

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. 400.162, F.S.; revising
22 provisions relating to procedures and policies regarding
23 the safekeeping of nursing home residents' property;
24 amending s. 400.195, F.S.; conforming a cross-reference;
25 amending s. 400.23, F.S.; deleting provisions relating to
26 minimum staffing requirements for nursing homes; amending
27 s. 400.506, F.S.; exempting nurse registries not
28 participating in the Medicaid or Medicare program from

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

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

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

113 483.031, F.S.; conforming a reference; amending s.
 114 483.041, F.S.; revising a definition applicable to pt. I
 115 of ch. 483, F.S., the "Florida Clinical Laboratory Law";
 116 repealing s. 483.106, F.S., relating to applications for
 117 certificates of exemption by clinical laboratories that
 118 perform certain tests; amending s. 483.172, F.S.;
 119 conforming a reference; amending s. 651.118, F.S.;
 120 conforming a cross-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. 400.831(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~~

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

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.

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

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)~~ Submit semiannually to the agency, or more
367 frequently if requested by the agency, information regarding
368 facility staff-to-resident ratios, staff turnover, and staff
369 stability, including information regarding certified nursing
370 assistants, licensed nurses, the director of nursing, and the
371 facility administrator. For purposes of this reporting:

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

376 b. ~~(b)~~ Staff turnover must be reported for the most recent
377 12-month period ending on the last workday of the most recent
378 calendar quarter prior to the date the information is submitted.
379 The turnover rate must be computed quarterly, with the annual
380 rate being the cumulative sum of the quarterly rates. The
381 turnover rate is the total number of terminations or separations
382 experienced during the quarter, excluding any employee
383 terminated during a probationary period of 3 months or less,
384 divided by the total number of staff employed at the end of the
385 period for which the rate is computed, and expressed as a
386 percentage.

387 c. ~~(e)~~ The formula for determining staff stability is the
388 total number of employees that have been employed for more than
389 12 months, divided by the total number of employees employed at

390 the end of the most recent calendar quarter, and expressed as a
 391 percentage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

506 Section 6. Present subsections (9) through (13) of section
 507 400.147, Florida Statutes, are renumbered as subsections (10)
 508 through (14), respectively, subsection (5) and present
 509 subsection (14) are amended, and a new subsection (9) is added
 510 to that section, to read:

511 400.147 Internal risk management and quality assurance
 512 program.--

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

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

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

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

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

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

535 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
 536 ~~415.102;~~

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

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

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

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

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

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

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

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

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

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

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

559 400.162 Property and personal affairs of residents.--

560 (3) A licensee shall provide for the safekeeping of
 561 personal effects, funds, and other property of the resident in
 562 the facility. Whenever necessary for the protection of
 563 valuables, or in order to avoid unreasonable responsibility
 564 therefor, the licensee may require that such valuables be
 565 excluded or removed from the facility and kept at some place not
 566 subject to the control of the licensee. At the request of a
 567 resident, the facility shall mark the resident's personal
 568 property with the resident's name or another type of
 569 identification, without defacing the property. Any theft or loss
 570 of a resident's personal property shall be documented by the
 571 facility. The facility shall develop policies and procedures to
 572 minimize the risk of theft or loss of the personal property of
 573 residents. A copy of the policy shall be provided to every
 574 employee and to each resident and resident's representative, if
 575 appropriate, at admission and when revised. Facility policies
 576 must include provisions related to reporting theft or loss of a
 577 resident's property to law enforcement and any facility waiver
 578 of liability for loss or theft. ~~The facility shall post notice~~
 579 ~~of these policies and procedures, and any revision thereof, in~~
 580 ~~places accessible to residents.~~

581 Section 8. Paragraph (d) of subsection (1) of section
 582 400.195, Florida Statutes, is amended to read:

583 400.195 Agency reporting requirements.--

584 (1) For the period beginning June 30, 2001, and ending
 585 June 30, 2005, the Agency for Health Care Administration shall
 586 provide a report to the Governor, the President of the Senate,
 587 and the Speaker of the House of Representatives with respect to
 588 nursing homes. The first report shall be submitted no later than
 589 December 30, 2002, and subsequent reports shall be submitted
 590 every 6 months thereafter. The report shall identify facilities
 591 based on their ownership characteristics, size, business
 592 structure, for-profit or not-for-profit status, and any other
 593 characteristics the agency determines useful in analyzing the
 594 varied segments of the nursing home industry and shall report:

595 (d) Information regarding deficiencies cited, including
 596 information used to develop the Nursing Home Guide WATCH LIST
 597 pursuant to s. 400.191, and applicable rules, a summary of data
 598 generated on nursing homes by Centers for Medicare and Medicaid
 599 Services Nursing Home Quality Information Project, and
 600 information collected pursuant to s. 400.147(10)(9), relating to
 601 litigation.

602 Section 9. Paragraph (b) of subsection (3) of section
 603 400.23, Florida Statutes, is amended to read:

604 400.23 Rules; evaluation and deficiencies; licensure
 605 status.--

606 (3)

607 (b) ~~The agency shall adopt rules to allow properly trained~~
 608 ~~staff of a nursing facility, in addition to certified nursing~~

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609 ~~assistants and licensed nurses, to assist residents with eating.~~
610 ~~The rules shall specify the minimum training requirements and~~
611 ~~shall specify the physiological conditions or disorders of~~
612 ~~residents which would necessitate that the eating assistance be~~
613 ~~provided by nursing personnel of the facility.~~ Nonnursing staff
614 providing eating assistance to residents ~~under the provisions of~~
615 ~~this subsection~~ shall not count toward compliance with minimum
616 staffing standards.

617 Section 10. Paragraph (a) of subsection (15) of section
618 400.506, Florida Statutes, is amended to read:

619 400.506 Licensure of nurse registries; requirements;
620 penalties.--

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

624 1. Provides services to residents in an assisted living
625 facility for which the nurse registry does not receive fair
626 market value remuneration.

627 2. Provides staffing to an assisted living facility for
628 which the nurse registry does not receive fair market value
629 remuneration.

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

633 4. Gives remuneration to a case manager, discharge
634 planner, facility-based staff member, or third-party vendor who
635 is involved in the discharge planning process of a facility
636 licensed under chapter 395 or this chapter and from whom the

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637 nurse registry receives referrals. This subparagraph does not
638 apply to a nurse registry that does not participate in the
639 Medicaid or Medicare program.

640 5. Gives remuneration to a physician, a member of the
641 physician's office staff, or an immediate family member of the
642 physician, and the nurse registry received a patient referral in
643 the last 12 months from that physician or the physician's office
644 staff. This subparagraph does not apply to a nurse registry that
645 does not participate in the Medicaid or Medicare program.

646 Section 11. Paragraph (a) of subsection (7) of section
647 400.9935, Florida Statutes, is amended to read:

648 400.9935 Clinic responsibilities.--

649 (7) (a) Each clinic engaged in magnetic resonance imaging
650 services must be accredited by the Joint Commission on
651 Accreditation of Healthcare Organizations, the American College
652 of Radiology, or the Accreditation Association for Ambulatory
653 Health Care, within 1 year after licensure. A clinic that is
654 accredited by the American College of Radiology or is within the
655 original 1-year period after licensure and replaces its core
656 magnetic resonance imaging equipment shall be given 1 year after
657 the date upon which the equipment is replaced to attain
658 accreditation. However, a clinic may request a single, 6-month
659 extension if it provides evidence to the agency establishing
660 that, for good cause shown, such clinic cannot ~~can not~~ be
661 accredited within 1 year after licensure, and that such
662 accreditation will be completed within the 6-month extension.
663 After obtaining accreditation as required by this subsection,
664 each such clinic must maintain accreditation as a condition of

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665 renewal of its license. A clinic that files a change of
666 ownership application must comply with the original
667 accreditation timeframe requirements of the transferor. The
668 agency shall deny a change of ownership application if the
669 clinic is not in compliance with the accreditation requirements.
670 When a clinic adds, replaces, or modifies magnetic resonance
671 imaging equipment and the accrediting organization requires new
672 accreditation, the clinic must be accredited within 1 year after
673 the date of the addition, replacement, or modification but may
674 request a single, 6-month extension if the clinic provides
675 evidence of good cause to the agency.

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

678 400.995 Agency administrative penalties.--

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

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

692 408.803 Definitions.--As used in this part, the term:

693 (5) "Change of ownership" means:

694 (a) An event in which the licensee sells or otherwise
 695 transfers its ownership ~~changes~~ to a different individual or
 696 legal entity, as evidenced by a change in federal employer
 697 identification number or taxpayer identification number; or

698 (b) An event in which 51 ~~45~~ percent or more of the
 699 ownership, voting shares, membership, or controlling interest of
 700 a licensee is in any manner transferred or otherwise assigned.
 701 This paragraph does not apply to a licensee that is publicly
 702 traded on a recognized stock exchange. In a corporation whose
 703 shares are not publicly traded on a recognized stock exchange is
 704 transferred or assigned, including the final transfer or
 705 assignment of multiple transfers or assignments over a 2-year
 706 period that cumulatively total 45 percent or greater.
 707

708 A change solely in the management company or board of directors
 709 is not a change of ownership.

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

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

718 408.806 License application process.--

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

721 and accompanied by the appropriate fee in order to be accepted
722 and considered timely. The application must contain information
723 required by authorizing statutes and applicable rules and must
724 include:

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

726 1. The applicant;

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

729 3. The financial officer or similarly titled person who is
730 responsible for the financial operation of the licensee or
731 provider; and

732 4. Each controlling interest if the applicant or
733 controlling interest is an individual.

734 (2)(a) The applicant for a renewal license must submit an
735 application that must be received by the agency at least 60 days
736 but no more than 120 days prior to the expiration of the current
737 license. An application received more than 120 days prior to the
738 expiration of the current license shall be returned to the
739 applicant. If the renewal application and fee are received prior
740 to the license expiration date, the license shall not be deemed
741 to have expired if the license expiration date occurs during the
742 agency's review of the renewal application.

743 (b) The applicant for initial licensure due to a change of
744 ownership must submit an application that must be received by
745 the agency at least 60 days prior to the date of change of
746 ownership.

747 (c) For any other application or request, the applicant
748 must submit an application or request that must be received by

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749 the agency at least 60 days but no more than 120 days prior to
750 the requested effective date, unless otherwise specified in
751 authorizing statutes or applicable rules. An application
752 received more than 120 days prior to the requested effective
753 date shall be returned to the applicant.

754 (d) The agency shall notify the licensee by mail or
755 electronically at least 90 days prior to the expiration of a
756 license that a renewal license is necessary to continue
757 operation. The failure to timely submit a renewal application
758 and license fee shall result in a \$50 per day late fee charged
759 to the licensee by the agency; however, the aggregate amount of
760 the late fee may not exceed 50 percent of the licensure fee or
761 \$500, whichever is less. If an application is received after the
762 required filing date and exhibits a hand-canceled postmark
763 obtained from a United States post office dated on or before the
764 required filing date, no fine will be levied.

765 (7)

766 (c) If an inspection is required by the authorizing
767 statute for a license application other than an initial
768 application, the inspection must be unannounced. This paragraph
769 does not apply to inspections required pursuant to ss. 383.324,
770 395.0161(4), 429.67(6), and 483.061(2).

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

774 (a) Licensure applications.

775 (b) Required signatures.

776 (c) Payment of fees.

777 (d) Notarization of applications.

778

779 Requirements for electronic submission of any documents required
780 by this part or authorizing statutes may be established by rule.

781 As an alternative to sending documents as required by
782 authorizing statutes, the agency may provide electronic access
783 to information or documents.

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

786 408.808 License categories.--

787 (2) PROVISIONAL LICENSE.--A provisional license may be
788 issued to an applicant pursuant to s. 408.809(3). An applicant
789 against whom a proceeding denying or revoking a license is
790 pending at the time of license renewal may be issued a
791 provisional license effective until final action not subject to
792 further appeal. A provisional license may also be issued to an
793 applicant applying for a change of ownership. A provisional
794 license shall be limited in duration to a specific period of
795 time, not to exceed 12 months, as determined by the agency.

796 Section 16. Subsection (5) of section 408.809, Florida
797 Statutes, is amended, and new subsections (5) and (6) are added
798 to that section, to read:

799 408.809 Background screening; prohibited offenses.--

800 (5) Effective October 1, 2009, in addition to the offenses
801 listed in ss. 435.03 and 435.04, all persons required to undergo
802 background screening pursuant to this part or authorizing
803 statutes must not have been found guilty of, regardless of
804 adjudication, or entered a plea of nolo contendere or guilty to,

805 any of the following offenses or any similar offense of another
806 jurisdiction:

807 (a) A violation of any authorizing statutes, if the
808 offense was a felony.

809 (b) A violation of this chapter, if the offense was a
810 felony.

811 (c) A violation of s. 409.920, relating to Medicaid
812 provider fraud, if the offense was a felony.

813 (d) A violation of s. 409.9201, relating to Medicaid
814 fraud, if the offense was a felony.

815 (e) A violation of s. 741.28, relating to domestic
816 violence.

817 (f) A violation of chapter 784, relating to assault,
818 battery, and culpable negligence, if the offense was a felony.

819 (g) A violation of s. 810.02, relating to burglary.

820 (h) A violation of s. 817.034, relating to fraudulent acts
821 through mail, wire, radio, electromagnetic, photoelectronic, or
822 photooptical systems.

823 (i) A violation of s. 817.234, relating to false and
824 fraudulent insurance claims.

825 (j) A violation of s. 817.505, relating to patient
826 brokering.

827 (k) A violation of s. 817.568, relating to criminal use of
828 personal identification information.

829 (l) A violation of s. 817.60, relating to obtaining a
830 credit card through fraudulent means.

831 (m) A violation of s. 817.61, relating to fraudulent use
832 of credit cards, if the offense was a felony.

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833 (n) A violation of s. 831.01, relating to forgery.

834 (o) A violation of s. 831.02, relating to uttering forged
835 instruments.

836 (p) A violation of s. 831.07, relating to forging bank
837 bills, checks, drafts, or promissory notes.

838 (q) A violation of s. 831.09, relating to uttering forged
839 bank bills, checks, drafts, or promissory notes.

840 (r) A violation of s. 831.30, relating to fraud in
841 obtaining medicinal drugs.

842 (s) A violation of s. 831.31, relating to the sale,
843 manufacture, delivery, or possession with the intent to sell,
844 manufacture, or deliver any counterfeit controlled substance, if
845 the offense was a felony.

846

847 A person who serves as a controlling interest of or is employed
848 by a licensee on September 30, 2009, shall not be required by
849 law to submit to rescreening if that licensee has in its
850 possession written evidence that the person has been screened
851 and qualified according to the standards specified in s. 435.03
852 or s. 435.04. However, if such person has been convicted of a
853 disqualifying offense listed in this subsection, he or she may
854 apply for an exemption from the appropriate licensing agency
855 before September 30, 2009, and if agreed to by the employer, may
856 continue to perform his or her duties until the licensing agency
857 renders a decision on the application for exemption for an
858 offense listed in this subsection. Exemptions from
859 disqualification may be granted pursuant to s. 435.07.

860 (6) The attestations required under ss. 435.04(5) and
 861 435.05(3) must be submitted at the time of license renewal,
 862 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)
 863 which require annual submission of an affidavit of compliance
 864 with background screening requirements.

865 ~~(5) Background screening is not required to obtain a~~
 866 ~~certificate of exemption issued under s. 483.106.~~

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

869 408.810 Minimum licensure requirements.--In addition to
 870 the licensure requirements specified in this part, authorizing
 871 statutes, and applicable rules, each applicant and licensee must
 872 comply with the requirements of this section in order to obtain
 873 and maintain a license.

874 (3) Unless otherwise specified in this part, authorizing
 875 statutes, or applicable rules, any information required to be
 876 reported to the agency must be submitted within 21 calendar days
 877 after the report period or effective date of the information,
 878 whichever is earlier, including, but not limited to, any change
 879 of:

880 (a) Information contained in the most recent application
 881 for licensure.

882 (b) Required insurance or bonds.

883 Section 18. Present subsection (4) of section 408.811,
 884 Florida Statutes, is renumbered as subsection (6), subsections
 885 (2) and (3) are amended, and new subsections (4) and (5) are
 886 added to that section, to read:

887 408.811 Right of inspection; copies; inspection reports;
888 plan for correction of deficiencies.--

889 (2) Inspections conducted in conjunction with
890 certification, comparable licensure requirements, or a
891 recognized or approved accreditation organization may be
892 accepted in lieu of a complete licensure inspection. However, a
893 licensure inspection may also be conducted to review any
894 licensure requirements that are not also requirements for
895 certification.

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

900 (4) Deficiencies must be corrected within 30 calendar days
901 after the provider is notified of inspection results unless an
902 alternative timeframe is required or approved by the agency.

903 (5) The agency may require an applicant or licensee to
904 submit a plan of correction for deficiencies. If required, the
905 plan of correction must be filed with the agency within 10
906 calendar days after notification unless an alternative timeframe
907 is required.

908 Section 19. Section 408.813, Florida Statutes, is amended
909 to read:

910 408.813 Administrative fines; violations.--As a penalty
911 for any violation of this part, authorizing statutes, or
912 applicable rules, the agency may impose an administrative fine.

913 (1) Unless the amount or aggregate limitation of the fine
914 is prescribed by authorizing statutes or applicable rules, the

915 agency may establish criteria by rule for the amount or
916 aggregate limitation of administrative fines applicable to this
917 part, authorizing statutes, and applicable rules. Each day of
918 violation constitutes a separate violation and is subject to a
919 separate fine, unless a per-violation fine is prescribed by law.
920 For fines imposed by final order of the agency and not subject
921 to further appeal, the violator shall pay the fine plus interest
922 at the rate specified in s. 55.03 for each day beyond the date
923 set by the agency for payment of the fine.

924 (2) Violations of this part, authorizing statutes, or
925 applicable rules shall be classified according to the nature of
926 the violation and the gravity of its probable effect on clients.
927 The scope of a violation may be cited as an isolated, patterned,
928 or widespread deficiency. An isolated deficiency is a deficiency
929 affecting one or a very limited number of clients, or involving
930 one or a very limited number of staff, or a situation that
931 occurred only occasionally or in a very limited number of
932 locations. A patterned deficiency is a deficiency in which more
933 than a very limited number of clients are affected, or more than
934 a very limited number of staff are involved, or the situation
935 has occurred in several locations, or the same client or clients
936 have been affected by repeated occurrences of the same deficient
937 practice but the effect of the deficient practice is not found
938 to be pervasive throughout the provider. A widespread deficiency
939 is a deficiency in which the problems causing the deficiency are
940 pervasive in the provider or represent systemic failure that has
941 affected or has the potential to affect a large portion of the
942 provider's clients. This subsection does not affect the

943 legislative determination of the amount of a fine imposed under
944 authorizing statutes. Violations shall be classified on the
945 written notice as follows:

946 (a) Class "I" violations are those conditions or
947 occurrences related to the operation and maintenance of a
948 provider or to the care of clients which the agency determines
949 present an imminent danger to the clients of the provider or a
950 substantial probability that death or serious physical or
951 emotional harm would result therefrom. The condition or practice
952 constituting a class I violation shall be abated or eliminated
953 within 24 hours, unless a fixed period, as determined by the
954 agency, is required for correction. The agency shall impose an
955 administrative fine as provided by law for a cited class I
956 violation. A fine shall be levied notwithstanding the correction
957 of the violation.

958 (b) Class "II" violations are those conditions or
959 occurrences related to the operation and maintenance of a
960 provider or to the care of clients which the agency determines
961 directly threaten the physical or emotional health, safety, or
962 security of the clients, other than class I violations. The
963 agency shall impose an administrative fine as provided by law
964 for a cited class II violation. A fine shall be levied
965 notwithstanding the correction of the violation.

966 (c) Class "III" violations are those conditions or
967 occurrences related to the operation and maintenance of a
968 provider or to the care of clients which the agency determines
969 indirectly or potentially threaten the physical or emotional
970 health, safety, or security of clients, other than class I or

971 class II violations. The agency shall impose an administrative
972 fine as provided by law for a cited class III violation. A
973 citation for a class III violation must specify the time within
974 which the violation is required to be corrected. If a class III
975 violation is corrected within the time specified, a fine may not
976 be imposed.

977 (d) Class "IV" violations are those conditions or
978 occurrences related to the operation and maintenance of a
979 provider or to required reports, forms, or documents that do not
980 have the potential of negatively affecting clients. These
981 violations are of a type that the agency determines do not
982 threaten the health, safety, or security of clients. The agency
983 shall impose an administrative fine as provided by law for a
984 cited class IV violation. A citation for a class IV violation
985 must specify the time within which the violation is required to
986 be corrected. If a class IV violation is corrected within the
987 time specified, a fine may not be imposed.

988 Section 20. Subsections (12) through (16) of section
989 408.820, Florida Statutes, are renumbered as subsections (11)
990 through (15), respectively, subsections (18) through (26) are
991 renumbered as subsections (16) through (24), respectively,
992 subsections (28) and (29) are renumbered as subsections (25) and
993 (26), respectively, and present subsections (11), (12), (17),
994 (21), (26), and (27) of that section are amended to read:

995 408.820 Exemptions.--Except as prescribed in authorizing
996 statutes, the following exemptions shall apply to specified
997 requirements of this part:

998 ~~(11) Private review agents, as provided under part I of~~
 999 ~~chapter 395, are exempt from ss. 408.806(7), 408.810, and~~
 1000 ~~408.811.~~

1001 ~~(11)(12)~~ Health care risk managers, as provided under part
 1002 I of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-
 1003 (10), and 408.811.

1004 ~~(17) Companion services or homemaker services providers,~~
 1005 ~~as provided under part III of chapter 400, are exempt from s.~~
 1006 ~~408.810(6)-(10).~~

1007 ~~(19)(21)~~ Transitional living facilities, as provided under
 1008 part V of chapter 400, are exempt from s. 408.810~~(7)-(10)~~.

1009 ~~(24)(26)~~ Health care clinics, as provided under part X of
 1010 chapter 400, are exempt from s. ss. 408.809 and 408.810~~(1)~~, (6),
 1011 (7), and (10).

1012 ~~(27) Clinical laboratories, as provided under part I of~~
 1013 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

1014 Section 21. Section 408.821, Florida Statutes, is created
 1015 to read:

1016 408.821 Emergency management planning; emergency
 1017 operations; inactive license.--

1018 (1) Licensees required by authorizing statutes to have an
 1019 emergency operations plan must designate a safety liaison to
 1020 serve as the primary contact for emergency operations.

1021 (2) An entity subject to this part may temporarily exceed
 1022 its licensed capacity to act as a receiving provider in
 1023 accordance with an approved emergency operations plan for up to
 1024 15 days. While in an overcapacity status, each provider must
 1025 furnish or arrange for appropriate care and services to all

1026 clients. In addition, the agency may approve requests for
 1027 overcapacity in excess of 15 days, which approvals may be based
 1028 upon satisfactory justification and need as provided by the
 1029 receiving and sending providers.

1030 (3) (a) An inactive license may be issued to a licensee
 1031 subject to this section when the provider is located in a
 1032 geographic area in which a state of emergency was declared by
 1033 the Governor if the provider:

1034 1. Suffered damage to its operation during the state of
 1035 emergency.

1036 2. Is currently licensed.

1037 3. Does not have a provisional license.

1038 4. Will be temporarily unable to provide services but is
 1039 reasonably expected to resume services within 12 months.

1040 (b) An inactive license may be issued for a period not to
 1041 exceed 12 months but may be renewed by the agency for up to 12
 1042 additional months upon demonstration to the agency of progress
 1043 toward reopening. A request by a licensee for an inactive
 1044 license or to extend the previously approved inactive period
 1045 must be submitted in writing to the agency, accompanied by
 1046 written justification for the inactive license, which states the
 1047 beginning and ending dates of inactivity and includes a plan for
 1048 the transfer of any clients to other providers and appropriate
 1049 licensure fees. Upon agency approval, the licensee shall notify
 1050 clients of any necessary discharge or transfer as required by
 1051 authorizing statutes or applicable rules. The beginning of the
 1052 inactive licensure period shall be the date the provider ceases
 1053 operations. The end of the inactive period shall become the

1054 license expiration date, and all licensure fees must be current,
 1055 must be paid in full, and may be prorated. Reactivation of an
 1056 inactive license requires the prior approval by the agency of a
 1057 renewal application, including payment of licensure fees and
 1058 agency inspections indicating compliance with all requirements
 1059 of this part and applicable rules and statutes.

1060 (4) The agency may adopt rules relating to emergency
 1061 management planning, communications, and operations. Licensees
 1062 providing residential or inpatient services must utilize an
 1063 online database approved by the agency to report information to
 1064 the agency regarding the provider's emergency status, planning,
 1065 or operations.

1066 Section 22. Subsections (3), (4), and (5) of section
 1067 408.831, Florida Statutes, are amended to read:

1068 408.831 Denial, suspension, or revocation of a license,
 1069 registration, certificate, or application.--

1070 ~~(3) An entity subject to this section may exceed its~~
 1071 ~~licensed capacity to act as a receiving facility in accordance~~
 1072 ~~with an emergency operations plan for clients of evacuating~~
 1073 ~~providers from a geographic area where an evacuation order has~~
 1074 ~~been issued by a local authority having jurisdiction. While in~~
 1075 ~~an overcapacity status, each provider must furnish or arrange~~
 1076 ~~for appropriate care and services to all clients. In addition,~~
 1077 ~~the agency may approve requests for overcapacity beyond 15 days,~~
 1078 ~~which approvals may be based upon satisfactory justification and~~
 1079 ~~need as provided by the receiving and sending facilities.~~

1080 ~~(4) (a) An inactive license may be issued to a licensee~~
 1081 ~~subject to this section when the provider is located in a~~

1082 ~~geographic area where a state of emergency was declared by the~~
1083 ~~Governor if the provider:~~

1084 ~~1. Suffered damage to its operation during that state of~~
1085 ~~emergency.~~

1086 ~~2. Is currently licensed.~~

1087 ~~3. Does not have a provisional license.~~

1088 ~~4. Will be temporarily unable to provide services but is~~
1089 ~~reasonably expected to resume services within 12 months.~~

1090 ~~(b) An inactive license may be issued for a period not to~~
1091 ~~exceed 12 months but may be renewed by the agency for up to 12~~
1092 ~~additional months upon demonstration to the agency of progress~~
1093 ~~toward reopening. A request by a licensee for an inactive~~
1094 ~~license or to extend the previously approved inactive period~~
1095 ~~must be submitted in writing to the agency, accompanied by~~
1096 ~~written justification for the inactive license, which states the~~
1097 ~~beginning and ending dates of inactivity and includes a plan for~~
1098 ~~the transfer of any clients to other providers and appropriate~~
1099 ~~licensure fees. Upon agency approval, the licensee shall notify~~
1100 ~~clients of any necessary discharge or transfer as required by~~
1101 ~~authorizing statutes or applicable rules. The beginning of the~~
1102 ~~inactive licensure period shall be the date the provider ceases~~
1103 ~~operations. The end of the inactive period shall become the~~
1104 ~~licensee expiration date, and all licensure fees must be~~
1105 ~~current, paid in full, and may be prorated. Reactivation of an~~
1106 ~~inactive license requires the prior approval by the agency of a~~
1107 ~~renewal application, including payment of licensure fees and~~
1108 ~~agency inspections indicating compliance with all requirements~~
1109 ~~of this part and applicable rules and statutes.~~

1110 (3)~~(5)~~ This section provides standards of enforcement
 1111 applicable to all entities licensed or regulated by the Agency
 1112 for Health Care Administration. This section controls over any
 1113 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
 1114 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to
 1115 those chapters.

1116 Section 23. Paragraph (e) of subsection (4) of section
 1117 409.221, Florida Statutes, is amended to read:

1118 409.221 Consumer-directed care program.--

1119 (4) CONSUMER-DIRECTED CARE.--

1120 (e) Services.--Consumers shall use the budget allowance
 1121 only to pay for home and community-based services that meet the
 1122 consumer's long-term care needs and are a cost-efficient use of
 1123 funds. Such services may include, but are not limited to, the
 1124 following:

1125 1. Personal care.

1126 2. Homemaking and chores, including housework, meals,
 1127 shopping, and transportation.

1128 3. Home modifications and assistive devices which may
 1129 increase the consumer's independence or make it possible to
 1130 avoid institutional placement.

1131 4. Assistance in taking self-administered medication.

1132 5. Day care and respite care services, including those
 1133 provided by nursing home facilities pursuant to s.

1134 400.141(1)(f)~~(6)~~ or by adult day care facilities licensed
 1135 pursuant to s. 429.907.

1136 6. Personal care and support services provided in an
 1137 assisted living facility.

1138 Section 24. Subsection (5) of section 409.901, Florida
 1139 Statutes, is amended to read:

1140 409.901 Definitions; ss. 409.901-409.920.--As used in ss.
 1141 409.901-409.920, except as otherwise specifically provided, the
 1142 term:

1143 (5) "Change of ownership" means:

1144 (a) An event in which the provider ownership changes to a
 1145 different individual legal entity, as evidenced by a change in
 1146 federal employer identification number or taxpayer
 1147 identification number; or

1148 (b) An event in which 51 ~~45~~ percent or more of the
 1149 ownership, ~~voting~~ shares, membership, or controlling interest of
 1150 a provider is in any manner transferred or otherwise assigned.
 1151 This paragraph does not apply to a licensee that is publicly
 1152 traded on a recognized stock exchange; or

1153 (c) When the provider is licensed or registered by the
 1154 agency, an event considered a change of ownership for licensure
 1155 as defined in s. 408.803 in a corporation whose shares are not
 1156 publicly traded on a recognized stock exchange is transferred or
 1157 assigned, including the final transfer or assignment of multiple
 1158 transfers or assignments over a 2-year period that cumulatively
 1159 total 45 percent or more.

1160
 1161 A change solely in the management company or board of directors
 1162 is not a change of ownership.

1163 Section 25. Section 429.071, Florida Statutes, is
 1164 repealed.

1165 Section 26. Paragraph (e) of subsection (1) and
 1166 subsections (2) and (3) of section 429.08, Florida Statutes, are
 1167 amended to read:

1168 429.08 Unlicensed facilities; referral of person for
 1169 residency to unlicensed facility; penalties; verification of
 1170 licensure status.--

1171 (1)

1172 (e) The agency shall publish ~~provide to the department's~~
 1173 ~~elder information and referral providers~~ a list, by county, of
 1174 licensed assisted living facilities, ~~to assist persons who are~~
 1175 ~~considering an assisted living facility placement in locating a~~
 1176 ~~licensed facility.~~ This information may be provided
 1177 electronically or on the agency's Internet website.

1178 ~~(2) Each field office of the Agency for Health Care~~
 1179 ~~Administration shall establish a local coordinating workgroup~~
 1180 ~~which includes representatives of local law enforcement~~
 1181 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~
 1182 ~~the Department of Legal Affairs, local fire authorities, the~~
 1183 ~~Department of Children and Family Services, the district long-~~
 1184 ~~term care ombudsman council, and the district human rights~~
 1185 ~~advocacy committee to assist in identifying the operation of~~
 1186 ~~unlicensed facilities and to develop and implement a plan to~~
 1187 ~~ensure effective enforcement of state laws relating to such~~
 1188 ~~facilities. The workgroup shall report its findings, actions,~~
 1189 ~~and recommendations semiannually to the Director of Health~~
 1190 ~~Quality Assurance of the agency.~~

1191 (2) ~~(3)~~ It is unlawful to knowingly refer a person for
 1192 residency to an unlicensed assisted living facility; to an

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1193 assisted living facility the license of which is under denial or
 1194 has been suspended or revoked; or to an assisted living facility
 1195 that has a moratorium pursuant to part II of chapter 408. ~~Any~~
 1196 ~~person who violates this subsection commits a noncriminal~~
 1197 ~~violation, punishable by a fine not exceeding \$500 as provided~~
 1198 ~~in s. 775.083.~~

1199 (a) Any health care practitioner, as defined in s.
 1200 456.001, who is aware of the operation of an unlicensed facility
 1201 shall report that facility to the agency. Failure to report a
 1202 facility that the practitioner knows or has reasonable cause to
 1203 suspect is unlicensed shall be reported to the practitioner's
 1204 licensing board.

1205 (b) Any provider as defined in s. 408.803 that ~~hospital or~~
 1206 ~~community mental health center licensed under chapter 395 or~~
 1207 ~~chapter 394 which~~ knowingly discharges a patient or client to an
 1208 unlicensed facility is subject to sanction by the agency.

1209 (c) Any employee of the agency or department, or the
 1210 Department of Children and Family Services, who knowingly refers
 1211 a person for residency to an unlicensed facility; to a facility
 1212 the license of which is under denial or has been suspended or
 1213 revoked; or to a facility that has a moratorium pursuant to part
 1214 II of chapter 408 is subject to disciplinary action by the
 1215 agency or department, or the Department of Children and Family
 1216 Services.

1217 (d) The employer of any person who is under contract with
 1218 the agency or department, or the Department of Children and
 1219 Family Services, and who knowingly refers a person for residency
 1220 to an unlicensed facility; to a facility the license of which is

1221 under denial or has been suspended or revoked; or to a facility
 1222 that has a moratorium pursuant to part II of chapter 408 shall
 1223 be fined and required to prepare a corrective action plan
 1224 designed to prevent such referrals.

1225 ~~(e) The agency shall provide the department and the~~
 1226 ~~Department of Children and Family Services with a list of~~
 1227 ~~licensed facilities within each county and shall update the list~~
 1228 ~~at least quarterly.~~

1229 ~~(f) At least annually, the agency shall notify, in~~
 1230 ~~appropriate trade publications, physicians licensed under~~
 1231 ~~chapter 458 or chapter 459, hospitals licensed under chapter~~
 1232 ~~395, nursing home facilities licensed under part II of chapter~~
 1233 ~~400, and employees of the agency or the department, or the~~
 1234 ~~Department of Children and Family Services, who are responsible~~
 1235 ~~for referring persons for residency, that it is unlawful to~~
 1236 ~~knowingly refer a person for residency to an unlicensed assisted~~
 1237 ~~living facility and shall notify them of the penalty for~~
 1238 ~~violating such prohibition. The department and the Department of~~
 1239 ~~Children and Family Services shall, in turn, notify service~~
 1240 ~~providers under contract to the respective departments who have~~
 1241 ~~responsibility for resident referrals to facilities. Further,~~
 1242 ~~the notice must direct each noticed facility and individual to~~
 1243 ~~contact the appropriate agency office in order to verify the~~
 1244 ~~licensure status of any facility prior to referring any person~~
 1245 ~~for residency. Each notice must include the name, telephone~~
 1246 ~~number, and mailing address of the appropriate office to~~
 1247 ~~contact.~~

1248 Section 27. Paragraph (e) of subsection (1) of section
 1249 429.14, Florida Statutes, is amended to read:

1250 429.14 Administrative penalties.--

1251 (1) In addition to the requirements of part II of chapter
 1252 408, the agency may deny, revoke, and suspend any license issued
 1253 under this part and impose an administrative fine in the manner
 1254 provided in chapter 120 against a licensee of an assisted living
 1255 facility for a violation of any provision of this part, part II
 1256 of chapter 408, or applicable rules, or for any of the following
 1257 actions by a licensee of an assisted living facility, for the
 1258 actions of any person subject to level 2 background screening
 1259 under s. 408.809, or for the actions of any facility employee:

1260 (e) A citation of any of the following deficiencies as
 1261 specified ~~defined~~ in s. 429.19:

- 1262 1. One or more cited class I deficiencies.
- 1263 2. Three or more cited class II deficiencies.
- 1264 3. Five or more cited class III deficiencies that have
 1265 been cited on a single survey and have not been corrected within
 1266 the times specified.

1267 Section 28. Subsections (2), (8), and (9) of section
 1268 429.19, Florida Statutes, are amended to read:

1269 429.19 Violations; imposition of administrative fines;
 1270 grounds.--

1271 (2) Each violation of this part and adopted rules shall be
 1272 classified according to the nature of the violation and the
 1273 gravity of its probable effect on facility residents. The agency
 1274 shall indicate the classification on the written notice of the
 1275 violation as follows:

1276 (a) Class "I" violations are defined in s. 408.813 ~~those~~
 1277 ~~conditions or occurrences related to the operation and~~
 1278 ~~maintenance of a facility or to the personal care of residents~~
 1279 ~~which the agency determines present an imminent danger to the~~
 1280 ~~residents or guests of the facility or a substantial probability~~
 1281 ~~that death or serious physical or emotional harm would result~~
 1282 ~~therefrom. The condition or practice constituting a class I~~
 1283 ~~violation shall be abated or eliminated within 24 hours, unless~~
 1284 ~~a fixed period, as determined by the agency, is required for~~
 1285 ~~correction. The agency shall impose an administrative fine for a~~
 1286 ~~cited class I violation in an amount not less than \$5,000 and~~
 1287 ~~not exceeding \$10,000 for each violation. A fine may be levied~~
 1288 ~~notwithstanding the correction of the violation.~~

1289 (b) Class "II" violations are defined in s. 408.813 ~~those~~
 1290 ~~conditions or occurrences related to the operation and~~
 1291 ~~maintenance of a facility or to the personal care of residents~~
 1292 ~~which the agency determines directly threaten the physical or~~
 1293 ~~emotional health, safety, or security of the facility residents,~~
 1294 ~~other than class I violations. The agency shall impose an~~
 1295 ~~administrative fine for a cited class II violation in an amount~~
 1296 ~~not less than \$1,000 and not exceeding \$5,000 for each~~
 1297 ~~violation. A fine shall be levied notwithstanding the correction~~
 1298 ~~of the violation.~~

1299 (c) Class "III" violations are defined in s. 408.813 ~~those~~
 1300 ~~conditions or occurrences related to the operation and~~
 1301 ~~maintenance of a facility or to the personal care of residents~~
 1302 ~~which the agency determines indirectly or potentially threaten~~
 1303 ~~the physical or emotional health, safety, or security of~~

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1304 ~~facility residents, other than class I or class II violations.~~
1305 The agency shall impose an administrative fine for a cited class
1306 III violation in an amount not less than \$500 and not exceeding
1307 \$1,000 for each violation. ~~A citation for a class III violation~~
1308 ~~must specify the time within which the violation is required to~~
1309 ~~be corrected. If a class III violation is corrected within the~~
1310 ~~time specified, no fine may be imposed, unless it is a repeated~~
1311 ~~offense.~~

1312 (d) Class "IV" violations are defined in s. 408.813 ~~those~~
1313 ~~conditions or occurrences related to the operation and~~
1314 ~~maintenance of a building or to required reports, forms, or~~
1315 ~~documents that do not have the potential of negatively affecting~~
1316 ~~residents. These violations are of a type that the agency~~
1317 ~~determines do not threaten the health, safety, or security of~~
1318 ~~residents of the facility.~~ The agency shall impose an
1319 administrative fine for a cited class IV violation in an amount
1320 not less than \$100 and not exceeding \$200 for each violation. A
1321 ~~citation for a class IV violation must specify the time within~~
1322 ~~which the violation is required to be corrected. If a class IV~~
1323 ~~violation is corrected within the time specified, no fine shall~~
1324 ~~be imposed. Any class IV violation that is corrected during the~~
1325 ~~time an agency survey is being conducted will be identified as~~
1326 ~~an agency finding and not as a violation.~~

1327 (8) During an inspection, ~~the agency, as an alternative to~~
1328 ~~or in conjunction with an administrative action against a~~
1329 ~~facility for violations of this part and adopted rules,~~ shall
1330 make a reasonable attempt to discuss each violation ~~and~~
1331 ~~recommended corrective action~~ with the owner or administrator of

1332 the facility, prior to written notification. ~~The agency, instead~~
 1333 ~~of fixing a period within which the facility shall enter into~~
 1334 ~~compliance with standards, may request a plan of corrective~~
 1335 ~~action from the facility which demonstrates a good faith effort~~
 1336 ~~to remedy each violation by a specific date, subject to the~~
 1337 ~~approval of the agency.~~

1338 (9) The agency shall develop and disseminate an annual
 1339 list of all facilities sanctioned or fined ~~\$5,000 or more~~ for
 1340 violations of state standards, the number and class of
 1341 violations involved, the penalties imposed, and the current
 1342 status of cases. The list shall be disseminated, at no charge,
 1343 to the Department of Elderly Affairs, the Department of Health,
 1344 the Department of Children and Family Services, the Agency for
 1345 Persons with Disabilities, the area agencies on aging, the
 1346 Florida Statewide Advocacy Council, and the state and local
 1347 ombudsman councils. The Department of Children and Family
 1348 Services shall disseminate the list to service providers under
 1349 contract to the department who are responsible for referring
 1350 persons to a facility for residency. The agency may charge a fee
 1351 commensurate with the cost of printing and postage to other
 1352 interested parties requesting a copy of this list. This
 1353 information may be provided electronically or on the agency's
 1354 Internet website.

1355 Section 29. Subsections (2) and (6) of section 429.23,
 1356 Florida Statutes, are amended to read:

1357 429.23 Internal risk management and quality assurance
 1358 program; adverse incidents and reporting requirements.--

1359 (2) Every facility licensed under this part is required to
 1360 maintain adverse incident reports. For purposes of this section,
 1361 the term, "adverse incident" means:

1362 (a) An event over which facility personnel could exercise
 1363 control rather than as a result of the resident's condition and
 1364 results in:

- 1365 1. Death;
- 1366 2. Brain or spinal damage;
- 1367 3. Permanent disfigurement;
- 1368 4. Fracture or dislocation of bones or joints;
- 1369 5. Any condition that required medical attention to which
 1370 the resident has not given his or her consent, including failure
 1371 to honor advanced directives;
- 1372 6. Any condition that requires the transfer of the
 1373 resident from the facility to a unit providing more acute care
 1374 due to the incident rather than the resident's condition before
 1375 the incident; or-

1376 7. An event that is reported to law enforcement or its
 1377 personnel for investigation; or

1378 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
 1379 ~~415.102;~~

1380 ~~(c) Events reported to law enforcement; or~~

1381 ~~(b)-(d)~~ Resident elopement, if the elopement places the
 1382 resident at risk of harm or injury.

1383 (6) Abuse, neglect, or exploitation must be reported to
 1384 the Department of Children and Family Services as required under
 1385 chapter 415. The agency shall annually submit to the Legislature
 1386 ~~a report on assisted living facility adverse incident reports.~~

1387 ~~The report must include the following information arranged by~~
 1388 ~~county:~~

1389 ~~(a) A total number of adverse incidents;~~

1390 ~~(b) A listing, by category, of the type of adverse~~
 1391 ~~incidents occurring within each category and the type of staff~~
 1392 ~~involved;~~

1393 ~~(c) A listing, by category, of the types of injuries, if~~
 1394 ~~any, and the number of injuries occurring within each category;~~

1395 ~~(d) Types of liability claims filed based on an adverse~~
 1396 ~~incident report or reportable injury; and~~

1397 ~~(e) Disciplinary action taken against staff, categorized~~
 1398 ~~by the type of staff involved.~~

1399 Section 30. Subsections (10) through (12) of section
 1400 429.26, Florida Statutes, are renumbered as subsections (9)
 1401 through (11), respectively, and present subsection (9) of that
 1402 section is amended to read:

1403 429.26 Appropriateness of placements; examinations of
 1404 residents.--

1405 ~~(9) If, at any time after admission to a facility, a~~
 1406 ~~resident appears to need care beyond that which the facility is~~
 1407 ~~licensed to provide, the agency shall require the resident to be~~
 1408 ~~physically examined by a licensed physician, physician~~
 1409 ~~assistant, or licensed nurse practitioner. This examination~~
 1410 ~~shall, to the extent possible, be performed by the resident's~~
 1411 ~~preferred physician or nurse practitioner and shall be paid for~~
 1412 ~~by the resident with personal funds, except as provided in s.~~
 1413 ~~429.18(2). Following this examination, the examining physician,~~
 1414 ~~physician assistant, or licensed nurse practitioner shall~~

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1415 ~~complete and sign a medical form provided by the agency. The~~
1416 ~~completed medical form shall be submitted to the agency within~~
1417 ~~30 days after the date the facility owner or administrator is~~
1418 ~~notified by the agency that the physical examination is~~
1419 ~~required. After consultation with the physician, physician~~
1420 ~~assistant, or licensed nurse practitioner who performed the~~
1421 ~~examination, a medical review team designated by the agency~~
1422 ~~shall then determine whether the resident is appropriately~~
1423 ~~residing in the facility. The medical review team shall base its~~
1424 ~~decision on a comprehensive review of the resident's physical~~
1425 ~~and functional status, including the resident's preferences, and~~
1426 ~~not on an isolated health-related problem. In the case of a~~
1427 ~~mental health resident, if the resident appears to have needs in~~
1428 ~~addition to those identified in the community living support~~
1429 ~~plan, the agency may require an evaluation by a mental health~~
1430 ~~professional, as determined by the Department of Children and~~
1431 ~~Family Services. A facility may not be required to retain a~~
1432 ~~resident who requires more services or care than the facility is~~
1433 ~~able to provide in accordance with its policies and criteria for~~
1434 ~~admission and continued residency. Members of the medical review~~
1435 ~~team making the final determination may not include the agency~~
1436 ~~personnel who initially questioned the appropriateness of a~~
1437 ~~resident's placement. Such determination is final and binding~~
1438 ~~upon the facility and the resident. Any resident who is~~
1439 ~~determined by the medical review team to be inappropriately~~
1440 ~~residing in a facility shall be given 30 days' written notice to~~
1441 ~~relocate by the owner or administrator, unless the resident's~~
1442 ~~continued residence in the facility presents an imminent danger~~

1443 ~~to the health, safety, or welfare of the resident or a~~
 1444 ~~substantial probability exists that death or serious physical~~
 1445 ~~harm would result to the resident if allowed to remain in the~~
 1446 ~~facility.~~

1447 Section 31. Paragraph (h) of subsection (3) of section
 1448 430.80, Florida Statutes, is amended to read:

1449 430.80 Implementation of a teaching nursing home pilot
 1450 project.--

1451 (3) To be designated as a teaching nursing home, a nursing
 1452 home licensee must, at a minimum:

1453 (h) Maintain insurance coverage pursuant to s.
 1454 400.141(1) (s)~~(20)~~ or proof of financial responsibility in a
 1455 minimum amount of \$750,000. Such proof of financial
 1456 responsibility may include:

1457 1. Maintaining an escrow account consisting of cash or
 1458 assets eligible for deposit in accordance with s. 625.52; or

1459 2. Obtaining and maintaining pursuant to chapter 675 an
 1460 unexpired, irrevocable, nontransferable and nonassignable letter
 1461 of credit issued by any bank or savings association organized
 1462 and existing under the laws of this state or any bank or savings
 1463 association organized under the laws of the United States that
 1464 has its principal place of business in this state or has a
 1465 branch office which is authorized to receive deposits in this
 1466 state. The letter of credit shall be used to satisfy the
 1467 obligation of the facility to the claimant upon presentment of a
 1468 final judgment indicating liability and awarding damages to be
 1469 paid by the facility or upon presentment of a settlement
 1470 agreement signed by all parties to the agreement when such final

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1471 judgment or settlement is a result of a liability claim against
 1472 the facility.

1473 Section 32. Subsection (5) of section 435.04, Florida
 1474 Statutes, is amended to read:

1475 435.04 Level 2 screening standards.--

1476 (5) Under penalty of perjury, all employees in such
 1477 positions of trust or responsibility shall attest to meeting the
 1478 requirements for qualifying for employment and agreeing to
 1479 inform the employer immediately if convicted of any of the
 1480 disqualifying offenses while employed by the employer. Each
 1481 employer of employees in such positions of trust or
 1482 responsibilities which is licensed or registered by a state
 1483 agency shall submit to the licensing agency annually or at the
 1484 time of license renewal, under penalty of perjury, an affidavit
 1485 of compliance with the provisions of this section.

1486 Section 33. Subsection (3) of section 435.05, Florida
 1487 Statutes, is amended to read:

1488 435.05 Requirements for covered employees.--Except as
 1489 otherwise provided by law, the following requirements shall
 1490 apply to covered employees:

1491 (3) Each employer required to conduct level 2 background
 1492 screening must sign an affidavit annually or at the time of
 1493 license renewal, under penalty of perjury, stating that all
 1494 covered employees have been screened or are newly hired and are
 1495 awaiting the results of the required screening checks.

1496 Section 34. Subsection (2) of section 483.031, Florida
 1497 Statutes, is amended to read:

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1498 483.031 Application of part; exemptions.--This part
 1499 applies to all clinical laboratories within this state, except:
 1500 (2) A clinical laboratory that performs only waived tests
 1501 ~~and has received a certificate of exemption from the agency~~
 1502 ~~under s. 483.106.~~

1503 Section 35. Subsection (10) of section 483.041, Florida
 1504 Statutes, is amended to read:

1505 483.041 Definitions.--As used in this part, the term:

1506 (10) "Waived test" means a test that the federal Centers
 1507 for Medicare and Medicaid Services Health Care Financing
 1508 ~~Administration~~ has determined qualifies for a certificate of
 1509 waiver under the federal Clinical Laboratory Improvement
 1510 Amendments of 1988, and the federal rules adopted thereunder.

1511 Section 36. Section 483.106, Florida Statutes, is
 1512 repealed.

1513 Section 37. Subsection (3) of section 483.172, Florida
 1514 Statutes, is amended to read:

1515 483.172 License fees.--

1516 (3) The agency shall assess a ~~biennial fee of \$100 for a~~
 1517 ~~certificate of exemption and a \$100 biennial~~ license fee under
 1518 this section for facilities surveyed by an approved accrediting
 1519 organization.

1520 Section 38. Subsection (13) of section 651.118, Florida
 1521 Statutes, is amended to read:

1522 651.118 Agency for Health Care Administration;
 1523 certificates of need; sheltered beds; community beds.--

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1524 (13) Residents, as defined in this chapter, are not
 1525 considered new admissions for the purpose of s.
 1526 400.141(1)(o)1.d.~~(15)(d)~~.
 1527 Section 39. This act shall take effect upon becoming a
 1528 law.