

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. 400.191, F.S.; eliminating requirements for
25 the agency to publish the Nursing Home Guide annually in
26 printed form; revising information provided on the
27 agency's Internet website; amending s. 400.195, F.S.;
28 conforming a cross-reference; amending s. 400.23, F.S.;

29 deleting provisions relating to minimum staffing
30 requirements for nursing homes; amending s. 400.474, F.S.;
31 providing that specified provisions relating to
32 remuneration do not apply to or preclude certain payment
33 practices permitted under specified federal laws or
34 regulations; amending s. 400.506, F.S.; exempting nurse
35 registries not participating in the Medicaid or Medicare
36 program from certain disciplinary actions for paying
37 remuneration to certain entities in exchange for patient
38 referrals; amending s. 400.9905, F.S.; revising the
39 definition of the term "clinic" to provide that pt. X of
40 ch. 400, F.S., the Health Care Clinic Act, does not apply
41 to entities that do not seek reimbursement from insurance
42 companies for medical services paid pursuant to personal
43 injury protection coverage; amending s. 400.9935, F.S.;
44 revising accreditation requirements for clinics providing
45 magnetic resonance imaging services; providing for a
46 unique identification number for licensed clinics and
47 entities holding certificates of exemption; requiring the
48 agency to assign unique identification numbers, under
49 certain circumstances, and publish the numbers on its
50 Internet website in a specified format; amending s.
51 400.995, F.S.; revising agency responsibilities with
52 respect to personnel and operations in certain injunctive
53 proceedings; amending s. 408.803, F.S.; revising
54 definitions applicable to pt. II of ch. 408, F.S., the
55 "Health Care Licensing Procedures Act"; amending s.
56 408.806, F.S.; revising contents of and procedures

57 relating to health care provider applications for
58 licensure; providing an exception from certain licensure
59 inspections for adult family-care homes; authorizing the
60 agency to provide electronic access to certain information
61 and documents; amending s. 408.808, F.S.; providing for a
62 provisional license to be issued to applicants applying
63 for a change of ownership; providing a time limit on
64 provisional licenses; amending s. 408.809, F.S.; revising
65 provisions relating to background screening of specified
66 employees; exempting certain persons from rescreening;
67 permitting certain persons to apply for an exemption from
68 disqualification under certain circumstances; requiring
69 health care providers to submit to the agency an affidavit
70 of compliance with background screening requirements at
71 the time of license renewal; deleting a provision to
72 conform to changes made by the act; amending s. 408.810,
73 F.S.; revising provisions relating to information required
74 for licensure; amending s. 408.811, F.S.; providing for
75 certain inspections to be accepted in lieu of complete
76 licensure inspections; granting agency access to records
77 requested during an offsite review; providing timeframes
78 for correction of certain deficiencies and submission of
79 plans to correct such deficiencies; amending s. 408.813,
80 F.S.; providing classifications of violations of pt. II of
81 ch. 408, F.S.; providing for fines; amending s. 408.820,
82 F.S.; revising applicability of exemptions from specified
83 requirements of pt. II of ch. 408, F.S.; conforming
84 references; creating s. 408.821, F.S.; requiring entities

85 regulated or licensed by the agency to designate a safety
86 liaison for emergency operations; providing that entities
87 regulated or licensed by the agency may temporarily exceed
88 their licensed capacity to act as receiving providers
89 under specified circumstances; providing requirements
90 while such entities are in an overcapacity status;
91 providing for issuance of an inactive license to such
92 licensees under specified conditions; providing
93 requirements and procedures with respect to the issuance
94 and reactivation of an inactive license; authorizing the
95 agency to adopt rules; amending s. 408.831, F.S.; deleting
96 provisions relating to authorization for entities
97 regulated or licensed by the agency to exceed their
98 licensed capacity to act as receiving facilities and
99 issuance and reactivation of inactive licenses; amending
100 s. 408.918, F.S.; requiring accreditation by the National
101 Alliance of Information and Referral Services for
102 participation in the Florida 211 Network; eliminating the
103 requirement that the agency seek certain assistance and
104 guidance in resolving certain disputes; removing certain
105 agency obligations relating to the Florida 211 Network;
106 requiring the Florida Alliance of Information and Referral
107 Services to perform certain functions related to the
108 Florida 211 Network; amending s. 409.221, F.S.; conforming
109 a cross-reference; amending s. 409.901, F.S.; revising a
110 definition applicable to Medicaid providers; repealing s.
111 429.071, F.S., relating to the intergenerational respite
112 care assisted living facility pilot program; amending s.

113 429.08, F.S.; authorizing the agency to provide
114 information regarding licensed assisted living facilities
115 electronically or on its Internet website; abolishing
116 local coordinating workgroups established by agency field
117 offices; deleting a fine; deleting provisions requiring
118 the agency to provide certain information and notice to
119 service providers; amending s. 429.14, F.S.; conforming a
120 reference; amending s. 429.19, F.S.; revising agency
121 procedures for imposition of fines for violations of pt. I
122 of ch. 429, F.S., the "Assisted Living Facilities Act";
123 providing for the posting of certain information
124 electronically or on the agency's Internet website;
125 amending s. 429.23, F.S.; revising the definition of the
126 term "adverse incident" for reporting purposes; requiring
127 abuse, neglect, and exploitation to be reported to the
128 agency and the Department of Children and Family Services;
129 deleting a requirement that the agency submit an annual
130 report on assisted living facility adverse incidents to
131 the Legislature; amending s. 429.26, F.S.; removing
132 requirement for a resident of an assisted living facility
133 to undergo examinations and evaluations under certain
134 circumstances; amending s. 430.80, F.S.; conforming a
135 cross-reference; amending ss. 435.04 and 435.05, F.S.;
136 requiring employers of certain employees to submit an
137 affidavit of compliance with level 2 screening
138 requirements at the time of license renewal; amending s.
139 483.031, F.S.; conforming a reference; amending s.
140 483.041, F.S.; revising a definition applicable to pt. I

141 of ch. 483, F.S., the "Florida Clinical Laboratory Law";
 142 repealing s. 483.106, F.S., relating to applications for
 143 certificates of exemption by clinical laboratories that
 144 perform certain tests; amending s. 483.172, F.S.;
 145 conforming a reference; amending s. 627.4239, F.S.;
 146 revising the definition of the term "standard reference
 147 compendium" for purposes of regulating the insurance
 148 coverage of drugs used in the treatment of cancer;
 149 amending s. 627.736, F.S.; providing that personal injury
 150 protection insurance carriers are not required to pay
 151 claims or charges for service or treatment billed by a
 152 provider not holding an identification number issued by
 153 the agency; amending s. 651.118, F.S.; conforming a cross-
 154 reference; providing an effective date.

155

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

157

158 Section 1. Section 395.0199, Florida Statutes, is
 159 repealed.

160 Section 2. Section 395.405, Florida Statutes, is amended
 161 to read:

162 395.405 Rulemaking.--The department shall adopt and
 163 enforce all rules necessary to administer ss. ~~395.0199,~~ 395.401,
 164 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.

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

167 400.0712 Application for inactive license.--

168 (1) As specified in ~~s. 408.831(4)~~ and this section, the
169 agency may issue an inactive license to a nursing home facility
170 for all or a portion of its beds. Any request by a licensee that
171 a nursing home or portion of a nursing home become inactive must
172 be submitted to the agency in the approved format. The facility
173 may not initiate any suspension of services, notify residents,
174 or initiate inactivity before receiving approval from the
175 agency; and a licensee that violates this provision may not be
176 issued an inactive license.

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

180 400.118 Quality assurance; early warning system;
181 ~~monitoring;~~ rapid response teams.--

182 ~~(2)(a) The agency shall establish within each district~~
183 ~~office one or more quality-of-care monitors, based on the number~~
184 ~~of nursing facilities in the district, to monitor all nursing~~
185 ~~facilities in the district on a regular, unannounced, aperiodic~~
186 ~~basis, including nights, evenings, weekends, and holidays.~~
187 ~~Quality-of-care monitors shall visit each nursing facility at~~
188 ~~least quarterly. Priority for additional monitoring visits shall~~
189 ~~be given to nursing facilities with a history of resident care~~
190 ~~deficiencies. Quality-of-care monitors shall be registered~~
191 ~~nurses who are trained and experienced in nursing facility~~
192 ~~regulation, standards of practice in long-term care, and~~
193 ~~evaluation of patient care. Individuals in these positions shall~~
194 ~~not be deployed by the agency as a part of the district survey~~
195 ~~team in the conduct of routine, scheduled surveys, but shall~~

196 ~~function solely and independently as quality of care monitors.~~
197 ~~Quality of care monitors shall assess the overall quality of~~
198 ~~life in the nursing facility and shall assess specific~~
199 ~~conditions in the facility directly related to resident care,~~
200 ~~including the operations of internal quality improvement and~~
201 ~~risk management programs and adverse incident reports. The~~
202 ~~quality of care monitor shall include in an assessment visit~~
203 ~~observation of the care and services rendered to residents and~~
204 ~~formal and informal interviews with residents, family members,~~
205 ~~facility staff, resident guests, volunteers, other regulatory~~
206 ~~staff, and representatives of a long-term care ombudsman council~~
207 ~~or Florida advocacy council.~~

208 ~~(b) Findings of a monitoring visit, both positive and~~
209 ~~negative, shall be provided orally and in writing to the~~
210 ~~facility administrator or, in the absence of the facility~~
211 ~~administrator, to the administrator on duty or the director of~~
212 ~~nursing. The quality of care monitor may recommend to the~~
213 ~~facility administrator procedural and policy changes and staff~~
214 ~~training, as needed, to improve the care or quality of life of~~
215 ~~facility residents. Conditions observed by the quality of care~~
216 ~~monitor which threaten the health or safety of a resident shall~~
217 ~~be reported immediately to the agency area office supervisor for~~
218 ~~appropriate regulatory action and, as appropriate or as required~~
219 ~~by law, to law enforcement, adult protective services, or other~~
220 ~~responsible agencies.~~

221 ~~(c) Any record, whether written or oral, or any written or~~
222 ~~oral communication generated pursuant to paragraph (a) or~~
223 ~~paragraph (b) shall not be subject to discovery or introduction~~

224 ~~into evidence in any civil or administrative action against a~~
 225 ~~nursing facility arising out of matters which are the subject of~~
 226 ~~quality-of-care monitoring, and a person who was in attendance~~
 227 ~~at a monitoring visit or evaluation may not be permitted or~~
 228 ~~required to testify in any such civil or administrative action~~
 229 ~~as to any evidence or other matters produced or presented during~~
 230 ~~the monitoring visits or evaluations. However, information,~~
 231 ~~documents, or records otherwise available from original sources~~
 232 ~~are not to be construed as immune from discovery or use in any~~
 233 ~~such civil or administrative action merely because they were~~
 234 ~~presented during monitoring visits or evaluations, and any~~
 235 ~~person who participates in such activities may not be prevented~~
 236 ~~from testifying as to matters within his or her knowledge, but~~
 237 ~~such witness may not be asked about his or her participation in~~
 238 ~~such activities. The exclusion from the discovery or~~
 239 ~~introduction of evidence in any civil or administrative action~~
 240 ~~provided for herein shall not apply when the quality-of-care~~
 241 ~~monitor makes a report to the appropriate authorities regarding~~
 242 ~~a threat to the health or safety of a resident.~~

243 Section 5. Section 400.141, Florida Statutes, is amended
 244 to read:

245 400.141 Administration and management of nursing home
 246 facilities.--

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

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

251 (b)~~(2)~~ Appoint a medical director licensed pursuant to
 252 chapter 458 or chapter 459. The agency may establish by rule
 253 more specific criteria for the appointment of a medical
 254 director.

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

257 (d)~~(4)~~ Provide for resident use of a community pharmacy as
 258 specified in s. 400.022(1)(q). Any other law to the contrary
 259 notwithstanding, a registered pharmacist licensed in Florida,
 260 that is under contract with a facility licensed under this
 261 chapter or chapter 429, shall repackage a nursing facility
 262 resident's bulk prescription medication which has been packaged
 263 by another pharmacist licensed in any state in the United States
 264 into a unit dose system compatible with the system used by the
 265 nursing facility, if the pharmacist is requested to offer such
 266 service. In order to be eligible for the repackaging, a resident
 267 or the resident's spouse must receive prescription medication
 268 benefits provided through a former employer as part of his or
 269 her retirement benefits, a qualified pension plan as specified
 270 in s. 4972 of the Internal Revenue Code, a federal retirement
 271 program as specified under 5 C.F.R. s. 831, or a long-term care
 272 policy as defined in s. 627.9404(1). A pharmacist who correctly
 273 repackages and relabels the medication and the nursing facility
 274 which correctly administers such repackaged medication under ~~the~~
 275 ~~provisions of this~~ paragraph may subsection shall not be held
 276 liable in any civil or administrative action arising from the
 277 repackaging. In order to be eligible for the repackaging, a
 278 nursing facility resident for whom the medication is to be

279 repackaged shall sign an informed consent form provided by the
280 facility which includes an explanation of the repackaging
281 process and which notifies the resident of the immunities from
282 liability provided in this paragraph ~~herein~~. A pharmacist who
283 repackages and relabels prescription medications, as authorized
284 under this paragraph subsection, may charge a reasonable fee for
285 costs resulting from the implementation of this provision.

286 (e) ~~(5)~~ Provide for the access of the facility residents to
287 dental and other health-related services, recreational services,
288 rehabilitative services, and social work services appropriate to
289 their needs and conditions and not directly furnished by the
290 licensee. When a geriatric outpatient nurse clinic is conducted
291 in accordance with rules adopted by the agency, outpatients
292 attending such clinic shall not be counted as part of the
293 general resident population of the nursing home facility, nor
294 shall the nursing staff of the geriatric outpatient clinic be
295 counted as part of the nursing staff of the facility, until the
296 outpatient clinic load exceeds 15 a day.

297 (f) ~~(6)~~ Be allowed and encouraged by the agency to provide
298 other needed services under certain conditions. If the facility
299 has a standard licensure status, and has had no class I or class
300 II deficiencies during the past 2 years or has been awarded a
301 Gold Seal under the program established in s. 400.235, it may be
302 encouraged by the agency to provide services, including, but not
303 limited to, respite and adult day services, which enable
304 individuals to move in and out of the facility. A facility is
305 not subject to any additional licensure requirements for
306 providing these services. Respite care may be offered to persons

307 in need of short-term or temporary nursing home services.
308 Respite care must be provided in accordance with this part and
309 rules adopted by the agency. However, the agency shall, by rule,
310 adopt modified requirements for resident assessment, resident
311 care plans, resident contracts, physician orders, and other
312 provisions, as appropriate, for short-term or temporary nursing
313 home services. The agency shall allow for shared programming and
314 staff in a facility which meets minimum standards and offers
315 services pursuant to this paragraph ~~subsection~~, but, if the
316 facility is cited for deficiencies in patient care, may require
317 additional staff and programs appropriate to the needs of
318 service recipients. A person who receives respite care may not
319 be counted as a resident of the facility for purposes of the
320 facility's licensed capacity unless that person receives 24-hour
321 respite care. A person receiving either respite care for 24
322 hours or longer or adult day services must be included when
323 calculating minimum staffing for the facility. Any costs and
324 revenues generated by a nursing home facility from
325 nonresidential programs or services shall be excluded from the
326 calculations of Medicaid per diems for nursing home
327 institutional care reimbursement.

328 (g) ~~(7)~~ If the facility has a standard license or is a Gold
329 Seal facility, exceeds the minimum required hours of licensed
330 nursing and certified nursing assistant direct care per resident
331 per day, and is part of a continuing care facility licensed
332 under chapter 651 or a retirement community that offers other
333 services pursuant to part III of this chapter or part I or part
334 III of chapter 429 on a single campus, be allowed to share

335 programming and staff. At the time of inspection and in the
336 semiannual report required pursuant to paragraph (o) ~~subsection~~
337 ~~(15)~~, a continuing care facility or retirement community that
338 uses this option must demonstrate through staffing records that
339 minimum staffing requirements for the facility were met.
340 Licensed nurses and certified nursing assistants who work in the
341 nursing home facility may be used to provide services elsewhere
342 on campus if the facility exceeds the minimum number of direct
343 care hours required per resident per day and the total number of
344 residents receiving direct care services from a licensed nurse
345 or a certified nursing assistant does not cause the facility to
346 violate the staffing ratios required under s. 400.23(3)(a).
347 Compliance with the minimum staffing ratios shall be based on
348 total number of residents receiving direct care services,
349 regardless of where they reside on campus. If the facility
350 receives a conditional license, it may not share staff until the
351 conditional license status ends. This paragraph ~~subsection~~ does
352 not restrict the agency's authority under federal or state law
353 to require additional staff if a facility is cited for
354 deficiencies in care which are caused by an insufficient number
355 of certified nursing assistants or licensed nurses. The agency
356 may adopt rules for the documentation necessary to determine
357 compliance with this provision.

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

360 (i) ~~(9)~~ If the licensee furnishes food service, provide a
361 wholesome and nourishing diet sufficient to meet generally
362 accepted standards of proper nutrition for its residents and

363 provide such therapeutic diets as may be prescribed by attending
364 physicians. In making rules to implement this paragraph
365 ~~subsection~~, the agency shall be guided by standards recommended
366 by nationally recognized professional groups and associations
367 with knowledge of dietetics.

368 (j) ~~(10)~~ Keep full records of resident admissions and
369 discharges; medical and general health status, including medical
370 records, personal and social history, and identity and address
371 of next of kin or other persons who may have responsibility for
372 the affairs of the residents; and individual resident care plans
373 including, but not limited to, prescribed services, service
374 frequency and duration, and service goals. The records shall be
375 open to inspection by the agency.

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

379 (l) ~~(12)~~ Furnish copies of personnel records for employees
380 affiliated with such facility, to any other facility licensed by
381 this state requesting this information pursuant to this part.
382 Such information contained in the records may include, but is
383 not limited to, disciplinary matters and any reason for
384 termination. Any facility releasing such records pursuant to
385 this part shall be considered to be acting in good faith and may
386 not be held liable for information contained in such records,
387 absent a showing that the facility maliciously falsified such
388 records.

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

391 state's abuse hotline, the State Long-Term Care Ombudsman, the
 392 Agency for Health Care Administration consumer hotline, the
 393 Advocacy Center for Persons with Disabilities, the Florida
 394 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
 395 with a clear description of the assistance to be expected from
 396 each.

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

400 (o)1. ~~(15)~~ Submit semiannually to the agency, or more
 401 frequently if requested by the agency, information regarding
 402 facility staff-to-resident ratios, staff turnover, and staff
 403 stability, including information regarding certified nursing
 404 assistants, licensed nurses, the director of nursing, and the
 405 facility administrator. For purposes of this reporting:

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

410 b. ~~(b)~~ Staff turnover must be reported for the most recent
 411 12-month period ending on the last workday of the most recent
 412 calendar quarter prior to the date the information is submitted.
 413 The turnover rate must be computed quarterly, with the annual
 414 rate being the cumulative sum of the quarterly rates. The
 415 turnover rate is the total number of terminations or separations
 416 experienced during the quarter, excluding any employee
 417 terminated during a probationary period of 3 months or less,
 418 divided by the total number of staff employed at the end of the

419 period for which the rate is computed, and expressed as a
420 percentage.

421 c.~~(e)~~ The formula for determining staff stability is the
422 total number of employees that have been employed for more than
423 12 months, divided by the total number of employees employed at
424 the end of the most recent calendar quarter, and expressed as a
425 percentage.

426 d.~~(d)~~ A nursing facility that has failed to comply with
427 state minimum-staffing requirements for 2 consecutive days is
428 prohibited from accepting new admissions until the facility has
429 achieved the minimum-staffing requirements for a period of 6
430 consecutive days. For the purposes of this sub-subparagraph
431 ~~paragraph~~, any person who was a resident of the facility and was
432 absent from the facility for the purpose of receiving medical
433 care at a separate location or was on a leave of absence is not
434 considered a new admission. Failure to impose such an admissions
435 moratorium constitutes a class II deficiency.

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

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

444 2. ~~Nothing in This paragraph does not section shall~~ limit
445 the agency's ability to impose a deficiency or take other

446 actions if a facility does not have enough staff to meet the
447 residents' needs.

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

451 (p) ~~(17)~~ Notify a licensed physician when a resident
452 exhibits signs of dementia or cognitive impairment or has a
453 change of condition in order to rule out the presence of an
454 underlying physiological condition that may be contributing to
455 such dementia or impairment. The notification must occur within
456 30 days after the acknowledgment of such signs by facility
457 staff. If an underlying condition is determined to exist, the
458 facility shall arrange, with the appropriate health care
459 provider, the necessary care and services to treat the
460 condition.

461 (q) ~~(18)~~ If the facility implements a dining and
462 hospitality attendant program, ensure that the program is
463 developed and implemented under the supervision of the facility
464 director of nursing. A licensed nurse, licensed speech or
465 occupational therapist, or a registered dietitian must conduct
466 training of dining and hospitality attendants. A person employed
467 by a facility as a dining and hospitality attendant must perform
468 tasks under the direct supervision of a licensed nurse.

469 (r) ~~(19)~~ Report to the agency any filing for bankruptcy
470 protection by the facility or its parent corporation,
471 divestiture or spin-off of its assets, or corporate
472 reorganization within 30 days after the completion of such
473 activity.

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

480 (t) ~~(21)~~ Maintain in the medical record for each resident a
481 daily chart of certified nursing assistant services provided to
482 the resident. The certified nursing assistant who is caring for
483 the resident must complete this record by the end of his or her
484 shift. This record must indicate assistance with activities of
485 daily living, assistance with eating, and assistance with
486 drinking, and must record each offering of nutrition and
487 hydration for those residents whose plan of care or assessment
488 indicates a risk for malnutrition or dehydration.

489 (u) ~~(22)~~ Before November 30 of each year, subject to the
490 availability of an adequate supply of the necessary vaccine,
491 provide for immunizations against influenza viruses to all its
492 consenting residents in accordance with the recommendations of
493 the United States Centers for Disease Control and Prevention,
494 subject to exemptions for medical contraindications and
495 religious or personal beliefs. Subject to these exemptions, any
496 consenting person who becomes a resident of the facility after
497 November 30 but before March 31 of the following year must be
498 immunized within 5 working days after becoming a resident.
499 Immunization shall not be provided to any resident who provides
500 documentation that he or she has been immunized as required by
501 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not

502 prohibit a resident from receiving the immunization from his or
 503 her personal physician if he or she so chooses. A resident who
 504 chooses to receive the immunization from his or her personal
 505 physician shall provide proof of immunization to the facility.
 506 The agency may adopt and enforce any rules necessary to comply
 507 with or implement this paragraph ~~subsection~~.

508 (v) ~~(23)~~ Assess all residents for eligibility for
 509 pneumococcal polysaccharide vaccination (PPV) and vaccinate
 510 residents when indicated within 60 days after the effective date
 511 of this act in accordance with the recommendations of the United
 512 States Centers for Disease Control and Prevention, subject to
 513 exemptions for medical contraindications and religious or
 514 personal beliefs. Residents admitted after the effective date of
 515 this act shall be assessed within 5 working days of admission
 516 and, when indicated, vaccinated within 60 days in accordance
 517 with the recommendations of the United States Centers for
 518 Disease Control and Prevention, subject to exemptions for
 519 medical contraindications and religious or personal beliefs.
 520 Immunization shall not be provided to any resident who provides
 521 documentation that he or she has been immunized as required by
 522 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not
 523 prohibit a resident from receiving the immunization from his or
 524 her personal physician if he or she so chooses. A resident who
 525 chooses to receive the immunization from his or her personal
 526 physician shall provide proof of immunization to the facility.
 527 The agency may adopt and enforce any rules necessary to comply
 528 with or implement this paragraph ~~subsection~~.

529 (w) ~~(24)~~ Annually encourage and promote to its employees
 530 the benefits associated with immunizations against influenza
 531 viruses in accordance with the recommendations of the United
 532 States Centers for Disease Control and Prevention. The agency
 533 may adopt and enforce any rules necessary to comply with or
 534 implement this paragraph ~~subsection~~.

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

540 Section 6. Present subsections (9) through (13) of section
 541 400.147, Florida Statutes, are renumbered as subsections (10)
 542 through (14), respectively, subsection (5) and present
 543 subsection (14) are amended, and a new subsection (9) is added
 544 to that section, to read:

545 400.147 Internal risk management and quality assurance
 546 program.--

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

549 (a) An event over which facility personnel could exercise
 550 control and which is associated in whole or in part with the
 551 facility's intervention, rather than the condition for which
 552 such intervention occurred, and which results in one of the
 553 following:

- 554 1. Death;
- 555 2. Brain or spinal damage;
- 556 3. Permanent disfigurement;

557 4. Fracture or dislocation of bones or joints;
 558 5. A limitation of neurological, physical, or sensory
 559 function;
 560 6. Any condition that required medical attention to which
 561 the resident has not given his or her informed consent,
 562 including failure to honor advanced directives; ~~or~~
 563 7. Any condition that required the transfer of the
 564 resident, within or outside the facility, to a unit providing a
 565 more acute level of care due to the adverse incident, rather
 566 than the resident's condition prior to the adverse incident; or
 567 8. An event that is reported to law enforcement or its
 568 personnel for investigation; or
 569 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
 570 ~~415.102;~~
 571 ~~(c) Abuse, neglect and harm as defined in s. 39.01;~~
 572 (b)(d) Resident elopement, if the elopement places the
 573 resident at risk of harm or injury.; ~~or~~
 574 ~~(c) An event that is reported to law enforcement.~~
 575 (9) Abuse, neglect, or exploitation must be reported to
 576 the agency as required by 42 C.F.R. s. 483.13(c) and to the
 577 department as required by chapters 39 and 415.
 578 ~~(14) The agency shall annually submit to the Legislature a~~
 579 ~~report on nursing home adverse incidents. The report must~~
 580 ~~include the following information arranged by county:~~
 581 ~~(a) The total number of adverse incidents.~~
 582 ~~(b) A listing, by category, of the types of adverse~~
 583 ~~incidents, the number of incidents occurring within each~~
 584 ~~category, and the type of staff involved.~~

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

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

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

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

593 400.162 Property and personal affairs of residents.--

594 (3) A licensee shall provide for the safekeeping of
595 personal effects, funds, and other property of the resident in
596 the facility. Whenever necessary for the protection of
597 valuables, or in order to avoid unreasonable responsibility
598 therefor, the licensee may require that such valuables be
599 excluded or removed from the facility and kept at some place not
600 subject to the control of the licensee. At the request of a
601 resident, the facility shall mark the resident's personal
602 property with the resident's name or another type of
603 identification, without defacing the property. Any theft or loss
604 of a resident's personal property shall be documented by the
605 facility. The facility shall develop policies and procedures to
606 minimize the risk of theft or loss of the personal property of
607 residents. A copy of the policy shall be provided to every
608 employee and to each resident and resident's representative, if
609 appropriate, at admission and when revised. Facility policies
610 must include provisions related to reporting theft or loss of a
611 resident's property to law enforcement and any facility waiver
612 of liability for loss or theft. ~~The facility shall post notice~~

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613 ~~of these policies and procedures, and any revision thereof, in~~
614 ~~places accessible to residents.~~

615 Section 8. Subsection (2) of section 400.191, Florida
616 Statutes, is amended to read:

617 400.191 Availability, distribution, and posting of reports
618 and records.--

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

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

627 1. A section entitled "Have you considered programs that
628 provide alternatives to nursing home care?" which shall be the
629 first section of the Nursing Home Guide and which shall
630 prominently display information about available alternatives to
631 nursing homes and how to obtain additional information regarding
632 these alternatives. The Nursing Home Guide shall explain that
633 this state offers alternative programs that permit qualified
634 elderly persons to stay in their homes instead of being placed
635 in nursing homes and shall encourage interested persons to call
636 the Comprehensive Assessment Review and Evaluation for Long-Term
637 Care Services (CARES) Program to inquire if they qualify. The
638 Nursing Home Guide shall list available home and community-based
639 programs which shall clearly state the services that are
640 provided and indicate whether nursing home services are included

- 641 if needed.
- 642 2. A list by name and address of all nursing home
 643 facilities in this state, including any prior name by which a
 644 facility was known during the previous 24-month period.
- 645 3. Whether such nursing home facilities are proprietary or
 646 nonproprietary.
- 647 4. The current owner of the facility's license and the
 648 year that that entity became the owner of the license.
- 649 5. The name of the owner or owners of each facility and
 650 whether the facility is affiliated with a company or other
 651 organization owning or managing more than one nursing facility
 652 in this state.
- 653 6. The total number of beds in each facility and the most
 654 recently available occupancy levels.
- 655 7. The number of private and semiprivate rooms in each
 656 facility.
- 657 8. The religious affiliation, if any, of each facility.
- 658 9. The languages spoken by the administrator and staff of
 659 each facility.
- 660 10. Whether or not each facility accepts Medicare or
 661 Medicaid recipients or insurance, health maintenance
 662 organization, Veterans Administration, CHAMPUS program, or
 663 workers' compensation coverage.
- 664 11. Recreational and other programs available at each
 665 facility.
- 666 12. Special care units or programs offered at each
 667 facility.
- 668 13. Whether the facility is a part of a retirement

669 community that offers other services pursuant to part III of
670 this chapter or part I or part III of chapter 429.

671 14. Survey and deficiency information, including all
672 federal and state recertification, licensure, revisit, and
673 complaint survey information, for each facility for the past 30
674 months. For noncertified nursing homes, state survey and
675 deficiency information, including licensure, revisit, and
676 complaint survey information for the past 30 months shall be
677 provided.

678 ~~15. A summary of the deficiency data for each facility~~
679 ~~over the past 30 months. The summary may include a score,~~
680 ~~rating, or comparison ranking with respect to other facilities~~
681 ~~based on the number of citations received by the facility on~~
682 ~~recertification, licensure, revisit, and complaint surveys; the~~
683 ~~severity and scope of the citations; and the number of~~
684 ~~recertification surveys the facility has had during the past 30~~
685 ~~months. The score, rating, or comparison ranking may be~~
686 ~~presented in either numeric or symbolic form for the intended~~
687 ~~consumer audience.~~

688 ~~(b) The agency shall provide the following information in~~
689 ~~printed form:~~

690 ~~1. A section entitled "Have you considered programs that~~
691 ~~provide alternatives to nursing home care?" which shall be the~~
692 ~~first section of the Nursing Home Guide and which shall~~
693 ~~prominently display information about available alternatives to~~
694 ~~nursing homes and how to obtain additional information regarding~~
695 ~~these alternatives. The Nursing Home Guide shall explain that~~
696 ~~this state offers alternative programs that permit qualified~~

697 ~~elderly persons to stay in their homes instead of being placed~~
 698 ~~in nursing homes and shall encourage interested persons to call~~
 699 ~~the Comprehensive Assessment Review and Evaluation for Long-Term~~
 700 ~~Care Services (CARES) Program to inquire if they qualify. The~~
 701 ~~Nursing Home Guide shall list available home and community-based~~
 702 ~~programs which shall clearly state the services that are~~
 703 ~~provided and indicate whether nursing home services are included~~
 704 ~~if needed.~~

705 ~~2. A list by name and address of all nursing home~~
 706 ~~facilities in this state.~~

707 ~~3. Whether the nursing home facilities are proprietary or~~
 708 ~~nonproprietary.~~

709 ~~4. The current owner or owners of the facility's license~~
 710 ~~and the year that entity became the owner of the license.~~

711 ~~5. The total number of beds, and of private and~~
 712 ~~semiprivate rooms, in each facility.~~

713 ~~6. The religious affiliation, if any, of each facility.~~

714 ~~7. The name of the owner of each facility and whether the~~
 715 ~~facility is affiliated with a company or other organization~~
 716 ~~owning or managing more than one nursing facility in this state.~~

717 ~~8. The languages spoken by the administrator and staff of~~
 718 ~~each facility.~~

719 ~~9. Whether or not each facility accepts Medicare or~~
 720 ~~Medicaid recipients or insurance, health maintenance~~
 721 ~~organization, Veterans Administration, CHAMPUS program, or~~
 722 ~~workers' compensation coverage.~~

723 ~~10. Recreational programs, special care units, and other~~
 724 ~~programs available at each facility.~~

725 ~~11. The Internet address for the site where more detailed~~
726 ~~information can be seen.~~

727 ~~12. A statement advising consumers that each facility will~~
728 ~~have its own policies and procedures related to protecting~~
729 ~~resident property.~~

730 ~~13. A summary of the deficiency data for each facility~~
731 ~~over the past 30 months. The summary may include a score,~~
732 ~~rating, or comparison ranking with respect to other facilities~~
733 ~~based on the number of citations received by the facility on~~
734 ~~recertification, licensure, revisit, and complaint surveys; the~~
735 ~~severity and scope of the citations; the number of citations;~~
736 ~~and the number of recertification surveys the facility has had~~
737 ~~during the past 30 months. The score, rating, or comparison~~
738 ~~ranking may be presented in either numeric or symbolic form for~~
739 ~~the intended consumer audience.~~

740 ~~(b)(e)~~ The agency may provide the following additional
741 information on an Internet site or in printed form as the
742 information becomes available:

- 743 1. The licensure status history of each facility.
- 744 2. The rating history of each facility.
- 745 3. The regulatory history of each facility, which may
746 include federal sanctions, state sanctions, federal fines, state
747 fines, and other actions.
- 748 4. Whether the facility currently possesses the Gold Seal
749 designation awarded pursuant to s. 400.235.
- 750 5. Internet links to the Internet sites of the facilities
751 or their affiliates.

752 Section 9. Paragraph (d) of subsection (1) of section
 753 400.195, Florida Statutes, is amended to read:

754 400.195 Agency reporting requirements.--

755 (1) For the period beginning June 30, 2001, and ending
 756 June 30, 2005, the Agency for Health Care Administration shall
 757 provide a report to the Governor, the President of the Senate,
 758 and the Speaker of the House of Representatives with respect to
 759 nursing homes. The first report shall be submitted no later than
 760 December 30, 2002, and subsequent reports shall be submitted
 761 every 6 months thereafter. The report shall identify facilities
 762 based on their ownership characteristics, size, business
 763 structure, for-profit or not-for-profit status, and any other
 764 characteristics the agency determines useful in analyzing the
 765 varied segments of the nursing home industry and shall report:

766 (d) Information regarding deficiencies cited, including
 767 information used to develop the Nursing Home Guide WATCH LIST
 768 pursuant to s. 400.191, and applicable rules, a summary of data
 769 generated on nursing homes by Centers for Medicare and Medicaid
 770 Services Nursing Home Quality Information Project, and
 771 information collected pursuant to s. 400.147(10)(~~9~~), relating to
 772 litigation.

773 Section 10. Paragraph (b) of subsection (3) of section
 774 400.23, Florida Statutes, is amended to read:

775 400.23 Rules; evaluation and deficiencies; licensure
 776 status.--

777 (3)

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

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780 ~~assistants and licensed nurses, to assist residents with eating.~~
781 ~~The rules shall specify the minimum training requirements and~~
782 ~~shall specify the physiological conditions or disorders of~~
783 ~~residents which would necessitate that the eating assistance be~~
784 ~~provided by nursing personnel of the facility.~~ Nonnursing staff
785 providing eating assistance to residents ~~under the provisions of~~
786 ~~this subsection~~ shall not count toward compliance with minimum
787 staffing standards.

788 Section 11. Subsection (6) of section 400.474, Florida
789 Statutes, is amended to read:

790 400.474 Administrative penalties.--

791 (6) The agency may deny, revoke, or suspend the license of
792 a home health agency and shall impose a fine of \$5,000 against a
793 home health agency that:

794 (a) Gives remuneration for staffing services to:

795 1. Another home health agency with which it has formal or
796 informal patient-referral transactions or arrangements; or

797 2. A health services pool with which it has formal or
798 informal patient-referral transactions or arrangements,

799

800 unless the home health agency has activated its comprehensive
801 emergency management plan in accordance with s. 400.492. This
802 paragraph does not apply to a Medicare-certified home health
803 agency that provides fair market value remuneration for staffing
804 services to a non-Medicare-certified home health agency that is
805 part of a continuing care facility licensed under chapter 651
806 for providing services to its own residents if each resident
807 receiving home health services pursuant to this arrangement

808 attests in writing that he or she made a decision without
809 influence from staff of the facility to select, from a list of
810 Medicare-certified home health agencies provided by the
811 facility, that Medicare-certified home health agency to provide
812 the services.

813 (b) Provides services to residents in an assisted living
814 facility for which the home health agency does not receive fair
815 market value remuneration.

816 (c) Provides staffing to an assisted living facility for
817 which the home health agency does not receive fair market value
818 remuneration.

819 (d) Fails to provide the agency, upon request, with copies
820 of all contracts with assisted living facilities which were
821 executed within 5 years before the request.

822 (e) Gives remuneration to a case manager, discharge
823 planner, facility-based staff member, or third-party vendor who
824 is involved in the discharge planning process of a facility
825 licensed under chapter 395 or this chapter from whom the home
826 health agency receives referrals.

827 (f) Fails to submit to the agency, within 15 days after
828 the end of each calendar quarter, a written report that includes
829 the following data based on data as it existed on the last day
830 of the quarter:

831 1. The number of insulin-dependent diabetic patients
832 receiving insulin-injection services from the home health
833 agency;

834 2. The number of patients receiving both home health
835 services from the home health agency and hospice services;

836 3. The number of patients receiving home health services
837 from that home health agency; and

838 4. The names and license numbers of nurses whose primary
839 job responsibility is to provide home health services to
840 patients and who received remuneration from the home health
841 agency in excess of \$25,000 during the calendar quarter.

842 (g) Gives cash, or its equivalent, to a Medicare or
843 Medicaid beneficiary.

844 (h) Has more than one medical director contract in effect
845 at one time or more than one medical director contract and one
846 contract with a physician-specialist whose services are mandated
847 for the home health agency in order to qualify to participate in
848 a federal or state health care program at one time.

849 (i) Gives remuneration to a physician without a medical
850 director contract being in effect. The contract must:

851 1. Be in writing and signed by both parties;

852 2. Provide for remuneration that is at fair market value
853 for an hourly rate, which must be supported by invoices
854 submitted by the medical director describing the work performed,
855 the dates on which that work was performed, and the duration of
856 that work; and

857 3. Be for a term of at least 1 year.

858

859 The hourly rate specified in the contract may not be increased
860 during the term of the contract. The home health agency may not
861 execute a subsequent contract with that physician which has an
862 increased hourly rate and covers any portion of the term that
863 was in the original contract.

- 864 (j) Gives remuneration to:
- 865 1. A physician, and the home health agency is in violation
- 866 of paragraph (h) or paragraph (i);
- 867 2. A member of the physician's office staff; or
- 868 3. An immediate family member of the physician,

869

870 if the home health agency has received a patient referral in the

871 preceding 12 months from that physician or physician's office

872 staff.

873 (k) Fails to provide to the agency, upon request, copies

874 of all contracts with a medical director which were executed

875 within 5 years before the request.

876

877 Nothing in paragraph (e) or paragraph (j) shall be interpreted

878 as applying to or precluding any discount, compensation, waiver

879 of payment, or payment practice permitted by 42 U.S.C. s. 1320a-

880 7b(b) or regulations adopted thereunder, including 42 C.F.R. s.

881 1001.952, or by 42 U.S.C. s. 1395nn or regulations adopted

882 thereunder.

883 Section 12. Paragraph (a) of subsection (15) of section

884 400.506, Florida Statutes, is amended to read:

885 400.506 Licensure of nurse registries; requirements;

886 penalties.--

887 (15) (a) The agency may deny, suspend, or revoke the

888 license of a nurse registry and shall impose a fine of \$5,000

889 against a nurse registry that:

890 1. Provides services to residents in an assisted living
 891 facility for which the nurse registry does not receive fair
 892 market value remuneration.

893 2. Provides staffing to an assisted living facility for
 894 which the nurse registry does not receive fair market value
 895 remuneration.

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

899 4. Gives remuneration to a case manager, discharge
 900 planner, facility-based staff member, or third-party vendor who
 901 is involved in the discharge planning process of a facility
 902 licensed under chapter 395 or this chapter and from whom the
 903 nurse registry receives referrals. This subparagraph does not
 904 apply to a nurse registry that does not participate in the
 905 Medicaid or Medicare program.

906 5. Gives remuneration to a physician, a member of the
 907 physician's office staff, or an immediate family member of the
 908 physician, and the nurse registry received a patient referral in
 909 the last 12 months from that physician or the physician's office
 910 staff. This subparagraph does not apply to a nurse registry that
 911 does not participate in the Medicaid or Medicare program.

912 Section 13. Paragraph (m) is added to subsection (4) of
 913 section 400.9905, Florida Statutes, to read:

914 400.9905 Definitions.--

915 (4) "Clinic" means an entity at which health care services
 916 are provided to individuals and which tenders charges for
 917 reimbursement for such services, including a mobile clinic and a

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918 | portable equipment provider. For purposes of this part, the term
919 | does not include and the licensure requirements of this part do
920 | not apply to:

921 | (m) Entities that do not seek reimbursement from insurance
922 | companies for medical services paid pursuant to personal injury
923 | protection coverage required by s. 627.736.

924 | Section 14. Paragraph (a) of subsection (7) of section
925 | 400.9935, Florida Statutes, is amended, and subsection (10) is
926 | added to that section, to read:

927 | 400.9935 Clinic responsibilities.--

928 | (7) (a) Each clinic engaged in magnetic resonance imaging
929 | services must be accredited by the Joint Commission on
930 | Accreditation of Healthcare Organizations, the American College
931 | of Radiology, or the Accreditation Association for Ambulatory
932 | Health Care, within 1 year after licensure. A clinic that is
933 | accredited by the American College of Radiology or is within the
934 | original 1-year period after licensure and replaces its core
935 | magnetic resonance imaging equipment shall be given 1 year after
936 | the date upon which the equipment is replaced to attain
937 | accreditation. However, a clinic may request a single, 6-month
938 | extension if it provides evidence to the agency establishing
939 | that, for good cause shown, such clinic cannot ~~can not~~ be
940 | accredited within 1 year after licensure, and that such
941 | accreditation will be completed within the 6-month extension.
942 | After obtaining accreditation as required by this subsection,
943 | each such clinic must maintain accreditation as a condition of
944 | renewal of its license. A clinic that files a change of
945 | ownership application must comply with the original

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946 accreditation timeframe requirements of the transferor. The
947 agency shall deny a change of ownership application if the
948 clinic is not in compliance with the accreditation requirements.
949 When a clinic adds, replaces, or modifies magnetic resonance
950 imaging equipment and the accrediting organization requires new
951 accreditation, the clinic must be accredited within 1 year after
952 the date of the addition, replacement, or modification but may
953 request a single, 6-month extension if the clinic provides
954 evidence of good cause to the agency.

955 (10) Any clinic holding an active license and any entity
956 holding a current certificate of exemption may request a unique
957 identification number from the agency for the purposes of
958 submitting claims to personal injury protection insurance
959 carriers for services or treatment pursuant to part XI of
960 chapter 627. Upon request, the agency shall assign a unique
961 identification number to a clinic holding an active license or
962 an entity holding a current certificate of exemption. The agency
963 shall publish the identification number of each clinic and
964 entity on its Internet website in a searchable format that is
965 readily accessible to personal injury protection insurance
966 carriers for the purposes of s. 627.736(5)(b)1.g.

967 Section 15. Subsection (6) of section 400.995, Florida
968 Statutes, is amended to read:

969 400.995 Agency administrative penalties.--

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

974 ~~corrective action~~ with the owner, medical director, or clinic
 975 director of the clinic, prior to written notification. The
 976 ~~agency, instead of fixing a period within which the clinic shall~~
 977 ~~enter into compliance with standards, may request a plan of~~
 978 ~~corrective action from the clinic which demonstrates a good~~
 979 ~~faith effort to remedy each violation by a specific date,~~
 980 ~~subject to the approval of the agency.~~

981 Section 16. Subsections (5), (9), and (13) of section
 982 408.803, Florida Statutes, are amended to read:

983 408.803 Definitions.--As used in this part, the term:

984 (5) "Change of ownership" means:

985 (a) An event in which the licensee sells or otherwise
 986 transfers its ownership changes to a different individual or
 987 legal entity, as evidenced by a change in federal employer
 988 identification number or taxpayer identification number; or

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

992 This paragraph does not apply to a licensee that is publicly
 993 traded on a recognized stock exchange. In a corporation whose
 994 shares are not publicly traded on a recognized stock exchange is
 995 transferred or assigned, including the final transfer or
 996 assignment of multiple transfers or assignments over a 2-year
 997 period that cumulatively total 45 percent or greater.

998
 999 A change solely in the management company or board of directors
 1000 is not a change of ownership.

1001 (9) "Licensee" means an individual, corporation,
 1002 partnership, firm, association, ~~or~~ governmental entity, or other
 1003 entity that is issued a permit, registration, certificate, or
 1004 license by the agency. The licensee is legally responsible for
 1005 all aspects of the provider operation.

1006 (13) "Voluntary board member" means a board member of a
 1007 not-for-profit corporation or organization who serves solely in
 1008 a voluntary capacity, does not receive any remuneration for his
 1009 or her services on the board of directors, and has no financial
 1010 interest in the corporation or organization. ~~The agency shall~~
 1011 ~~recognize a person as a voluntary board member following~~
 1012 ~~submission of a statement to the agency by the board member and~~
 1013 ~~the not-for-profit corporation or organization that affirms that~~
 1014 ~~the board member conforms to this definition. The statement~~
 1015 ~~affirming the status of the board member must be submitted to~~
 1016 ~~the agency on a form provided by the agency.~~

1017 Section 17. Paragraph (a) of subsection (1), subsection
 1018 (2), paragraph (c) of subsection (7), and subsection (8) of
 1019 section 408.806, Florida Statutes, are amended to read:

1020 408.806 License application process.--

1021 (1) An application for licensure must be made to the
 1022 agency on forms furnished by the agency, submitted under oath,
 1023 and accompanied by the appropriate fee in order to be accepted
 1024 and considered timely. The application must contain information
 1025 required by authorizing statutes and applicable rules and must
 1026 include:

- 1027 (a) The name, address, and social security number of:
- 1028 1. The applicant;

1029 2. The administrator or a similarly titled person who is
 1030 responsible for the day-to-day operation of the provider;

1031 3. The financial officer or similarly titled person who is
 1032 responsible for the financial operation of the licensee or
 1033 provider; and

1034 4. Each controlling interest if the applicant or
 1035 controlling interest is an individual.

1036 (2) (a) The applicant for a renewal license must submit an
 1037 application that must be received by the agency at least 60 days
 1038 but no more than 120 days prior to the expiration of the current
 1039 license. An application received more than 120 days prior to the
 1040 expiration of the current license shall be returned to the
 1041 applicant. If the renewal application and fee are received prior
 1042 to the license expiration date, the license shall not be deemed
 1043 to have expired if the license expiration date occurs during the
 1044 agency's review of the renewal application.

1045 (b) The applicant for initial licensure due to a change of
 1046 ownership must submit an application that must be received by
 1047 the agency at least 60 days prior to the date of change of
 1048 ownership.

1049 (c) For any other application or request, the applicant
 1050 must submit an application or request that must be received by
 1051 the agency at least 60 days but no more than 120 days prior to
 1052 the requested effective date, unless otherwise specified in
 1053 authorizing statutes or applicable rules. An application
 1054 received more than 120 days prior to the requested effective
 1055 date shall be returned to the applicant.

1056 (d) The agency shall notify the licensee by mail or
1057 electronically at least 90 days prior to the expiration of a
1058 license that a renewal license is necessary to continue
1059 operation. The failure to timely submit a renewal application
1060 and license fee shall result in a \$50 per day late fee charged
1061 to the licensee by the agency; however, the aggregate amount of
1062 the late fee may not exceed 50 percent of the licensure fee or
1063 \$500, whichever is less. If an application is received after the
1064 required filing date and exhibits a hand-canceled postmark
1065 obtained from a United States post office dated on or before the
1066 required filing date, no fine will be levied.

1067 (7)

1068 (c) If an inspection is required by the authorizing
1069 statute for a license application other than an initial
1070 application, the inspection must be unannounced. This paragraph
1071 does not apply to inspections required pursuant to ss. 383.324,
1072 395.0161(4), 429.67(6), and 483.061(2).

1073 (8) The agency may establish procedures for the electronic
1074 notification and submission of required information, including,
1075 but not limited to:

1076 (a) Licensure applications.

1077 (b) Required signatures.

1078 (c) Payment of fees.

1079 (d) Notarization of applications.

1080
1081 Requirements for electronic submission of any documents required
1082 by this part or authorizing statutes may be established by rule.
1083 As an alternative to sending documents as required by

1084 authorizing statutes, the agency may provide electronic access
 1085 to information or documents.

1086 Section 18. Subsection (2) of section 408.808, Florida
 1087 Statutes, is amended to read:

1088 408.808 License categories.--

1089 (2) PROVISIONAL LICENSE.--A provisional license may be
 1090 issued to an applicant pursuant to s. 408.809(3). An applicant
 1091 against whom a proceeding denying or revoking a license is
 1092 pending at the time of license renewal may be issued a
 1093 provisional license effective until final action not subject to
 1094 further appeal. A provisional license may also be issued to an
 1095 applicant applying for a change of ownership. A provisional
 1096 license shall be limited in duration to a specific period of
 1097 time, not to exceed 12 months, as determined by the agency.

1098 Section 19. Subsection (5) of section 408.809, Florida
 1099 Statutes, is amended, and new subsections (5) and (6) are added
 1100 to that section, to read:

1101 408.809 Background screening; prohibited offenses.--

1102 (5) Effective October 1, 2009, in addition to the offenses
 1103 listed in ss. 435.03 and 435.04, all persons required to undergo
 1104 background screening pursuant to this part or authorizing
 1105 statutes must not have been found guilty of, regardless of
 1106 adjudication, or entered a plea of nolo contendere or guilty to,
 1107 any of the following offenses or any similar offense of another
 1108 jurisdiction:

1109 (a) A violation of any authorizing statutes, if the
 1110 offense was a felony.

- 1111 (b) A violation of this chapter, if the offense was a
- 1112 felony.
- 1113 (c) A violation of s. 409.920, relating to Medicaid
- 1114 provider fraud, if the offense was a felony.
- 1115 (d) A violation of s. 409.9201, relating to Medicaid
- 1116 fraud, if the offense was a felony.
- 1117 (e) A violation of s. 741.28, relating to domestic
- 1118 violence.
- 1119 (f) A violation of chapter 784, relating to assault,
- 1120 battery, and culpable negligence, if the offense was a felony.
- 1121 (g) A violation of s. 810.02, relating to burglary.
- 1122 (h) A violation of s. 817.034, relating to fraudulent acts
- 1123 through mail, wire, radio, electromagnetic, photoelectronic, or
- 1124 photooptical systems.
- 1125 (i) A violation of s. 817.234, relating to false and
- 1126 fraudulent insurance claims.
- 1127 (j) A violation of s. 817.505, relating to patient
- 1128 brokering.
- 1129 (k) A violation of s. 817.568, relating to criminal use of
- 1130 personal identification information.
- 1131 (l) A violation of s. 817.60, relating to obtaining a
- 1132 credit card through fraudulent means.
- 1133 (m) A violation of s. 817.61, relating to fraudulent use
- 1134 of credit cards, if the offense was a felony.
- 1135 (n) A violation of s. 831.01, relating to forgery.
- 1136 (o) A violation of s. 831.02, relating to uttering forged
- 1137 instruments.

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1138 (p) A violation of s. 831.07, relating to forging bank
1139 bills, checks, drafts, or promissory notes.

1140 (q) A violation of s. 831.09, relating to uttering forged
1141 bank bills, checks, drafts, or promissory notes.

1142 (r) A violation of s. 831.30, relating to fraud in
1143 obtaining medicinal drugs.

1144 (s) A violation of s. 831.31, relating to the sale,
1145 manufacture, delivery, or possession with the intent to sell,
1146 manufacture, or deliver any counterfeit controlled substance, if
1147 the offense was a felony.

1148
1149 A person who serves as a controlling interest of or is employed
1150 by a licensee on September 30, 2009, shall not be required by
1151 law to submit to rescreening if that licensee has in its
1152 possession written evidence that the person has been screened
1153 and qualified according to the standards specified in s. 435.03
1154 or s. 435.04. However, if such person has been convicted of a
1155 disqualifying offense listed in this subsection, he or she may
1156 apply for an exemption from the appropriate licensing agency
1157 before September 30, 2009, and if agreed to by the employer, may
1158 continue to perform his or her duties until the licensing agency
1159 renders a decision on the application for exemption for an
1160 offense listed in this subsection. Exemptions from
1161 disqualification may be granted pursuant to s. 435.07.

1162 (6) The attestations required under ss. 435.04(5) and
1163 435.05(3) must be submitted at the time of license renewal,
1164 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)

1165 which require annual submission of an affidavit of compliance
 1166 with background screening requirements.

1167 ~~(5) Background screening is not required to obtain a~~
 1168 ~~certificate of exemption issued under s. 483.106.~~

1169 Section 20. Subsection (3) of section 408.810, Florida
 1170 Statutes, is amended to read:

1171 408.810 Minimum licensure requirements.--In addition to
 1172 the licensure requirements specified in this part, authorizing
 1173 statutes, and applicable rules, each applicant and licensee must
 1174 comply with the requirements of this section in order to obtain
 1175 and maintain a license.

1176 (3) Unless otherwise specified in this part, authorizing
 1177 statutes, or applicable rules, any information required to be
 1178 reported to the agency must be submitted within 21 calendar days
 1179 after the report period or effective date of the information,
 1180 whichever is earlier, including, but not limited to, any change
 1181 of:

1182 (a) Information contained in the most recent application
 1183 for licensure.

1184 (b) Required insurance or bonds.

1185 Section 21. Present subsection (4) of section 408.811,
 1186 Florida Statutes, is renumbered as subsection (6), subsections
 1187 (2) and (3) are amended, and new subsections (4) and (5) are
 1188 added to that section, to read:

1189 408.811 Right of inspection; copies; inspection reports;
 1190 plan for correction of deficiencies.--

1191 (2) Inspections conducted in conjunction with
 1192 certification, comparable licensure requirements, or a

1193 recognized or approved accreditation organization may be
 1194 accepted in lieu of a complete licensure inspection. However, a
 1195 licensure inspection may also be conducted to review any
 1196 licensure requirements that are not also requirements for
 1197 certification.

1198 (3) The agency shall have access to and the licensee shall
 1199 provide, or if requested send, copies of all provider records
 1200 required during an inspection or other review at no cost to the
 1201 agency, including records requested during an offsite review.

1202 (4) Deficiencies must be corrected within 30 calendar days
 1203 after the provider is notified of inspection results unless an
 1204 alternative timeframe is required or approved by the agency.

1205 (5) The agency may require an applicant or licensee to
 1206 submit a plan of correction for deficiencies. If required, the
 1207 plan of correction must be filed with the agency within 10
 1208 calendar days after notification unless an alternative timeframe
 1209 is required.

1210 Section 22. Section 408.813, Florida Statutes, is amended
 1211 to read:

1212 408.813 Administrative fines; violations.--As a penalty
 1213 for any violation of this part, authorizing statutes, or
 1214 applicable rules, the agency may impose an administrative fine.

1215 (1) Unless the amount or aggregate limitation of the fine
 1216 is prescribed by authorizing statutes or applicable rules, the
 1217 agency may establish criteria by rule for the amount or
 1218 aggregate limitation of administrative fines applicable to this
 1219 part, authorizing statutes, and applicable rules. Each day of
 1220 violation constitutes a separate violation and is subject to a

1221 separate fine, unless a per-violation fine is prescribed by law.
1222 For fines imposed by final order of the agency and not subject
1223 to further appeal, the violator shall pay the fine plus interest
1224 at the rate specified in s. 55.03 for each day beyond the date
1225 set by the agency for payment of the fine.

1226 (2) Violations of this part, authorizing statutes, or
1227 applicable rules shall be classified according to the nature of
1228 the violation and the gravity of its probable effect on clients.
1229 The scope of a violation may be cited as an isolated, patterned,
1230 or widespread deficiency. An isolated deficiency is a deficiency
1231 affecting one or a very limited number of clients, or involving
1232 one or a very limited number of staff, or a situation that
1233 occurred only occasionally or in a very limited number of
1234 locations. A patterned deficiency is a deficiency in which more
1235 than a very limited number of clients are affected, or more than
1236 a very limited number of staff are involved, or the situation
1237 has occurred in several locations, or the same client or clients
1238 have been affected by repeated occurrences of the same deficient
1239 practice but the effect of the deficient practice is not found
1240 to be pervasive throughout the provider. A widespread deficiency
1241 is a deficiency in which the problems causing the deficiency are
1242 pervasive in the provider or represent systemic failure that has
1243 affected or has the potential to affect a large portion of the
1244 provider's clients. This subsection does not affect the
1245 legislative determination of the amount of a fine imposed under
1246 authorizing statutes. Violations shall be classified on the
1247 written notice as follows:

1248 (a) Class "I" violations are those conditions or
 1249 occurrences related to the operation and maintenance of a
 1250 provider or to the care of clients which the agency determines
 1251 present an imminent danger to the clients of the provider or a
 1252 substantial probability that death or serious physical or
 1253 emotional harm would result therefrom. The condition or practice
 1254 constituting a class I violation shall be abated or eliminated
 1255 within 24 hours, unless a fixed period, as determined by the
 1256 agency, is required for correction. The agency shall impose an
 1257 administrative fine as provided by law for a cited class I
 1258 violation. A fine shall be levied notwithstanding the correction
 1259 of the violation.

1260 (b) Class "II" violations are those conditions or
 1261 occurrences related to the operation and maintenance of a
 1262 provider or to the care of clients which the agency determines
 1263 directly threaten the physical or emotional health, safety, or
 1264 security of the clients, other than class I violations. The
 1265 agency shall impose an administrative fine as provided by law
 1266 for a cited class II violation. A fine shall be levied
 1267 notwithstanding the correction of the violation.

1268 (c) Class "III" violations are those conditions or
 1269 occurrences related to the operation and maintenance of a
 1270 provider or to the care of clients which the agency determines
 1271 indirectly or potentially threaten the physical or emotional
 1272 health, safety, or security of clients, other than class I or
 1273 class II violations. The agency shall impose an administrative
 1274 fine as provided by law for a cited class III violation. A
 1275 citation for a class III violation must specify the time within

1276 which the violation is required to be corrected. If a class III
 1277 violation is corrected within the time specified, a fine may not
 1278 be imposed.

1279 (d) Class "IV" violations are those conditions or
 1280 occurrences related to the operation and maintenance of a
 1281 provider or to required reports, forms, or documents that do not
 1282 have the potential of negatively affecting clients. These
 1283 violations are of a type that the agency determines do not
 1284 threaten the health, safety, or security of clients. The agency
 1285 shall impose an administrative fine as provided by law for a
 1286 cited class IV violation. A citation for a class IV violation
 1287 must specify the time within which the violation is required to
 1288 be corrected. If a class IV violation is corrected within the
 1289 time specified, a fine may not be imposed.

1290 Section 23. Subsections (12) through (29) of section
 1291 408.820, Florida Statutes, are renumbered as subsections (11)
 1292 through (28), respectively, and present subsections (11), (12),
 1293 (13), (21), and (26) of that section are amended to read:

1294 408.820 Exemptions.--Except as prescribed in authorizing
 1295 statutes, the following exemptions shall apply to specified
 1296 requirements of this part:

1297 ~~(11) Private review agents, as provided under part I of~~
 1298 ~~chapter 395, are exempt from ss. 408.806(7), 408.810, and~~
 1299 ~~408.811.~~

1300 (11)~~(12)~~ Health care risk managers, as provided under part
 1301 I of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-
 1302 (10), and 408.811.

1303 (12)~~(13)~~ Nursing homes, as provided under part II of

1304 chapter 400, are exempt from ss. ~~s.~~ 408.810(7) and 408.813(2).
 1305 (20)-(21) Transitional living facilities, as provided under
 1306 part V of chapter 400, are exempt from s. 408.810(7)-(10).

1307 (25)-(26) Health care clinics, as provided under part X of
 1308 chapter 400, are exempt from s. ~~ss. 408.809 and 408.810(1)~~, (6),
 1309 (7), and (10).

1310 Section 24. Section 408.821, Florida Statutes, is created
 1311 to read:

1312 408.821 Emergency management planning; emergency
 1313 operations; inactive license.--

1314 (1) Licensees required by authorizing statutes to have an
 1315 emergency operations plan must designate a safety liaison to
 1316 serve as the primary contact for emergency operations.

1317 (2) An entity subject to this part may temporarily exceed
 1318 its licensed capacity to act as a receiving provider in
 1319 accordance with an approved emergency operations plan for up to
 1320 15 days. While in an overcapacity status, each provider must
 1321 furnish or arrange for appropriate care and services to all
 1322 clients. In addition, the agency may approve requests for
 1323 overcapacity in excess of 15 days, which approvals may be based
 1324 upon satisfactory justification and need as provided by the
 1325 receiving and sending providers.

1326 (3) (a) An inactive license may be issued to a licensee
 1327 subject to this section when the provider is located in a
 1328 geographic area in which a state of emergency was declared by
 1329 the Governor if the provider:

1330 1. Suffered damage to its operation during the state of
 1331 emergency.

1332 2. Is currently licensed.

1333 3. Does not have a provisional license.

1334 4. Will be temporarily unable to provide services but is
1335 reasonably expected to resume services within 12 months.

1336 (b) An inactive license may be issued for a period not to
1337 exceed 12 months but may be renewed by the agency for up to 12
1338 additional months upon demonstration to the agency of progress
1339 toward reopening. A request by a licensee for an inactive
1340 license or to extend the previously approved inactive period
1341 must be submitted in writing to the agency, accompanied by
1342 written justification for the inactive license, which states the
1343 beginning and ending dates of inactivity and includes a plan for
1344 the transfer of any clients to other providers and appropriate
1345 licensure fees. Upon agency approval, the licensee shall notify
1346 clients of any necessary discharge or transfer as required by
1347 authorizing statutes or applicable rules. The beginning of the
1348 inactive licensure period shall be the date the provider ceases
1349 operations. The end of the inactive period shall become the
1350 license expiration date, and all licensure fees must be current,
1351 must be paid in full, and may be prorated. Reactivation of an
1352 inactive license requires the prior approval by the agency of a
1353 renewal application, including payment of licensure fees and
1354 agency inspections indicating compliance with all requirements
1355 of this part and applicable rules and statutes.

1356 (4) The agency may adopt rules relating to emergency
1357 management planning, communications, and operations. Licensees
1358 providing residential or inpatient services must utilize an
1359 online database approved by the agency to report information to

1360 the agency regarding the provider's emergency status, planning,
1361 or operations.

1362 Section 25. Subsections (3), (4), and (5) of section
1363 408.831, Florida Statutes, are amended to read:

1364 408.831 Denial, suspension, or revocation of a license,
1365 registration, certificate, or application.--

1366 ~~(3) An entity subject to this section may exceed its~~
1367 ~~licensed capacity to act as a receiving facility in accordance~~
1368 ~~with an emergency operations plan for clients of evacuating~~
1369 ~~providers from a geographic area where an evacuation order has~~
1370 ~~been issued by a local authority having jurisdiction. While in~~
1371 ~~an overcapacity status, each provider must furnish or arrange~~
1372 ~~for appropriate care and services to all clients. In addition,~~
1373 ~~the agency may approve requests for overcapacity beyond 15 days,~~
1374 ~~which approvals may be based upon satisfactory justification and~~
1375 ~~need as provided by the receiving and sending facilities.~~

1376 ~~(4)(a) An inactive license may be issued to a licensee~~
1377 ~~subject to this section when the provider is located in a~~
1378 ~~geographic area where a state of emergency was declared by the~~
1379 ~~Governor if the provider:~~

1380 ~~1. Suffered damage to its operation during that state of~~
1381 ~~emergency.~~

1382 ~~2. Is currently licensed.~~

1383 ~~3. Does not have a provisional license.~~

1384 ~~4. Will be temporarily unable to provide services but is~~
1385 ~~reasonably expected to resume services within 12 months.~~

1386 ~~(b) An inactive license may be issued for a period not to~~
1387 ~~exceed 12 months but may be renewed by the agency for up to 12~~

1388 ~~additional months upon demonstration to the agency of progress~~
1389 ~~toward reopening. A request by a licensee for an inactive~~
1390 ~~license or to extend the previously approved inactive period~~
1391 ~~must be submitted in writing to the agency, accompanied by~~
1392 ~~written justification for the inactive license, which states the~~
1393 ~~beginning and ending dates of inactivity and includes a plan for~~
1394 ~~the transfer of any clients to other providers and appropriate~~
1395 ~~licensure fees. Upon agency approval, the licensee shall notify~~
1396 ~~clients of any necessary discharge or transfer as required by~~
1397 ~~authorizing statutes or applicable rules. The beginning of the~~
1398 ~~inactive licensure period shall be the date the provider ceases~~
1399 ~~operations. The end of the inactive period shall become the~~
1400 ~~licensee expiration date, and all licensure fees must be~~
1401 ~~current, paid in full, and may be prorated. Reactivation of an~~
1402 ~~inactive license requires the prior approval by the agency of a~~
1403 ~~renewal application, including payment of licensure fees and~~
1404 ~~agency inspections indicating compliance with all requirements~~
1405 ~~of this part and applicable rules and statutes.~~

1406 (3)~~(5)~~ This section provides standards of enforcement
1407 applicable to all entities licensed or regulated by the Agency
1408 for Health Care Administration. This section controls over any
1409 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
1410 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to
1411 those chapters.

1412 Section 26. Subsection (2) of section 408.918, Florida
1413 Statutes, is amended, and subsection (3) is added to that
1414 section, to read:

1415 408.918 Florida 211 Network; uniform certification
1416 requirements.--

1417 (2) In order to participate in the Florida 211 Network, a
1418 211 provider must be fully accredited by the National ~~certified~~
1419 ~~by the Agency for Health Care Administration. The agency shall~~
1420 ~~develop criteria for certification, as recommended by the~~
1421 Florida Alliance of Information and Referral Services ~~or have~~
1422 received approval to operate, pending accreditation, from its
1423 affiliate, the Florida Alliance of Information and Referral
1424 Services, ~~and shall adopt the criteria as administrative rules.~~

1425 ~~(a)~~ If any provider of information and referral services
1426 or other entity leases a 211 number from a local exchange
1427 company and is not authorized as described in this section,
1428 ~~certified by the agency, the agency shall, after consultation~~
1429 ~~with the local exchange company and the Public Service~~
1430 Commission shall, request that the Federal Communications
1431 Commission direct the local exchange company to revoke the use
1432 of the 211 number.

1433 ~~(b) The agency shall seek the assistance and guidance of~~
1434 ~~the Public Service Commission and the Federal Communications~~
1435 ~~Commission in resolving any disputes arising over jurisdiction~~
1436 ~~related to 211 numbers.~~

1437 (3) The Florida Alliance of Information and Referral
1438 Services is the 211 collaborative organization for the state
1439 that is responsible for studying, designing, implementing,
1440 supporting, and coordinating the Florida 211 Network and
1441 receiving federal grants.

1442 Section 27. Paragraph (e) of subsection (4) of section
 1443 409.221, Florida Statutes, is amended to read:

1444 409.221 Consumer-directed care program.--

1445 (4) CONSUMER-DIRECTED CARE.--

1446 (e) Services.--Consumers shall use the budget allowance
 1447 only to pay for home and community-based services that meet the
 1448 consumer's long-term care needs and are a cost-efficient use of
 1449 funds. Such services may include, but are not limited to, the
 1450 following:

1451 1. Personal care.

1452 2. Homemaking and chores, including housework, meals,
 1453 shopping, and transportation.

1454 3. Home modifications and assistive devices which may
 1455 increase the consumer's independence or make it possible to
 1456 avoid institutional placement.

1457 4. Assistance in taking self-administered medication.

1458 5. Day care and respite care services, including those
 1459 provided by nursing home facilities pursuant to s.
 1460 400.141 (1) (f) ~~(6)~~ or by adult day care facilities licensed
 1461 pursuant to s. 429.907.

1462 6. Personal care and support services provided in an
 1463 assisted living facility.

1464 Section 28. Subsection (5) of section 409.901, Florida
 1465 Statutes, is amended to read:

1466 409.901 Definitions; ss. 409.901-409.920.--As used in ss.
 1467 409.901-409.920, except as otherwise specifically provided, the
 1468 term:

1469 (5) "Change of ownership" means:

1470 (a) An event in which the provider ownership changes to a
 1471 different individual legal entity, as evidenced by a change in
 1472 federal employer identification number or taxpayer
 1473 identification number; ~~or~~

1474 (b) An event in which ~~51~~ 45 percent or more of the
 1475 ownership, ~~voting~~ shares, membership, or controlling interest of
 1476 a provider is in any manner transferred or otherwise assigned.
 1477 This paragraph does not apply to a licensee that is publicly
 1478 traded on a recognized stock exchange; or

1479 (c) When the provider is licensed or registered by the
 1480 agency, an event considered a change of ownership for licensure
 1481 as defined in s. 408.803 in a corporation whose shares are not
 1482 publicly traded on a recognized stock exchange is transferred or
 1483 assigned, including the final transfer or assignment of multiple
 1484 transfers or assignments over a 2-year period that cumulatively
 1485 total 45 percent or more.

1486
 1487 A change solely in the management company or board of directors
 1488 is not a change of ownership.

1489 Section 29. Section 429.071, Florida Statutes, is
 1490 repealed.

1491 Section 30. Paragraph (e) of subsection (1) and
 1492 subsections (2) and (3) of section 429.08, Florida Statutes, are
 1493 amended to read:

1494 429.08 Unlicensed facilities; referral of person for
 1495 residency to unlicensed facility; penalties; verification of
 1496 licensure status.--

1497 (1)

1498 (e) The agency shall publish ~~provide to the department's~~
 1499 ~~elder information and referral providers~~ a list, by county, of
 1500 licensed assisted living facilities, ~~to assist persons who are~~
 1501 ~~considering an assisted living facility placement in locating a~~
 1502 ~~licensed facility.~~ This information may be provided
 1503 electronically or on the agency's Internet website.

1504 ~~(2) Each field office of the Agency for Health Care~~
 1505 ~~Administration shall establish a local coordinating workgroup~~
 1506 ~~which includes representatives of local law enforcement~~
 1507 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~
 1508 ~~the Department of Legal Affairs, local fire authorities, the~~
 1509 ~~Department of Children and Family Services, the district long-~~
 1510 ~~term care ombudsman council, and the district human rights~~
 1511 ~~advocacy committee to assist in identifying the operation of~~
 1512 ~~unlicensed facilities and to develop and implement a plan to~~
 1513 ~~ensure effective enforcement of state laws relating to such~~
 1514 ~~facilities. The workgroup shall report its findings, actions,~~
 1515 ~~and recommendations semiannually to the Director of Health~~
 1516 ~~Quality Assurance of the agency.~~

1517 ~~(2)(3)~~ (2) It is unlawful to knowingly refer a person for
 1518 residency to an unlicensed assisted living facility; to an
 1519 assisted living facility the license of which is under denial or
 1520 has been suspended or revoked; or to an assisted living facility
 1521 that has a moratorium pursuant to part II of chapter 408. ~~Any~~
 1522 ~~person who violates this subsection commits a noncriminal~~
 1523 ~~violation, punishable by a fine not exceeding \$500 as provided~~
 1524 ~~in s. 775.083.~~

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1525 (a) Any health care practitioner, as defined in s.
1526 456.001, who is aware of the operation of an unlicensed facility
1527 shall report that facility to the agency. Failure to report a
1528 facility that the practitioner knows or has reasonable cause to
1529 suspect is unlicensed shall be reported to the practitioner's
1530 licensing board.

1531 (b) Any provider as defined in s. 408.803 that ~~hospital or~~
1532 ~~community mental health center licensed under chapter 395 or~~
1533 ~~chapter 394 which~~ knowingly discharges a patient or client to an
1534 unlicensed facility is subject to sanction by the agency.

1535 (c) Any employee of the agency or department, or the
1536 Department of Children and Family Services, who knowingly refers
1537 a person for residency to an unlicensed facility; to a facility
1538 the license of which is under denial or has been suspended or
1539 revoked; or to a facility that has a moratorium pursuant to part
1540 II of chapter 408 is subject to disciplinary action by the
1541 agency or department, or the Department of Children and Family
1542 Services.

1543 (d) The employer of any person who is under contract with
1544 the agency or department, or the Department of Children and
1545 Family Services, and who knowingly refers a person for residency
1546 to an unlicensed facility; to a facility the license of which is
1547 under denial or has been suspended or revoked; or to a facility
1548 that has a moratorium pursuant to part II of chapter 408 shall
1549 be fined and required to prepare a corrective action plan
1550 designed to prevent such referrals.

1551 ~~(e) The agency shall provide the department and the~~
1552 ~~Department of Children and Family Services with a list of~~

1553 ~~licensed facilities within each county and shall update the list~~
 1554 ~~at least quarterly.~~

1555 ~~(f) At least annually, the agency shall notify, in~~
 1556 ~~appropriate trade publications, physicians licensed under~~
 1557 ~~chapter 458 or chapter 459, hospitals licensed under chapter~~
 1558 ~~395, nursing home facilities licensed under part II of chapter~~
 1559 ~~400, and employees of the agency or the department, or the~~
 1560 ~~Department of Children and Family Services, who are responsible~~
 1561 ~~for referring persons for residency, that it is unlawful to~~
 1562 ~~knowingly refer a person for residency to an unlicensed assisted~~
 1563 ~~living facility and shall notify them of the penalty for~~
 1564 ~~violating such prohibition. The department and the Department of~~
 1565 ~~Children and Family Services shall, in turn, notify service~~
 1566 ~~providers under contract to the respective departments who have~~
 1567 ~~responsibility for resident referrals to facilities. Further,~~
 1568 ~~the notice must direct each noticed facility and individual to~~
 1569 ~~contact the appropriate agency office in order to verify the~~
 1570 ~~licensure status of any facility prior to referring any person~~
 1571 ~~for residency. Each notice must include the name, telephone~~
 1572 ~~number, and mailing address of the appropriate office to~~
 1573 ~~contact.~~

1574 Section 31. Paragraph (e) of subsection (1) of section
 1575 429.14, Florida Statutes, is amended to read:

1576 429.14 Administrative penalties.--

1577 (1) In addition to the requirements of part II of chapter
 1578 408, the agency may deny, revoke, and suspend any license issued
 1579 under this part and impose an administrative fine in the manner
 1580 provided in chapter 120 against a licensee of an assisted living

1581 facility for a violation of any provision of this part, part II
 1582 of chapter 408, or applicable rules, or for any of the following
 1583 actions by a licensee of an assisted living facility, for the
 1584 actions of any person subject to level 2 background screening
 1585 under s. 408.809, or for the actions of any facility employee:

1586 (e) A citation of any of the following deficiencies as
 1587 specified ~~defined~~ in s. 429.19:

- 1588 1. One or more cited class I deficiencies.
- 1589 2. Three or more cited class II deficiencies.
- 1590 3. Five or more cited class III deficiencies that have
 1591 been cited on a single survey and have not been corrected within
 1592 the times specified.

1593 Section 32. Subsections (2), (8), and (9) of section
 1594 429.19, Florida Statutes, are amended to read:

1595 429.19 Violations; imposition of administrative fines;
 1596 grounds.--

1597 (2) Each violation of this part and adopted rules shall be
 1598 classified according to the nature of the violation and the
 1599 gravity of its probable effect on facility residents. The agency
 1600 shall indicate the classification on the written notice of the
 1601 violation as follows:

1602 (a) Class "I" violations are defined in s. 408.813 ~~those~~
 1603 ~~conditions or occurrences related to the operation and~~
 1604 ~~maintenance of a facility or to the personal care of residents~~
 1605 ~~which the agency determines present an imminent danger to the~~
 1606 ~~residents or guests of the facility or a substantial probability~~
 1607 ~~that death or serious physical or emotional harm would result~~
 1608 ~~therefrom. The condition or practice constituting a class I~~

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1609 ~~violation shall be abated or eliminated within 24 hours, unless~~
1610 ~~a fixed period, as determined by the agency, is required for~~
1611 ~~correction.~~ The agency shall impose an administrative fine for a
1612 cited class I violation in an amount not less than \$5,000 and
1613 not exceeding \$10,000 for each violation. ~~A fine may be levied~~
1614 ~~notwithstanding the correction of the violation.~~

1615 (b) Class "II" violations are defined in s. 408.813 ~~those~~
1616 ~~conditions or occurrences related to the operation and~~
1617 ~~maintenance of a facility or to the personal care of residents~~
1618 ~~which the agency determines directly threaten the physical or~~
1619 ~~emotional health, safety, or security of the facility residents,~~
1620 ~~other than class I violations.~~ The agency shall impose an
1621 administrative fine for a cited class II violation in an amount
1622 not less than \$1,000 and not exceeding \$5,000 for each
1623 violation. ~~A fine shall be levied notwithstanding the correction~~
1624 ~~of the violation.~~

1625 (c) Class "III" violations are defined in s. 408.813 ~~those~~
1626 ~~conditions or occurrences related to the operation and~~
1627 ~~maintenance of a facility or to the personal care of residents~~
1628 ~~which the agency determines indirectly or potentially threaten~~
1629 ~~the physical or emotional health, safety, or security of~~
1630 ~~facility residents, other than class I or class II violations.~~
1631 The agency shall impose an administrative fine for a cited class
1632 III violation in an amount not less than \$500 and not exceeding
1633 \$1,000 for each violation. ~~A citation for a class III violation~~
1634 ~~must specify the time within which the violation is required to~~
1635 ~~be corrected. If a class III violation is corrected within the~~

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1636 ~~time specified, no fine may be imposed, unless it is a repeated~~
1637 ~~offense.~~

1638 (d) Class "IV" violations are defined in s. 408.813 ~~those~~
1639 ~~conditions or occurrences related to the operation and~~
1640 ~~maintenance of a building or to required reports, forms, or~~
1641 ~~documents that do not have the potential of negatively affecting~~
1642 ~~residents. These violations are of a type that the agency~~
1643 ~~determines do not threaten the health, safety, or security of~~
1644 ~~residents of the facility.~~ The agency shall impose an
1645 administrative fine for a cited class IV violation in an amount
1646 not less than \$100 and not exceeding \$200 for each violation. A
1647 ~~citation for a class IV violation must specify the time within~~
1648 ~~which the violation is required to be corrected. If a class IV~~
1649 ~~violation is corrected within the time specified, no fine shall~~
1650 ~~be imposed. Any class IV violation that is corrected during the~~
1651 ~~time an agency survey is being conducted will be identified as~~
1652 ~~an agency finding and not as a violation.~~

1653 (8) During an inspection, ~~the agency, as an alternative to~~
1654 ~~or in conjunction with an administrative action against a~~
1655 ~~facility for violations of this part and adopted rules, shall~~
1656 ~~make a reasonable attempt to discuss each violation and~~
1657 ~~recommended corrective action with the owner or administrator of~~
1658 ~~the facility, prior to written notification. The agency, instead~~
1659 ~~of fixing a period within which the facility shall enter into~~
1660 ~~compliance with standards, may request a plan of corrective~~
1661 ~~action from the facility which demonstrates a good faith effort~~
1662 ~~to remedy each violation by a specific date, subject to the~~
1663 ~~approval of the agency.~~

1664 (9) The agency shall develop and disseminate an annual
1665 list of all facilities sanctioned or fined ~~\$5,000 or more~~ for
1666 violations of state standards, the number and class of
1667 violations involved, the penalties imposed, and the current
1668 status of cases. The list shall be disseminated, at no charge,
1669 to the Department of Elderly Affairs, the Department of Health,
1670 the Department of Children and Family Services, the Agency for
1671 Persons with Disabilities, the area agencies on aging, the
1672 Florida Statewide Advocacy Council, and the state and local
1673 ombudsman councils. The Department of Children and Family
1674 Services shall disseminate the list to service providers under
1675 contract to the department who are responsible for referring
1676 persons to a facility for residency. The agency may charge a fee
1677 commensurate with the cost of printing and postage to other
1678 interested parties requesting a copy of this list. This
1679 information may be provided electronically or on the agency's
1680 Internet website.

1681 Section 33. Subsections (2) and (6) of section 429.23,
1682 Florida Statutes, are amended to read:

1683 429.23 Internal risk management and quality assurance
1684 program; adverse incidents and reporting requirements.--

1685 (2) Every facility licensed under this part is required to
1686 maintain adverse incident reports. For purposes of this section,
1687 the term, "adverse incident" means:

1688 (a) An event over which facility personnel could exercise
1689 control rather than as a result of the resident's condition and
1690 results in:

1691 1. Death;

- 1692 2. Brain or spinal damage;
- 1693 3. Permanent disfigurement;
- 1694 4. Fracture or dislocation of bones or joints;
- 1695 5. Any condition that required medical attention to which
- 1696 the resident has not given his or her consent, including failure
- 1697 to honor advanced directives;
- 1698 6. Any condition that requires the transfer of the
- 1699 resident from the facility to a unit providing more acute care
- 1700 due to the incident rather than the resident's condition before
- 1701 the incident; or-
- 1702 7. An event that is reported to law enforcement or its
- 1703 personnel for investigation; or
- 1704 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
- 1705 ~~415.102;~~
- 1706 ~~(c) Events reported to law enforcement; or~~
- 1707 (b)(d) Resident elopement, if the elopement places the
- 1708 resident at risk of harm or injury.
- 1709 (6) Abuse, neglect, or exploitation must be reported to
- 1710 the Department of Children and Family Services as required under
- 1711 chapter 415. The agency shall annually submit to the Legislature
- 1712 a report on assisted living facility adverse incident reports.
- 1713 The report must include the following information arranged by
- 1714 county:
- 1715 ~~(a) A total number of adverse incidents;~~
- 1716 ~~(b) A listing, by category, of the type of adverse~~
- 1717 ~~incidents occurring within each category and the type of staff~~
- 1718 ~~involved;~~

1719 ~~(c) A listing, by category, of the types of injuries, if~~
1720 ~~any, and the number of injuries occurring within each category;~~

1721 ~~(d) Types of liability claims filed based on an adverse~~
1722 ~~incident report or reportable injury; and~~

1723 ~~(e) Disciplinary action taken against staff, categorized~~
1724 ~~by the type of staff involved.~~

1725 Section 34. Subsections (10) through (12) of section
1726 429.26, Florida Statutes, are renumbered as subsections (9)
1727 through (11), respectively, and present subsection (9) of that
1728 section is amended to read:

1729 429.26 Appropriateness of placements; examinations of
1730 residents.--

1731 ~~(9) If, at any time after admission to a facility, a~~
1732 ~~resident appears to need care beyond that which the facility is~~
1733 ~~licensed to provide, the agency shall require the resident to be~~
1734 ~~physically examined by a licensed physician, physician~~
1735 ~~assistant, or licensed nurse practitioner. This examination~~
1736 ~~shall, to the extent possible, be performed by the resident's~~
1737 ~~preferred physician or nurse practitioner and shall be paid for~~
1738 ~~by the resident with personal funds, except as provided in s.~~
1739 ~~429.18(2). Following this examination, the examining physician,~~
1740 ~~physician assistant, or licensed nurse practitioner shall~~
1741 ~~complete and sign a medical form provided by the agency. The~~
1742 ~~completed medical form shall be submitted to the agency within~~
1743 ~~30 days after the date the facility owner or administrator is~~
1744 ~~notified by the agency that the physical examination is~~
1745 ~~required. After consultation with the physician, physician~~
1746 ~~assistant, or licensed nurse practitioner who performed the~~

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1747 ~~examination, a medical review team designated by the agency~~
1748 ~~shall then determine whether the resident is appropriately~~
1749 ~~residing in the facility. The medical review team shall base its~~
1750 ~~decision on a comprehensive review of the resident's physical~~
1751 ~~and functional status, including the resident's preferences, and~~
1752 ~~not on an isolated health-related problem. In the case of a~~
1753 ~~mental health resident, if the resident appears to have needs in~~
1754 ~~addition to those identified in the community living support~~
1755 ~~plan, the agency may require an evaluation by a mental health~~
1756 ~~professional, as determined by the Department of Children and~~
1757 ~~Family Services. A facility may not be required to retain a~~
1758 ~~resident who requires more services or care than the facility is~~
1759 ~~able to provide in accordance with its policies and criteria for~~
1760 ~~admission and continued residency. Members of the medical review~~
1761 ~~team making the final determination may not include the agency~~
1762 ~~personnel who initially questioned the appropriateness of a~~
1763 ~~resident's placement. Such determination is final and binding~~
1764 ~~upon the facility and the resident. Any resident who is~~
1765 ~~determined by the medical review team to be inappropriately~~
1766 ~~residing in a facility shall be given 30 days' written notice to~~
1767 ~~relocate by the owner or administrator, unless the resident's~~
1768 ~~continued residence in the facility presents an imminent danger~~
1769 ~~to the health, safety, or welfare of the resident or a~~
1770 ~~substantial probability exists that death or serious physical~~
1771 ~~harm would result to the resident if allowed to remain in the~~
1772 ~~facility.~~

1773 Section 35. Paragraph (h) of subsection (3) of section
1774 430.80, Florida Statutes, is amended to read:

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1775 430.80 Implementation of a teaching nursing home pilot
 1776 project.--

1777 (3) To be designated as a teaching nursing home, a nursing
 1778 home licensee must, at a minimum:

1779 (h) Maintain insurance coverage pursuant to s.
 1780 400.141 (1) (s) ~~(20)~~ or proof of financial responsibility in a
 1781 minimum amount of \$750,000. Such proof of financial
 1782 responsibility may include:

- 1783 1. Maintaining an escrow account consisting of cash or
 1784 assets eligible for deposit in accordance with s. 625.52; or
- 1785 2. Obtaining and maintaining pursuant to chapter 675 an
 1786 unexpired, irrevocable, nontransferable and nonassignable letter
 1787 of credit issued by any bank or savings association organized
 1788 and existing under the laws of this state or any bank or savings
 1789 association organized under the laws of the United States that
 1790 has its principal place of business in this state or has a
 1791 branch office which is authorized to receive deposits in this
 1792 state. The letter of credit shall be used to satisfy the
 1793 obligation of the facility to the claimant upon presentment of a
 1794 final judgment indicating liability and awarding damages to be
 1795 paid by the facility or upon presentment of a settlement
 1796 agreement signed by all parties to the agreement when such final
 1797 judgment or settlement is a result of a liability claim against
 1798 the facility.

1799 Section 36. Subsection (5) of section 435.04, Florida
 1800 Statutes, is amended to read:

1801 435.04 Level 2 screening standards.--

1802 (5) Under penalty of perjury, all employees in such
 1803 positions of trust or responsibility shall attest to meeting the
 1804 requirements for qualifying for employment and agreeing to
 1805 inform the employer immediately if convicted of any of the
 1806 disqualifying offenses while employed by the employer. Each
 1807 employer of employees in such positions of trust or
 1808 responsibilities which is licensed or registered by a state
 1809 agency shall submit to the licensing agency annually or at the
 1810 time of license renewal, under penalty of perjury, an affidavit
 1811 of compliance with the provisions of this section.

1812 Section 37. Subsection (3) of section 435.05, Florida
 1813 Statutes, is amended to read:

1814 435.05 Requirements for covered employees.--Except as
 1815 otherwise provided by law, the following requirements shall
 1816 apply to covered employees:

1817 (3) Each employer required to conduct level 2 background
 1818 screening must sign an affidavit annually or at the time of
 1819 license renewal, under penalty of perjury, stating that all
 1820 covered employees have been screened or are newly hired and are
 1821 awaiting the results of the required screening checks.

1822 Section 38. Subsection (2) of section 483.031, Florida
 1823 Statutes, is amended to read:

1824 483.031 Application of part; exemptions.--This part
 1825 applies to all clinical laboratories within this state, except:

1826 (2) A clinical laboratory that performs only waived tests
 1827 ~~and has received a certificate of exemption from the agency~~
 1828 ~~under s. 483.106.~~

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1829 Section 39. Subsection (10) of section 483.041, Florida
 1830 Statutes, is amended to read:

1831 483.041 Definitions.--As used in this part, the term:

1832 (10) "Waived test" means a test that the federal Centers
 1833 for Medicare and Medicaid Services Health Care Financing
 1834 ~~Administration~~ has determined qualifies for a certificate of
 1835 waiver under the federal Clinical Laboratory Improvement
 1836 Amendments of 1988, and the federal rules adopted thereunder.

1837 Section 40. Section 483.106, Florida Statutes, is
 1838 repealed.

1839 Section 41. Subsection (3) of section 483.172, Florida
 1840 Statutes, is amended to read:

1841 483.172 License fees.--

1842 (3) The agency shall assess a ~~biennial fee of \$100 for a~~
 1843 ~~certificate of exemption and a \$100~~ biennial license fee under
 1844 this section for facilities surveyed by an approved accrediting
 1845 organization.

1846 Section 42. Paragraph (b) of subsection (1) of section
 1847 627.4239, Florida Statutes, is amended to read:

1848 627.4239 Coverage for use of drugs in treatment of
 1849 cancer.--

1850 (1) DEFINITIONS.--As used in this section, the term:

1851 (b) "Standard reference compendium" means authoritative
 1852 compendia identified by the Secretary of the United States
 1853 Department of Health and Human Services and recognized by the
 1854 federal Centers for Medicare and Medicaid Services;

1855 1. ~~The United States Pharmacopeia Drug Information;~~

1856 2. ~~The American Medical Association Drug Evaluations; or~~

1857 ~~3. The American Hospital Formulary Service Drug~~
 1858 ~~Information.~~

1859 Section 43. Paragraph (b) of subsection (5) of section
 1860 627.736, Florida Statutes, is amended to read:

1861 627.736 Required personal injury protection benefits;
 1862 exclusions; priority; claims.--

1863 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

1864 (b)1. An insurer or insured is not required to pay a claim
 1865 or charges:

1866 a. Made by a broker or by a person making a claim on
 1867 behalf of a broker;

1868 b. For any service or treatment that was not lawful at the
 1869 time rendered;

1870 c. To any person who knowingly submits a false or
 1871 misleading statement relating to the claim or charges;

1872 d. With respect to a bill or statement that does not
 1873 substantially meet the applicable requirements of paragraph (d);

1874 e. For any treatment or service that is upcoded, or that
 1875 is unbundled when such treatment or services should be bundled,
 1876 in accordance with paragraph (d). To facilitate prompt payment
 1877 of lawful services, an insurer may change codes that it
 1878 determines to have been improperly or incorrectly upcoded or
 1879 unbundled, and may make payment based on the changed codes,
 1880 without affecting the right of the provider to dispute the
 1881 change by the insurer, provided that before doing so, the
 1882 insurer must contact the health care provider and discuss the
 1883 reasons for the insurer's change and the health care provider's

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1884 | reason for the coding, or make a reasonable good faith effort to
1885 | do so, as documented in the insurer's file; ~~and~~

1886 | f. For medical services or treatment billed by a physician
1887 | and not provided in a hospital unless such services are rendered
1888 | by the physician or are incident to his or her professional
1889 | services and are included on the physician's bill, including
1890 | documentation verifying that the physician is responsible for
1891 | the medical services that were rendered and billed; and

1892 | g. For any service or treatment billed by a provider not
1893 | holding an identification number issued by the agency pursuant
1894 | to s. 400.9935(10).

1895 | 2. The Department of Health, in consultation with the
1896 | appropriate professional licensing boards, shall adopt, by rule,
1897 | a list of diagnostic tests deemed not to be medically necessary
1898 | for use in the treatment of persons sustaining bodily injury
1899 | covered by personal injury protection benefits under this
1900 | section. The initial list shall be adopted by January 1, 2004,
1901 | and shall be revised from time to time as determined by the
1902 | Department of Health, in consultation with the respective
1903 | professional licensing boards. Inclusion of a test on the list
1904 | of invalid diagnostic tests shall be based on lack of
1905 | demonstrated medical value and a level of general acceptance by
1906 | the relevant provider community and shall not be dependent for
1907 | results entirely upon subjective patient response.

1908 | Notwithstanding its inclusion on a fee schedule in this
1909 | subsection, an insurer or insured is not required to pay any
1910 | charges or reimburse claims for any invalid diagnostic test as
1911 | determined by the Department of Health.

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1912 Section 44. Subsection (13) of section 651.118, Florida
1913 Statutes, is amended to read:

1914 651.118 Agency for Health Care Administration;
1915 certificates of need; sheltered beds; community beds.--

1916 (13) Residents, as defined in this chapter, are not
1917 considered new admissions for the purpose of s.

1918 400.141(1)(o)1.d.~~(15)(d)~~.

1919 Section 45. This act shall take effect upon becoming a
1920 law.