.S.; conforming a
106 cross-reference; amending ss. 435.04 and 435.05, F.S.;
107 requiring employers of certain employees to submit an
108 affidavit of compliance with level 2 screening
109 requirements at the time of license renewal; amending s.
110 483.031, F.S.; conforming a reference; amending s.
111 483.041, F.S.; revising a definition applicable to pt. I
112 of ch. 483, F.S., the "Florida Clinical Laboratory Law";

113 | repealing s. 483.106, F.S., relating to applications for
 114 | certificates of exemption by clinical laboratories that
 115 | perform certain tests; amending s. 483.172, F.S.;
 116 | conforming a reference; amending s. 483.23, F.S.; revising
 117 | provisions relating to exemptions from penalties imposed
 118 | for the performance of certain clinical laboratory
 119 | procedures; amending s. 651.118, F.S.; conforming a cross-
 120 | reference; providing an effective date.

121 |

122 | Be It Enacted by the Legislature of the State of Florida:

123 |

124 | Section 1. Section 395.0199, Florida Statutes, is
 125 | repealed.

126 | Section 2. Section 395.405, Florida Statutes, is amended
 127 | to read:

128 | 395.405 Rulemaking.--The department shall adopt and
 129 | enforce all rules necessary to administer ss. ~~395.0199,~~ 395.401,
 130 | 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.

131 | Section 3. Subsection (1) of section 400.0712, Florida
 132 | Statutes, is amended to read:

133 | 400.0712 Application for inactive license.--

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

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141 agency; and a licensee that violates this provision may not be
142 issued an inactive license.

143 Section 4. Subsection (3) of section 400.118, Florida
144 Statutes, is renumbered as subsection (2), and present
145 subsection (2) of that section is amended to read:

146 400.118 Quality assurance; early warning system;
147 ~~monitoring;~~ rapid response teams.--

148 ~~(2)(a) The agency shall establish within each district~~
149 ~~office one or more quality of care monitors, based on the number~~
150 ~~of nursing facilities in the district, to monitor all nursing~~
151 ~~facilities in the district on a regular, unannounced, aperiodic~~
152 ~~basis, including nights, evenings, weekends, and holidays.~~
153 ~~Quality of care monitors shall visit each nursing facility at~~
154 ~~least quarterly. Priority for additional monitoring visits shall~~
155 ~~be given to nursing facilities with a history of resident care~~
156 ~~deficiencies. Quality of care monitors shall be registered~~
157 ~~nurses who are trained and experienced in nursing facility~~
158 ~~regulation, standards of practice in long-term care, and~~
159 ~~evaluation of patient care. Individuals in these positions shall~~
160 ~~not be deployed by the agency as a part of the district survey~~
161 ~~team in the conduct of routine, scheduled surveys, but shall~~
162 ~~function solely and independently as quality of care monitors.~~
163 ~~Quality of care monitors shall assess the overall quality of~~
164 ~~life in the nursing facility and shall assess specific~~
165 ~~conditions in the facility directly related to resident care,~~
166 ~~including the operations of internal quality improvement and~~
167 ~~risk management programs and adverse incident reports. The~~
168 ~~quality of care monitor shall include in an assessment visit~~

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169 ~~observation of the care and services rendered to residents and~~
170 ~~formal and informal interviews with residents, family members,~~
171 ~~facility staff, resident guests, volunteers, other regulatory~~
172 ~~staff, and representatives of a long-term care ombudsman council~~
173 ~~or Florida advocacy council.~~

174 ~~(b) Findings of a monitoring visit, both positive and~~
175 ~~negative, shall be provided orally and in writing to the~~
176 ~~facility administrator or, in the absence of the facility~~
177 ~~administrator, to the administrator on duty or the director of~~
178 ~~nursing. The quality-of-care monitor may recommend to the~~
179 ~~facility administrator procedural and policy changes and staff~~
180 ~~training, as needed, to improve the care or quality of life of~~
181 ~~facility residents. Conditions observed by the quality-of-care~~
182 ~~monitor which threaten the health or safety of a resident shall~~
183 ~~be reported immediately to the agency area office supervisor for~~
184 ~~appropriate regulatory action and, as appropriate or as required~~
185 ~~by law, to law enforcement, adult protective services, or other~~
186 ~~responsible agencies.~~

187 ~~(c) Any record, whether written or oral, or any written or~~
188 ~~oral communication generated pursuant to paragraph (a) or~~
189 ~~paragraph (b) shall not be subject to discovery or introduction~~
190 ~~into evidence in any civil or administrative action against a~~
191 ~~nursing facility arising out of matters which are the subject of~~
192 ~~quality-of-care monitoring, and a person who was in attendance~~
193 ~~at a monitoring visit or evaluation may not be permitted or~~
194 ~~required to testify in any such civil or administrative action~~
195 ~~as to any evidence or other matters produced or presented during~~
196 ~~the monitoring visits or evaluations. However, information,~~

197 ~~documents, or records otherwise available from original sources~~
 198 ~~are not to be construed as immune from discovery or use in any~~
 199 ~~such civil or administrative action merely because they were~~
 200 ~~presented during monitoring visits or evaluations, and any~~
 201 ~~person who participates in such activities may not be prevented~~
 202 ~~from testifying as to matters within his or her knowledge, but~~
 203 ~~such witness may not be asked about his or her participation in~~
 204 ~~such activities. The exclusion from the discovery or~~
 205 ~~introduction of evidence in any civil or administrative action~~
 206 ~~provided for herein shall not apply when the quality-of-care~~
 207 ~~monitor makes a report to the appropriate authorities regarding~~
 208 ~~a threat to the health or safety of a resident.~~

209 Section 5. Section 400.141, Florida Statutes, is amended
 210 to read:

211 400.141 Administration and management of nursing home
 212 facilities.--

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

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

217 (b) ~~(2)~~ Appoint a medical director licensed pursuant to
 218 chapter 458 or chapter 459. The agency may establish by rule
 219 more specific criteria for the appointment of a medical
 220 director.

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

223 (d) ~~(4)~~ Provide for resident use of a community pharmacy as
 224 specified in s. 400.022(1)(q). Any other law to the contrary

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225 notwithstanding, a registered pharmacist licensed in Florida,
226 that is under contract with a facility licensed under this
227 chapter or chapter 429, shall repackage a nursing facility
228 resident's bulk prescription medication which has been packaged
229 by another pharmacist licensed in any state in the United States
230 into a unit dose system compatible with the system used by the
231 nursing facility, if the pharmacist is requested to offer such
232 service. In order to be eligible for the repackaging, a resident
233 or the resident's spouse must receive prescription medication
234 benefits provided through a former employer as part of his or
235 her retirement benefits, a qualified pension plan as specified
236 in s. 4972 of the Internal Revenue Code, a federal retirement
237 program as specified under 5 C.F.R. s. 831, or a long-term care
238 policy as defined in s. 627.9404(1). A pharmacist who correctly
239 repackages and relabels the medication and the nursing facility
240 which correctly administers such repackaged medication under ~~the~~
241 ~~provisions of this paragraph may subsection~~ shall not be held
242 liable in any civil or administrative action arising from the
243 repackaging. In order to be eligible for the repackaging, a
244 nursing facility resident for whom the medication is to be
245 repackaged shall sign an informed consent form provided by the
246 facility which includes an explanation of the repackaging
247 process and which notifies the resident of the immunities from
248 liability provided in this paragraph ~~herein~~. A pharmacist who
249 repackages and relabels prescription medications, as authorized
250 under this paragraph ~~subsection~~, may charge a reasonable fee for
251 costs resulting from the implementation of this provision.

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252 (e)~~(5)~~ Provide for the access of the facility residents to
253 dental and other health-related services, recreational services,
254 rehabilitative services, and social work services appropriate to
255 their needs and conditions and not directly furnished by the
256 licensee. When a geriatric outpatient nurse clinic is conducted
257 in accordance with rules adopted by the agency, outpatients
258 attending such clinic shall not be counted as part of the
259 general resident population of the nursing home facility, nor
260 shall the nursing staff of the geriatric outpatient clinic be
261 counted as part of the nursing staff of the facility, until the
262 outpatient clinic load exceeds 15 a day.

263 (f)~~(6)~~ Be allowed and encouraged by the agency to provide
264 other needed services under certain conditions. If the facility
265 has a standard licensure status, and has had no class I or class
266 II deficiencies during the past 2 years or has been awarded a
267 Gold Seal under the program established in s. 400.235, it may be
268 encouraged by the agency to provide services, including, but not
269 limited to, respite and adult day services, which enable
270 individuals to move in and out of the facility. A facility is
271 not subject to any additional licensure requirements for
272 providing these services. Respite care may be offered to persons
273 in need of short-term or temporary nursing home services.
274 Respite care must be provided in accordance with this part and
275 rules adopted by the agency. However, the agency shall, by rule,
276 adopt modified requirements for resident assessment, resident
277 care plans, resident contracts, physician orders, and other
278 provisions, as appropriate, for short-term or temporary nursing
279 home services. The agency shall allow for shared programming and

280 staff in a facility which meets minimum standards and offers
 281 services pursuant to this paragraph ~~subsection~~, but, if the
 282 facility is cited for deficiencies in patient care, may require
 283 additional staff and programs appropriate to the needs of
 284 service recipients. A person who receives respite care may not
 285 be counted as a resident of the facility for purposes of the
 286 facility's licensed capacity unless that person receives 24-hour
 287 respite care. A person receiving either respite care for 24
 288 hours or longer or adult day services must be included when
 289 calculating minimum staffing for the facility. Any costs and
 290 revenues generated by a nursing home facility from
 291 nonresidential programs or services shall be excluded from the
 292 calculations of Medicaid per diems for nursing home
 293 institutional care reimbursement.

294 (g) ~~(7)~~ If the facility has a standard license or is a Gold
 295 Seal facility, exceeds the minimum required hours of licensed
 296 nursing and certified nursing assistant direct care per resident
 297 per day, and is part of a continuing care facility licensed
 298 under chapter 651 or a retirement community that offers other
 299 services pursuant to part III of this chapter or part I or part
 300 III of chapter 429 on a single campus, be allowed to share
 301 programming and staff. At the time of inspection and in the
 302 semiannual report required pursuant to paragraph (o) ~~subsection~~
 303 ~~(15)~~, a continuing care facility or retirement community that
 304 uses this option must demonstrate through staffing records that
 305 minimum staffing requirements for the facility were met.
 306 Licensed nurses and certified nursing assistants who work in the
 307 nursing home facility may be used to provide services elsewhere

308 on campus if the facility exceeds the minimum number of direct
 309 care hours required per resident per day and the total number of
 310 residents receiving direct care services from a licensed nurse
 311 or a certified nursing assistant does not cause the facility to
 312 violate the staffing ratios required under s. 400.23(3)(a).
 313 Compliance with the minimum staffing ratios shall be based on
 314 total number of residents receiving direct care services,
 315 regardless of where they reside on campus. If the facility
 316 receives a conditional license, it may not share staff until the
 317 conditional license status ends. This paragraph ~~subsection~~ does
 318 not restrict the agency's authority under federal or state law
 319 to require additional staff if a facility is cited for
 320 deficiencies in care which are caused by an insufficient number
 321 of certified nursing assistants or licensed nurses. The agency
 322 may adopt rules for the documentation necessary to determine
 323 compliance with this provision.

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

326 (i) ~~(9)~~ If the licensee furnishes food service, provide a
 327 wholesome and nourishing diet sufficient to meet generally
 328 accepted standards of proper nutrition for its residents and
 329 provide such therapeutic diets as may be prescribed by attending
 330 physicians. In making rules to implement this paragraph
 331 ~~subsection~~, the agency shall be guided by standards recommended
 332 by nationally recognized professional groups and associations
 333 with knowledge of dietetics.

334 (j) ~~(10)~~ Keep full records of resident admissions and
 335 discharges; medical and general health status, including medical

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336 records, personal and social history, and identity and address
337 of next of kin or other persons who may have responsibility for
338 the affairs of the residents; and individual resident care plans
339 including, but not limited to, prescribed services, service
340 frequency and duration, and service goals. The records shall be
341 open to inspection by the agency.

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

345 (l)~~(12)~~ Furnish copies of personnel records for employees
346 affiliated with such facility, to any other facility licensed by
347 this state requesting this information pursuant to this part.
348 Such information contained in the records may include, but is
349 not limited to, disciplinary matters and any reason for
350 termination. Any facility releasing such records pursuant to
351 this part shall be considered to be acting in good faith and may
352 not be held liable for information contained in such records,
353 absent a showing that the facility maliciously falsified such
354 records.

355 (m)~~(13)~~ Publicly display a poster provided by the agency
356 containing the names, addresses, and telephone numbers for the
357 state's abuse hotline, the State Long-Term Care Ombudsman, the
358 Agency for Health Care Administration consumer hotline, the
359 Advocacy Center for Persons with Disabilities, the Florida
360 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
361 with a clear description of the assistance to be expected from
362 each.

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

366 (o)1. ~~(15)~~ In addition to the requirements of s.
 367 400.23(3)(a) and applicable rules, submit semiannually to the
 368 agency, or more frequently if requested by the agency,
 369 information regarding facility staff-to-resident ratios, staff
 370 turnover, and staff stability, including information regarding
 371 certified nursing assistants, licensed nurses, the director of
 372 nursing, and the facility administrator. For purposes of this
 373 reporting:

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

378 b. ~~(b)~~ Staff turnover must be reported for the most recent
 379 12-month period ending on the last workday of the most recent
 380 calendar quarter prior to the date the information is submitted.
 381 The turnover rate must be computed quarterly, with the annual
 382 rate being the cumulative sum of the quarterly rates. The
 383 turnover rate is the total number of terminations or separations
 384 experienced during the quarter, excluding any employee
 385 terminated during a probationary period of 3 months or less,
 386 divided by the total number of staff employed at the end of the
 387 period for which the rate is computed, and expressed as a
 388 percentage.

389 c. ~~(c)~~ The formula for determining staff stability is the
 390 total number of employees that have been employed for more than

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391 12 months, divided by the total number of employees employed at
392 the end of the most recent calendar quarter, and expressed as a
393 percentage.

394 d.~~(d)~~ A nursing facility that has failed to comply with
395 state minimum-staffing requirements for 2 consecutive days is
396 prohibited from accepting new admissions until the facility has
397 achieved the minimum-staffing requirements for a period of 6
398 consecutive days. For the purposes of this sub-subparagraph
399 ~~paragraph~~, any person who was a resident of the facility and was
400 absent from the facility for the purpose of receiving medical
401 care at a separate location or was on a leave of absence is not
402 considered a new admission. Failure to impose such an admissions
403 moratorium constitutes a class II deficiency.

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

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

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

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

419 (p) ~~(17)~~ Notify a licensed physician when a resident
420 exhibits signs of dementia or cognitive impairment or has a
421 change of condition in order to rule out the presence of an
422 underlying physiological condition that may be contributing to
423 such dementia or impairment. The notification must occur within
424 30 days after the acknowledgment of such signs by facility
425 staff. If an underlying condition is determined to exist, the
426 facility shall arrange, with the appropriate health care
427 provider, the necessary care and services to treat the
428 condition.

429 (q) ~~(18)~~ If the facility implements a dining and
430 hospitality attendant program, ensure that the program is
431 developed and implemented under the supervision of the facility
432 director of nursing. A licensed nurse, licensed speech or
433 occupational therapist, or a registered dietitian must conduct
434 training of dining and hospitality attendants. A person employed
435 by a facility as a dining and hospitality attendant must perform
436 tasks under the direct supervision of a licensed nurse.

437 (r) ~~(19)~~ Report to the agency any filing for bankruptcy
438 protection by the facility or its parent corporation,
439 divestiture or spin-off of its assets, or corporate
440 reorganization within 30 days after the completion of such
441 activity.

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

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

448 ~~(t) (21)~~ Maintain in the medical record for each resident a
449 daily chart of certified nursing assistant services provided to
450 the resident. The certified nursing assistant who is caring for
451 the resident must complete this record by the end of his or her
452 shift. This record must indicate assistance with activities of
453 daily living, assistance with eating, and assistance with
454 drinking, and must record each offering of nutrition and
455 hydration for those residents whose plan of care or assessment
456 indicates a risk for malnutrition or dehydration.

457 ~~(u) (22)~~ Before November 30 of each year, subject to the
458 availability of an adequate supply of the necessary vaccine,
459 provide for immunizations against influenza viruses to all its
460 consenting residents in accordance with the recommendations of
461 the United States Centers for Disease Control and Prevention,
462 subject to exemptions for medical contraindications and
463 religious or personal beliefs. Subject to these exemptions, any
464 consenting person who becomes a resident of the facility after
465 November 30 but before March 31 of the following year must be
466 immunized within 5 working days after becoming a resident.
467 Immunization shall not be provided to any resident who provides
468 documentation that he or she has been immunized as required by
469 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not
470 prohibit a resident from receiving the immunization from his or
471 her personal physician if he or she so chooses. A resident who
472 chooses to receive the immunization from his or her personal
473 physician shall provide proof of immunization to the facility.

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474 The agency may adopt and enforce any rules necessary to comply
475 with or implement this paragraph ~~subsection~~.

476 (v) ~~(23)~~ Assess all residents for eligibility for
477 pneumococcal polysaccharide vaccination (PPV) and vaccinate
478 residents when indicated within 60 days after the effective date
479 of this act in accordance with the recommendations of the United
480 States Centers for Disease Control and Prevention, subject to
481 exemptions for medical contraindications and religious or
482 personal beliefs. Residents admitted after the effective date of
483 this act shall be assessed within 5 working days of admission
484 and, when indicated, vaccinated within 60 days in accordance
485 with the recommendations of the United States Centers for
486 Disease Control and Prevention, subject to exemptions for
487 medical contraindications and religious or personal beliefs.
488 Immunization shall not be provided to any resident who provides
489 documentation that he or she has been immunized as required by
490 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not
491 prohibit a resident from receiving the immunization from his or
492 her personal physician if he or she so chooses. A resident who
493 chooses to receive the immunization from his or her personal
494 physician shall provide proof of immunization to the facility.
495 The agency may adopt and enforce any rules necessary to comply
496 with or implement this paragraph ~~subsection~~.

497 (w) ~~(24)~~ Annually encourage and promote to its employees
498 the benefits associated with immunizations against influenza
499 viruses in accordance with the recommendations of the United
500 States Centers for Disease Control and Prevention. The agency

501 may adopt and enforce any rules necessary to comply with or
 502 implement this paragraph ~~subsection~~.

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

508 Section 6. Present subsections (9) through (13) of section
 509 400.147, Florida Statutes, are renumbered as subsections (10)
 510 through (14), respectively, subsection (5) and present
 511 subsection (14) are amended, and a new subsection (9) is added
 512 to that section, to read:

513 400.147 Internal risk management and quality assurance
 514 program.--

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

517 (a) An event over which facility personnel could exercise
 518 control and which is associated in whole or in part with the
 519 facility's intervention, rather than the condition for which
 520 such intervention occurred, and which results in one of the
 521 following:

- 522 1. Death;
- 523 2. Brain or spinal damage;
- 524 3. Permanent disfigurement;
- 525 4. Fracture or dislocation of bones or joints;
- 526 5. A limitation of neurological, physical, or sensory
 527 function;

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

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

535 8. An event that is reported to law enforcement; or
 536 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
 537 ~~415.102;~~

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

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

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

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

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

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

549 ~~(b) A listing, by category, of the types of adverse~~
 550 ~~incidents, the number of incidents occurring within each~~
 551 ~~category, and the type of staff involved.~~

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

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

556 ~~(c) Disciplinary action taken against staff, categorized~~
 557 ~~by type of staff involved.~~

558 Section 7. Paragraph (d) of subsection (1) of section
 559 400.195, Florida Statutes, is amended to read:

560 400.195 Agency reporting requirements.--

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

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

579 Section 8. Paragraph (a) of subsection (4) of section
 580 400.464, Florida Statutes, is amended to read:

581 400.464 Home health agencies to be licensed; expiration of
 582 license; exemptions; unlawful acts; penalties.--

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583 (4) (a) An organization that offers or advertises to the
 584 public any service for which licensure ~~or registration~~ is
 585 required under this part must include in the advertisement the
 586 license number ~~or registration number~~ issued to the organization
 587 by the agency. The agency shall assess a fine of not less than
 588 \$100 to any licensee ~~or registrant~~ who fails to include the
 589 license ~~or registration~~ number when submitting the advertisement
 590 for publication, broadcast, or printing. The fine for a second
 591 or subsequent offense is \$500. The holder of a license issued
 592 under this part may not advertise or indicate to the public that
 593 it holds a home health agency or nurse registry license other
 594 than the one it has been issued.

595 Section 9. Section 400.497, Florida Statutes, is amended
 596 to read:

597 400.497 Rules establishing minimum standards.--The agency
 598 shall adopt, publish, and enforce rules to implement part II of
 599 chapter 408 and this part, including, as applicable, s. 400.497
 600 ~~400.506 and 400.509~~, which must provide reasonable and fair
 601 minimum standards relating to:

602 (1) The home health aide competency test and home health
 603 aide training. The agency shall create the home health aide
 604 competency test and establish the curriculum and instructor
 605 qualifications for home health aide training. Licensed home
 606 health agencies may provide this training and shall furnish
 607 documentation of such training to other licensed home health
 608 agencies upon request. Successful passage of the competency test
 609 by home health aides may be substituted for the training

610 required under this section and any rule adopted pursuant
 611 thereto.

612 (2) Shared staffing. The agency shall allow shared
 613 staffing if the home health agency is part of a retirement
 614 community that provides multiple levels of care, is located on
 615 one campus, is licensed under this chapter or chapter 429, and
 616 otherwise meets the requirements of law and rule.

617 (3) The criteria for the frequency of onsite licensure
 618 surveys.

619 (4) Licensure application and renewal.

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

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

625 (b) Requirements for a director of nursing to provide to
 626 the agency, upon request, a certified daily report of the home
 627 health services provided by a specified direct employee or
 628 contracted staff member on behalf of the home health agency. The
 629 agency may request a certified daily report only for a period
 630 not to exceed 2 years prior to the date of the request; and

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

633 (6) Conditions for using a recent unannounced licensure
 634 inspection for the inspection required in s. 408.806 related to
 635 a licensure application associated with a change in ownership of
 636 a licensed home health agency.

637 (7) The requirements for onsite and electronic
638 accessibility of supervisory personnel of home health agencies.

639 (8) Information to be included in patients' records.

640 (9) Geographic service areas.

641 (10) Preparation of a comprehensive emergency management
642 plan pursuant to s. 400.492.

643 (a) The Agency for Health Care Administration shall adopt
644 rules establishing minimum criteria for the plan and plan
645 updates, with the concurrence of the Department of Health and in
646 consultation with the Department of Community Affairs.

647 (b) The rules must address the requirements in s. 400.492.
648 In addition, the rules shall provide for the maintenance of
649 patient-specific medication lists that can accompany patients
650 who are transported from their homes.

651 (c) The plan is subject to review and approval by the
652 county health department. During its review, the county health
653 department shall contact state and local health and medical
654 stakeholders when necessary. The county health department shall
655 complete its review to ensure that the plan is in accordance
656 with the criteria in the Agency for Health Care Administration
657 rules within 90 days after receipt of the plan and shall approve
658 the plan or advise the home health agency of necessary
659 revisions. If the home health agency fails to submit a plan or
660 fails to submit the requested information or revisions to the
661 county health department within 30 days after written
662 notification from the county health department, the county
663 health department shall notify the Agency for Health Care
664 Administration. The agency shall notify the home health agency

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665 that its failure constitutes a deficiency, subject to a fine of
666 \$5,000 per occurrence. If the plan is not submitted, information
667 is not provided, or revisions are not made as requested, the
668 agency may impose the fine.

669 (d) For any home health agency that operates in more than
670 one county, the Department of Health shall review the plan,
671 after consulting with state and local health and medical
672 stakeholders when necessary. The department shall complete its
673 review within 90 days after receipt of the plan and shall
674 approve the plan or advise the home health agency of necessary
675 revisions. The department shall make every effort to avoid
676 imposing differing requirements on a home health agency that
677 operates in more than one county as a result of differing or
678 conflicting comprehensive plan requirements of the counties in
679 which the home health agency operates.

680 (e) The requirements in this subsection do not apply to:

681 1. A facility that is certified under chapter 651 and has
682 a licensed home health agency used exclusively by residents of
683 the facility; or

684 2. A retirement community that consists of residential
685 units for independent living and either a licensed nursing home
686 or an assisted living facility, and has a licensed home health
687 agency used exclusively by the residents of the retirement
688 community, provided the comprehensive emergency management plan
689 for the facility or retirement community provides for continuous
690 care of all residents with special needs during an emergency.

691 Section 10. Paragraph (a) of subsection (6) of section
692 400.506, Florida Statutes, is amended to read:

693 400.506 Licensure of nurse registries; requirements;
 694 penalties.--

695 (6) (a) A nurse registry may refer for contract in private
 696 residences registered nurses and licensed practical nurses
 697 registered and licensed under part I of chapter 464, certified
 698 nursing assistants certified under part II of chapter 464, and
 699 home health aides who present documented proof of successful
 700 completion of the training required by rule of the agency, ~~and~~
 701 ~~companions or homemakers for the purposes of providing those~~
 702 ~~services authorized under s. 400.509(1).~~ A licensed nurse
 703 registry shall ensure that each certified nursing assistant
 704 referred for contract by the nurse registry and each home health
 705 aide referred for contract by the nurse registry is adequately
 706 trained to perform the tasks of a home health aide in the home
 707 setting. Each person referred by a nurse registry must provide
 708 current documentation that he or she is free from communicable
 709 diseases.

710 Section 11. Section 400.509, Florida Statutes, is
 711 repealed.

712 Section 12. Section 400.512, Florida Statutes, is amended
 713 to read:

714 400.512 Screening of home health agency personnel and
 715 ~~nurse registry personnel; and companions and homemakers.--~~The
 716 agency shall require employment or contractor screening as
 717 provided in chapter 435, using the level 1 standards for
 718 screening set forth in that chapter, for home health agency
 719 personnel and persons referred for employment by nurse

720 registries; ~~and persons employed by companion or homemaker~~
 721 ~~services registered under s. 400.509.~~

722 (1) (a) The Agency for Health Care Administration may, upon
 723 request, grant exemptions from disqualification from employment
 724 or contracting under this section as provided in s. 435.07,
 725 except for health care practitioners licensed by the Department
 726 of Health or a regulatory board within that department.

727 (b) The appropriate regulatory board within the Department
 728 of Health, or that department itself when there is no board,
 729 may, upon request of the licensed health care practitioner,
 730 grant exemptions from disqualification from employment or
 731 contracting under this section as provided in s. 435.07.

732 (2) The administrator of each home health agency and, the
 733 managing employee of each nurse registry, ~~and the managing~~
 734 ~~employee of each companion or homemaker service registered under~~
 735 ~~s. 400.509~~ must sign an affidavit annually, under penalty of
 736 perjury, stating that all personnel hired or contracted with or
 737 registered on or after October 1, 2000, who enter the home of a
 738 patient or client in their service capacity have been screened.

739 (3) As a prerequisite to operating as a home health agency
 740 or, nurse registry, ~~or companion or homemaker service under s.~~
 741 ~~400.509~~, the administrator or managing employee, respectively,
 742 must submit to the agency his or her name and any other
 743 information necessary to conduct a complete screening according
 744 to this section. The agency shall submit the information to the
 745 Department of Law Enforcement for state processing. The agency
 746 shall review the record of the administrator or manager with
 747 respect to the offenses specified in this section and shall

748 | notify the owner of its findings. If disposition information is
 749 | missing on a criminal record, the administrator or manager, upon
 750 | request of the agency, must obtain and supply within 30 days the
 751 | missing disposition information to the agency. Failure to supply
 752 | missing information within 30 days or to show reasonable efforts
 753 | to obtain such information will result in automatic
 754 | disqualification.

755 | (4) Proof of compliance with the screening requirements of
 756 | chapter 435 shall be accepted in lieu of the requirements of
 757 | this section if the person has been continuously employed or
 758 | registered without a breach in service that exceeds 180 days,
 759 | the proof of compliance is not more than 2 years old, and the
 760 | person has been screened by the Department of Law Enforcement. A
 761 | home health agency or nurse registry, ~~or companion or homemaker~~
 762 | ~~service registered under s. 400.509~~ shall directly provide proof
 763 | of compliance to another home health agency or nurse registry,
 764 | ~~or companion or homemaker service registered under s. 400.509.~~
 765 | The recipient home health agency or nurse registry, ~~or~~
 766 | ~~companion or homemaker service registered under s. 400.509~~ may
 767 | not accept any proof of compliance directly from the person who
 768 | requires screening. Proof of compliance with the screening
 769 | requirements of this section shall be provided upon request to
 770 | the person screened by the home health agencies or nurse
 771 | registries, ~~or companion or homemaker services registered under~~
 772 | ~~s. 400.509.~~

773 | (5) There is no monetary liability on the part of, and no
 774 | cause of action for damages arises against, a licensed home
 775 | health agency or licensed nurse registry, ~~or companion or~~

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776 ~~homemaker service registered under s. 400.509,~~ that, upon notice
777 that the employee or contractor has been found guilty of,
778 regardless of adjudication, or entered a plea of nolo contendere
779 or guilty to, any offense prohibited under s. 435.03 or under
780 any similar statute of another jurisdiction, terminates the
781 employee or contractor, whether or not the employee or
782 contractor has filed for an exemption with the agency in
783 accordance with chapter 435 and whether or not the time for
784 filing has expired.

785 (6) The costs of processing the statewide correspondence
786 criminal records checks must be borne by the home health agency
787 or, the nurse registry, ~~or the companion or homemaker service~~
788 ~~registered under s. 400.509,~~ or by the person being screened, at
789 the discretion of the home health agency or, nurse registry, ~~or~~
790 ~~s. 400.509 registrant.~~

791 Section 13. Paragraph (h) of subsection (1) and paragraph
792 (a) of subsection (7) of section 400.9935, Florida Statutes, are
793 amended to read:

794 400.9935 Clinic responsibilities.--

795 (1) Each clinic shall appoint a medical director or clinic
796 director who shall agree in writing to accept legal
797 responsibility for the following activities on behalf of the
798 clinic. The medical director or the clinic director shall:

799 ~~(h) Not refer a patient to the clinic if the clinic~~
800 ~~performs magnetic resonance imaging, static radiographs,~~
801 ~~computed tomography, or positron emission tomography. The term~~
802 ~~"refer a patient" means the referral of one or more patients of~~
803 ~~the medical or clinical director or a member of the medical or~~

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804 ~~clinical director's group practice to the clinic for magnetic~~
805 ~~resonance imaging, static radiographs, computed tomography, or~~
806 ~~positron emission tomography. A medical director who is found to~~
807 ~~violate this paragraph commits a felony of the third degree,~~
808 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

809 (7) (a) Each clinic engaged in magnetic resonance imaging
810 services must be accredited by the Joint Commission on
811 Accreditation of Healthcare Organizations, the American College
812 of Radiology, or the Accreditation Association for Ambulatory
813 Health Care, within 1 year after licensure. A clinic that is
814 accredited by the American College of Radiology or is within the
815 original 1-year period after licensure and replaces its core
816 magnetic resonance imaging equipment shall be given 1 year after
817 the date on which the equipment is replaced to attain
818 accreditation. However, a clinic may request a single, 6-month
819 extension if it provides evidence to the agency establishing
820 that, for good cause shown, such clinic cannot ~~can not~~ be
821 accredited within 1 year after licensure, and that such
822 accreditation will be completed within the 6-month extension.
823 After obtaining accreditation as required by this subsection,
824 each such clinic must maintain accreditation as a condition of
825 renewal of its license. A clinic that files a change of
826 ownership application must comply with the original timeframe
827 accreditation requirements of the transferor. The agency shall
828 deny a change of ownership application if the clinic is not in
829 compliance with the accreditation requirements. When a clinic
830 adds, replaces, or modifies magnetic resonance imaging equipment
831 and the agency requires new accreditation, the clinic must be

832 accredited within 1 year after the date of the addition,
 833 replacement, or modification but may request a single, 6-month
 834 extension if the clinic provides evidence of good cause to the
 835 agency.

836 Section 14. Subsection (6) of section 400.995, Florida
 837 Statutes, is amended to read:

838 400.995 Agency administrative penalties.--

839 ~~(6) The agency, as an alternative to or in conjunction~~
 840 ~~with an administrative action against a clinic for violations of~~
 841 ~~this part and adopted rules, shall make a reasonable attempt to~~
 842 ~~discuss each violation and recommended corrective action with~~
 843 ~~the owner, medical director, or clinic director of the clinic,~~
 844 ~~prior to written notification. The agency, instead of fixing a~~
 845 ~~period within which the clinic shall enter into compliance with~~
 846 ~~standards, may request a plan of corrective action from the~~
 847 ~~clinic which demonstrates a good faith effort to remedy each~~
 848 ~~violation by a specific date, subject to the approval of the~~
 849 ~~agency.~~

850 Section 15. Subsections (5) and (9) of section 408.803,
 851 Florida Statutes, are amended to read:

852 408.803 Definitions.--As used in this part, the term:

853 (5) "Change of ownership" means:

854 (a) An event in which the licensee sells or otherwise
 855 transfers its ownership ~~changes~~ to a different individual or
 856 other legal entity;

857 (b) An event in which an individual or other entity
 858 purchases or in good faith intends to purchase the licensed
 859 provider; or

860 (c) An event in which 51 45 percent or more of the
 861 ownership, ~~voting~~ shares, membership, or controlling interest of
 862 a licensee is in any manner transferred or otherwise assigned.
 863 This paragraph does not apply to a licensee that is publicly
 864 traded on a recognized stock exchange. ~~In a corporation whose~~
 865 ~~shares are not publicly traded on a recognized stock exchange is~~
 866 ~~transferred or assigned, including the final transfer or~~
 867 ~~assignment of multiple transfers or assignments over a 2-year~~
 868 ~~period that cumulatively total 45 percent or greater.~~

869
 870 A change solely in the management company or board of directors
 871 is not a change of ownership.

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

877 Section 16. Paragraph (a) of subsection (1), subsection
 878 (2), paragraph (c) of subsection (7), and subsection (8) of
 879 section 408.806, Florida Statutes, are amended to read:

880 408.806 License application process.--

881 (1) An application for licensure must be made to the
 882 agency on forms furnished by the agency, submitted under oath,
 883 and accompanied by the appropriate fee in order to be accepted
 884 and considered timely. The application must contain information
 885 required by authorizing statutes and applicable rules and must
 886 include:

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

888 1. The applicant;

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

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

891 3. The financial officer or similarly titled person who is

892 responsible for the financial operation of the licensee or

893 provider; and

894 4. Each controlling interest if the applicant or

895 controlling interest is an individual.

896 (2) (a) The applicant for a renewal license must submit an

897 application that must be received by the agency at least 60 days

898 but no more than 120 days prior to the expiration of the current

899 license. An application received more than 120 days prior to the

900 expiration of the current license shall be returned to the

901 applicant. If the renewal application and fee are received prior

902 to the license expiration date, the license shall not be deemed

903 to have expired if the license expiration date occurs during the

904 agency's review of the renewal application.

905 (b) The applicant for initial licensure due to a change of

906 ownership must submit an application that must be received by

907 the agency at least 60 days prior to the date of change of

908 ownership.

909 (c) For any other application or request, the applicant

910 must submit an application or request that must be received by

911 the agency at least 60 days but no more than 120 days prior to

912 the requested effective date, unless otherwise specified in

913 authorizing statutes or applicable rules. An application

914 received more than 120 days prior to the expiration of the

915 current license shall be returned to the applicant.

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916 (d) The agency shall notify the licensee by mail or
917 electronically at least 90 days prior to the expiration of a
918 license that a renewal license is necessary to continue
919 operation. The failure to timely submit a renewal application
920 and license fee shall result in a \$50 per day late fee charged
921 to the licensee by the agency; however, the aggregate amount of
922 the late fee may not exceed 50 percent of the licensure fee or
923 \$500, whichever is less. If an application is received after the
924 required filing date and exhibits a hand-canceled postmark
925 obtained from a United States post office dated on or before the
926 required filing date, no fine will be levied.

927 (7)

928 (c) If an inspection is required by the authorizing
929 statute for a license application other than an initial
930 application, the inspection must be unannounced. This paragraph
931 does not apply to inspections required pursuant to ss. 383.324,
932 395.0161(4), 429.67(6), and 483.061(2).

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

936 (a) Licensure applications.

937 (b) Required signatures.

938 (c) Payment of fees.

939 (d) Notarization of applications.

940

941 Requirements for electronic submission of any documents required
942 by this part or authorizing statutes may be established by rule.
943 As an alternative to sending documents as required by

944 authorizing statutes, the agency may provide electronic access
 945 to information or documents.

946 Section 17. Subsection (2) of section 408.807, Florida
 947 Statutes, is amended to read:

948 408.807 Change of ownership.--Whenever a change of
 949 ownership occurs:

950 (2) The transferee shall make application to the agency
 951 for a license within the timeframes required in s. 408.806. The
 952 effective date of the transfer must be submitted with the
 953 application. The effective date of licensure may not be prior to
 954 the date of application. Final closing documents must be
 955 provided within 10 calendar days after the effective date of the
 956 transfer.

957 Section 18. Subsection (2) of section 408.808, Florida
 958 Statutes, is amended to read:

959 408.808 License categories.--

960 (2) PROVISIONAL LICENSE.--A provisional license may be
 961 issued to an applicant pursuant to s. 408.809(3). An applicant
 962 against whom a proceeding denying or revoking a license is
 963 pending at the time of license renewal may be issued a
 964 provisional license effective until final action not subject to
 965 further appeal. A provisional license may also be issued to an
 966 applicant applying for a change of ownership. A provisional
 967 license shall be limited in duration to a specific period of
 968 time, not to exceed 6 months, as determined by the agency.

969 Section 19. Subsection (5) of section 408.809, Florida
 970 Statutes, is amended, and new subsections (5) and (6) are added
 971 to that section, to read:

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972 408.809 Background screening; prohibited offenses.--
973 (5) Effective October 1, 2009, in addition to the offenses
974 listed in ss. 435.03 and 435.04, all persons required to undergo
975 background screening pursuant to this part or authorizing
976 statutes must not have been found guilty of, regardless of
977 adjudication, or entered a plea of nolo contendere or guilty to,
978 any of the following offenses or any similar offense of another
979 jurisdiction:

980 (a) Any authorizing statutes, if the offense was a felony.
981 (b) This chapter, if the offense was a felony.
982 (c) Section 409.920, relating to Medicaid provider fraud,
983 if the offense was a felony.
984 (d) Section 741.28, relating to domestic violence.
985 (e) Chapter 784, relating to assault, battery, and
986 culpable negligence, if the offense was a felony.
987 (f) Section 810.02, relating to burglary.
988 (g) Section 817.034, relating to fraudulent acts through
989 mail, wire, radio, electromagnetic, photoelectronic, or
990 photooptical systems.
991 (h) Section 817.234, relating to false and fraudulent
992 insurance claims.
993 (i) Section 817.505, relating to patient brokering.
994 (j) Section 817.568, relating to criminal use of personal
995 identification information.
996 (k) Section 817.60, relating to obtaining a credit card
997 through fraudulent means.
998 (l) Section 817.61, relating to fraudulent use of credit
999 cards, if the offense was a felony.

1000 (m) Section 831.01, relating to forgery.
 1001 (n) Section 831.02, relating to uttering forged
 1002 instruments.
 1003 (o) Section 831.07, relating to forging bank bills,
 1004 checks, drafts, or promissory notes.
 1005 (p) Section 831.09, relating to uttering forged bank
 1006 bills, checks, drafts, or promissory notes.
 1007 (q) Section 831.30, relating to fraud in obtaining
 1008 medicinal drugs.
 1009 (r) Section 831.31, relating to the sale, manufacture,
 1010 delivery, or possession with the intent to sell, manufacture, or
 1011 deliver any counterfeit controlled substance, if the offense was
 1012 a felony.
 1013
 1014 A person employed or affiliated with a licensee on September 30,
 1015 2009, may not be required by law to submit to rescreening if
 1016 that licensee has in its possession written evidence that the
 1017 person has been screened and qualified according to the
 1018 standards specified in s. 435.03 or s. 435.04. Exemptions from
 1019 disqualification may be granted pursuant to s. 435.07.
 1020 (6) The attestations required under ss. 435.04(5) and
 1021 435.05(3) must be submitted at the time of license renewal,
 1022 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)
 1023 which require annual submission of an affidavit of compliance
 1024 with background screening requirements.
 1025 ~~(5) Background screening is not required to obtain a~~
 1026 ~~certificate of exemption issued under s. 483.106.~~

1027 Section 20. Subsection (3) of section 408.810, Florida
 1028 Statutes, is amended to read:

1029 408.810 Minimum licensure requirements.--In addition to
 1030 the licensure requirements specified in this part, authorizing
 1031 statutes, and applicable rules, each applicant and licensee must
 1032 comply with the requirements of this section in order to obtain
 1033 and maintain a license.

1034 (3) Unless otherwise specified in this part, authorizing
 1035 statutes, or applicable rules, any information required to be
 1036 reported to the agency must be submitted within 21 calendar days
 1037 after the report period or effective date of the information,
 1038 whichever is earlier, including, but not limited to, any change
 1039 of:

1040 (a) Information contained in the most recent application
 1041 for licensure.

1042 (b) Required insurance or bonds.

1043 Section 21. Present subsection (4) of section 408.811,
 1044 Florida Statutes, is renumbered as subsection (6), subsections
 1045 (2) and (3) are amended, and new subsections (4) and (5) are
 1046 added to that section, to read:

1047 408.811 Right of inspection; copies; inspection reports;
 1048 plan for correction of deficiencies.--

1049 (2) Inspections conducted in conjunction with
 1050 certification, comparable licensure requirements, or a
 1051 recognized or approved accreditation organization may be
 1052 accepted in lieu of a complete licensure inspection. However, a
 1053 licensure inspection may also be conducted to review any

1054 licensure requirements that are not also requirements for
 1055 certification.

1056 (3) The agency shall have access to and the licensee shall
 1057 provide, or if requested send, copies of all provider records
 1058 required during an inspection or other review at no cost to the
 1059 agency, including records requested during an offsite review.

1060 (4) Deficiencies must be corrected within 30 calendar days
 1061 after the last day of an inspection unless an alternative
 1062 timeframe is required or approved by the agency.

1063 (5) The agency may require an applicant or licensee to
 1064 submit a plan of correction for deficiencies. If required, the
 1065 plan of correction must be filed with the agency within 10
 1066 calendar days after notification unless an alternative timeframe
 1067 is required.

1068 Section 22. Section 408.813, Florida Statutes, is amended
 1069 to read:

1070 408.813 Administrative fines; violations.--As a penalty
 1071 for any violation of this part, authorizing statutes, or
 1072 applicable rules, the agency may impose an administrative fine.

1073 (1) Unless the amount or aggregate limitation of the fine
 1074 is prescribed by authorizing statutes or applicable rules, the
 1075 agency may establish criteria by rule for the amount or
 1076 aggregate limitation of administrative fines applicable to this
 1077 part, authorizing statutes, and applicable rules. Each day of
 1078 violation constitutes a separate violation and is subject to a
 1079 separate fine. For fines imposed by final order of the agency
 1080 and not subject to further appeal, the violator shall pay the

1081 fine plus interest at the rate specified in s. 55.03 for each
 1082 day beyond the date set by the agency for payment of the fine.

1083 (2) Violations of this part, authorizing statutes, or
 1084 applicable rules may be classified according to the nature of
 1085 the violation and the gravity of its probable effect on clients.
 1086 The scope of a violation may be cited as an isolated, patterned,
 1087 or widespread deficiency. An isolated deficiency is a deficiency
 1088 affecting one or a very limited number of clients, or involving
 1089 one or a very limited number of staff, or a situation that
 1090 occurred only occasionally or in a very limited number of
 1091 locations. A patterned deficiency is a deficiency in which more
 1092 than a very limited number of clients are affected, or more than
 1093 a very limited number of staff are involved, or the situation
 1094 has occurred in several locations, or the same client or clients
 1095 have been affected by repeated occurrences of the same deficient
 1096 practice but the effect of the deficient practice is not found
 1097 to be pervasive throughout the provider. A widespread deficiency
 1098 is a deficiency in which the problems causing the deficiency are
 1099 pervasive in the provider or represent systemic failure that has
 1100 affected or has the potential to affect a large portion of the
 1101 provider's clients. The definitions of classifications in this
 1102 subsection control over conflicting definitions in authorizing
 1103 statutes. This subsection does not affect the legislative
 1104 determination of the amount of a fine imposed under authorizing
 1105 statutes. Violations shall be classified on the written notice
 1106 as follows:

1107 (a) Class "I" violations are those conditions or
 1108 occurrences related to the operation and maintenance of a

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1109 provider or to the care of clients which the agency determines
1110 present an imminent danger to the clients of the provider or a
1111 substantial probability that death or serious physical or
1112 emotional harm would result therefrom. The condition or practice
1113 constituting a class I violation shall be abated or eliminated
1114 within 24 hours, unless a fixed period, as determined by the
1115 agency, is required for correction. The agency shall impose an
1116 administrative fine as provided in this section for a cited
1117 class I violation. A fine shall be levied notwithstanding the
1118 correction of the violation.

1119 (b) Class "II" violations are those conditions or
1120 occurrences related to the operation and maintenance of a
1121 provider or to the care of clients which the agency determines
1122 directly threaten the physical or emotional health, safety, or
1123 security of the clients, other than class I violations. The
1124 agency shall impose an administrative fine as provided in this
1125 section for a cited class II violation. A fine shall be levied
1126 notwithstanding the correction of the violation.

1127 (c) Class "III" violations are those conditions or
1128 occurrences related to the operation and maintenance of a
1129 provider or to the care of clients which the agency determines
1130 indirectly or potentially threaten the physical or emotional
1131 health, safety, or security of clients, other than class I or
1132 class II violations. The agency shall impose an administrative
1133 fine as provided in this section for a cited class III
1134 violation. A citation for a class III violation must specify the
1135 time within which the violation is required to be corrected. If

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1136 a class III violation is corrected within the time specified, a
1137 fine may not be imposed.

1138 (d) Class "IV" violations are those conditions or
1139 occurrences related to the operation and maintenance of a
1140 provider or to required reports, forms, or documents that do not
1141 have the potential of negatively affecting clients. These
1142 violations are of a type that the agency determines do not
1143 threaten the health, safety, or security of clients. The agency
1144 shall impose an administrative fine as provided in this section
1145 for a cited class IV violation. A citation for a class IV
1146 violation must specify the time within which the violation is
1147 required to be corrected. If a class IV violation is corrected
1148 within the time specified, a fine may not be imposed.

1149 Section 23. Subsections (12), (21), and (26) of section
1150 408.820, Florida Statutes, are amended to read:

1151 408.820 Exemptions.--Except as prescribed in authorizing
1152 statutes, the following exemptions shall apply to specified
1153 requirements of this part:

1154 (12) Health care risk managers, as provided under part I
1155 of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),
1156 and 408.811.

1157 (21) Transitional living facilities, as provided under
1158 part V of chapter 400, are exempt from s. 408.810(7)-(10).

1159 (26) Health care clinics, as provided under part X of
1160 chapter 400, are exempt from s. ss. 408.809 and 408.810(1), (6),
1161 (7), and (10).

1162 Section 24. Section 408.821, Florida Statutes, is created
1163 to read:

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1164 408.821 Emergency management planning; emergency
1165 operations; inactive license.--

1166 (1) Licensees required by authorizing statutes to have an
1167 emergency operations plan must designate a safety officer to
1168 serve as the primary contact for emergency operations.

1169 (2) An entity subject to this part may temporarily exceed
1170 its licensed capacity to act as a receiving provider in
1171 accordance with an approved emergency operations plan. While in
1172 an overcapacity status, each provider must furnish or arrange
1173 for appropriate care and services to all clients. In addition,
1174 the agency may approve requests for overcapacity beyond 15 days,
1175 which approvals may be based upon satisfactory justification and
1176 need as provided by the receiving and sending providers.

1177 (3) (a) An inactive license may be issued to a licensee
1178 subject to this section when the provider is located in a
1179 geographic area in which a state of emergency was declared by
1180 the Governor if the provider:

1181 1. Suffered damage to its operation during the state of
1182 emergency.

1183 2. Is currently licensed.

1184 3. Does not have a provisional license.

1185 4. Will be temporarily unable to provide services but is
1186 reasonably expected to resume services within 12 months.

1187 (b) An inactive license may be issued for a period not to
1188 exceed 12 months but may be renewed by the agency for up to 12
1189 additional months upon demonstration to the agency of progress
1190 toward reopening. A request by a licensee for an inactive
1191 license or to extend the previously approved inactive period

1192 must be submitted in writing to the agency, accompanied by
 1193 written justification for the inactive license, which states the
 1194 beginning and ending dates of inactivity and includes a plan for
 1195 the transfer of any clients to other providers and appropriate
 1196 licensure fees. Upon agency approval, the licensee shall notify
 1197 clients of any necessary discharge or transfer as required by
 1198 authorizing statutes or applicable rules. The beginning of the
 1199 inactive licensure period shall be the date the provider ceases
 1200 operations. The end of the inactive period shall become the
 1201 licensee expiration date, and all licensure fees must be
 1202 current, must be paid in full, and may be prorated. Reactivation
 1203 of an inactive license requires the prior approval by the agency
 1204 of a renewal application, including payment of licensure fees
 1205 and agency inspections indicating compliance with all
 1206 requirements of this part and applicable rules and statutes.

1207 (4) The agency may adopt rules pursuant to ss. 120.536(1)
 1208 and 120.54 relating to emergency management planning,
 1209 communications, and operations in conjunction with the
 1210 Department of Community Affairs. Licensees providing residential
 1211 or inpatient services must utilize an online database approved
 1212 by the agency to report information to the agency regarding the
 1213 provider's emergency status, planning, or operations.

1214 Section 25. Subsections (3), (4), and (5) of section
 1215 408.831, Florida Statutes, are amended to read:

1216 408.831 Denial, suspension, or revocation of a license,
 1217 registration, certificate, or application.--

1218 ~~(3) An entity subject to this section may exceed its~~
 1219 ~~licensed capacity to act as a receiving facility in accordance~~

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1220 ~~with an emergency operations plan for clients of evacuating~~
1221 ~~providers from a geographic area where an evacuation order has~~
1222 ~~been issued by a local authority having jurisdiction. While in~~
1223 ~~an overcapacity status, each provider must furnish or arrange~~
1224 ~~for appropriate care and services to all clients. In addition,~~
1225 ~~the agency may approve requests for overcapacity beyond 15 days,~~
1226 ~~which approvals may be based upon satisfactory justification and~~
1227 ~~need as provided by the receiving and sending facilities.~~

1228 ~~(4) (a) An inactive license may be issued to a licensee~~
1229 ~~subject to this section when the provider is located in a~~
1230 ~~geographic area where a state of emergency was declared by the~~
1231 ~~Governor if the provider:~~

1232 ~~1. Suffered damage to its operation during that state of~~
1233 ~~emergency.~~

1234 ~~2. Is currently licensed.~~

1235 ~~3. Does not have a provisional license.~~

1236 ~~4. Will be temporarily unable to provide services but is~~
1237 ~~reasonably expected to resume services within 12 months.~~

1238 ~~(b) An inactive license may be issued for a period not to~~
1239 ~~exceed 12 months but may be renewed by the agency for up to 12~~
1240 ~~additional months upon demonstration to the agency of progress~~
1241 ~~toward reopening. A request by a licensee for an inactive~~
1242 ~~license or to extend the previously approved inactive period~~
1243 ~~must be submitted in writing to the agency, accompanied by~~
1244 ~~written justification for the inactive license, which states the~~
1245 ~~beginning and ending dates of inactivity and includes a plan for~~
1246 ~~the transfer of any clients to other providers and appropriate~~
1247 ~~licensure fees. Upon agency approval, the licensee shall notify~~

1248 ~~clients of any necessary discharge or transfer as required by~~
 1249 ~~authorizing statutes or applicable rules. The beginning of the~~
 1250 ~~inactive licensure period shall be the date the provider ceases~~
 1251 ~~operations. The end of the inactive period shall become the~~
 1252 ~~licensee expiration date, and all licensure fees must be~~
 1253 ~~current, paid in full, and may be prorated. Reactivation of an~~
 1254 ~~inactive license requires the prior approval by the agency of a~~
 1255 ~~renewal application, including payment of licensure fees and~~
 1256 ~~agency inspections indicating compliance with all requirements~~
 1257 ~~of this part and applicable rules and statutes.~~

1258 (3) ~~(5)~~ This section provides standards of enforcement
 1259 applicable to all entities licensed or regulated by the Agency
 1260 for Health Care Administration. This section controls over any
 1261 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
 1262 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to
 1263 those chapters.

1264 Section 26. Paragraph (e) of subsection (4) of section
 1265 409.221, Florida Statutes, is amended to read:

1266 409.221 Consumer-directed care program.--

1267 (4) CONSUMER-DIRECTED CARE.--

1268 (e) Services.--Consumers shall use the budget allowance
 1269 only to pay for home and community-based services that meet the
 1270 consumer's long-term care needs and are a cost-efficient use of
 1271 funds. Such services may include, but are not limited to, the
 1272 following:

- 1273 1. Personal care.
- 1274 2. Homemaking and chores, including housework, meals,
- 1275 shopping, and transportation.

1276 3. Home modifications and assistive devices which may
 1277 increase the consumer's independence or make it possible to
 1278 avoid institutional placement.

1279 4. Assistance in taking self-administered medication.

1280 5. Day care and respite care services, including those
 1281 provided by nursing home facilities pursuant to s.
 1282 400.141(1)(f) ~~(6)~~ or by adult day care facilities licensed
 1283 pursuant to s. 429.907.

1284 6. Personal care and support services provided in an
 1285 assisted living facility.

1286 Section 27. Subsection (5) of section 409.901, Florida
 1287 Statutes, is amended to read:

1288 409.901 Definitions; ss. 409.901-409.920.--As used in ss.
 1289 409.901-409.920, except as otherwise specifically provided, the
 1290 term:

1291 (5) "Change of ownership" means:

1292 (a) An event in which the provider ownership changes or
 1293 intends to change to a different individual or other legal
 1294 entity; ~~or~~

1295 (b) An event in which 51 ~~45~~ percent or more of the
 1296 ownership, ~~voting~~ shares, membership, or controlling interest of
 1297 a provider is in any manner transferred or otherwise assigned.
 1298 This paragraph does not apply to a licensee that is publicly
 1299 traded on a recognized stock exchange; or

1300 (c) When the provider is licensed or registered by the
 1301 agency, an event considered a change of ownership for licensure
 1302 as defined in s. 408.803 in a corporation whose shares are not
 1303 publicly traded on a recognized stock exchange is transferred or

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1304 ~~assigned, including the final transfer or assignment of multiple~~
 1305 ~~transfers or assignments over a 2-year period that cumulatively~~
 1306 ~~total 45 percent or more.~~

1307
 1308 A change solely in the management company or board of directors
 1309 is not a change of ownership.

1310 Section 28. Section 429.071, Florida Statutes, is
 1311 repealed.

1312 Section 29. Paragraph (e) of subsection (1) and
 1313 subsections (2) and (3) of section 429.08, Florida Statutes, are
 1314 amended to read:

1315 429.08 Unlicensed facilities; referral of person for
 1316 residency to unlicensed facility; penalties; verification of
 1317 licensure status.--

1318 (1)

1319 (e) The agency shall provide to the department's elder
 1320 information and referral providers a list, by county, of
 1321 licensed assisted living facilities, to assist persons who are
 1322 considering an assisted living facility placement in locating a
 1323 licensed facility. This information may be provided through the
 1324 agency's Internet site.

1325 ~~(2) Each field office of the Agency for Health Care~~
 1326 ~~Administration shall establish a local coordinating workgroup~~
 1327 ~~which includes representatives of local law enforcement~~
 1328 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~
 1329 ~~the Department of Legal Affairs, local fire authorities, the~~
 1330 ~~Department of Children and Family Services, the district long-~~
 1331 ~~term care ombudsman council, and the district human rights~~

1332 ~~advocacy committee to assist in identifying the operation of~~
 1333 ~~unlicensed facilities and to develop and implement a plan to~~
 1334 ~~ensure effective enforcement of state laws relating to such~~
 1335 ~~facilities. The workgroup shall report its findings, actions,~~
 1336 ~~and recommendations semiannually to the Director of Health~~
 1337 ~~Quality Assurance of the agency.~~

1338 (2)~~(3)~~ It is unlawful to knowingly refer a person for
 1339 residency to an unlicensed assisted living facility; to an
 1340 assisted living facility the license of which is under denial or
 1341 has been suspended or revoked; or to an assisted living facility
 1342 that has a moratorium pursuant to part II of chapter 408. Any
 1343 person who violates this subsection commits a noncriminal
 1344 violation, punishable by a fine not exceeding \$500 as provided
 1345 in s. 775.083.

1346 (a) Any health care practitioner, as defined in s.
 1347 456.001, who is aware of the operation of an unlicensed facility
 1348 shall report that facility to the agency. Failure to report a
 1349 facility that the practitioner knows or has reasonable cause to
 1350 suspect is unlicensed shall be reported to the practitioner's
 1351 licensing board.

1352 (b) Any hospital or community mental health center
 1353 licensed under chapter 395 or chapter 394 which knowingly
 1354 discharges a patient or client to an unlicensed facility is
 1355 subject to sanction by the agency.

1356 (c) Any employee of the agency or department, or the
 1357 Department of Children and Family Services, who knowingly refers
 1358 a person for residency to an unlicensed facility; to a facility
 1359 the license of which is under denial or has been suspended or

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1360 | revoked; or to a facility that has a moratorium pursuant to part
1361 | II of chapter 408 is subject to disciplinary action by the
1362 | agency or department, or the Department of Children and Family
1363 | Services.

1364 | (d) The employer of any person who is under contract with
1365 | the agency or department, or the Department of Children and
1366 | Family Services, and who knowingly refers a person for residency
1367 | to an unlicensed facility; to a facility the license of which is
1368 | under denial or has been suspended or revoked; or to a facility
1369 | that has a moratorium pursuant to part II of chapter 408 shall
1370 | be fined and required to prepare a corrective action plan
1371 | designed to prevent such referrals.

1372 | (e) The agency shall provide the department and the
1373 | Department of Children and Family Services with a list of
1374 | licensed facilities within each county and shall update the list
1375 | at least quarterly. This information may be provided through the
1376 | agency's Internet site.

1377 | (f) At least annually, the agency shall notify, in
1378 | appropriate trade publications, physicians licensed under
1379 | chapter 458 or chapter 459, hospitals licensed under chapter
1380 | 395, nursing home facilities licensed under part II of chapter
1381 | 400, and employees of the agency or the department, or the
1382 | Department of Children and Family Services, who are responsible
1383 | for referring persons for residency, that it is unlawful to
1384 | knowingly refer a person for residency to an unlicensed assisted
1385 | living facility and shall notify them of the penalty for
1386 | violating such prohibition. The department and the Department of
1387 | Children and Family Services shall, in turn, notify service

1388 providers under contract to the respective departments who have
 1389 responsibility for resident referrals to facilities. Further,
 1390 the notice must direct each noticed facility and individual to
 1391 contact the appropriate agency office in order to verify the
 1392 licensure status of any facility prior to referring any person
 1393 for residency. Each notice must include the name, telephone
 1394 number, and mailing address of the appropriate office to
 1395 contact.

1396 Section 30. Paragraph (e) of subsection (1) of section
 1397 429.14, Florida Statutes, is amended to read:

1398 429.14 Administrative penalties.--

1399 (1) In addition to the requirements of part II of chapter
 1400 408, the agency may deny, revoke, and suspend any license issued
 1401 under this part and impose an administrative fine in the manner
 1402 provided in chapter 120 against a licensee of an assisted living
 1403 facility for a violation of any provision of this part, part II
 1404 of chapter 408, or applicable rules, or for any of the following
 1405 actions by a licensee of an assisted living facility, for the
 1406 actions of any person subject to level 2 background screening
 1407 under s. 408.809, or for the actions of any facility employee:

1408 (e) A citation of any of the following deficiencies as
 1409 specified ~~defined~~ in s. 429.19:

- 1410 1. One or more cited class I deficiencies.
- 1411 2. Three or more cited class II deficiencies.
- 1412 3. Five or more cited class III deficiencies that have
 1413 been cited on a single survey and have not been corrected within
 1414 the times specified.

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1415 Section 31. Section 429.19, Florida Statutes, is amended
 1416 to read:

1417 429.19 Violations; imposition of administrative fines;
 1418 grounds.--

1419 (1) In addition to the requirements of part II of chapter
 1420 408, the agency shall impose an administrative fine in the
 1421 manner provided in chapter 120 for the violation of any
 1422 provision of this part, part II of chapter 408, and applicable
 1423 rules by an assisted living facility, for the actions of any
 1424 person subject to level 2 background screening under s. 408.809,
 1425 for the actions of any facility employee, or for an intentional
 1426 or negligent act seriously affecting the health, safety, or
 1427 welfare of a resident of the facility.

1428 (2) Each violation of this part and adopted rules shall be
 1429 classified according to the nature of the violation and the
 1430 gravity of its probable effect on facility residents. The agency
 1431 shall indicate the classification on the written notice of the
 1432 violation as follows:

1433 (a) Class "I" violations are defined in s. 408.813 ~~these~~
 1434 ~~conditions or occurrences related to the operation and~~
 1435 ~~maintenance of a facility or to the personal care of residents~~
 1436 ~~which the agency determines present an imminent danger to the~~
 1437 ~~residents or guests of the facility or a substantial probability~~
 1438 ~~that death or serious physical or emotional harm would result~~
 1439 ~~therefrom.~~ The condition or practice constituting a class I
 1440 violation shall be abated or eliminated within 24 hours, unless
 1441 a fixed period, as determined by the agency, is required for
 1442 correction. The agency shall impose an administrative fine for a

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1443 cited class I violation in an amount of not less than \$5,000 for
1444 an isolated deficiency, \$7,500 for a patterned deficiency, and
1445 ~~not exceeding \$10,000 for a widespread deficiency~~ each
1446 violation. ~~A fine may be levied notwithstanding the correction~~
1447 ~~of the violation.~~

1448 (b) Class "II" violations are defined in s. 408.813 ~~those~~
1449 ~~conditions or occurrences related to the operation and~~
1450 ~~maintenance of a facility or to the personal care of residents~~
1451 ~~which the agency determines directly threaten the physical or~~
1452 ~~emotional health, safety, or security of the facility residents,~~
1453 ~~other than class I violations.~~ The agency shall impose an
1454 administrative fine for a cited class II violation in an amount
1455 of not less than \$1,000 for an isolated deficiency, \$3,000 for a
1456 patterned deficiency, and ~~not exceeding \$5,000 for a widespread~~
1457 deficiency each violation. A fine shall be levied
1458 notwithstanding the correction of the violation.

1459 (c) Class "III" violations are defined in s. 408.813 ~~those~~
1460 ~~conditions or occurrences related to the operation and~~
1461 ~~maintenance of a facility or to the personal care of residents~~
1462 ~~which the agency determines indirectly or potentially threaten~~
1463 ~~the physical or emotional health, safety, or security of~~
1464 ~~facility residents, other than class I or class II violations.~~
1465 The agency shall impose an administrative fine for a cited class
1466 III violation in an amount of not less than \$500 for an isolated
1467 deficiency, \$750 for a patterned deficiency, and ~~not exceeding~~
1468 \$1,000 for a widespread deficiency each violation. ~~A citation~~
1469 ~~for a class III violation must specify the time within which the~~
1470 ~~violation is required to be corrected. If a class III violation~~

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1471 ~~is corrected within the time specified, no fine may be imposed,~~
1472 ~~unless it is a repeated offense.~~

1473 (d) Class "IV" violations are defined in s. 408.813 ~~those~~
1474 ~~conditions or occurrences related to the operation and~~
1475 ~~maintenance of a building or to required reports, forms, or~~
1476 ~~documents that do not have the potential of negatively affecting~~
1477 ~~residents. These violations are of a type that the agency~~
1478 ~~determines do not threaten the health, safety, or security of~~
1479 ~~residents of the facility.~~ The agency shall impose an
1480 administrative fine for a cited class IV violation in an amount
1481 of not less than \$100 for an isolated deficiency, \$150 for a
1482 patterned deficiency, and ~~not exceeding~~ \$200 for a widespread
1483 deficiency each violation. ~~A citation for a class IV violation~~
1484 ~~must specify the time within which the violation is required to~~
1485 ~~be corrected. If a class IV violation is corrected within the~~
1486 ~~time specified, no fine shall be imposed.~~ Any class IV violation
1487 that is corrected during the time an agency survey is being
1488 conducted will be identified as an agency finding and not as a
1489 violation.

1490 ~~(3) For purposes of this section, in determining if a~~
1491 ~~penalty is to be imposed and in fixing the amount of the fine,~~
1492 ~~the agency shall consider the following factors:~~

1493 ~~(a) The gravity of the violation, including the~~
1494 ~~probability that death or serious physical or emotional harm to~~
1495 ~~a resident will result or has resulted, the severity of the~~
1496 ~~action or potential harm, and the extent to which the provisions~~
1497 ~~of the applicable laws or rules were violated.~~

1498 ~~(b) Actions taken by the owner or administrator to correct~~
 1499 ~~violations.~~

1500 ~~(c) Any previous violations.~~

1501 ~~(d) The financial benefit to the facility of committing or~~
 1502 ~~continuing the violation.~~

1503 ~~(e) The licensed capacity of the facility.~~

1504 (3)~~(4)~~ Each day of continuing violation after the date
 1505 fixed for termination of the violation, as ordered by the
 1506 agency, constitutes an additional, separate, and distinct
 1507 violation.

1508 (4)~~(5)~~ Any action taken to correct a violation shall be
 1509 documented in writing by the owner or administrator of the
 1510 facility and verified through followup visits by agency
 1511 personnel. The agency may impose a fine and, in the case of an
 1512 owner-operated facility, revoke or deny a facility's license
 1513 when a facility administrator fraudulently misrepresents action
 1514 taken to correct a violation.

1515 (5)~~(6)~~ Any facility whose owner fails to apply for a
 1516 change-of-ownership license in accordance with part II of
 1517 chapter 408 and operates the facility under the new ownership is
 1518 subject to a fine of \$5,000.

1519 (6)~~(7)~~ In addition to any administrative fines imposed,
 1520 the agency may assess a survey fee, equal to the lesser of one
 1521 half of the facility's biennial license and bed fee or \$500, to
 1522 cover the cost of conducting initial complaint investigations
 1523 that result in the finding of a violation that was the subject
 1524 of the complaint or monitoring visits conducted under s.
 1525 429.28(3)(c) to verify the correction of the violations.

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1526 ~~(8) The agency, as an alternative to or in conjunction~~
1527 ~~with an administrative action against a facility for violations~~
1528 ~~of this part and adopted rules, shall make a reasonable attempt~~
1529 ~~to discuss each violation and recommended corrective action with~~
1530 ~~the owner or administrator of the facility, prior to written~~
1531 ~~notification. The agency, instead of fixing a period within~~
1532 ~~which the facility shall enter into compliance with standards,~~
1533 ~~may request a plan of corrective action from the facility which~~
1534 ~~demonstrates a good faith effort to remedy each violation by a~~
1535 ~~specific date, subject to the approval of the agency.~~

1536 (7)~~(9)~~ The agency shall develop and disseminate an annual
1537 list of all facilities sanctioned or fined \$5,000 or more for
1538 violations of state standards, the number and class of
1539 violations involved, the penalties imposed, and the current
1540 status of cases. The list shall be disseminated, at no charge,
1541 to the Department of Elderly Affairs, the Department of Health,
1542 the Department of Children and Family Services, the Agency for
1543 Persons with Disabilities, the area agencies on aging, the
1544 Florida Statewide Advocacy Council, and the state and local
1545 ombudsman councils. The Department of Children and Family
1546 Services shall disseminate the list to service providers under
1547 contract to the department who are responsible for referring
1548 persons to a facility for residency. The agency may charge a fee
1549 commensurate with the cost of printing and postage to other
1550 interested parties requesting a copy of this list. This
1551 information may be provided electronically.

1552 Section 32. Subsections (2) and (6) of section 429.23,
1553 Florida Statutes, are amended to read:

1554 429.23 Internal risk management and quality assurance
 1555 program; adverse incidents and reporting requirements.--
 1556 (2) Every facility licensed under this part is required to
 1557 maintain adverse incident reports. For purposes of this section,
 1558 the term, "adverse incident" means:
 1559 (a) An event over which facility personnel could exercise
 1560 control rather than as a result of the resident's condition and
 1561 results in:
 1562 1. Death;
 1563 2. Brain or spinal damage;
 1564 3. Permanent disfigurement;
 1565 4. Fracture or dislocation of bones or joints;
 1566 5. Any condition that required medical attention to which
 1567 the resident has not given his or her consent, including failure
 1568 to honor advanced directives;
 1569 6. Any condition that requires the transfer of the
 1570 resident from the facility to a unit providing more acute care
 1571 due to the incident rather than the resident's condition before
 1572 the incident; or;
 1573 7. An event that is reported to law enforcement; or
 1574 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
 1575 ~~415.102;~~
 1576 ~~(c) Events reported to law enforcement; or~~
 1577 (b) ~~(d)~~ Resident elopement, if the elopement places the
 1578 resident at risk of harm or injury.
 1579 (6) Abuse, neglect, or exploitation must be reported to
 1580 the Department of Children and Family Services as required under
 1581 chapter 415. The agency shall annually submit to the Legislature

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1582 ~~a report on assisted living facility adverse incident reports.~~
1583 ~~The report must include the following information arranged by~~
1584 ~~county:~~

1585 ~~(a) A total number of adverse incidents;~~

1586 ~~(b) A listing, by category, of the type of adverse~~
1587 ~~incidents occurring within each category and the type of staff~~
1588 ~~involved;~~

1589 ~~(c) A listing, by category, of the types of injuries, if~~
1590 ~~any, and the number of injuries occurring within each category;~~

1591 ~~(d) Types of liability claims filed based on an adverse~~
1592 ~~incident report or reportable injury; and~~

1593 ~~(e) Disciplinary action taken against staff, categorized~~
1594 ~~by the type of staff involved.~~

1595 Section 33. Subsections (10) through (12) of section
1596 429.26, Florida Statutes, are renumbered as subsections (9)
1597 through (11), respectively, and present subsection (9) of that
1598 section is amended to read:

1599 429.26 Appropriateness of placements; examinations of
1600 residents.--

1601 ~~(9) If, at any time after admission to a facility, a~~
1602 ~~resident appears to need care beyond that which the facility is~~
1603 ~~licensed to provide, the agency shall require the resident to be~~
1604 ~~physically examined by a licensed physician, physician~~
1605 ~~assistant, or licensed nurse practitioner. This examination~~
1606 ~~shall, to the extent possible, be performed by the resident's~~
1607 ~~preferred physician or nurse practitioner and shall be paid for~~
1608 ~~by the resident with personal funds, except as provided in s.~~
1609 ~~429.18(2). Following this examination, the examining physician,~~

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1610 ~~physician assistant, or licensed nurse practitioner shall~~
1611 ~~complete and sign a medical form provided by the agency. The~~
1612 ~~completed medical form shall be submitted to the agency within~~
1613 ~~30 days after the date the facility owner or administrator is~~
1614 ~~notified by the agency that the physical examination is~~
1615 ~~required. After consultation with the physician, physician~~
1616 ~~assistant, or licensed nurse practitioner who performed the~~
1617 ~~examination, a medical review team designated by the agency~~
1618 ~~shall then determine whether the resident is appropriately~~
1619 ~~residing in the facility. The medical review team shall base its~~
1620 ~~decision on a comprehensive review of the resident's physical~~
1621 ~~and functional status, including the resident's preferences, and~~
1622 ~~not on an isolated health-related problem. In the case of a~~
1623 ~~mental health resident, if the resident appears to have needs in~~
1624 ~~addition to those identified in the community living support~~
1625 ~~plan, the agency may require an evaluation by a mental health~~
1626 ~~professional, as determined by the Department of Children and~~
1627 ~~Family Services. A facility may not be required to retain a~~
1628 ~~resident who requires more services or care than the facility is~~
1629 ~~able to provide in accordance with its policies and criteria for~~
1630 ~~admission and continued residency. Members of the medical review~~
1631 ~~team making the final determination may not include the agency~~
1632 ~~personnel who initially questioned the appropriateness of a~~
1633 ~~resident's placement. Such determination is final and binding~~
1634 ~~upon the facility and the resident. Any resident who is~~
1635 ~~determined by the medical review team to be inappropriately~~
1636 ~~residing in a facility shall be given 30 days' written notice to~~
1637 ~~relocate by the owner or administrator, unless the resident's~~

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1638 ~~continued residence in the facility presents an imminent danger~~
 1639 ~~to the health, safety, or welfare of the resident or a~~
 1640 ~~substantial probability exists that death or serious physical~~
 1641 ~~harm would result to the resident if allowed to remain in the~~
 1642 ~~facility.~~

1643 Section 34. Paragraph (h) of subsection (3) of section
 1644 430.80, Florida Statutes, is amended to read:

1645 430.80 Implementation of a teaching nursing home pilot
 1646 project.--

1647 (3) To be designated as a teaching nursing home, a nursing
 1648 home licensee must, at a minimum:

1649 (h) Maintain insurance coverage pursuant to s.
 1650 400.141 (1) (s) ~~(20)~~ or proof of financial responsibility in a
 1651 minimum amount of \$750,000. Such proof of financial
 1652 responsibility may include:

- 1653 1. Maintaining an escrow account consisting of cash or
 1654 assets eligible for deposit in accordance with s. 625.52; or
- 1655 2. Obtaining and maintaining pursuant to chapter 675 an
 1656 unexpired, irrevocable, nontransferable and nonassignable letter
 1657 of credit issued by any bank or savings association organized
 1658 and existing under the laws of this state or any bank or savings
 1659 association organized under the laws of the United States that
 1660 has its principal place of business in this state or has a
 1661 branch office which is authorized to receive deposits in this
 1662 state. The letter of credit shall be used to satisfy the
 1663 obligation of the facility to the claimant upon presentment of a
 1664 final judgment indicating liability and awarding damages to be
 1665 paid by the facility or upon presentment of a settlement

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1666 agreement signed by all parties to the agreement when such final
1667 judgment or settlement is a result of a liability claim against
1668 the facility.

1669 Section 35. Subsection (5) of section 435.04, Florida
1670 Statutes, is amended to read:

1671 435.04 Level 2 screening standards.--

1672 (5) Under penalty of perjury, all employees in such
1673 positions of trust or responsibility shall attest to meeting the
1674 requirements for qualifying for employment and agreeing to
1675 inform the employer immediately if convicted of any of the
1676 disqualifying offenses while employed by the employer. Each
1677 employer of employees in such positions of trust or
1678 responsibilities which is licensed or registered by a state
1679 agency shall submit to the licensing agency annually or at the
1680 time of license renewal, under penalty of perjury, an affidavit
1681 of compliance with the provisions of this section.

1682 Section 36. Subsection (3) of section 435.05, Florida
1683 Statutes, is amended to read:

1684 435.05 Requirements for covered employees.--Except as
1685 otherwise provided by law, the following requirements shall
1686 apply to covered employees:

1687 (3) Each employer required to conduct level 2 background
1688 screening must sign an affidavit annually or at the time of
1689 license renewal, under penalty of perjury, stating that all
1690 covered employees have been screened or are newly hired and are
1691 awaiting the results of the required screening checks.

1692 Section 37. Subsection (2) of section 483.031, Florida
1693 Statutes, is amended to read:

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1694 483.031 Application of part; exemptions.--This part
 1695 applies to all clinical laboratories within this state, except:
 1696 (2) A clinical laboratory that performs only waived tests
 1697 ~~and has received a certificate of exemption from the agency~~
 1698 ~~under s. 483.106.~~

1699 Section 38. Subsection (10) of section 483.041, Florida
 1700 Statutes, is amended to read:

1701 483.041 Definitions.--As used in this part, the term:

1702 (10) "Waived test" means a test that the federal Centers
 1703 for Medicare and Medicaid Services Health Care Financing
 1704 ~~Administration~~ has determined qualifies for a certificate of
 1705 waiver under the federal Clinical Laboratory Improvement
 1706 Amendments of 1988, and the federal rules adopted thereunder.

1707 Section 39. Section 483.106, Florida Statutes, is
 1708 repealed.

1709 Section 40. Subsection (3) of section 483.172, Florida
 1710 Statutes, is amended to read:

1711 483.172 License fees.--

1712 (3) The agency shall assess a ~~biennial fee of \$100 for a~~
 1713 ~~certificate of exemption and~~ a \$100 license fee for facilities
 1714 surveyed by an approved accrediting organization.

1715 Section 41. Subsection (1) of section 483.23, Florida
 1716 Statutes, is amended to read:

1717 483.23 Offenses; criminal penalties.--

1718 (1) (a) It is unlawful for any person to:

1719 1. Operate, maintain, direct, or engage in the business of
 1720 operating a clinical laboratory unless she or he has obtained a

1721 clinical laboratory license from the agency ~~or is exempt under~~
 1722 ~~s. 483.031.~~

1723 2. Conduct, maintain, or operate a clinical laboratory,
 1724 other than an exempt laboratory or a laboratory operated under
 1725 s. 483.035, unless the clinical laboratory is under the direct
 1726 and responsible supervision and direction of a person licensed
 1727 under part III of this chapter.

1728 3. Allow any person other than an individual licensed
 1729 under part III of this chapter to perform clinical laboratory
 1730 procedures, except in the operation of ~~a laboratory exempt under~~
 1731 ~~s. 483.031~~ or a laboratory operated under s. 483.035.

1732 4. Violate or aid and abet in the violation of any
 1733 provision of this part or the rules adopted under this part.

1734 (b) The performance of any act specified in paragraph (a)
 1735 constitutes a misdemeanor of the second degree, punishable as
 1736 provided in s. 775.082 or s. 775.083.

1737 Section 42. Subsection (13) of section 651.118, Florida
 1738 Statutes, is amended to read:

1739 651.118 Agency for Health Care Administration;
 1740 certificates of need; sheltered beds; community beds.--

1741 (13) Residents, as defined in this chapter, are not
 1742 considered new admissions for the purpose of s.
 1743 400.141(1)(o)1.d. ~~(15)(d).~~

1744 Section 43. This act shall take effect upon becoming a
 1745 law.