

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. 395.602, F.S.; providing an  
7       additional 3-year transition period for certain hospitals  
8       to retain their designation as rural hospitals; amending  
9       s. 400.118, F.S.; removing provisions requiring quality-  
10      of-care monitors for nursing facilities in agency district  
11      offices; amending s. 400.141, F.S.; revising reporting  
12      requirements for facility staff-to-resident ratios;  
13      deleting a requirement that licensed nursing home  
14      facilities provide the agency with a monthly report on the  
15      number of vacant beds in the facility; amending s.  
16      400.147, F.S.; revising reporting requirements under  
17      facility internal risk management and quality assurance  
18      programs; revising the definition of the term "adverse  
19      incident" for reporting purposes; requiring abuse,  
20      neglect, and exploitation to be reported to the agency and  
21      the Department of Children and Family Services; deleting a  
22      requirement that the agency submit an annual report on  
23      nursing home adverse incidents to the Legislature;  
24      amending s. 400.162, F.S.; revising provisions relating to  
25      procedures and policies regarding the safekeeping of  
26      nursing home residents' property; amending s. 400.191,  
27      F.S.; eliminating requirements for the agency to publish  
28      the Nursing Home Guide annually in printed form; revising

29 information provided on the agency's Internet website;  
30 amending s. 400.195, F.S.; conforming a cross-reference;  
31 amending s. 400.23, F.S.; deleting provisions relating to  
32 minimum staffing requirements for nursing homes; amending  
33 s. 400.474, F.S.; providing that specified provisions  
34 relating to remuneration do not apply to or preclude  
35 certain payment practices permitted under specified  
36 federal laws or regulations; amending s. 400.506, F.S.;;  
37 exempting nurse registries not participating in the  
38 Medicaid or Medicare program from certain disciplinary  
39 actions for paying remuneration to certain entities in  
40 exchange for patient referrals; amending s. 400.9905,  
41 F.S.; revising the definition of the term "clinic" to  
42 provide that pt. X of ch. 400, F.S., the Health Care  
43 Clinic Act, does not apply to entities that do not seek  
44 reimbursement from insurance companies for medical  
45 services paid pursuant to personal injury protection  
46 coverage; amending s. 400.9935, F.S.; revising  
47 accreditation requirements for clinics providing magnetic  
48 resonance imaging services; providing for a unique  
49 identification number for licensed clinics and entities  
50 holding certificates of exemption; requiring the agency to  
51 assign unique identification numbers, under certain  
52 circumstances, and publish the numbers on its Internet  
53 website in a specified format; amending s. 400.995, F.S.;;  
54 revising agency responsibilities with respect to personnel  
55 and operations in certain injunctive proceedings; amending  
56 s. 408.040, F.S.; extending the period for which a

57 certificate of need is valid for certain entities;  
58 providing that the amendment to s. 408.040(2)(a), F.S.,  
59 shall control over conflicting provisions; amending s.  
60 408.07, F.S.; providing an additional 3-year transition  
61 period for certain hospitals to retain their designation  
62 as rural hospitals; amending s. 408.803, F.S.; revising  
63 definitions applicable to pt. II of ch. 408, F.S., the  
64 "Health Care Licensing Procedures Act"; amending s.  
65 408.806, F.S.; revising contents of and procedures  
66 relating to health care provider applications for  
67 licensure; providing an exception from certain licensure  
68 inspections for adult family-care homes; authorizing the  
69 agency to provide electronic access to certain information  
70 and documents; amending s. 408.808, F.S.; providing for a  
71 provisional license to be issued to applicants applying  
72 for a change of ownership; providing a time limit on  
73 provisional licenses; amending s. 408.809, F.S.; revising  
74 provisions relating to background screening of specified  
75 employees; exempting certain persons from rescreening;  
76 permitting certain persons to apply for an exemption from  
77 disqualification under certain circumstances; requiring  
78 health care providers to submit to the agency an affidavit  
79 of compliance with background screening requirements at  
80 the time of license renewal; deleting a provision to  
81 conform to changes made by the act; amending s. 408.810,  
82 F.S.; revising provisions relating to information required  
83 for licensure; amending s. 408.811, F.S.; providing for  
84 certain inspections to be accepted in lieu of complete

85 licensure inspections; granting agency access to records  
86 requested during an offsite review; providing timeframes  
87 for correction of certain deficiencies and submission of  
88 plans to correct such deficiencies; amending s. 408.813,  
89 F.S.; providing classifications of violations of pt. II of  
90 ch. 408, F.S.; providing for fines; amending s. 408.820,  
91 F.S.; revising applicability of exemptions from specified  
92 requirements of pt. II of ch. 408, F.S.; conforming  
93 references; creating s. 408.821, F.S.; requiring entities  
94 regulated or licensed by the agency to designate a safety  
95 liaison for emergency operations; providing that entities  
96 regulated or licensed by the agency may temporarily exceed  
97 their licensed capacity to act as receiving providers  
98 under specified circumstances; providing requirements  
99 while such entities are in an overcapacity status;  
100 providing for issuance of an inactive license to such  
101 licensees under specified conditions; providing  
102 requirements and procedures with respect to the issuance  
103 and reactivation of an inactive license; authorizing the  
104 agency to adopt rules; amending s. 408.831, F.S.; deleting  
105 provisions relating to authorization for entities  
106 regulated or licensed by the agency to exceed their  
107 licensed capacity to act as receiving facilities and  
108 issuance and reactivation of inactive licenses; amending  
109 s. 408.918, F.S.; requiring accreditation by the National  
110 Alliance of Information and Referral Services for  
111 participation in the Florida 211 Network; eliminating the  
112 requirement that the agency seek certain assistance and

113 guidance in resolving certain disputes; removing certain  
114 agency obligations relating to the Florida 211 Network;  
115 requiring the Florida Alliance of Information and Referral  
116 Services to perform certain functions related to the  
117 Florida 211 Network; amending s. 409.221, F.S.; conforming  
118 a cross-reference; amending s. 409.901, F.S.; revising a  
119 definition applicable to Medicaid providers; repealing s.  
120 429.071, F.S., relating to the intergenerational respite  
121 care assisted living facility pilot program; amending s.  
122 429.08, F.S.; authorizing the agency to provide  
123 information regarding licensed assisted living facilities  
124 electronically or on its Internet website; abolishing  
125 local coordinating workgroups established by agency field  
126 offices; deleting a fine; deleting provisions requiring  
127 the agency to provide certain information and notice to  
128 service providers; amending s. 429.14, F.S.; conforming a  
129 reference; amending s. 429.19, F.S.; revising agency  
130 procedures for imposition of fines for violations of pt. I  
131 of ch. 429, F.S., the "Assisted Living Facilities Act";  
132 providing for the posting of certain information  
133 electronically or on the agency's Internet website;  
134 amending s. 429.23, F.S.; revising the definition of the  
135 term "adverse incident" for reporting purposes; requiring  
136 abuse, neglect, and exploitation to be reported to the  
137 agency and the Department of Children and Family Services;  
138 deleting a requirement that the agency submit an annual  
139 report on assisted living facility adverse incidents to  
140 the Legislature; amending s. 429.26, F.S.; removing

141 requirement for a resident of an assisted living facility  
142 to undergo examinations and evaluations under certain  
143 circumstances; amending s. 430.80, F.S.; conforming a  
144 cross-reference; amending ss. 435.04 and 435.05, F.S.;  
145 requiring employers of certain employees to submit an  
146 affidavit of compliance with level 2 screening  
147 requirements at the time of license renewal; amending s.  
148 483.031, F.S.; conforming a reference; amending s.  
149 483.041, F.S.; revising a definition applicable to pt. I  
150 of ch. 483, F.S., the "Florida Clinical Laboratory Law";  
151 repealing s. 483.106, F.S., relating to applications for  
152 certificates of exemption by clinical laboratories that  
153 perform certain tests; amending s. 483.172, F.S.;  
154 conforming a reference; amending s. 627.4239, F.S.;  
155 revising the definition of the term "standard reference  
156 compendium" for purposes of regulating the insurance  
157 coverage of drugs used in the treatment of cancer;  
158 amending s. 627.736, F.S.; providing that personal injury  
159 protection insurance carriers are not required to pay  
160 claims or charges for service or treatment billed by a  
161 provider not holding an identification number issued by  
162 the agency; amending s. 651.118, F.S.; conforming a cross-  
163 reference; providing an effective date.

164  
165 Be It Enacted by the Legislature of the State of Florida:

166  
167 Section 1. Section 395.0199, Florida Statutes, is  
168 repealed.

169 Section 2. Section 395.405, Florida Statutes, is amended  
 170 to read:

171 395.405 Rulemaking.--The department shall adopt and  
 172 enforce all rules necessary to administer ss. ~~395.0199~~, 395.401,  
 173 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.

174 Section 3. Paragraph (e) of subsection (2) of section  
 175 395.602, Florida Statutes, is amended to read:

176 395.602 Rural hospitals.--

177 (2) DEFINITIONS.--As used in this part:

178 (e) "Rural hospital" means an acute care hospital licensed  
 179 under this chapter, having 100 or fewer licensed beds and an  
 180 emergency room, which is:

181 1. The sole provider within a county with a population  
 182 density of no greater than 100 persons per square mile;

183 2. An acute care hospital, in a county with a population  
 184 density of no greater than 100 persons per square mile, which is  
 185 at least 30 minutes of travel time, on normally traveled roads  
 186 under normal traffic conditions, from any other acute care  
 187 hospital within the same county;

188 3. A hospital supported by a tax district or subdistrict  
 189 whose boundaries encompass a population of 100 persons or fewer  
 190 per square mile;

191 4. A hospital in a constitutional charter county with a  
 192 population of over 1 million persons that has imposed a local  
 193 option health service tax pursuant to law and in an area that  
 194 was directly impacted by a catastrophic event on August 24,  
 195 1992, for which the Governor of Florida declared a state of  
 196 emergency pursuant to chapter 125, and has 120 beds or less that

197 serves an agricultural community with an emergency room  
198 utilization of no less than 20,000 visits and a Medicaid  
199 inpatient utilization rate greater than 15 percent;

200 5. A hospital with a service area that has a population of  
201 100 persons or fewer per square mile. As used in this  
202 subparagraph, the term "service area" means the fewest number of  
203 zip codes that account for 75 percent of the hospital's  
204 discharges for the most recent 5-year period, based on  
205 information available from the hospital inpatient discharge  
206 database in the Florida Center for Health Information and Policy  
207 Analysis at the Agency for Health Care Administration; or

208 6. A hospital designated as a critical access hospital, as  
209 defined in s. 408.07(15).

210  
211 Population densities used in this paragraph must be based upon  
212 the most recently completed United States census. A hospital  
213 that received funds under s. 409.9116 for a quarter beginning no  
214 later than July 1, 2002, is deemed to have been and shall  
215 continue to be a rural hospital from that date through June 30,  
216 2015 ~~2012~~, if the hospital continues to have 100 or fewer  
217 licensed beds and an emergency room, or meets the criteria of  
218 subparagraph 4. An acute care hospital that has not previously  
219 been designated as a rural hospital and that meets the criteria  
220 of this paragraph shall be granted such designation upon  
221 application, including supporting documentation to the Agency  
222 for Health Care Administration.

223 Section 4. Subsection (1) of section 400.0712, Florida  
224 Statutes, is amended to read:



225 400.0712 Application for inactive license.--

226 (1) As specified in ~~s. 408.831(4)~~ and this section, the  
 227 agency may issue an inactive license to a nursing home facility  
 228 for all or a portion of its beds. Any request by a licensee that  
 229 a nursing home or portion of a nursing home become inactive must  
 230 be submitted to the agency in the approved format. The facility  
 231 may not initiate any suspension of services, notify residents,  
 232 or initiate inactivity before receiving approval from the  
 233 agency; and a licensee that violates this provision may not be  
 234 issued an inactive license.

235 Section 5. Subsection (3) of section 400.118, Florida  
 236 Statutes, is renumbered as subsection (2), and present  
 237 subsection (2) of that section is amended to read:

238 400.118 Quality assurance; early warning system;  
 239 ~~monitoring;~~ rapid response teams.--

240 ~~(2) (a) The agency shall establish within each district~~  
 241 ~~office one or more quality of care monitors, based on the number~~  
 242 ~~of nursing facilities in the district, to monitor all nursing~~  
 243 ~~facilities in the district on a regular, unannounced, aperiodic~~  
 244 ~~basis, including nights, evenings, weekends, and holidays.~~  
 245 ~~Quality of care monitors shall visit each nursing facility at~~  
 246 ~~least quarterly. Priority for additional monitoring visits shall~~  
 247 ~~be given to nursing facilities with a history of resident care~~  
 248 ~~deficiencies. Quality of care monitors shall be registered~~  
 249 ~~nurses who are trained and experienced in nursing facility~~  
 250 ~~regulation, standards of practice in long-term care, and~~  
 251 ~~evaluation of patient care. Individuals in these positions shall~~  
 252 ~~not be deployed by the agency as a part of the district survey~~

253 ~~team in the conduct of routine, scheduled surveys, but shall~~  
254 ~~function solely and independently as quality-of-care monitors.~~  
255 ~~Quality-of-care monitors shall assess the overall quality of~~  
256 ~~life in the nursing facility and shall assess specific~~  
257 ~~conditions in the facility directly related to resident care,~~  
258 ~~including the operations of internal quality improvement and~~  
259 ~~risk management programs and adverse incident reports. The~~  
260 ~~quality-of-care monitor shall include in an assessment visit~~  
261 ~~observation of the care and services rendered to residents and~~  
262 ~~formal and informal interviews with residents, family members,~~  
263 ~~facility staff, resident guests, volunteers, other regulatory~~  
264 ~~staff, and representatives of a long-term care ombudsman council~~  
265 ~~or Florida advocacy council.~~

266 ~~(b) Findings of a monitoring visit, both positive and~~  
267 ~~negative, shall be provided orally and in writing to the~~  
268 ~~facility administrator or, in the absence of the facility~~  
269 ~~administrator, to the administrator on duty or the director of~~  
270 ~~nursing. The quality-of-care monitor may recommend to the~~  
271 ~~facility administrator procedural and policy changes and staff~~  
272 ~~training, as needed, to improve the care or quality of life of~~  
273 ~~facility residents. Conditions observed by the quality-of-care~~  
274 ~~monitor which threaten the health or safety of a resident shall~~  
275 ~~be reported immediately to the agency area office supervisor for~~  
276 ~~appropriate regulatory action and, as appropriate or as required~~  
277 ~~by law, to law enforcement, adult protective services, or other~~  
278 ~~responsible agencies.~~

279 ~~(c) Any record, whether written or oral, or any written or~~  
280 ~~oral communication generated pursuant to paragraph (a) or~~

281 ~~paragraph (b) shall not be subject to discovery or introduction~~  
 282 ~~into evidence in any civil or administrative action against a~~  
 283 ~~nursing facility arising out of matters which are the subject of~~  
 284 ~~quality of care monitoring, and a person who was in attendance~~  
 285 ~~at a monitoring visit or evaluation may not be permitted or~~  
 286 ~~required to testify in any such civil or administrative action~~  
 287 ~~as to any evidence or other matters produced or presented during~~  
 288 ~~the monitoring visits or evaluations. However, information,~~  
 289 ~~documents, or records otherwise available from original sources~~  
 290 ~~are not to be construed as immune from discovery or use in any~~  
 291 ~~such civil or administrative action merely because they were~~  
 292 ~~presented during monitoring visits or evaluations, and any~~  
 293 ~~person who participates in such activities may not be prevented~~  
 294 ~~from testifying as to matters within his or her knowledge, but~~  
 295 ~~such witness may not be asked about his or her participation in~~  
 296 ~~such activities. The exclusion from the discovery or~~  
 297 ~~introduction of evidence in any civil or administrative action~~  
 298 ~~provided for herein shall not apply when the quality of care~~  
 299 ~~monitor makes a report to the appropriate authorities regarding~~  
 300 ~~a threat to the health or safety of a resident.~~

301 Section 6. Section 400.141, Florida Statutes, is amended  
 302 to read:

303 400.141 Administration and management of nursing home  
 304 facilities.--

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

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

309        (b)~~(2)~~ Appoint a medical director licensed pursuant to  
 310 chapter 458 or chapter 459. The agency may establish by rule  
 311 more specific criteria for the appointment of a medical  
 312 director.

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

315        (d)~~(4)~~ Provide for resident use of a community pharmacy as  
 316 specified in s. 400.022(1)(q). Any other law to the contrary  
 317 notwithstanding, a registered pharmacist licensed in Florida,  
 318 that is under contract with a facility licensed under this  
 319 chapter or chapter 429, shall repackage a nursing facility  
 320 resident's bulk prescription medication which has been packaged  
 321 by another pharmacist licensed in any state in the United States  
 322 into a unit dose system compatible with the system used by the  
 323 nursing facility, if the pharmacist is requested to offer such  
 324 service. In order to be eligible for the repackaging, a resident  
 325 or the resident's spouse must receive prescription medication  
 326 benefits provided through a former employer as part of his or  
 327 her retirement benefits, a qualified pension plan as specified  
 328 in s. 4972 of the Internal Revenue Code, a federal retirement  
 329 program as specified under 5 C.F.R. s. 831, or a long-term care  
 330 policy as defined in s. 627.9404(1). A pharmacist who correctly  
 331 repackages and relabels the medication and the nursing facility  
 332 which correctly administers such repackaged medication under ~~the~~  
 333 ~~provisions of this~~ paragraph may subsection shall not be held  
 334 liable in any civil or administrative action arising from the  
 335 repackaging. In order to be eligible for the repackaging, a  
 336 nursing facility resident for whom the medication is to be

337 repackaged shall sign an informed consent form provided by the  
338 facility which includes an explanation of the repackaging  
339 process and which notifies the resident of the immunities from  
340 liability provided in this paragraph ~~herein~~. A pharmacist who  
341 repackages and relabels prescription medications, as authorized  
342 under this paragraph ~~subsection~~, may charge a reasonable fee for  
343 costs resulting from the implementation of this provision.

344 (e) ~~(5)~~ Provide for the access of the facility residents to  
345 dental and other health-related services, recreational services,  
346 rehabilitative services, and social work services appropriate to  
347 their needs and conditions and not directly furnished by the  
348 licensee. When a geriatric outpatient nurse clinic is conducted  
349 in accordance with rules adopted by the agency, outpatients  
350 attending such clinic shall not be counted as part of the  
351 general resident population of the nursing home facility, nor  
352 shall the nursing staff of the geriatric outpatient clinic be  
353 counted as part of the nursing staff of the facility, until the  
354 outpatient clinic load exceeds 15 a day.

355 (f) ~~(6)~~ Be allowed and encouraged by the agency to provide  
356 other needed services under certain conditions. If the facility  
357 has a standard licensure status, and has had no class I or class  
358 II deficiencies during the past 2 years or has been awarded a  
359 Gold Seal under the program established in s. 400.235, it may be  
360 encouraged by the agency to provide services, including, but not  
361 limited to, respite and adult day services, which enable  
362 individuals to move in and out of the facility. A facility is  
363 not subject to any additional licensure requirements for  
364 providing these services. Respite care may be offered to persons

365 in need of short-term or temporary nursing home services.  
366 Respite care must be provided in accordance with this part and  
367 rules adopted by the agency. However, the agency shall, by rule,  
368 adopt modified requirements for resident assessment, resident  
369 care plans, resident contracts, physician orders, and other  
370 provisions, as appropriate, for short-term or temporary nursing  
371 home services. The agency shall allow for shared programming and  
372 staff in a facility which meets minimum standards and offers  
373 services pursuant to this paragraph ~~subsection~~, but, if the  
374 facility is cited for deficiencies in patient care, may require  
375 additional staff and programs appropriate to the needs of  
376 service recipients. A person who receives respite care may not  
377 be counted as a resident of the facility for purposes of the  
378 facility's licensed capacity unless that person receives 24-hour  
379 respite care. A person receiving either respite care for 24  
380 hours or longer or adult day services must be included when  
381 calculating minimum staffing for the facility. Any costs and  
382 revenues generated by a nursing home facility from  
383 nonresidential programs or services shall be excluded from the  
384 calculations of Medicaid per diems for nursing home  
385 institutional care reimbursement.

386 (g) ~~(7)~~ If the facility has a standard license or is a Gold  
387 Seal facility, exceeds the minimum required hours of licensed  
388 nursing and certified nursing assistant direct care per resident  
389 per day, and is part of a continuing care facility licensed  
390 under chapter 651 or a retirement community that offers other  
391 services pursuant to part III of this chapter or part I or part  
392 III of chapter 429 on a single campus, be allowed to share

393 programming and staff. At the time of inspection and in the  
394 semiannual report required pursuant to paragraph (o) ~~subsection~~  
395 ~~(15)~~, a continuing care facility or retirement community that  
396 uses this option must demonstrate through staffing records that  
397 minimum staffing requirements for the facility were met.  
398 Licensed nurses and certified nursing assistants who work in the  
399 nursing home facility may be used to provide services elsewhere  
400 on campus if the facility exceeds the minimum number of direct  
401 care hours required per resident per day and the total number of  
402 residents receiving direct care services from a licensed nurse  
403 or a certified nursing assistant does not cause the facility to  
404 violate the staffing ratios required under s. 400.23(3)(a).  
405 Compliance with the minimum staffing ratios shall be based on  
406 total number of residents receiving direct care services,  
407 regardless of where they reside on campus. If the facility  
408 receives a conditional license, it may not share staff until the  
409 conditional license status ends. This paragraph ~~subsection~~ does  
410 not restrict the agency's authority under federal or state law  
411 to require additional staff if a facility is cited for  
412 deficiencies in care which are caused by an insufficient number  
413 of certified nursing assistants or licensed nurses. The agency  
414 may adopt rules for the documentation necessary to determine  
415 compliance with this provision.

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

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

421 provide such therapeutic diets as may be prescribed by attending  
422 physicians. In making rules to implement this paragraph  
423 ~~subsection~~, the agency shall be guided by standards recommended  
424 by nationally recognized professional groups and associations  
425 with knowledge of dietetics.

426 (j) ~~(10)~~ Keep full records of resident admissions and  
427 discharges; medical and general health status, including medical  
428 records, personal and social history, and identity and address  
429 of next of kin or other persons who may have responsibility for  
430 the affairs of the residents; and individual resident care plans  
431 including, but not limited to, prescribed services, service  
432 frequency and duration, and service goals. The records shall be  
433 open to inspection by the agency.

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

437 (l) ~~(12)~~ Furnish copies of personnel records for employees  
438 affiliated with such facility, to any other facility licensed by  
439 this state requesting this information pursuant to this part.  
440 Such information contained in the records may include, but is  
441 not limited to, disciplinary matters and any reason for  
442 termination. Any facility releasing such records pursuant to  
443 this part shall be considered to be acting in good faith and may  
444 not be held liable for information contained in such records,  
445 absent a showing that the facility maliciously falsified such  
446 records.

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



449 state's abuse hotline, the State Long-Term Care Ombudsman, the  
450 Agency for Health Care Administration consumer hotline, the  
451 Advocacy Center for Persons with Disabilities, the Florida  
452 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,  
453 with a clear description of the assistance to be expected from  
454 each.

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

458 (o)1. ~~(15)~~ Submit semiannually to the agency, or more  
459 frequently if requested by the agency, information regarding  
460 facility staff-to-resident ratios, staff turnover, and staff  
461 stability, including information regarding certified nursing  
462 assistants, licensed nurses, the director of nursing, and the  
463 facility administrator. For purposes of this reporting:

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

468 b. ~~(b)~~ Staff turnover must be reported for the most recent  
469 12-month period ending on the last workday of the most recent  
470 calendar quarter prior to the date the information is submitted.  
471 The turnover rate must be computed quarterly, with the annual  
472 rate being the cumulative sum of the quarterly rates. The  
473 turnover rate is the total number of terminations or separations  
474 experienced during the quarter, excluding any employee  
475 terminated during a probationary period of 3 months or less,  
476 divided by the total number of staff employed at the end of the

477 period for which the rate is computed, and expressed as a  
478 percentage.

479 c.~~(e)~~ The formula for determining staff stability is the  
480 total number of employees that have been employed for more than  
481 12 months, divided by the total number of employees employed at  
482 the end of the most recent calendar quarter, and expressed as a  
483 percentage.

484 d.~~(d)~~ A nursing facility that has failed to comply with  
485 state minimum-staffing requirements for 2 consecutive days is  
486 prohibited from accepting new admissions until the facility has  
487 achieved the minimum-staffing requirements for a period of 6  
488 consecutive days. For the purposes of this sub-subparagraph  
489 ~~paragraph~~, any person who was a resident of the facility and was  
490 absent from the facility for the purpose of receiving medical  
491 care at a separate location or was on a leave of absence is not  
492 considered a new admission. Failure to impose such an admissions  
493 moratorium constitutes a class II deficiency.

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

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

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

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

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

509 (p) ~~(17)~~ Notify a licensed physician when a resident  
510 exhibits signs of dementia or cognitive impairment or has a  
511 change of condition in order to rule out the presence of an  
512 underlying physiological condition that may be contributing to  
513 such dementia or impairment. The notification must occur within  
514 30 days after the acknowledgment of such signs by facility  
515 staff. If an underlying condition is determined to exist, the  
516 facility shall arrange, with the appropriate health care  
517 provider, the necessary care and services to treat the  
518 condition.

519 (q) ~~(18)~~ If the facility implements a dining and  
520 hospitality attendant program, ensure that the program is  
521 developed and implemented under the supervision of the facility  
522 director of nursing. A licensed nurse, licensed speech or  
523 occupational therapist, or a registered dietitian must conduct  
524 training of dining and hospitality attendants. A person employed  
525 by a facility as a dining and hospitality attendant must perform  
526 tasks under the direct supervision of a licensed nurse.

527 (r) ~~(19)~~ Report to the agency any filing for bankruptcy  
528 protection by the facility or its parent corporation,  
529 divestiture or spin-off of its assets, or corporate  
530 reorganization within 30 days after the completion of such  
531 activity.

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

538        (t) ~~(21)~~ Maintain in the medical record for each resident a  
539 daily chart of certified nursing assistant services provided to  
540 the resident. The certified nursing assistant who is caring for  
541 the resident must complete this record by the end of his or her  
542 shift. This record must indicate assistance with activities of  
543 daily living, assistance with eating, and assistance with  
544 drinking, and must record each offering of nutrition and  
545 hydration for those residents whose plan of care or assessment  
546 indicates a risk for malnutrition or dehydration.

547        (u) ~~(22)~~ Before November 30 of each year, subject to the  
548 availability of an adequate supply of the necessary vaccine,  
549 provide for immunizations against influenza viruses to all its  
550 consenting residents in accordance with the recommendations of  
551 the United States Centers for Disease Control and Prevention,  
552 subject to exemptions for medical contraindications and  
553 religious or personal beliefs. Subject to these exemptions, any  
554 consenting person who becomes a resident of the facility after  
555 November 30 but before March 31 of the following year must be  
556 immunized within 5 working days after becoming a resident.  
557 Immunization shall not be provided to any resident who provides  
558 documentation that he or she has been immunized as required by  
559 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not

560 prohibit a resident from receiving the immunization from his or  
561 her personal physician if he or she so chooses. A resident who  
562 chooses to receive the immunization from his or her personal  
563 physician shall provide proof of immunization to the facility.  
564 The agency may adopt and enforce any rules necessary to comply  
565 with or implement this paragraph ~~subsection~~.

566 (v) ~~(23)~~ Assess all residents for eligibility for  
567 pneumococcal polysaccharide vaccination (PPV) and vaccinate  
568 residents when indicated within 60 days after the effective date  
569 of this act in accordance with the recommendations of the United  
570 States Centers for Disease Control and Prevention, subject to  
571 exemptions for medical contraindications and religious or  
572 personal beliefs. Residents admitted after the effective date of  
573 this act shall be assessed within 5 working days of admission  
574 and, when indicated, vaccinated within 60 days in accordance  
575 with the recommendations of the United States Centers for  
576 Disease Control and Prevention, subject to exemptions for  
577 medical contraindications and religious or personal beliefs.  
578 Immunization shall not be provided to any resident who provides  
579 documentation that he or she has been immunized as required by  
580 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not  
581 prohibit a resident from receiving the immunization from his or  
582 her personal physician if he or she so chooses. A resident who  
583 chooses to receive the immunization from his or her personal  
584 physician shall provide proof of immunization to the facility.  
585 The agency may adopt and enforce any rules necessary to comply  
586 with or implement this paragraph ~~subsection~~.

587            (w) ~~(24)~~ Annually encourage and promote to its employees  
 588 the benefits associated with immunizations against influenza  
 589 viruses in accordance with the recommendations of the United  
 590 States Centers for Disease Control and Prevention. The agency  
 591 may adopt and enforce any rules necessary to comply with or  
 592 implement this paragraph ~~subsection~~.

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

598            Section 7. Present subsections (9) through (13) of section  
 599 400.147, Florida Statutes, are renumbered as subsections (10)  
 600 through (14), respectively, subsection (5) and present  
 601 subsection (14) are amended, and a new subsection (9) is added  
 602 to that section, to read:

603            400.147 Internal risk management and quality assurance  
 604 program.--

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

607            (a) An event over which facility personnel could exercise  
 608 control and which is associated in whole or in part with the  
 609 facility's intervention, rather than the condition for which  
 610 such intervention occurred, and which results in one of the  
 611 following:

- 612            1. Death;
- 613            2. Brain or spinal damage;
- 614            3. Permanent disfigurement;

- 615 4. Fracture or dislocation of bones or joints;
- 616 5. A limitation of neurological, physical, or sensory
- 617 function;
- 618 6. Any condition that required medical attention to which
- 619 the resident has not given his or her informed consent,
- 620 including failure to honor advanced directives; ~~or~~
- 621 7. Any condition that required the transfer of the
- 622 resident, within or outside the facility, to a unit providing a
- 623 more acute level of care due to the adverse incident, rather
- 624 than the resident's condition prior to the adverse incident; or
- 625 8. An event that is reported to law enforcement or its
- 626 personnel for investigation; or
- 627 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
- 628 ~~415.102;~~
- 629 ~~(c) Abuse, neglect and harm as defined in s. 39.01;~~
- 630 (b)(d) Resident elopement, if the elopement places the
- 631 resident at risk of harm or injury.; ~~or~~
- 632 ~~(c) An event that is reported to law enforcement.~~
- 633 (9) Abuse, neglect, or exploitation must be reported to
- 634 the agency as required by 42 C.F.R. s. 483.13(c) and to the
- 635 department as required by chapters 39 and 415.
- 636 ~~(14) The agency shall annually submit to the Legislature a~~
- 637 ~~report on nursing home adverse incidents. The report must~~
- 638 ~~include the following information arranged by county:~~
- 639 ~~(a) The total number of adverse incidents.~~
- 640 ~~(b) A listing, by category, of the types of adverse~~
- 641 ~~incidents, the number of incidents occurring within each~~
- 642 ~~category, and the type of staff involved.~~

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

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

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

649 Section 8. Subsection (3) of section 400.162, Florida  
650 Statutes, is amended to read:

651 400.162 Property and personal affairs of residents.--

652 (3) A licensee shall provide for the safekeeping of  
653 personal effects, funds, and other property of the resident in  
654 the facility. Whenever necessary for the protection of  
655 valuables, or in order to avoid unreasonable responsibility  
656 therefor, the licensee may require that such valuables be  
657 excluded or removed from the facility and kept at some place not  
658 subject to the control of the licensee. At the request of a  
659 resident, the facility shall mark the resident's personal  
660 property with the resident's name or another type of  
661 identification, without defacing the property. Any theft or loss  
662 of a resident's personal property shall be documented by the  
663 facility. The facility shall develop policies and procedures to  
664 minimize the risk of theft or loss of the personal property of  
665 residents. A copy of the policy shall be provided to every  
666 employee and to each resident and resident's representative, if  
667 appropriate, at admission and when revised. Facility policies  
668 must include provisions related to reporting theft or loss of a  
669 resident's property to law enforcement and any facility waiver  
670 of liability for loss or theft. ~~The facility shall post notice~~



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

673 Section 9. Subsection (2) of section 400.191, Florida  
674 Statutes, is amended to read:

675 400.191 Availability, distribution, and posting of reports  
676 and records.--

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

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

685 1. A section entitled "Have you considered programs that  
686 provide alternatives to nursing home care?" which shall be the  
687 first section of the Nursing Home Guide and which shall  
688 prominently display information about available alternatives to  
689 nursing homes and how to obtain additional information regarding  
690 these alternatives. The Nursing Home Guide shall explain that  
691 this state offers alternative programs that permit qualified  
692 elderly persons to stay in their homes instead of being placed  
693 in nursing homes and shall encourage interested persons to call  
694 the Comprehensive Assessment Review and Evaluation for Long-Term  
695 Care Services (CARES) Program to inquire if they qualify. The  
696 Nursing Home Guide shall list available home and community-based  
697 programs which shall clearly state the services that are  
698 provided and indicate whether nursing home services are included

- 699 | if needed.
- 700 |       2. A list by name and address of all nursing home
- 701 | facilities in this state, including any prior name by which a
- 702 | facility was known during the previous 24-month period.
- 703 |       3. Whether such nursing home facilities are proprietary or
- 704 | nonproprietary.
- 705 |       4. The current owner of the facility's license and the
- 706 | year that that entity became the owner of the license.
- 707 |       5. The name of the owner or owners of each facility and
- 708 | whether the facility is affiliated with a company or other
- 709 | organization owning or managing more than one nursing facility
- 710 | in this state.
- 711 |       6. The total number of beds in each facility and the most
- 712 | recently available occupancy levels.
- 713 |       7. The number of private and semiprivate rooms in each
- 714 | facility.
- 715 |       8. The religious affiliation, if any, of each facility.
- 716 |       9. The languages spoken by the administrator and staff of
- 717 | each facility.
- 718 |       10. Whether or not each facility accepts Medicare or
- 719 | Medicaid recipients or insurance, health maintenance
- 720 | organization, Veterans Administration, CHAMPUS program, or
- 721 | workers' compensation coverage.
- 722 |       11. Recreational and other programs available at each
- 723 | facility.
- 724 |       12. Special care units or programs offered at each
- 725 | facility.
- 726 |       13. Whether the facility is a part of a retirement

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

729 14. Survey and deficiency information, including all  
730 federal and state recertification, licensure, revisit, and  
731 complaint survey information, for each facility for the past 30  
732 months. For noncertified nursing homes, state survey and  
733 deficiency information, including licensure, revisit, and  
734 complaint survey information for the past 30 months shall be  
735 provided.

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

746 ~~(b) The agency shall provide the following information in~~  
747 ~~printed form:~~

748 ~~1. A section entitled "Have you considered programs that~~  
749 ~~provide alternatives to nursing home care?" which shall be the~~  
750 ~~first section of the Nursing Home Guide and which shall~~  
751 ~~prominently display information about available alternatives to~~  
752 ~~nursing homes and how to obtain additional information regarding~~  
753 ~~these alternatives. The Nursing Home Guide shall explain that~~  
754 ~~this state offers alternative programs that permit qualified~~

755 ~~elderly persons to stay in their homes instead of being placed~~  
756 ~~in nursing homes and shall encourage interested persons to call~~  
757 ~~the Comprehensive Assessment Review and Evaluation for Long-Term~~  
758 ~~Care Services (CARES) Program to inquire if they qualify. The~~  
759 ~~Nursing Home Guide shall list available home and community-based~~  
760 ~~programs which shall clearly state the services that are~~  
761 ~~provided and indicate whether nursing home services are included~~  
762 ~~if needed.~~

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

765 ~~3. Whether the nursing home facilities are proprietary or~~  
766 ~~nonproprietary.~~

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

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

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

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

775 ~~8. The languages spoken by the administrator and staff of~~  
776 ~~each facility.~~

777 ~~9. Whether or not each facility accepts Medicare or~~  
778 ~~Medicaid recipients or insurance, health maintenance~~  
779 ~~organization, Veterans Administration, CHAMPUS program, or~~  
780 ~~workers' compensation coverage.~~

781 ~~10. Recreational programs, special care units, and other~~  
782 ~~programs available at each facility.~~

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

785 ~~12. A statement advising consumers that each facility will~~  
786 ~~have its own policies and procedures related to protecting~~  
787 ~~resident property.~~

788 ~~13. A summary of the deficiency data for each facility~~  
789 ~~over the past 30 months. The summary may include a score,~~  
790 ~~rating, or comparison ranking with respect to other facilities~~  
791 ~~based on the number of citations received by the facility on~~  
792 ~~recertification, licensure, revisit, and complaint surveys; the~~  
793 ~~severity and scope of the citations; the number of citations;~~  
794 ~~and the number of recertification surveys the facility has had~~  
795 ~~during the past 30 months. The score, rating, or comparison~~  
796 ~~ranking may be presented in either numeric or symbolic form for~~  
797 ~~the intended consumer audience.~~

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

- 801 1. The licensure status history of each facility.
- 802 2. The rating history of each facility.
- 803 3. The regulatory history of each facility, which may  
804 include federal sanctions, state sanctions, federal fines, state  
805 fines, and other actions.
- 806 4. Whether the facility currently possesses the Gold Seal  
807 designation awarded pursuant to s. 400.235.
- 808 5. Internet links to the Internet sites of the facilities  
809 or their affiliates.

810 Section 10. Paragraph (d) of subsection (1) of section  
 811 400.195, Florida Statutes, is amended to read:

812 400.195 Agency reporting requirements.--

813 (1) For the period beginning June 30, 2001, and ending  
 814 June 30, 2005, the Agency for Health Care Administration shall  
 815 provide a report to the Governor, the President of the Senate,  
 816 and the Speaker of the House of Representatives with respect to  
 817 nursing homes. The first report shall be submitted no later than  
 818 December 30, 2002, and subsequent reports shall be submitted  
 819 every 6 months thereafter. The report shall identify facilities  
 820 based on their ownership characteristics, size, business  
 821 structure, for-profit or not-for-profit status, and any other  
 822 characteristics the agency determines useful in analyzing the  
 823 varied segments of the nursing home industry and shall report:

824 (d) Information regarding deficiencies cited, including  
 825 information used to develop the Nursing Home Guide WATCH LIST  
 826 pursuant to s. 400.191, and applicable rules, a summary of data  
 827 generated on nursing homes by Centers for Medicare and Medicaid  
 828 Services Nursing Home Quality Information Project, and  
 829 information collected pursuant to s. 400.147(10)(~~9~~), relating to  
 830 litigation.

831 Section 11. Paragraph (b) of subsection (3) of section  
 832 400.23, Florida Statutes, is amended to read:

833 400.23 Rules; evaluation and deficiencies; licensure  
 834 status.--

835 (3)

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

838 ~~assistants and licensed nurses, to assist residents with eating.~~  
839 ~~The rules shall specify the minimum training requirements and~~  
840 ~~shall specify the physiological conditions or disorders of~~  
841 ~~residents which would necessitate that the eating assistance be~~  
842 ~~provided by nursing personnel of the facility. Nonnursing staff~~  
843 ~~providing eating assistance to residents under the provisions of~~  
844 ~~this subsection shall not count toward compliance with minimum~~  
845 ~~staffing standards.~~

846 Section 12. Subsection (6) of section 400.474, Florida  
847 Statutes, is amended to read:

848 400.474 Administrative penalties.--

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

852 (a) Gives remuneration for staffing services to:

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

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

857

858 unless the home health agency has activated its comprehensive  
859 emergency management plan in accordance with s. 400.492. This  
860 paragraph does not apply to a Medicare-certified home health  
861 agency that provides fair market value remuneration for staffing  
862 services to a non-Medicare-certified home health agency that is  
863 part of a continuing care facility licensed under chapter 651  
864 for providing services to its own residents if each resident  
865 receiving home health services pursuant to this arrangement

866 attests in writing that he or she made a decision without  
867 influence from staff of the facility to select, from a list of  
868 Medicare-certified home health agencies provided by the  
869 facility, that Medicare-certified home health agency to provide  
870 the services.

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

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

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

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

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

889 1. The number of insulin-dependent diabetic patients  
890 receiving insulin-injection services from the home health  
891 agency;

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



894           3. The number of patients receiving home health services  
895 from that home health agency; and

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

900           (g) Gives cash, or its equivalent, to a Medicare or  
901 Medicaid beneficiary.

902           (h) Has more than one medical director contract in effect  
903 at one time or more than one medical director contract and one  
904 contract with a physician-specialist whose services are mandated  
905 for the home health agency in order to qualify to participate in  
906 a federal or state health care program at one time.

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

- 909           1. Be in writing and signed by both parties;
- 910           2. Provide for remuneration that is at fair market value  
911 for an hourly rate, which must be supported by invoices  
912 submitted by the medical director describing the work performed,  
913 the dates on which that work was performed, and the duration of  
914 that work; and

- 915           3. Be for a term of at least 1 year.

916  
917 The hourly rate specified in the contract may not be increased  
918 during the term of the contract. The home health agency may not  
919 execute a subsequent contract with that physician which has an  
920 increased hourly rate and covers any portion of the term that  
921 was in the original contract.

- 922 (j) Gives remuneration to:
- 923 1. A physician, and the home health agency is in violation
- 924 of paragraph (h) or paragraph (i);
- 925 2. A member of the physician's office staff; or
- 926 3. An immediate family member of the physician,

927

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

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

930 staff.

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

932 of all contracts with a medical director which were executed

933 within 5 years before the request.

934

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

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

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

938 7b(b) or regulations adopted thereunder, including 42 C.F.R. s.

939 1001.952, or by 42 U.S.C. s. 1395nn or regulations adopted

940 thereunder.

941 Section 13. Paragraph (a) of subsection (15) of section

942 400.506, Florida Statutes, is amended to read:

943 400.506 Licensure of nurse registries; requirements;

944 penalties.--

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

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

947 against a nurse registry that:

948 1. Provides services to residents in an assisted living  
949 facility for which the nurse registry does not receive fair  
950 market value remuneration.

951 2. Provides staffing to an assisted living facility for  
952 which the nurse registry does not receive fair market value  
953 remuneration.

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

957 4. Gives remuneration to a case manager, discharge  
958 planner, facility-based staff member, or third-party vendor who  
959 is involved in the discharge planning process of a facility  
960 licensed under chapter 395 or this chapter and from whom the  
961 nurse registry receives referrals. This subparagraph does not  
962 apply to a nurse registry that does not participate in the  
963 Medicaid or Medicare program.

964 5. Gives remuneration to a physician, a member of the  
965 physician's office staff, or an immediate family member of the  
966 physician, and the nurse registry received a patient referral in  
967 the last 12 months from that physician or the physician's office  
968 staff. This subparagraph does not apply to a nurse registry that  
969 does not participate in the Medicaid or Medicare program.

970 Section 14. Paragraph (m) is added to subsection (4) of  
971 section 400.9905, Florida Statutes, to read:

972 400.9905 Definitions.--

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

976 | portable equipment provider. For purposes of this part, the term  
977 | does not include and the licensure requirements of this part do  
978 | not apply to:

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

982 |       Section 15. Paragraph (a) of subsection (7) of section  
983 | 400.9935, Florida Statutes, is amended, and subsection (10) is  
984 | added to that section, to read:

985 |       400.9935 Clinic responsibilities.--

986 |       (7) (a) Each clinic engaged in magnetic resonance imaging  
987 | services must be accredited by the Joint Commission on  
988 | Accreditation of Healthcare Organizations, the American College  
989 | of Radiology, or the Accreditation Association for Ambulatory  
990 | Health Care, within 1 year after licensure. A clinic that is  
991 | accredited by the American College of Radiology or is within the  
992 | original 1-year period after licensure and replaces its core  
993 | magnetic resonance imaging equipment shall be given 1 year after  
994 | the date upon which the equipment is replaced to attain  
995 | accreditation. However, a clinic may request a single, 6-month  
996 | extension if it provides evidence to the agency establishing  
997 | that, for good cause shown, such clinic cannot ~~can not~~ be  
998 | accredited within 1 year after licensure, and that such  
999 | accreditation will be completed within the 6-month extension.  
1000 | After obtaining accreditation as required by this subsection,  
1001 | each such clinic must maintain accreditation as a condition of  
1002 | renewal of its license. A clinic that files a change of  
1003 | ownership application must comply with the original

1004 accreditation timeframe requirements of the transferor. The  
 1005 agency shall deny a change of ownership application if the  
 1006 clinic is not in compliance with the accreditation requirements.  
 1007 When a clinic adds, replaces, or modifies magnetic resonance  
 1008 imaging equipment and the accrediting organization requires new  
 1009 accreditation, the clinic must be accredited within 1 year after  
 1010 the date of the addition, replacement, or modification but may  
 1011 request a single, 6-month extension if the clinic provides  
 1012 evidence of good cause to the agency.

1013 (10) Any clinic holding an active license and any entity  
 1014 holding a current certificate of exemption may request a unique  
 1015 identification number from the agency for the purposes of  
 1016 submitting claims to personal injury protection insurance  
 1017 carriers for services or treatment pursuant to part XI of  
 1018 chapter 627. Upon request, the agency shall assign a unique  
 1019 identification number to a clinic holding an active license or  
 1020 an entity holding a current certificate of exemption. The agency  
 1021 shall publish the identification number of each clinic and  
 1022 entity on its Internet website in a searchable format that is  
 1023 readily accessible to personal injury protection insurance  
 1024 carriers for the purposes of s. 627.736(5)(b)1.g.

1025 Section 16. Subsection (6) of section 400.995, Florida  
 1026 Statutes, is amended to read:

1027 400.995 Agency administrative penalties.--

1028 (6) During an inspection, the agency, ~~as an alternative to~~  
 1029 ~~or in conjunction with an administrative action against a clinic~~  
 1030 ~~for violations of this part and adopted rules,~~ shall make a  
 1031 reasonable attempt to discuss each violation and ~~recommended~~

1032 ~~corrective action~~ with the owner, medical director, or clinic  
 1033 director of the clinic, prior to written notification. The  
 1034 ~~agency, instead of fixing a period within which the clinic shall~~  
 1035 ~~enter into compliance with standards, may request a plan of~~  
 1036 ~~corrective action from the clinic which demonstrates a good~~  
 1037 ~~faith effort to remedy each violation by a specific date,~~  
 1038 ~~subject to the approval of the agency.~~

1039 Section 17. Paragraph (a) of subsection (2) of section  
 1040 408.040, Florida Statutes, is amended to read:

1041 408.040 Conditions and monitoring.--

1042 (2) (a) Unless the applicant has commenced construction, if  
 1043 the project provides for construction, unless the applicant has  
 1044 incurred an enforceable capital expenditure commitment for a  
 1045 project, if the project does not provide for construction, or  
 1046 unless subject to paragraph (b), a certificate of need shall  
 1047 terminate 18 months after the date of issuance, except an entity  
 1048 holding a certificate of need issued on or before April 1, 2009,  
 1049 which shall terminate 36 months after the date of issuance. The  
 1050 agency shall monitor the progress of the holder of the  
 1051 certificate of need in meeting the timetable for project  
 1052 development specified in the application, and may revoke the  
 1053 certificate of need, if the holder of the certificate is not  
 1054 meeting such timetable and is not making a good-faith effort, as  
 1055 defined by rule, to meet it.

1056 Section 18. The amendment to s. 408.040(2) (a), Florida  
 1057 Statutes, by this act shall control over any conflicting  
 1058 amendment to s. 408.040(2) (a), Florida Statutes, that is adopted

1059 during the 2009 Regular Session or an extension thereof and  
 1060 becomes law.

1061 Section 19. Subsection (43) of section 408.07, Florida  
 1062 Statutes, is amended to read:

1063 408.07 Definitions.--As used in this chapter, with the  
 1064 exception of ss. 408.031-408.045, the term:

1065 (43) "Rural hospital" means an acute care hospital  
 1066 licensed under chapter 395, having 100 or fewer licensed beds  
 1067 and an emergency room, and which is:

1068 (a) The sole provider within a county with a population  
 1069 density of no greater than 100 persons per square mile;

1070 (b) An acute care hospital, in a county with a population  
 1071 density of no greater than 100 persons per square mile, which is  
 1072 at least 30 minutes of travel time, on normally traveled roads  
 1073 under normal traffic conditions, from another acute care  
 1074 hospital within the same county;

1075 (c) A hospital supported by a tax district or subdistrict  
 1076 whose boundaries encompass a population of 100 persons or fewer  
 1077 per square mile;

1078 (d) A hospital with a service area that has a population  
 1079 of 100 persons or fewer per square mile. As used in this  
 1080 paragraph, the term "service area" means the fewest number of  
 1081 zip codes that account for 75 percent of the hospital's  
 1082 discharges for the most recent 5-year period, based on  
 1083 information available from the hospital inpatient discharge  
 1084 database in the Florida Center for Health Information and Policy  
 1085 Analysis at the Agency for Health Care Administration; or

1086 (e) A critical access hospital.

1087  
 1088 Population densities used in this subsection must be based upon  
 1089 the most recently completed United States census. A hospital  
 1090 that received funds under s. 409.9116 for a quarter beginning no  
 1091 later than July 1, 2002, is deemed to have been and shall  
 1092 continue to be a rural hospital from that date through June 30,  
 1093 2015 ~~2012~~, if the hospital continues to have 100 or fewer  
 1094 licensed beds and an emergency room, or meets the criteria of s.  
 1095 395.602(2)(e)4. An acute care hospital that has not previously  
 1096 been designated as a rural hospital and that meets the criteria  
 1097 of this subsection shall be granted such designation upon  
 1098 application, including supporting documentation, to the Agency  
 1099 for Health Care Administration.

1100 Section 20. Subsections (5), (9), and (13) of section  
 1101 408.803, Florida Statutes, are amended to read:

1102 408.803 Definitions.--As used in this part, the term:

1103 (5) "Change of ownership" means:

1104 (a) An event in which the licensee sells or otherwise  
 1105 transfers its ownership ~~changes~~ to a different individual or  
 1106 legal entity, as evidenced by a change in federal employer  
 1107 identification number or taxpayer identification number; or

1108 (b) An event in which 51 ~~45~~ percent or more of the  
 1109 ownership, voting shares, membership, or controlling interest of  
 1110 a licensee is in any manner transferred or otherwise assigned.

1111 This paragraph does not apply to a licensee that is publicly  
 1112 traded on a recognized stock exchange. ~~In a corporation whose~~  
 1113 ~~shares are not publicly traded on a recognized stock exchange is~~  
 1114 ~~transferred or assigned, including the final transfer or~~



1115 ~~assignment of multiple transfers or assignments over a 2-year~~  
 1116 ~~period that cumulatively total 45 percent or greater.~~

1117  
 1118 A change solely in the management company or board of directors  
 1119 is not a change of ownership.

1120 (9) "Licensee" means an individual, corporation,  
 1121 partnership, firm, association, ~~or~~ governmental entity, or other  
 1122 entity that is issued a permit, registration, certificate, or  
 1123 license by the agency. The licensee is legally responsible for  
 1124 all aspects of the provider operation.

1125 (13) "Voluntary board member" means a board member of a  
 1126 not-for-profit corporation or organization who serves solely in  
 1127 a voluntary capacity, does not receive any remuneration for his  
 1128 or her services on the board of directors, and has no financial  
 1129 interest in the corporation or organization. ~~The agency shall~~  
 1130 ~~recognize a person as a voluntary board member following~~  
 1131 ~~submission of a statement to the agency by the board member and~~  
 1132 ~~the not-for-profit corporation or organization that affirms that~~  
 1133 ~~the board member conforms to this definition. The statement~~  
 1134 ~~affirming the status of the board member must be submitted to~~  
 1135 ~~the agency on a form provided by the agency.~~

1136 Section 21. Paragraph (a) of subsection (1), subsection  
 1137 (2), paragraph (c) of subsection (7), and subsection (8) of  
 1138 section 408.806, Florida Statutes, are amended to read:

1139 408.806 License application process.--

1140 (1) An application for licensure must be made to the  
 1141 agency on forms furnished by the agency, submitted under oath,  
 1142 and accompanied by the appropriate fee in order to be accepted

1143 and considered timely. The application must contain information  
1144 required by authorizing statutes and applicable rules and must  
1145 include:

1146 (a) The name, address, and social security number of:

1147 1. The applicant;

1148 2. The administrator or a similarly titled person who is  
1149 responsible for the day-to-day operation of the provider;

1150 3. The financial officer or similarly titled person who is  
1151 responsible for the financial operation of the licensee or  
1152 provider; and

1153 4. Each controlling interest if the applicant or  
1154 controlling interest is an individual.

1155 (2) (a) The applicant for a renewal license must submit an  
1156 application that must be received by the agency at least 60 days  
1157 but no more than 120 days prior to the expiration of the current  
1158 license. An application received more than 120 days prior to the  
1159 expiration of the current license shall be returned to the  
1160 applicant. If the renewal application and fee are received prior  
1161 to the license expiration date, the license shall not be deemed  
1162 to have expired if the license expiration date occurs during the  
1163 agency's review of the renewal application.

1164 (b) The applicant for initial licensure due to a change of  
1165 ownership must submit an application that must be received by  
1166 the agency at least 60 days prior to the date of change of  
1167 ownership.

1168 (c) For any other application or request, the applicant  
1169 must submit an application or request that must be received by  
1170 the agency at least 60 days but no more than 120 days prior to

1171 the requested effective date, unless otherwise specified in  
1172 authorizing statutes or applicable rules. An application  
1173 received more than 120 days prior to the requested effective  
1174 date shall be returned to the applicant.

1175 (d) The agency shall notify the licensee by mail or  
1176 electronically at least 90 days prior to the expiration of a  
1177 license that a renewal license is necessary to continue  
1178 operation. The failure to timely submit a renewal application  
1179 and license fee shall result in a \$50 per day late fee charged  
1180 to the licensee by the agency; however, the aggregate amount of  
1181 the late fee may not exceed 50 percent of the licensure fee or  
1182 \$500, whichever is less. If an application is received after the  
1183 required filing date and exhibits a hand-canceled postmark  
1184 obtained from a United States post office dated on or before the  
1185 required filing date, no fine will be levied.

1186 (7)

1187 (c) If an inspection is required by the authorizing  
1188 statute for a license application other than an initial  
1189 application, the inspection must be unannounced. This paragraph  
1190 does not apply to inspections required pursuant to ss. 383.324,  
1191 395.0161(4), 429.67(6), and 483.061(2).

1192 (8) The agency may establish procedures for the electronic  
1193 notification and submission of required information, including,  
1194 but not limited to:

- 1195 (a) Licensure applications.
- 1196 (b) Required signatures.
- 1197 (c) Payment of fees.
- 1198 (d) Notarization of applications.

1199  
 1200 Requirements for electronic submission of any documents required  
 1201 by this part or authorizing statutes may be established by rule.  
 1202 As an alternative to sending documents as required by  
 1203 authorizing statutes, the agency may provide electronic access  
 1204 to information or documents.

1205 Section 22. Subsection (2) of section 408.808, Florida  
 1206 Statutes, is amended to read:

1207 408.808 License categories.--

1208 (2) PROVISIONAL LICENSE.--A provisional license may be  
 1209 issued to an applicant pursuant to s. 408.809(3). An applicant  
 1210 against whom a proceeding denying or revoking a license is  
 1211 pending at the time of license renewal may be issued a  
 1212 provisional license effective until final action not subject to  
 1213 further appeal. A provisional license may also be issued to an  
 1214 applicant applying for a change of ownership. A provisional  
 1215 license shall be limited in duration to a specific period of  
 1216 time, not to exceed 12 months, as determined by the agency.

1217 Section 23. Subsection (5) of section 408.809, Florida  
 1218 Statutes, is amended, and new subsections (5) and (6) are added  
 1219 to that section, to read:

1220 408.809 Background screening; prohibited offenses.--

1221 (5) Effective October 1, 2009, in addition to the offenses  
 1222 listed in ss. 435.03 and 435.04, all persons required to undergo  
 1223 background screening pursuant to this part or authorizing  
 1224 statutes must not have been found guilty of, regardless of  
 1225 adjudication, or entered a plea of nolo contendere or guilty to,

1226 any of the following offenses or any similar offense of another  
1227 jurisdiction:

1228 (a) A violation of any authorizing statutes, if the  
1229 offense was a felony.

1230 (b) A violation of this chapter, if the offense was a  
1231 felony.

1232 (c) A violation of s. 409.920, relating to Medicaid  
1233 provider fraud, if the offense was a felony.

1234 (d) A violation of s. 409.9201, relating to Medicaid  
1235 fraud, if the offense was a felony.

1236 (e) A violation of s. 741.28, relating to domestic  
1237 violence.

1238 (f) A violation of chapter 784, relating to assault,  
1239 battery, and culpable negligence, if the offense was a felony.

1240 (g) A violation of s. 810.02, relating to burglary.

1241 (h) A violation of s. 817.034, relating to fraudulent acts  
1242 through mail, wire, radio, electromagnetic, photoelectronic, or  
1243 photooptical systems.

1244 (i) A violation of s. 817.234, relating to false and  
1245 fraudulent insurance claims.

1246 (j) A violation of s. 817.505, relating to patient  
1247 brokering.

1248 (k) A violation of s. 817.568, relating to criminal use of  
1249 personal identification information.

1250 (l) A violation of s. 817.60, relating to obtaining a  
1251 credit card through fraudulent means.

1252 (m) A violation of s. 817.61, relating to fraudulent use  
1253 of credit cards, if the offense was a felony.

1254        (n) A violation of s. 831.01, relating to forgery.  
 1255        (o) A violation of s. 831.02, relating to uttering forged  
 1256 instruments.  
 1257        (p) A violation of s. 831.07, relating to forging bank  
 1258 bills, checks, drafts, or promissory notes.  
 1259        (q) A violation of s. 831.09, relating to uttering forged  
 1260 bank bills, checks, drafts, or promissory notes.  
 1261        (r) A violation of s. 831.30, relating to fraud in  
 1262 obtaining medicinal drugs.  
 1263        (s) A violation of s. 831.31, relating to the sale,  
 1264 manufacture, delivery, or possession with the intent to sell,  
 1265 manufacture, or deliver any counterfeit controlled substance, if  
 1266 the offense was a felony.  
 1267  
 1268 A person who serves as a controlling interest of or is employed  
 1269 by a licensee on September 30, 2009, shall not be required by  
 1270 law to submit to rescreening if that licensee has in its  
 1271 possession written evidence that the person has been screened  
 1272 and qualified according to the standards specified in s. 435.03  
 1273 or s. 435.04. However, if such person has been convicted of a  
 1274 disqualifying offense listed in this subsection, he or she may  
 1275 apply for an exemption from the appropriate licensing agency  
 1276 before September 30, 2009, and if agreed to by the employer, may  
 1277 continue to perform his or her duties until the licensing agency  
 1278 renders a decision on the application for exemption for an  
 1279 offense listed in this subsection. Exemptions from  
 1280 disqualification may be granted pursuant to s. 435.07.

1281           (6) The attestations required under ss. 435.04(5) and  
 1282 435.05(3) must be submitted at the time of license renewal,  
 1283 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)  
 1284 which require annual submission of an affidavit of compliance  
 1285 with background screening requirements.

1286           ~~(5) Background screening is not required to obtain a~~  
 1287 ~~certificate of exemption issued under s. 483.106.~~

1288           Section 24. Subsection (3) of section 408.810, Florida  
 1289 Statutes, is amended to read:

1290           408.810 Minimum licensure requirements.--In addition to  
 1291 the licensure requirements specified in this part, authorizing  
 1292 statutes, and applicable rules, each applicant and licensee must  
 1293 comply with the requirements of this section in order to obtain  
 1294 and maintain a license.

1295           (3) Unless otherwise specified in this part, authorizing  
 1296 statutes, or applicable rules, any information required to be  
 1297 reported to the agency must be submitted within 21 calendar days  
 1298 after the report period or effective date of the information,  
 1299 whichever is earlier, including, but not limited to, any change  
 1300 of:

1301           (a) Information contained in the most recent application  
 1302 for licensure.

1303           (b) Required insurance or bonds.

1304           Section 25. Present subsection (4) of section 408.811,  
 1305 Florida Statutes, is renumbered as subsection (6), subsections  
 1306 (2) and (3) are amended, and new subsections (4) and (5) are  
 1307 added to that section, to read:

1308           408.811 Right of inspection; copies; inspection reports;  
1309 plan for correction of deficiencies.--

1310           (2) Inspections conducted in conjunction with  
1311 certification, comparable licensure requirements, or a  
1312 recognized or approved accreditation organization may be  
1313 accepted in lieu of a complete licensure inspection. However, a  
1314 licensure inspection may also be conducted to review any  
1315 licensure requirements that are not also requirements for  
1316 certification.

1317           (3) The agency shall have access to and the licensee shall  
1318 provide, or if requested send, copies of all provider records  
1319 required during an inspection or other review at no cost to the  
1320 agency, including records requested during an offsite review.

1321           (4) Deficiencies must be corrected within 30 calendar days  
1322 after the provider is notified of inspection results unless an  
1323 alternative timeframe is required or approved by the agency.

1324           (5) The agency may require an applicant or licensee to  
1325 submit a plan of correction for deficiencies. If required, the  
1326 plan of correction must be filed with the agency within 10  
1327 calendar days after notification unless an alternative timeframe  
1328 is required.

1329           Section 26. Section 408.813, Florida Statutes, is amended  
1330 to read:

1331           408.813 Administrative fines; violations.--As a penalty  
1332 for any violation of this part, authorizing statutes, or  
1333 applicable rules, the agency may impose an administrative fine.

1334           (1) Unless the amount or aggregate limitation of the fine  
1335 is prescribed by authorizing statutes or applicable rules, the



1336 agency may establish criteria by rule for the amount or  
1337 aggregate limitation of administrative fines applicable to this  
1338 part, authorizing statutes, and applicable rules. Each day of  
1339 violation constitutes a separate violation and is subject to a  
1340 separate fine, unless a per-violation fine is prescribed by law.  
1341 For fines imposed by final order of the agency and not subject  
1342 to further appeal, the violator shall pay the fine plus interest  
1343 at the rate specified in s. 55.03 for each day beyond the date  
1344 set by the agency for payment of the fine.

1345 (2) Violations of this part, authorizing statutes, or  
1346 applicable rules shall be classified according to the nature of  
1347 the violation and the gravity of its probable effect on clients.  
1348 The scope of a violation may be cited as an isolated, patterned,  
1349 or widespread deficiency. An isolated deficiency is a deficiency  
1350 affecting one or a very limited number of clients, or involving  
1351 one or a very limited number of staff, or a situation that  
1352 occurred only occasionally or in a very limited number of  
1353 locations. A patterned deficiency is a deficiency in which more  
1354 than a very limited number of clients are affected, or more than  
1355 a very limited number of staff are involved, or the situation  
1356 has occurred in several locations, or the same client or clients  
1357 have been affected by repeated occurrences of the same deficient  
1358 practice but the effect of the deficient practice is not found  
1359 to be pervasive throughout the provider. A widespread deficiency  
1360 is a deficiency in which the problems causing the deficiency are  
1361 pervasive in the provider or represent systemic failure that has  
1362 affected or has the potential to affect a large portion of the  
1363 provider's clients. This subsection does not affect the

1364 legislative determination of the amount of a fine imposed under  
1365 authorizing statutes. Violations shall be classified on the  
1366 written notice as follows:

1367 (a) Class "I" violations are those conditions or  
1368 occurrences related to the operation and maintenance of a  
1369 provider or to the care of clients which the agency determines  
1370 present an imminent danger to the clients of the provider or a  
1371 substantial probability that death or serious physical or  
1372 emotional harm would result therefrom. The condition or practice  
1373 constituting a class I violation shall be abated or eliminated  
1374 within 24 hours, unless a fixed period, as determined by the  
1375 agency, is required for correction. The agency shall impose an  
1376 administrative fine as provided by law for a cited class I  
1377 violation. A fine shall be levied notwithstanding the correction  
1378 of the violation.

1379 (b) Class "II" violations are those conditions or  
1380 occurrences related to the operation and maintenance of a  
1381 provider or to the care of clients which the agency determines  
1382 directly threaten the physical or emotional health, safety, or  
1383 security of the clients, other than class I violations. The  
1384 agency shall impose an administrative fine as provided by law  
1385 for a cited class II violation. A fine shall be levied  
1386 notwithstanding the correction of the violation.

1387 (c) Class "III" violations are those conditions or  
1388 occurrences related to the operation and maintenance of a  
1389 provider or to the care of clients which the agency determines  
1390 indirectly or potentially threaten the physical or emotional  
1391 health, safety, or security of clients, other than class I or

1392 class II violations. The agency shall impose an administrative  
1393 fine as provided by law for a cited class III violation. A  
1394 citation for a class III violation must specify the time within  
1395 which the violation is required to be corrected. If a class III  
1396 violation is corrected within the time specified, a fine may not  
1397 be imposed.

1398 (d) Class "IV" violations are those conditions or  
1399 occurrences related to the operation and maintenance of a  
1400 provider or to required reports, forms, or documents that do not  
1401 have the potential of negatively affecting clients. These  
1402 violations are of a type that the agency determines do not  
1403 threaten the health, safety, or security of clients. The agency  
1404 shall impose an administrative fine as provided by law for a  
1405 cited class IV violation. A citation for a class IV violation  
1406 must specify the time within which the violation is required to  
1407 be corrected. If a class IV violation is corrected within the  
1408 time specified, a fine may not be imposed.

1409 Section 27. Subsections (12) through (29) of section  
1410 408.820, Florida Statutes, are renumbered as subsections (11)  
1411 through (28), respectively, and present subsections (11), (12),  
1412 (13), (21), and (26) of that section are amended to read:

1413 408.820 Exemptions.--Except as prescribed in authorizing  
1414 statutes, the following exemptions shall apply to specified  
1415 requirements of this part:

1416 ~~(11) Private review agents, as provided under part I of~~  
1417 ~~chapter 395, are exempt from ss. 408.806(7), 408.810, and~~  
1418 ~~408.811.~~

1419 (11)~~(12)~~ Health care risk managers, as provided under part  
 1420 I of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-  
 1421 (10), and 408.811.

1422 (12)~~(13)~~ Nursing homes, as provided under part II of  
 1423 chapter 400, are exempt from ss. s. 408.810(7) and 408.813(2).

1424 (20)~~(21)~~ Transitional living facilities, as provided under  
 1425 part V of chapter 400, are exempt from s. 408.810~~(7)~~(10).

1426 (25)~~(26)~~ Health care clinics, as provided under part X of  
 1427 chapter 400, are exempt from s. ~~ss. 408.809 and 408.810(1)~~, (6),  
 1428 (7), and (10).

1429 Section 28. Section 408.821, Florida Statutes, is created  
 1430 to read:

1431 408.821 Emergency management planning; emergency  
 1432 operations; inactive license.--

1433 (1) Licensees required by authorizing statutes to have an  
 1434 emergency operations plan must designate a safety liaison to  
 1435 serve as the primary contact for emergency operations.

1436 (2) An entity subject to this part may temporarily exceed  
 1437 its licensed capacity to act as a receiving provider in  
 1438 accordance with an approved emergency operations plan for up to  
 1439 15 days. While in an overcapacity status, each provider must  
 1440 furnish or arrange for appropriate care and services to all  
 1441 clients. In addition, the agency may approve requests for  
 1442 overcapacity in excess of 15 days, which approvals may be based  
 1443 upon satisfactory justification and need as provided by the  
 1444 receiving and sending providers.

1445 (3) (a) An inactive license may be issued to a licensee  
 1446 subject to this section when the provider is located in a

1447 geographic area in which a state of emergency was declared by  
1448 the Governor if the provider:

1449 1. Suffered damage to its operation during the state of  
1450 emergency.

1451 2. Is currently licensed.

1452 3. Does not have a provisional license.

1453 4. Will be temporarily unable to provide services but is  
1454 reasonably expected to resume services within 12 months.

1455 (b) An inactive license may be issued for a period not to  
1456 exceed 12 months but may be renewed by the agency for up to 12  
1457 additional months upon demonstration to the agency of progress  
1458 toward reopening. A request by a licensee for an inactive  
1459 license or to extend the previously approved inactive period  
1460 must be submitted in writing to the agency, accompanied by  
1461 written justification for the inactive license, which states the  
1462 beginning and ending dates of inactivity and includes a plan for  
1463 the transfer of any clients to other providers and appropriate  
1464 licensure fees. Upon agency approval, the licensee shall notify  
1465 clients of any necessary discharge or transfer as required by  
1466 authorizing statutes or applicable rules. The beginning of the  
1467 inactive licensure period shall be the date the provider ceases  
1468 operations. The end of the inactive period shall become the  
1469 license expiration date, and all licensure fees must be current,  
1470 must be paid in full, and may be prorated. Reactivation of an  
1471 inactive license requires the prior approval by the agency of a  
1472 renewal application, including payment of licensure fees and  
1473 agency inspections indicating compliance with all requirements  
1474 of this part and applicable rules and statutes.

1475       (4) The agency may adopt rules relating to emergency  
 1476 management planning, communications, and operations. Licensees  
 1477 providing residential or inpatient services must utilize an  
 1478 online database approved by the agency to report information to  
 1479 the agency regarding the provider's emergency status, planning,  
 1480 or operations.

1481       Section 29. Subsections (3), (4), and (5) of section  
 1482 408.831, Florida Statutes, are amended to read:

1483       408.831 Denial, suspension, or revocation of a license,  
 1484 registration, certificate, or application.--

1485       ~~(3) An entity subject to this section may exceed its~~  
 1486 ~~licensed capacity to act as a receiving facility in accordance~~  
 1487 ~~with an emergency operations plan for clients of evacuating~~  
 1488 ~~providers from a geographic area where an evacuation order has~~  
 1489 ~~been issued by a local authority having jurisdiction. While in~~  
 1490 ~~an overcapacity status, each provider must furnish or arrange~~  
 1491 ~~for appropriate care and services to all clients. In addition,~~  
 1492 ~~the agency may approve requests for overcapacity beyond 15 days,~~  
 1493 ~~which approvals may be based upon satisfactory justification and~~  
 1494 ~~need as provided by the receiving and sending facilities.~~

1495       ~~(4) (a) An inactive license may be issued to a licensee~~  
 1496 ~~subject to this section when the provider is located in a~~  
 1497 ~~geographic area where a state of emergency was declared by the~~  
 1498 ~~Governor if the provider:~~

- 1499       ~~1. Suffered damage to its operation during that state of~~
- 1500 ~~emergency.~~
- 1501       ~~2. Is currently licensed.~~
- 1502       ~~3. Does not have a provisional license.~~

1503 ~~4. Will be temporarily unable to provide services but is~~  
1504 ~~reasonably expected to resume services within 12 months.~~

1505 ~~(b) An inactive license may be issued for a period not to~~  
1506 ~~exceed 12 months but may be renewed by the agency for up to 12~~  
1507 ~~additional months upon demonstration to the agency of progress~~  
1508 ~~toward reopening. A request by a licensee for an inactive~~  
1509 ~~license or to extend the previously approved inactive period~~  
1510 ~~must be submitted in writing to the agency, accompanied by~~  
1511 ~~written justification for the inactive license, which states the~~  
1512 ~~beginning and ending dates of inactivity and includes a plan for~~  
1513 ~~the transfer of any clients to other providers and appropriate~~  
1514 ~~licensure fees. Upon agency approval, the licensee shall notify~~  
1515 ~~clients of any necessary discharge or transfer as required by~~  
1516 ~~authorizing statutes or applicable rules. The beginning of the~~  
1517 ~~inactive licensure period shall be the date the provider ceases~~  
1518 ~~operations. The end of the inactive period shall become the~~  
1519 ~~licensee expiration date, and all licensure fees must be~~  
1520 ~~current, paid in full, and may be prorated. Reactivation of an~~  
1521 ~~inactive license requires the prior approval by the agency of a~~  
1522 ~~renewal application, including payment of licensure fees and~~  
1523 ~~agency inspections indicating compliance with all requirements~~  
1524 ~~of this part and applicable rules and statutes.~~

1525 ~~(3)-(5)~~ This section provides standards of enforcement  
1526 applicable to all entities licensed or regulated by the Agency  
1527 for Health Care Administration. This section controls over any  
1528 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,  
1529 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to  
1530 those chapters.

1531 Section 30. Subsection (2) of section 408.918, Florida  
 1532 Statutes, is amended, and subsection (3) is added to that  
 1533 section, to read:

1534 408.918 Florida 211 Network; uniform certification  
 1535 requirements.--

1536 (2) In order to participate in the Florida 211 Network, a  
 1537 211 provider must be fully accredited by the National ~~certified~~  
 1538 ~~by the Agency for Health Care Administration. The agency shall~~  
 1539 ~~develop criteria for certification, as recommended by the~~  
 1540 ~~Florida Alliance of Information and Referral Services~~ or have  
 1541 received approval to operate, pending accreditation, from its  
 1542 affiliate, the Florida Alliance of Information and Referral  
 1543 Services, ~~and shall adopt the criteria as administrative rules.~~

1544 ~~(a)~~ If any provider of information and referral services  
 1545 or other entity leases a 211 number from a local exchange  
 1546 company and is not authorized as described in this section,  
 1547 ~~certified by the agency, the agency shall, after consultation~~  
 1548 ~~with the local exchange company and the Public Service~~  
 1549 ~~Commission shall,~~ request that the Federal Communications  
 1550 Commission direct the local exchange company to revoke the use  
 1551 of the 211 number.

1552 ~~(b)~~ ~~The agency shall seek the assistance and guidance of~~  
 1553 ~~the Public Service Commission and the Federal Communications~~  
 1554 ~~Commission in resolving any disputes arising over jurisdiction~~  
 1555 ~~related to 211 numbers.~~

1556 (3) The Florida Alliance of Information and Referral  
 1557 Services is the 211 collaborative organization for the state  
 1558 that is responsible for studying, designing, implementing,



1559 supporting, and coordinating the Florida 211 Network and  
 1560 receiving federal grants.

1561 Section 31. Paragraph (e) of subsection (4) of section  
 1562 409.221, Florida Statutes, is amended to read:

1563 409.221 Consumer-directed care program.--

1564 (4) CONSUMER-DIRECTED CARE.--

1565 (e) Services.--Consumers shall use the budget allowance  
 1566 only to pay for home and community-based services that meet the  
 1567 consumer's long-term care needs and are a cost-efficient use of  
 1568 funds. Such services may include, but are not limited to, the  
 1569 following:

1570 1. Personal care.

1571 2. Homemaking and chores, including housework, meals,  
 1572 shopping, and transportation.

1573 3. Home modifications and assistive devices which may  
 1574 increase the consumer's independence or make it possible to  
 1575 avoid institutional placement.

1576 4. Assistance in taking self-administered medication.

1577 5. Day care and respite care services, including those  
 1578 provided by nursing home facilities pursuant to s.

1579 400.141(1)(f) ~~(6)~~ or by adult day care facilities licensed  
 1580 pursuant to s. 429.907.

1581 6. Personal care and support services provided in an  
 1582 assisted living facility.

1583 Section 32. Subsection (5) of section 409.901, Florida  
 1584 Statutes, is amended to read:

1585 409.901 Definitions; ss. 409.901-409.920.--As used in ss.  
 1586 409.901-409.920, except as otherwise specifically provided, the  
 1587 term:

1588 (5) "Change of ownership" means:

1589 (a) An event in which the provider ownership changes to a  
 1590 different individual legal entity, as evidenced by a change in  
 1591 federal employer identification number or taxpayer  
 1592 identification number; ~~or~~

1593 (b) An event in which 51 45 percent or more of the  
 1594 ownership, voting shares, membership, or controlling interest of  
 1595 a provider is in any manner transferred or otherwise assigned.  
 1596 This paragraph does not apply to a licensee that is publicly  
 1597 traded on a recognized stock exchange; or

1598 (c) When the provider is licensed or registered by the  
 1599 agency, an event considered a change of ownership for licensure  
 1600 as defined in s. 408.803 in a corporation whose shares are not  
 1601 publicly traded on a recognized stock exchange is transferred or  
 1602 assigned, including the final transfer or assignment of multiple  
 1603 transfers or assignments over a 2-year period that cumulatively  
 1604 total 45 percent or more.

1605  
 1606 A change solely in the management company or board of directors  
 1607 is not a change of ownership.

1608 Section 33. Section 429.071, Florida Statutes, is  
 1609 repealed.

1610 Section 34. Paragraph (e) of subsection (1) and  
 1611 subsections (2) and (3) of section 429.08, Florida Statutes, are  
 1612 amended to read:

1613 429.08 Unlicensed facilities; referral of person for  
 1614 residency to unlicensed facility; penalties; verification of  
 1615 licensure status.--

1616 (1)

1617 (e) The agency shall publish ~~provide to the department's~~  
 1618 ~~elder information and referral providers~~ a list, by county, of  
 1619 licensed assisted living facilities, ~~to assist persons who are~~  
 1620 ~~considering an assisted living facility placement in locating a~~  
 1621 ~~licensed facility.~~ This information may be provided  
 1622 electronically or on the agency's Internet website.

1623 ~~(2) Each field office of the Agency for Health Care~~  
 1624 ~~Administration shall establish a local coordinating workgroup~~  
 1625 ~~which includes representatives of local law enforcement~~  
 1626 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~  
 1627 ~~the Department of Legal Affairs, local fire authorities, the~~  
 1628 ~~Department of Children and Family Services, the district long-~~  
 1629 ~~term care ombudsman council, and the district human rights~~  
 1630 ~~advocacy committee to assist in identifying the operation of~~  
 1631 ~~unlicensed facilities and to develop and implement a plan to~~  
 1632 ~~ensure effective enforcement of state laws relating to such~~  
 1633 ~~facilities. The workgroup shall report its findings, actions,~~  
 1634 ~~and recommendations semiannually to the Director of Health~~  
 1635 ~~Quality Assurance of the agency.~~

1636 (2) ~~(3)~~ It is unlawful to knowingly refer a person for  
 1637 residency to an unlicensed assisted living facility; to an  
 1638 assisted living facility the license of which is under denial or  
 1639 has been suspended or revoked; or to an assisted living facility  
 1640 that has a moratorium pursuant to part II of chapter 408. ~~Any~~

1641 ~~person who violates this subsection commits a noncriminal~~  
1642 ~~violation, punishable by a fine not exceeding \$500 as provided~~  
1643 ~~in s. 775.083.~~

1644 (a) Any health care practitioner, as defined in s.  
1645 456.001, who is aware of the operation of an unlicensed facility  
1646 shall report that facility to the agency. Failure to report a  
1647 facility that the practitioner knows or has reasonable cause to  
1648 suspect is unlicensed shall be reported to the practitioner's  
1649 licensing board.

1650 (b) Any provider as defined in s. 408.803 that ~~hospital or~~  
1651 ~~community mental health center licensed under chapter 395 or~~  
1652 ~~chapter 394 which~~ knowingly discharges a patient or client to an  
1653 unlicensed facility is subject to sanction by the agency.

1654 (c) Any employee of the agency or department, or the  
1655 Department of Children and Family Services, who knowingly refers  
1656 a person for residency to an unlicensed facility; to a facility  
1657 the license of which is under denial or has been suspended or  
1658 revoked; or to a facility that has a moratorium pursuant to part  
1659 II of chapter 408 is subject to disciplinary action by the  
1660 agency or department, or the Department of Children and Family  
1661 Services.

1662 (d) The employer of any person who is under contract with  
1663 the agency or department, or the Department of Children and  
1664 Family Services, and who knowingly refers a person for residency  
1665 to an unlicensed facility; to a facility the license of which is  
1666 under denial or has been suspended or revoked; or to a facility  
1667 that has a moratorium pursuant to part II of chapter 408 shall

1668 be fined and required to prepare a corrective action plan  
 1669 designed to prevent such referrals.

1670 ~~(e) The agency shall provide the department and the~~  
 1671 ~~Department of Children and Family Services with a list of~~  
 1672 ~~licensed facilities within each county and shall update the list~~  
 1673 ~~at least quarterly.~~

1674 ~~(f) At least annually, the agency shall notify, in~~  
 1675 ~~appropriate trade publications, physicians licensed under~~  
 1676 ~~chapter 458 or chapter 459, hospitals licensed under chapter~~  
 1677 ~~395, nursing home facilities licensed under part II of chapter~~  
 1678 ~~400, and employees of the agency or the department, or the~~  
 1679 ~~Department of Children and Family Services, who are responsible~~  
 1680 ~~for referring persons for residency, that it is unlawful to~~  
 1681 ~~knowingly refer a person for residency to an unlicensed assisted~~  
 1682 ~~living facility and shall notify them of the penalty for~~  
 1683 ~~violating such prohibition. The department and the Department of~~  
 1684 ~~Children and Family Services shall, in turn, notify service~~  
 1685 ~~providers under contract to the respective departments who have~~  
 1686 ~~responsibility for resident referrals to facilities. Further,~~  
 1687 ~~the notice must direct each noticed facility and individual to~~  
 1688 ~~contact the appropriate agency office in order to verify the~~  
 1689 ~~licensure status of any facility prior to referring any person~~  
 1690 ~~for residency. Each notice must include the name, telephone~~  
 1691 ~~number, and mailing address of the appropriate office to~~  
 1692 ~~contact.~~

1693 Section 35. Paragraph (e) of subsection (1) of section  
 1694 429.14, Florida Statutes, is amended to read:

1695 429.14 Administrative penalties.--

1696 (1) In addition to the requirements of part II of chapter  
 1697 408, the agency may deny, revoke, and suspend any license issued  
 1698 under this part and impose an administrative fine in the manner  
 1699 provided in chapter 120 against a licensee of an assisted living  
 1700 facility for a violation of any provision of this part, part II  
 1701 of chapter 408, or applicable rules, or for any of the following  
 1702 actions by a licensee of an assisted living facility, for the  
 1703 actions of any person subject to level 2 background screening  
 1704 under s. 408.809, or for the actions of any facility employee:

1705 (e) A citation of any of the following deficiencies as  
 1706 specified ~~defined~~ in s. 429.19:

- 1707 1. One or more cited class I deficiencies.
- 1708 2. Three or more cited class II deficiencies.
- 1709 3. Five or more cited class III deficiencies that have  
 1710 been cited on a single survey and have not been corrected within  
 1711 the times specified.

1712 Section 36. Subsections (2), (8), and (9) of section  
 1713 429.19, Florida Statutes, are amended to read:

1714 429.19 Violations; imposition of administrative fines;  
 1715 grounds.--

1716 (2) Each violation of this part and adopted rules shall be  
 1717 classified according to the nature of the violation and the  
 1718 gravity of its probable effect on facility residents. The agency  
 1719 shall indicate the classification on the written notice of the  
 1720 violation as follows:

1721 (a) Class "I" violations are defined in s. 408.813 ~~those~~  
 1722 ~~conditions or occurrences related to the operation and~~  
 1723 ~~maintenance of a facility or to the personal care of residents~~

1724 ~~which the agency determines present an imminent danger to the~~  
1725 ~~residents or guests of the facility or a substantial probability~~  
1726 ~~that death or serious physical or emotional harm would result~~  
1727 ~~therefrom. The condition or practice constituting a class I~~  
1728 ~~violation shall be abated or eliminated within 24 hours, unless~~  
1729 ~~a fixed period, as determined by the agency, is required for~~  
1730 ~~correction. The agency shall impose an administrative fine for a~~  
1731 ~~cited class I violation in an amount not less than \$5,000 and~~  
1732 ~~not exceeding \$10,000 for each violation. A fine may be levied~~  
1733 ~~notwithstanding the correction of the violation.~~

1734 (b) Class "II" violations are defined in s. 408.813 ~~these~~  
1735 ~~conditions or occurrences related to the operation and~~  
1736 ~~maintenance of a facility or to the personal care of residents~~  
1737 ~~which the agency determines directly threaten the physical or~~  
1738 ~~emotional health, safety, or security of the facility residents,~~  
1739 ~~other than class I violations. The agency shall impose an~~  
1740 ~~administrative fine for a cited class II violation in an amount~~  
1741 ~~not less than \$1,000 and not exceeding \$5,000 for each~~  
1742 ~~violation. A fine shall be levied notwithstanding the correction~~  
1743 ~~of the violation.~~

1744 (c) Class "III" violations are defined in s. 408.813 ~~these~~  
1745 ~~conditions or occurrences related to the operation and~~  
1746 ~~maintenance of a facility or to the personal care of residents~~  
1747 ~~which the agency determines indirectly or potentially threaten~~  
1748 ~~the physical or emotional health, safety, or security of~~  
1749 ~~facility residents, other than class I or class II violations.~~  
1750 The agency shall impose an administrative fine for a cited class  
1751 III violation in an amount not less than \$500 and not exceeding

1752 \$1,000 for each violation. ~~A citation for a class III violation~~  
1753 ~~must specify the time within which the violation is required to~~  
1754 ~~be corrected. If a class III violation is corrected within the~~  
1755 ~~time specified, no fine may be imposed, unless it is a repeated~~  
1756 ~~offense.~~

1757 (d) Class "IV" violations are defined in s. 408.813 ~~those~~  
1758 ~~conditions or occurrences related to the operation and~~  
1759 ~~maintenance of a building or to required reports, forms, or~~  
1760 ~~documents that do not have the potential of negatively affecting~~  
1761 ~~residents. These violations are of a type that the agency~~  
1762 ~~determines do not threaten the health, safety, or security of~~  
1763 ~~residents of the facility. The agency shall impose an~~  
1764 ~~administrative fine for a cited class IV violation in an amount~~  
1765 ~~not less than \$100 and not exceeding \$200 for each violation. A~~  
1766 ~~citation for a class IV violation must specify the time within~~  
1767 ~~which the violation is required to be corrected. If a class IV~~  
1768 ~~violation is corrected within the time specified, no fine shall~~  
1769 ~~be imposed. Any class IV violation that is corrected during the~~  
1770 ~~time an agency survey is being conducted will be identified as~~  
1771 ~~an agency finding and not as a violation.~~

1772 (8) During an inspection, ~~the agency, as an alternative to~~  
1773 ~~or in conjunction with an administrative action against a~~  
1774 ~~facility for violations of this part and adopted rules, shall~~  
1775 ~~make a reasonable attempt to discuss each violation and~~  
1776 ~~recommended corrective action with the owner or administrator of~~  
1777 ~~the facility, prior to written notification. The agency, instead~~  
1778 ~~of fixing a period within which the facility shall enter into~~  
1779 ~~compliance with standards, may request a plan of corrective~~



1780 ~~action from the facility which demonstrates a good faith effort~~  
1781 ~~to remedy each violation by a specific date, subject to the~~  
1782 ~~approval of the agency.~~

1783 (9) The agency shall develop and disseminate an annual  
1784 list of all facilities sanctioned or fined ~~\$5,000 or more~~ for  
1785 violations of state standards, the number and class of  
1786 violations involved, the penalties imposed, and the current  
1787 status of cases. The list shall be disseminated, at no charge,  
1788 to the Department of Elderly Affairs, the Department of Health,  
1789 the Department of Children and Family Services, the Agency for  
1790 Persons with Disabilities, the area agencies on aging, the  
1791 Florida Statewide Advocacy Council, and the state and local  
1792 ombudsman councils. The Department of Children and Family  
1793 Services shall disseminate the list to service providers under  
1794 contract to the department who are responsible for referring  
1795 persons to a facility for residency. The agency may charge a fee  
1796 commensurate with the cost of printing and postage to other  
1797 interested parties requesting a copy of this list. This  
1798 information may be provided electronically or on the agency's  
1799 Internet website.

1800 Section 37. Subsections (2) and (6) of section 429.23,  
1801 Florida Statutes, are amended to read:

1802 429.23 Internal risk management and quality assurance  
1803 program; adverse incidents and reporting requirements.--

1804 (2) Every facility licensed under this part is required to  
1805 maintain adverse incident reports. For purposes of this section,  
1806 the term, "adverse incident" means:

1807 (a) An event over which facility personnel could exercise  
 1808 control rather than as a result of the resident's condition and  
 1809 results in:

- 1810 1. Death;
- 1811 2. Brain or spinal damage;
- 1812 3. Permanent disfigurement;
- 1813 4. Fracture or dislocation of bones or joints;
- 1814 5. Any condition that required medical attention to which  
 1815 the resident has not given his or her consent, including failure  
 1816 to honor advanced directives;
- 1817 6. Any condition that requires the transfer of the  
 1818 resident from the facility to a unit providing more acute care  
 1819 due to the incident rather than the resident's condition before  
 1820 the incident; or-
- 1821 7. An event that is reported to law enforcement or its  
 1822 personnel for investigation; or

1823 ~~(b) Abuse, neglect, or exploitation as defined in s.~~  
 1824 ~~415.102;~~

1825 ~~(c) Events reported to law enforcement; or~~

1826 (b)(d) Resident elopement, if the elopement places the  
 1827 resident at risk of harm or injury.

1828 (6) Abuse, neglect, or exploitation must be reported to  
 1829 the Department of Children and Family Services as required under  
 1830 chapter 415. The agency shall annually submit to the Legislature  
 1831 a report on assisted living facility adverse incident reports.  
 1832 The report must include the following information arranged by  
 1833 county:

- 1834 ~~(a) A total number of adverse incidents;~~

1835 ~~(b) A listing, by category, of the type of adverse~~  
1836 ~~incidents occurring within each category and the type of staff~~  
1837 ~~involved;~~

1838 ~~(c) A listing, by category, of the types of injuries, if~~  
1839 ~~any, and the number of injuries occurring within each category;~~

1840 ~~(d) Types of liability claims filed based on an adverse~~  
1841 ~~incident report or reportable injury; and~~

1842 ~~(e) Disciplinary action taken against staff, categorized~~  
1843 ~~by the type of staff involved.~~

1844 Section 38. Subsections (10) through (12) of section  
1845 429.26, Florida Statutes, are renumbered as subsections (9)  
1846 through (11), respectively, and present subsection (9) of that  
1847 section is amended to read:

1848 429.26 Appropriateness of placements; examinations of  
1849 residents.--

1850 ~~(9) If, at any time after admission to a facility, a~~  
1851 ~~resident appears to need care beyond that which the facility is~~  
1852 ~~licensed to provide, the agency shall require the resident to be~~  
1853 ~~physically examined by a licensed physician, physician~~  
1854 ~~assistant, or licensed nurse practitioner. This examination~~  
1855 ~~shall, to the extent possible, be performed by the resident's~~  
1856 ~~preferred physician or nurse practitioner and shall be paid for~~  
1857 ~~by the resident with personal funds, except as provided in s.~~  
1858 ~~429.18(2). Following this examination, the examining physician,~~  
1859 ~~physician assistant, or licensed nurse practitioner shall~~  
1860 ~~complete and sign a medical form provided by the agency. The~~  
1861 ~~completed medical form shall be submitted to the agency within~~  
1862 ~~30 days after the date the facility owner or administrator is~~

1863 ~~notified by the agency that the physical examination is~~  
1864 ~~required. After consultation with the physician, physician~~  
1865 ~~assistant, or licensed nurse practitioner who performed the~~  
1866 ~~examination, a medical review team designated by the agency~~  
1867 ~~shall then determine whether the resident is appropriately~~  
1868 ~~residing in the facility. The medical review team shall base its~~  
1869 ~~decision on a comprehensive review of the resident's physical~~  
1870 ~~and functional status, including the resident's preferences, and~~  
1871 ~~not on an isolated health-related problem. In the case of a~~  
1872 ~~mental health resident, if the resident appears to have needs in~~  
1873 ~~addition to those identified in the community living support~~  
1874 ~~plan, the agency may require an evaluation by a mental health~~  
1875 ~~professional, as determined by the Department of Children and~~  
1876 ~~Family Services. A facility may not be required to retain a~~  
1877 ~~resident who requires more services or care than the facility is~~  
1878 ~~able to provide in accordance with its policies and criteria for~~  
1879 ~~admission and continued residency. Members of the medical review~~  
1880 ~~team making the final determination may not include the agency~~  
1881 ~~personnel who initially questioned the appropriateness of a~~  
1882 ~~resident's placement. Such determination is final and binding~~  
1883 ~~upon the facility and the resident. Any resident who is~~  
1884 ~~determined by the medical review team to be inappropriately~~  
1885 ~~residing in a facility shall be given 30 days' written notice to~~  
1886 ~~relocate by the owner or administrator, unless the resident's~~  
1887 ~~continued residence in the facility presents an imminent danger~~  
1888 ~~to the health, safety, or welfare of the resident or a~~  
1889 ~~substantial probability exists that death or serious physical~~

1890 ~~harm would result to the resident if allowed to remain in the~~  
 1891 ~~facility.~~

1892 Section 39. Paragraph (h) of subsection (3) of section  
 1893 430.80, Florida Statutes, is amended to read:

1894 430.80 Implementation of a teaching nursing home pilot  
 1895 project.--

1896 (3) To be designated as a teaching nursing home, a nursing  
 1897 home licensee must, at a minimum:

1898 (h) Maintain insurance coverage pursuant to s.  
 1899 400.141(1)(s) ~~(20)~~ or proof of financial responsibility in a  
 1900 minimum amount of \$750,000. Such proof of financial  
 1901 responsibility may include:

1902 1. Maintaining an escrow account consisting of cash or  
 1903 assets eligible for deposit in accordance with s. 625.52; or

1904 2. Obtaining and maintaining pursuant to chapter 675 an  
 1905 unexpired, irrevocable, nontransferable and nonassignable letter  
 1906 of credit issued by any bank or savings association organized  
 1907 and existing under the laws of this state or any bank or savings  
 1908 association organized under the laws of the United States that  
 1909 has its principal place of business in this state or has a  
 1910 branch office which is authorized to receive deposits in this  
 1911 state. The letter of credit shall be used to satisfy the  
 1912 obligation of the facility to the claimant upon presentment of a  
 1913 final judgment indicating liability and awarding damages to be  
 1914 paid by the facility or upon presentment of a settlement  
 1915 agreement signed by all parties to the agreement when such final  
 1916 judgment or settlement is a result of a liability claim against  
 1917 the facility.

1918 Section 40. Subsection (5) of section 435.04, Florida  
 1919 Statutes, is amended to read:

1920 435.04 Level 2 screening standards.--

1921 (5) Under penalty of perjury, all employees in such  
 1922 positions of trust or responsibility shall attest to meeting the  
 1923 requirements for qualifying for employment and agreeing to  
 1924 inform the employer immediately if convicted of any of the  
 1925 disqualifying offenses while employed by the employer. Each  
 1926 employer of employees in such positions of trust or  
 1927 responsibilities which is licensed or registered by a state  
 1928 agency shall submit to the licensing agency annually or at the  
 1929 time of license renewal, under penalty of perjury, an affidavit  
 1930 of compliance with the provisions of this section.

1931 Section 41. Subsection (3) of section 435.05, Florida  
 1932 Statutes, is amended to read:

1933 435.05 Requirements for covered employees.--Except as  
 1934 otherwise provided by law, the following requirements shall  
 1935 apply to covered employees:

1936 (3) Each employer required to conduct level 2 background  
 1937 screening must sign an affidavit annually or at the time of  
 1938 license renewal, under penalty of perjury, stating that all  
 1939 covered employees have been screened or are newly hired and are  
 1940 awaiting the results of the required screening checks.

1941 Section 42. Subsection (2) of section 483.031, Florida  
 1942 Statutes, is amended to read:

1943 483.031 Application of part; exemptions.--This part  
 1944 applies to all clinical laboratories within this state, except:

1945 (2) A clinical laboratory that performs only waived tests  
 1946 ~~and has received a certificate of exemption from the agency~~  
 1947 ~~under s. 483.106.~~

1948 Section 43. Subsection (10) of section 483.041, Florida  
 1949 Statutes, is amended to read:

1950 483.041 Definitions.--As used in this part, the term:

1951 (10) "Waived test" means a test that the federal Centers  
 1952 for Medicare and Medicaid Services ~~Health Care Financing~~  
 1953 ~~Administration~~ has determined qualifies for a certificate of  
 1954 waiver under the federal Clinical Laboratory Improvement  
 1955 Amendments of 1988, and the federal rules adopted thereunder.

1956 Section 44. Section 483.106, Florida Statutes, is  
 1957 repealed.

1958 Section 45. Subsection (3) of section 483.172, Florida  
 1959 Statutes, is amended to read:

1960 483.172 License fees.--

1961 (3) The agency shall assess ~~a biennial fee of \$100 for a~~  
 1962 ~~certificate of exemption and~~ a \$100 biennial license fee under  
 1963 this section for facilities surveyed by an approved accrediting  
 1964 organization.

1965 Section 46. Paragraph (b) of subsection (1) of section  
 1966 627.4239, Florida Statutes, is amended to read:

1967 627.4239 Coverage for use of drugs in treatment of  
 1968 cancer.--

1969 (1) DEFINITIONS.--As used in this section, the term:

1970 (b) "Standard reference compendium" means authoritative  
 1971 compendia identified by the Secretary of the United States

1972 Department of Health and Human Services and recognized by the  
 1973 federal Centers for Medicare and Medicaid Services;

- 1974 ~~1. The United States Pharmacopeia Drug Information;~~  
 1975 ~~2. The American Medical Association Drug Evaluations; or~~  
 1976 ~~3. The American Hospital Formulary Service Drug~~  
 1977 ~~Information.~~

1978 Section 47. Paragraph (b) of subsection (5) of section  
 1979 627.736, Florida Statutes, is amended to read:

1980 627.736 Required personal injury protection benefits;  
 1981 exclusions; priority; claims.--

1982 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

1983 (b)1. An insurer or insured is not required to pay a claim  
 1984 or charges:

1985 a. Made by a broker or by a person making a claim on  
 1986 behalf of a broker;

1987 b. For any service or treatment that was not lawful at the  
 1988 time rendered;

1989 c. To any person who knowingly submits a false or  
 1990 misleading statement relating to the claim or charges;

1991 d. With respect to a bill or statement that does not  
 1992 substantially meet the applicable requirements of paragraph (d);

1993 e. For any treatment or service that is upcoded, or that  
 1994 is unbundled when such treatment or services should be bundled,  
 1995 in accordance with paragraph (d). To facilitate prompt payment  
 1996 of lawful services, an insurer may change codes that it  
 1997 determines to have been improperly or incorrectly upcoded or  
 1998 unbundled, and may make payment based on the changed codes,  
 1999 without affecting the right of the provider to dispute the



2000 change by the insurer, provided that before doing so, the  
 2001 insurer must contact the health care provider and discuss the  
 2002 reasons for the insurer's change and the health care provider's  
 2003 reason for the coding, or make a reasonable good faith effort to  
 2004 do so, as documented in the insurer's file; ~~and~~

2005 f. For medical services or treatment billed by a physician  
 2006 and not provided in a hospital unless such services are rendered  
 2007 by the physician or are incident to his or her professional  
 2008 services and are included on the physician's bill, including  
 2009 documentation verifying that the physician is responsible for  
 2010 the medical services that were rendered and billed; and

2011 g. For any service or treatment billed by a provider not  
 2012 holding an identification number issued by the agency pursuant  
 2013 to s. 400.9935(10).

2014 2. The Department of Health, in consultation with the  
 2015 appropriate professional licensing boards, shall adopt, by rule,  
 2016 a list of diagnostic tests deemed not to be medically necessary  
 2017 for use in the treatment of persons sustaining bodily injury  
 2018 covered by personal injury protection benefits under this  
 2019 section. The initial list shall be adopted by January 1, 2004,  
 2020 and shall be revised from time to time as determined by the  
 2021 Department of Health, in consultation with the respective  
 2022 professional licensing boards. Inclusion of a test on the list  
 2023 of invalid diagnostic tests shall be based on lack of  
 2024 demonstrated medical value and a level of general acceptance by  
 2025 the relevant provider community and shall not be dependent for  
 2026 results entirely upon subjective patient response.  
 2027 Notwithstanding its inclusion on a fee schedule in this

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2009

2028 subsection, an insurer or insured is not required to pay any  
2029 charges or reimburse claims for any invalid diagnostic test as  
2030 determined by the Department of Health.

2031 Section 48. Subsection (13) of section 651.118, Florida  
2032 Statutes, is amended to read:

2033 651.118 Agency for Health Care Administration;  
2034 certificates of need; sheltered beds; community beds.--

2035 (13) Residents, as defined in this chapter, are not  
2036 considered new admissions for the purpose of s.

2037 400.141(1)(o)1.d.~~(15)(d)~~.

2038 Section 49. This act shall take effect upon becoming a  
2039 law.