

1 A bill to be entitled
 2 An act relating to health care; amending s. 381.0203,
 3 F.S., relating to pharmacy services; revising terminology;
 4 repealing s. 395.0199, F.S., relating to private
 5 utilization review of health care services; amending ss.
 6 395.405 and 400.0712, F.S.; conforming cross-references;
 7 amending s. 395.602, F.S.; providing an additional 3-year
 8 transition period for certain hospitals to retain their
 9 designation as rural hospitals; amending s. 400.118, F.S.;
 10 removing provisions requiring quality-of-care monitors for
 11 nursing facilities in agency district offices; amending s.
 12 400.141, F.S.; revising reporting requirements for
 13 facility staff-to-resident ratios; deleting a requirement
 14 that licensed nursing home facilities provide the agency
 15 with a monthly report on the number of vacant beds in the
 16 facility; conforming a cross-reference; amending s.
 17 400.147, F.S.; revising reporting requirements under
 18 facility internal risk management and quality assurance
 19 programs; revising the definition of the term "adverse
 20 incident" for reporting purposes; requiring abuse,
 21 neglect, and exploitation to be reported to the agency and
 22 the Department of Children and Family Services; deleting a
 23 requirement that the agency submit an annual report on
 24 nursing home adverse incidents to the Legislature;
 25 amending s. 400.162, F.S.; revising provisions relating to
 26 procedures and policies regarding the safekeeping of
 27 nursing home residents' property; amending s. 400.191,
 28 F.S.; eliminating requirements for the agency to publish

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

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

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

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

141 the Legislature; amending s. 430.80, F.S.; revising the
142 definition of the term "teaching nursing home," relating
143 to implementation of a teaching nursing home pilot
144 project, and requirements for designation as a teaching
145 nursing home; conforming a cross-reference; amending ss.
146 435.04 and 435.05, F.S.; requiring employers of certain
147 employees to submit an affidavit of compliance with level
148 2 screening requirements at the time of license renewal;
149 amending s. 483.031, F.S.; conforming a reference;
150 amending s. 483.041, F.S.; revising a definition
151 applicable to pt. I of ch. 483, F.S., the "Florida
152 Clinical Laboratory Law"; repealing s. 483.106, F.S.,
153 relating to applications for certificates of exemption by
154 clinical laboratories that perform certain tests; amending
155 s. 483.172, F.S.; conforming a reference; amending s.
156 627.4239, F.S.; revising the definition of the term
157 "standard reference compendium" for purposes of regulating
158 the insurance coverage of drugs used in the treatment of
159 cancer; amending s. 651.105, F.S.; revising the timeframe
160 for certain examinations by the Office of Insurance
161 Regulation relating to the provision of continuing care;
162 amending s. 641.407, F.S.; revising minimum surplus
163 requirements for prepaid health clinics; amending s.
164 651.118, F.S.; conforming a cross-reference; providing an
165 effective date.

166

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

168

169 Section 1. Section 381.0203, Florida Statutes, is amended
 170 to read:

171 381.0203 Pharmacy services.--

172 (1) The department may contract on a statewide basis for
 173 the purchase of drugs, as defined in s. 499.003, for utilization
 174 ~~to be used~~ by state agencies and political subdivisions, and may
 175 adopt rules to administer this section.

176 (2) The department may establish and maintain a pharmacy
 177 services program that includes, ~~including~~, but is not limited
 178 to:

179 (a) A central pharmacy to support pharmaceutical services
 180 provided by the county health departments, including
 181 pharmaceutical repackaging, dispensing, and the purchase and
 182 distribution of immunizations and other pharmaceuticals.

183 (b) Regulation of drugs, cosmetics, and household products
 184 pursuant to chapter 499.

185 (c) Consultation to county health departments as required
 186 by s. 154.04(1)(c).

187 (d) A contraception distribution program which shall be
 188 implemented, to the extent resources permit, through the
 189 licensed pharmacies of county health departments. A woman who is
 190 eligible for participation in the contraceptive distribution
 191 program is deemed a patient of the county health department.

192 1. To be eligible for participation in the program a woman
 193 must:

194 a. Be a client of the department or the Department of
 195 Children and Family Services.

196 b. Be of childbearing age with undesired fertility.

197 c. Have an income between 150 and 200 percent of the
198 federal poverty level.

199 d. Have no Medicaid benefits or applicable health
200 insurance benefits.

201 e. Have had a medical examination by a licensed health
202 care provider within the past 6 months.

203 f. Have a valid prescription for contraceptives that are
204 available through the contraceptive distribution program.

205 g. Consent to the release of necessary medical information
206 to the county health department.

207 2. Fees charged for the contraceptives under the program
208 must cover the cost of purchasing and providing contraceptives
209 to women participating in the program.

210 3. The department may adopt rules to administer this
211 program.

212 Section 2. Section 395.0199, Florida Statutes, is
213 repealed.

214 Section 3. Section 395.405, Florida Statutes, is amended
215 to read:

216 395.405 Rulemaking.--The department shall adopt and
217 enforce all rules necessary to administer ss. ~~395.0199~~, 395.401,
218 395.4015, 395.402, 395.4025, 395.403, 395.404, and 395.4045.

219 Section 4. Paragraph (e) of subsection (2) of section
220 395.602, Florida Statutes, is amended to read:

221 395.602 Rural hospitals.--

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

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

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

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

233 3. A hospital supported by a tax district or subdistrict
234 whose boundaries encompass a population of 100 persons or fewer
235 per square mile;

236 4. A hospital in a constitutional charter county with a
237 population of over 1 million persons that has imposed a local
238 option health service tax pursuant to law and in an area that
239 was directly impacted by a catastrophic event on August 24,
240 1992, for which the Governor of Florida declared a state of
241 emergency pursuant to chapter 125, and has 120 beds or less that
242 serves an agricultural community with an emergency room
243 utilization of no less than 20,000 visits and a Medicaid
244 inpatient utilization rate greater than 15 percent;

245 5. A hospital with a service area that has a population of
246 100 persons or fewer per square mile. As used in this
247 subparagraph, the term "service area" means the fewest number of
248 zip codes that account for 75 percent of the hospital's
249 discharges for the most recent 5-year period, based on
250 information available from the hospital inpatient discharge

251 database in the Florida Center for Health Information and Policy
 252 Analysis at the Agency for Health Care Administration; or

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

255
 256 Population densities used in this paragraph must be based upon
 257 the most recently completed United States census. A hospital
 258 that received funds under s. 409.9116 for a quarter beginning no
 259 later than July 1, 2002, is deemed to have been and shall
 260 continue to be a rural hospital from that date through June 30,
 261 2015 ~~2012~~, if the hospital continues to have 100 or fewer
 262 licensed beds and an emergency room, or meets the criteria of
 263 subparagraph 4. An acute care hospital that has not previously
 264 been designated as a rural hospital and that meets the criteria
 265 of this paragraph shall be granted such designation upon
 266 application, including supporting documentation to the Agency
 267 for Health Care Administration.

268 Section 5. Subsection (1) of section 400.0712, Florida
 269 Statutes, is amended to read:

270 400.0712 Application for inactive license.--

271 (1) As specified in ~~s. 408.831(4)~~ and this section, the
 272 agency may issue an inactive license to a nursing home facility
 273 for all or a portion of its beds. Any request by a licensee that
 274 a nursing home or portion of a nursing home become inactive must
 275 be submitted to the agency in the approved format. The facility
 276 may not initiate any suspension of services, notify residents,
 277 or initiate inactivity before receiving approval from the

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

280 Section 6. Subsection (3) of section 400.118, Florida
281 Statutes, is renumbered as subsection (2), and present
282 subsection (2) of that section is amended to read:

283 400.118 Quality assurance; early warning system;
284 ~~monitoring;~~ rapid response teams.--

285 ~~(2)(a) The agency shall establish within each district~~
286 ~~office one or more quality of care monitors, based on the number~~
287 ~~of nursing facilities in the district, to monitor all nursing~~
288 ~~facilities in the district on a regular, unannounced, aperiodic~~
289 ~~basis, including nights, evenings, weekends, and holidays.~~
290 ~~Quality of care monitors shall visit each nursing facility at~~
291 ~~least quarterly. Priority for additional monitoring visits shall~~
292 ~~be given to nursing facilities with a history of resident care~~
293 ~~deficiencies. Quality of care monitors shall be registered~~
294 ~~nurses who are trained and experienced in nursing facility~~
295 ~~regulation, standards of practice in long-term care, and~~
296 ~~evaluation of patient care. Individuals in these positions shall~~
297 ~~not be deployed by the agency as a part of the district survey~~
298 ~~team in the conduct of routine, scheduled surveys, but shall~~
299 ~~function solely and independently as quality of care monitors.~~
300 ~~Quality of care monitors shall assess the overall quality of~~
301 ~~life in the nursing facility and shall assess specific~~
302 ~~conditions in the facility directly related to resident care,~~
303 ~~including the operations of internal quality improvement and~~
304 ~~risk management programs and adverse incident reports. The~~
305 ~~quality of care monitor shall include in an assessment visit~~

306 ~~observation of the care and services rendered to residents and~~
307 ~~formal and informal interviews with residents, family members,~~
308 ~~facility staff, resident guests, volunteers, other regulatory~~
309 ~~staff, and representatives of a long-term care ombudsman council~~
310 ~~or Florida advocacy council.~~

311 ~~(b) Findings of a monitoring visit, both positive and~~
312 ~~negative, shall be provided orally and in writing to the~~
313 ~~facility administrator or, in the absence of the facility~~
314 ~~administrator, to the administrator on duty or the director of~~
315 ~~nursing. The quality-of-care monitor may recommend to the~~
316 ~~facility administrator procedural and policy changes and staff~~
317 ~~training, as needed, to improve the care or quality of life of~~
318 ~~facility residents. Conditions observed by the quality-of-care~~
319 ~~monitor which threaten the health or safety of a resident shall~~
320 ~~be reported immediately to the agency area office supervisor for~~
321 ~~appropriate regulatory action and, as appropriate or as required~~
322 ~~by law, to law enforcement, adult protective services, or other~~
323 ~~responsible agencies.~~

324 ~~(c) Any record, whether written or oral, or any written or~~
325 ~~oral communication generated pursuant to paragraph (a) or~~
326 ~~paragraph (b) shall not be subject to discovery or introduction~~
327 ~~into evidence in any civil or administrative action against a~~
328 ~~nursing facility arising out of matters which are the subject of~~
329 ~~quality-of-care monitoring, and a person who was in attendance~~
330 ~~at a monitoring visit or evaluation may not be permitted or~~
331 ~~required to testify in any such civil or administrative action~~
332 ~~as to any evidence or other matters produced or presented during~~
333 ~~the monitoring visits or evaluations. However, information,~~

334 ~~documents, or records otherwise available from original sources~~
 335 ~~are not to be construed as immune from discovery or use in any~~
 336 ~~such civil or administrative action merely because they were~~
 337 ~~presented during monitoring visits or evaluations, and any~~
 338 ~~person who participates in such activities may not be prevented~~
 339 ~~from testifying as to matters within his or her knowledge, but~~
 340 ~~such witness may not be asked about his or her participation in~~
 341 ~~such activities. The exclusion from the discovery or~~
 342 ~~introduction of evidence in any civil or administrative action~~
 343 ~~provided for herein shall not apply when the quality-of-care~~
 344 ~~monitor makes a report to the appropriate authorities regarding~~
 345 ~~a threat to the health or safety of a resident.~~

346 Section 7. Section 400.141, Florida Statutes, is amended
 347 to read:

348 400.141 Administration and management of nursing home
 349 facilities.--

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

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

354 (b) ~~(2)~~ Appoint a medical director licensed pursuant to
 355 chapter 458 or chapter 459. The agency may establish by rule
 356 more specific criteria for the appointment of a medical
 357 director.

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

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

362 notwithstanding, a registered pharmacist licensed in Florida,
363 that is under contract with a facility licensed under this
364 chapter or chapter 429, shall repackage a nursing facility
365 resident's bulk prescription medication which has been packaged
366 by another pharmacist licensed in any state in the United States
367 into a unit dose system compatible with the system used by the
368 nursing facility, if the pharmacist is requested to offer such
369 service. In order to be eligible for the repackaging, a resident
370 or the resident's spouse must receive prescription medication
371 benefits provided through a former employer as part of his or
372 her retirement benefits, a qualified pension plan as specified
373 in s. 4972 of the Internal Revenue Code, a federal retirement
374 program as specified under 5 C.F.R. s. 831, or a long-term care
375 policy as defined in s. 627.9404(1). A pharmacist who correctly
376 repackages and relabels the medication and the nursing facility
377 which correctly administers such repackaged medication under ~~the~~
378 ~~provisions of this paragraph may subsection~~ shall not be held
379 liable in any civil or administrative action arising from the
380 repackaging. In order to be eligible for the repackaging, a
381 nursing facility resident for whom the medication is to be
382 repackaged shall sign an informed consent form provided by the
383 facility which includes an explanation of the repackaging
384 process and which notifies the resident of the immunities from
385 liability provided in this paragraph ~~herein~~. A pharmacist who
386 repackages and relabels prescription medications, as authorized
387 under this paragraph ~~subsection~~, may charge a reasonable fee for
388 costs resulting from the implementation of this provision.

389 (e)~~(5)~~ Provide for the access of the facility residents to
390 dental and other health-related services, recreational services,
391 rehabilitative services, and social work services appropriate to
392 their needs and conditions and not directly furnished by the
393 licensee. When a geriatric outpatient nurse clinic is conducted
394 in accordance with rules adopted by the agency, outpatients
395 attending such clinic shall not be counted as part of the
396 general resident population of the nursing home facility, nor
397 shall the nursing staff of the geriatric outpatient clinic be
398 counted as part of the nursing staff of the facility, until the
399 outpatient clinic load exceeds 15 a day.

400 (f)~~(6)~~ Be allowed and encouraged by the agency to provide
401 other needed services under certain conditions. If the facility
402 has a standard licensure status, and has had no class I or class
403 II deficiencies during the past 2 years or has been awarded a
404 Gold Seal under the program established in s. 400.235, it may be
405 encouraged by the agency to provide services, including, but not
406 limited to, respite and adult day services, which enable
407 individuals to move in and out of the facility. A facility is
408 not subject to any additional licensure requirements for
409 providing these services. Respite care may be offered to persons
410 in need of short-term or temporary nursing home services.
411 Respite care must be provided in accordance with this part and
412 rules adopted by the agency. However, the agency shall, by rule,
413 adopt modified requirements for resident assessment, resident
414 care plans, resident contracts, physician orders, and other
415 provisions, as appropriate, for short-term or temporary nursing
416 home services. The agency shall allow for shared programming and

417 staff in a facility which meets minimum standards and offers
 418 services pursuant to this paragraph ~~subsection~~, but, if the
 419 facility is cited for deficiencies in patient care, may require
 420 additional staff and programs appropriate to the needs of
 421 service recipients. A person who receives respite care may not
 422 be counted as a resident of the facility for purposes of the
 423 facility's licensed capacity unless that person receives 24-hour
 424 respite care. A person receiving either respite care for 24
 425 hours or longer or adult day services must be included when
 426 calculating minimum staffing for the facility. Any costs and
 427 revenues generated by a nursing home facility from
 428 nonresidential programs or services shall be excluded from the
 429 calculations of Medicaid per diems for nursing home
 430 institutional care reimbursement.

431 (g) ~~(7)~~ If the facility has a standard license or is a Gold
 432 Seal facility, exceeds the minimum required hours of licensed
 433 nursing and certified nursing assistant direct care per resident
 434 per day, and is part of a continuing care facility licensed
 435 under chapter 651 or a retirement community that offers other
 436 services pursuant to part III of this chapter or part I or part
 437 III of chapter 429 on a single campus, be allowed to share
 438 programming and staff. At the time of inspection and in the
 439 semiannual report required pursuant to paragraph (o) ~~subsection~~
 440 ~~(15)~~, a continuing care facility or retirement community that
 441 uses this option must demonstrate through staffing records that
 442 minimum staffing requirements for the facility were met.
 443 Licensed nurses and certified nursing assistants who work in the
 444 nursing home facility may be used to provide services elsewhere

445 on campus if the facility exceeds the minimum number of direct
446 care hours required per resident per day and the total number of
447 residents receiving direct care services from a licensed nurse
448 or a certified nursing assistant does not cause the facility to
449 violate the staffing ratios required under s. 400.23(3)(a).
450 Compliance with the minimum staffing ratios shall be based on
451 total number of residents receiving direct care services,
452 regardless of where they reside on campus. If the facility
453 receives a conditional license, it may not share staff until the
454 conditional license status ends. This paragraph ~~subsection~~ does
455 not restrict the agency's authority under federal or state law
456 to require additional staff if a facility is cited for
457 deficiencies in care which are caused by an insufficient number
458 of certified nursing assistants or licensed nurses. The agency
459 may adopt rules for the documentation necessary to determine
460 compliance with this provision.

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

463 (i) ~~(9)~~ If the licensee furnishes food service, provide a
464 wholesome and nourishing diet sufficient to meet generally
465 accepted standards of proper nutrition for its residents and
466 provide such therapeutic diets as may be prescribed by attending
467 physicians. In making rules to implement this paragraph
468 ~~subsection~~, the agency shall be guided by standards recommended
469 by nationally recognized professional groups and associations
470 with knowledge of dietetics.

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

473 records, personal and social history, and identity and address
474 of next of kin or other persons who may have responsibility for
475 the affairs of the residents; and individual resident care plans
476 including, but not limited to, prescribed services, service
477 frequency and duration, and service goals. The records shall be
478 open to inspection by the agency.

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

482 (l)~~(12)~~ Furnish copies of personnel records for employees
483 affiliated with such facility, to any other facility licensed by
484 this state requesting this information pursuant to this part.
485 Such information contained in the records may include, but is
486 not limited to, disciplinary matters and any reason for
487 termination. Any facility releasing such records pursuant to
488 this part shall be considered to be acting in good faith and may
489 not be held liable for information contained in such records,
490 absent a showing that the facility maliciously falsified such
491 records.

492 (m)~~(13)~~ Publicly display a poster provided by the agency
493 containing the names, addresses, and telephone numbers for the
494 state's abuse hotline, the State Long-Term Care Ombudsman, the
495 Agency for Health Care Administration consumer hotline, the
496 Advocacy Center for Persons with Disabilities, the Florida
497 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
498 with a clear description of the assistance to be expected from
499 each.

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

503 (o)1. ~~(15)~~ Submit semiannually to the agency, or more
504 frequently if requested by the agency, information regarding
505 facility staff-to-resident ratios, staff turnover, and staff
506 stability, including information regarding certified nursing
507 assistants, licensed nurses, the director of nursing, and the
508 facility administrator. For purposes of this reporting:

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

513 b. ~~(b)~~ Staff turnover must be reported for the most recent
514 12-month period ending on the last workday of the most recent
515 calendar quarter prior to the date the information is submitted.
516 The turnover rate must be computed quarterly, with the annual
517 rate being the cumulative sum of the quarterly rates. The
518 turnover rate is the total number of terminations or separations
519 experienced during the quarter, excluding any employee
520 terminated during a probationary period of 3 months or less,
521 divided by the total number of staff employed at the end of the
522 period for which the rate is computed, and expressed as a
523 percentage.

524 c. ~~(e)~~ The formula for determining staff stability is the
525 total number of employees that have been employed for more than
526 12 months, divided by the total number of employees employed at

527 the end of the most recent calendar quarter, and expressed as a
528 percentage.

529 d.~~(d)~~ A nursing facility that has failed to comply with
530 state minimum-staffing requirements for 2 consecutive days is
531 prohibited from accepting new admissions until the facility has
532 achieved the minimum-staffing requirements for a period of 6
533 consecutive days. For the purposes of this sub-subparagraph
534 ~~paragraph~~, any person who was a resident of the facility and was
535 absent from the facility for the purpose of receiving medical
536 care at a separate location or was on a leave of absence is not
537 considered a new admission. Failure to impose such an admissions
538 moratorium constitutes a class II deficiency.

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

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

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

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

554 (p) ~~(17)~~ Notify a licensed physician when a resident
555 exhibits signs of dementia or cognitive impairment or has a
556 change of condition in order to rule out the presence of an
557 underlying physiological condition that may be contributing to
558 such dementia or impairment. The notification must occur within
559 30 days after the acknowledgment of such signs by facility
560 staff. If an underlying condition is determined to exist, the
561 facility shall arrange, with the appropriate health care
562 provider, the necessary care and services to treat the
563 condition.

564 (q) ~~(18)~~ If the facility implements a dining and
565 hospitality attendant program, ensure that the program is
566 developed and implemented under the supervision of the facility
567 director of nursing. A licensed nurse, licensed speech or
568 occupational therapist, or a registered dietitian must conduct
569 training of dining and hospitality attendants. A person employed
570 by a facility as a dining and hospitality attendant must perform
571 tasks under the direct supervision of a licensed nurse.

572 (r) ~~(19)~~ Report to the agency any filing for bankruptcy
573 protection by the facility or its parent corporation,
574 divestiture or spin-off of its assets, or corporate
575 reorganization within 30 days after the completion of such
576 activity.

577 (s) ~~(20)~~ Maintain general and professional liability
578 insurance coverage that is in force at all times. In lieu of
579 general and professional liability insurance coverage, a state-
580 designated teaching nursing home and its affiliated assisted
581 living facilities created under s. 430.80 may demonstrate proof

582 of financial responsibility as provided in s. 430.80(3)(g) ~~s.~~
583 ~~430.80(3)(h)~~.

584 (t) ~~(21)~~ Maintain in the medical record for each resident a
585 daily chart of certified nursing assistant services provided to
586 the resident. The certified nursing assistant who is caring for
587 the resident must complete this record by the end of his or her
588 shift. This record must indicate assistance with activities of
589 daily living, assistance with eating, and assistance with
590 drinking, and must record each offering of nutrition and
591 hydration for those residents whose plan of care or assessment
592 indicates a risk for malnutrition or dehydration.

593 (u) ~~(22)~~ Before November 30 of each year, subject to the
594 availability of an adequate supply of the necessary vaccine,
595 provide for immunizations against influenza viruses to all its
596 consenting residents in accordance with the recommendations of
597 the United States Centers for Disease Control and Prevention,
598 subject to exemptions for medical contraindications and
599 religious or personal beliefs. Subject to these exemptions, any
600 consenting person who becomes a resident of the facility after
601 November 30 but before March 31 of the following year must be
602 immunized within 5 working days after becoming a resident.
603 Immunization shall not be provided to any resident who provides
604 documentation that he or she has been immunized as required by
605 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not
606 prohibit a resident from receiving the immunization from his or
607 her personal physician if he or she so chooses. A resident who
608 chooses to receive the immunization from his or her personal
609 physician shall provide proof of immunization to the facility.

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

612 (v) ~~(23)~~ Assess all residents for eligibility for
613 pneumococcal polysaccharide vaccination (PPV) and vaccinate
614 residents when indicated within 60 days after the effective date
615 of this act in accordance with the recommendations of the United
616 States Centers for Disease Control and Prevention, subject to
617 exemptions for medical contraindications and religious or
618 personal beliefs. Residents admitted after the effective date of
619 this act shall be assessed within 5 working days of admission
620 and, when indicated, vaccinated within 60 days in accordance
621 with the recommendations of the United States Centers for
622 Disease Control and Prevention, subject to exemptions for
623 medical contraindications and religious or personal beliefs.
624 Immunization shall not be provided to any resident who provides
625 documentation that he or she has been immunized as required by
626 this paragraph ~~subsection~~. This paragraph ~~subsection~~ does not
627 prohibit a resident from receiving the immunization from his or
628 her personal physician if he or she so chooses. A resident who
629 chooses to receive the immunization from his or her personal
630 physician shall provide proof of immunization to the facility.
631 The agency may adopt and enforce any rules necessary to comply
632 with or implement this paragraph ~~subsection~~.

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

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

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

644 Section 8. Present subsections (9) through (13) of section
645 400.147, Florida Statutes, are renumbered as subsections (10)
646 through (14), respectively, subsection (5) and present
647 subsection (14) are amended, and a new subsection (9) is added
648 to that section, to read:

649 400.147 Internal risk management and quality assurance
650 program.--

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

653 (a) An event over which facility personnel could exercise
654 control and which is associated in whole or in part with the
655 facility's intervention, rather than the condition for which
656 such intervention occurred, and which results in one of the
657 following:

- 658 1. Death;
- 659 2. Brain or spinal damage;
- 660 3. Permanent disfigurement;
- 661 4. Fracture or dislocation of bones or joints;
- 662 5. A limitation of neurological, physical, or sensory
663 function;

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

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

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

673 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
674 ~~415.102;~~

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

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

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

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

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

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

686 ~~(b) A listing, by category, of the types of adverse~~
687 ~~incidents, the number of incidents occurring within each~~
688 ~~category, and the type of staff involved.~~

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

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

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

695 Section 9. Subsection (3) of section 400.162, Florida
 696 Statutes, is amended to read:

697 400.162 Property and personal affairs of residents.--

698 (3) A licensee shall provide for the safekeeping of
 699 personal effects, funds, and other property of the resident in
 700 the facility. Whenever necessary for the protection of
 701 valuables, or in order to avoid unreasonable responsibility
 702 therefor, the licensee may require that such valuables be
 703 excluded or removed from the facility and kept at some place not
 704 subject to the control of the licensee. At the request of a
 705 resident, the facility shall mark the resident's personal
 706 property with the resident's name or another type of
 707 identification, without defacing the property. Any theft or loss
 708 of a resident's personal property shall be documented by the
 709 facility. The facility shall develop policies and procedures to
 710 minimize the risk of theft or loss of the personal property of
 711 residents. A copy of the policy shall be provided to every
 712 employee and to each resident and resident's representative, if
 713 appropriate, at admission and when revised. Facility policies
 714 must include provisions related to reporting theft or loss of a
 715 resident's property to law enforcement and any facility waiver
 716 of liability for loss or theft. ~~The facility shall post notice~~
 717 ~~of these policies and procedures, and any revision thereof, in~~
 718 ~~places accessible to residents.~~

719 Section 10. Subsection (2) of section 400.191, Florida
720 Statutes, is amended to read:

721 400.191 Availability, distribution, and posting of reports
722 and records.--

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

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

731 1. A section entitled "Have you considered programs that
732 provide alternatives to nursing home care?" which shall be the
733 first section of the Nursing Home Guide and which shall
734 prominently display information about available alternatives to
735 nursing homes and how to obtain additional information regarding
736 these alternatives. The Nursing Home Guide shall explain that
737 this state offers alternative programs that permit qualified
738 elderly persons to stay in their homes instead of being placed
739 in nursing homes and shall encourage interested persons to call
740 the Comprehensive Assessment Review and Evaluation for Long-Term
741 Care Services (CARES) Program to inquire if they qualify. The
742 Nursing Home Guide shall list available home and community-based
743 programs which shall clearly state the services that are
744 provided and indicate whether nursing home services are included
745 if needed.

746 2. A list by name and address of all nursing home

747 facilities in this state, including any prior name by which a
748 facility was known during the previous 24-month period.

749 3. Whether such nursing home facilities are proprietary or
750 nonproprietary.

751 4. The current owner of the facility's license and the
752 year that that entity became the owner of the license.

753 5. The name of the owner or owners of each facility and
754 whether the facility is affiliated with a company or other
755 organization owning or managing more than one nursing facility
756 in this state.

757 6. The total number of beds in each facility and the most
758 recently available occupancy levels.

759 7. The number of private and semiprivate rooms in each
760 facility.

761 8. The religious affiliation, if any, of each facility.

762 9. The languages spoken by the administrator and staff of
763 each facility.

764 10. Whether or not each facility accepts Medicare or
765 Medicaid recipients or insurance, health maintenance
766 organization, Veterans Administration, CHAMPUS program, or
767 workers' compensation coverage.

768 11. Recreational and other programs available at each
769 facility.

770 12. Special care units or programs offered at each
771 facility.

772 13. Whether the facility is a part of a retirement
773 community that offers other services pursuant to part III of
774 this chapter or part I or part III of chapter 429.

775 14. Survey and deficiency information, including all
776 federal and state recertification, licensure, revisit, and
777 complaint survey information, for each facility for the past 30
778 months. For noncertified nursing homes, state survey and
779 deficiency information, including licensure, revisit, and
780 complaint survey information for the past 30 months shall be
781 provided.

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

792 ~~(b) The agency shall provide the following information in~~
793 ~~printed form:~~

794 ~~1. A section entitled "Have you considered programs that~~
795 ~~provide alternatives to nursing home care?" which shall be the~~
796 ~~first section of the Nursing Home Guide and which shall~~
797 ~~prominently display information about available alternatives to~~
798 ~~nursing homes and how to obtain additional information regarding~~
799 ~~these alternatives. The Nursing Home Guide shall explain that~~
800 ~~this state offers alternative programs that permit qualified~~
801 ~~elderly persons to stay in their homes instead of being placed~~
802 ~~in nursing homes and shall encourage interested persons to call~~

803 ~~the Comprehensive Assessment Review and Evaluation for Long Term~~
804 ~~Care Services (CARES) Program to inquire if they qualify. The~~
805 ~~Nursing Home Guide shall list available home and community-based~~
806 ~~programs which shall clearly state the services that are~~
807 ~~provided and indicate whether nursing home services are included~~
808 ~~if needed.~~

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

811 ~~3. Whether the nursing home facilities are proprietary or~~
812 ~~nonproprietary.~~

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

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

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

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

821 ~~8. The languages spoken by the administrator and staff of~~
822 ~~each facility.~~

823 ~~9. Whether or not each facility accepts Medicare or~~
824 ~~Medicaid recipients or insurance, health maintenance~~
825 ~~organization, Veterans Administration, CHAMPUS program, or~~
826 ~~workers' compensation coverage.~~

827 ~~10. Recreational programs, special care units, and other~~
828 ~~programs available at each facility.~~

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

831 ~~12. A statement advising consumers that each facility will~~
832 ~~have its own policies and procedures related to protecting~~
833 ~~resident property.~~

834 ~~13. A summary of the deficiency data for each facility~~
835 ~~over the past 30 months. The summary may include a score,~~
836 ~~rating, or comparison ranking with respect to other facilities~~
837 ~~based on the number of citations received by the facility on~~
838 ~~recertification, licensure, revisit, and complaint surveys; the~~
839 ~~severity and scope of the citations; the number of citations;~~
840 ~~and the number of recertification surveys the facility has had~~
841 ~~during the past 30 months. The score, rating, or comparison~~
842 ~~ranking may be presented in either numeric or symbolic form for~~
843 ~~the intended consumer audience.~~

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

- 847 1. The licensure status history of each facility.
- 848 2. The rating history of each facility.
- 849 3. The regulatory history of each facility, which may
850 include federal sanctions, state sanctions, federal fines, state
851 fines, and other actions.
- 852 4. Whether the facility currently possesses the Gold Seal
853 designation awarded pursuant to s. 400.235.
- 854 5. Internet links to the Internet sites of the facilities
855 or their affiliates.

856 Section 11. Paragraph (d) of subsection (1) of section
857 400.195, Florida Statutes, is amended to read:

858 400.195 Agency reporting requirements.--

859 (1) For the period beginning June 30, 2001, and ending
 860 June 30, 2005, the Agency for Health Care Administration shall
 861 provide a report to the Governor, the President of the Senate,
 862 and the Speaker of the House of Representatives with respect to
 863 nursing homes. The first report shall be submitted no later than
 864 December 30, 2002, and subsequent reports shall be submitted
 865 every 6 months thereafter. The report shall identify facilities
 866 based on their ownership characteristics, size, business
 867 structure, for-profit or not-for-profit status, and any other
 868 characteristics the agency determines useful in analyzing the
 869 varied segments of the nursing home industry and shall report:

870 (d) Information regarding deficiencies cited, including
 871 information used to develop the Nursing Home Guide WATCH LIST
 872 pursuant to s. 400.191, and applicable rules, a summary of data
 873 generated on nursing homes by Centers for Medicare and Medicaid
 874 Services Nursing Home Quality Information Project, and
 875 information collected pursuant to s. 400.147 (10) ~~(9)~~, relating to
 876 litigation.

877 Section 12. Paragraph (b) of subsection (3) of section
 878 400.23, Florida Statutes, is amended to read:

879 400.23 Rules; evaluation and deficiencies; licensure
 880 status.--

881 (3)

882 ~~(b) The agency shall adopt rules to allow properly trained~~
 883 ~~staff of a nursing facility, in addition to certified nursing~~
 884 ~~assistants and licensed nurses, to assist residents with eating.~~
 885 ~~The rules shall specify the minimum training requirements and~~
 886 ~~shall specify the physiological conditions or disorders of~~

887 ~~residents which would necessitate that the eating assistance be~~
 888 ~~provided by nursing personnel of the facility.~~ Nonnursing staff
 889 providing eating assistance to residents ~~under the provisions of~~
 890 ~~this subsection~~ shall not count toward compliance with minimum
 891 staffing standards.

892 Section 13. Subsection (6) of section 400.474, Florida
 893 Statutes, is amended to read:

894 400.474 Administrative penalties.--

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

898 (a) Gives remuneration for staffing services to:

- 899 1. Another home health agency with which it has formal or
- 900 informal patient-referral transactions or arrangements; or
- 901 2. A health services pool with which it has formal or
- 902 informal patient-referral transactions or arrangements,

903
 904 unless the home health agency has activated its comprehensive
 905 emergency management plan in accordance with s. 400.492. This
 906 paragraph does not apply to a Medicare-certified home health
 907 agency that provides fair market value remuneration for staffing
 908 services to a non-Medicare-certified home health agency that is
 909 part of a continuing care facility licensed under chapter 651
 910 for providing services to its own residents if each resident
 911 receiving home health services pursuant to this arrangement
 912 attests in writing that he or she made a decision without
 913 influence from staff of the facility to select, from a list of
 914 Medicare-certified home health agencies provided by the

915 facility, that Medicare-certified home health agency to provide
 916 the services.

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

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

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

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

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

935 1. The number of insulin-dependent diabetic patients
 936 receiving insulin-injection services from the home health
 937 agency;

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

940 3. The number of patients receiving home health services
 941 from that home health agency; and

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

946 (g) Gives cash, or its equivalent, to a Medicare or
 947 Medicaid beneficiary.

948 (h) Has more than one medical director contract in effect
 949 at one time or more than one medical director contract and one
 950 contract with a physician-specialist whose services are mandated
 951 for the home health agency in order to qualify to participate in
 952 a federal or state health care program at one time.

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

- 955 1. Be in writing and signed by both parties;
- 956 2. Provide for remuneration that is at fair market value
 957 for an hourly rate, which must be supported by invoices
 958 submitted by the medical director describing the work performed,
 959 the dates on which that work was performed, and the duration of
 960 that work; and

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

962
 963 The hourly rate specified in the contract may not be increased
 964 during the term of the contract. The home health agency may not
 965 execute a subsequent contract with that physician which has an
 966 increased hourly rate and covers any portion of the term that
 967 was in the original contract.

968 (j) Gives remuneration to:

- 969 1. A physician, and the home health agency is in violation
 970 of paragraph (h) or paragraph (i);
 971 2. A member of the physician's office staff; or
 972 3. An immediate family member of the physician,
 973

974 if the home health agency has received a patient referral in the
 975 preceding 12 months from that physician or physician's office
 976 staff.

977 (k) Fails to provide to the agency, upon request, copies
 978 of all contracts with a medical director which were executed
 979 within 5 years before the request.
 980

981 Nothing in paragraph (e) or paragraph (j) shall be interpreted
 982 as applying to or precluding any discount, compensation, waiver
 983 of payment, or payment practice permitted by 42 U.S.C. s. 1320a-
 984 7b(b) or regulations adopted thereunder, including 42 C.F.R. s.
 985 1001.952, or by 42 U.S.C. s. 1395nn or regulations adopted
 986 thereunder.

987 Section 14. Paragraph (a) of subsection (15) of section
 988 400.506, Florida Statutes, is amended to read:

989 400.506 Licensure of nurse registries; requirements;
 990 penalties.--

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

- 994 1. Provides services to residents in an assisted living
 995 facility for which the nurse registry does not receive fair
 996 market value remuneration.

997 2. Provides staffing to an assisted living facility for
 998 which the nurse registry does not receive fair market value
 999 remuneration.

1000 3. Fails to provide the agency, upon request, with copies
 1001 of all contracts with assisted living facilities which were
 1002 executed within the last 5 years.

1003 4. Gives remuneration to a case manager, discharge
 1004 planner, facility-based staff member, or third-party vendor who
 1005 is involved in the discharge planning process of a facility
 1006 licensed under chapter 395 or this chapter and from whom the
 1007 nurse registry receives referrals. This subparagraph does not
 1008 apply to a nurse registry that does not participate in the
 1009 Medicaid or Medicare program.

1010 5. Gives remuneration to a physician, a member of the
 1011 physician's office staff, or an immediate family member of the
 1012 physician, and the nurse registry received a patient referral in
 1013 the last 12 months from that physician or the physician's office
 1014 staff. This subparagraph does not apply to a nurse registry that
 1015 does not participate in the Medicaid or Medicare program.

1016 Section 15. Paragraph (m) is added to subsection (4) of
 1017 section 400.9905, Florida Statutes, to read:

1018 400.9905 Definitions.--

1019 (4) "Clinic" means an entity at which health care services
 1020 are provided to individuals and which tenders charges for
 1021 reimbursement for such services, including a mobile clinic and a
 1022 portable equipment provider. For purposes of this part, the term
 1023 does not include and the licensure requirements of this part do
 1024 not apply to:

1025 (m) Entities that do not seek reimbursement from insurance
 1026 companies for medical services paid pursuant to personal injury
 1027 protection coverage required by s. 627.736.

1028 Section 16. Paragraph (a) of subsection (7) of section
 1029 400.9935, Florida Statutes, is amended, and subsection (10) is
 1030 added to that section, to read:

1031 400.9935 Clinic responsibilities.--

1032 (7) (a) Each clinic engaged in magnetic resonance imaging
 1033 services must be accredited by the Joint Commission on
 1034 Accreditation of Healthcare Organizations, the American College
 1035 of Radiology, or the Accreditation Association for Ambulatory
 1036 Health Care, within 1 year after licensure. A clinic that is
 1037 accredited by the American College of Radiology or is within the
 1038 original 1-year period after licensure and replaces its core
 1039 magnetic resonance imaging equipment shall be given 1 year after
 1040 the date upon which the equipment is replaced to attain
 1041 accreditation. However, a clinic may request a single, 6-month
 1042 extension if it provides evidence to the agency establishing
 1043 that, for good cause shown, such clinic cannot ~~can not~~ be
 1044 accredited within 1 year after licensure, and that such
 1045 accreditation will be completed within the 6-month extension.
 1046 After obtaining accreditation as required by this subsection,
 1047 each such clinic must maintain accreditation as a condition of
 1048 renewal of its license. A clinic that files a change of
 1049 ownership application must comply with the original
 1050 accreditation timeframe requirements of the transferor. The
 1051 agency shall deny a change of ownership application if the
 1052 clinic is not in compliance with the accreditation requirements.

1053 When a clinic adds, replaces, or modifies magnetic resonance
 1054 imaging equipment and the accrediting organization requires new
 1055 accreditation, the clinic must be accredited within 1 year after
 1056 the date of the addition, replacement, or modification but may
 1057 request a single, 6-month extension if the clinic provides
 1058 evidence of good cause to the agency.

1059 (10) Any clinic holding an active license and any entity
 1060 holding a current certificate of exemption may request a unique
 1061 identification number from the agency for the purposes of
 1062 submitting claims to personal injury protection insurance
 1063 carriers for services or treatment pursuant to part XI of
 1064 chapter 627. Upon request, the agency shall assign a unique
 1065 identification number to a clinic holding an active license or
 1066 an entity holding a current certificate of exemption. The agency
 1067 shall publish the identification number of each clinic and
 1068 entity on its Internet website in a searchable format that is
 1069 readily accessible to personal injury protection insurance
 1070 carriers for the purposes of s. 627.736(5)(b)1.g.

1071 Section 17. Subsection (6) of section 400.995, Florida
 1072 Statutes, is amended to read:

1073 400.995 Agency administrative penalties.--

1074 (6) During an inspection, the agency, ~~as an alternative to~~
 1075 ~~or in conjunction with an administrative action against a clinic~~
 1076 ~~for violations of this part and adopted rules,~~ shall make a
 1077 reasonable attempt to discuss each violation and recommended
 1078 ~~corrective action~~ with the owner, medical director, or clinic
 1079 director of the clinic, prior to written notification. ~~The~~
 1080 ~~agency, instead of fixing a period within which the clinic shall~~

1081 ~~enter into compliance with standards, may request a plan of~~
 1082 ~~corrective action from the clinic which demonstrates a good~~
 1083 ~~faith effort to remedy each violation by a specific date,~~
 1084 ~~subject to the approval of the agency.~~

1085 Section 18. Paragraph (a) of subsection (2) of section
 1086 408.040, Florida Statutes, is amended to read:

1087 408.040 Conditions and monitoring.--

1088 (2) (a) Unless the applicant has commenced construction, if
 1089 the project provides for construction, unless the applicant has
 1090 incurred an enforceable capital expenditure commitment for a
 1091 project, if the project does not provide for construction, or
 1092 unless subject to paragraph (b), a certificate of need shall
 1093 terminate 18 months after the date of issuance, except an entity
 1094 holding a certificate of need issued on or before April 1, 2009,
 1095 which shall terminate 36 months after the date of issuance. The
 1096 agency shall monitor the progress of the holder of the
 1097 certificate of need in meeting the timetable for project
 1098 development specified in the application, and may revoke the
 1099 certificate of need, if the holder of the certificate is not
 1100 meeting such timetable and is not making a good-faith effort, as
 1101 defined by rule, to meet it.

1102 Section 19. The amendment to s. 408.040(2) (a), Florida
 1103 Statutes, by this act shall control over any conflicting
 1104 amendment to s. 408.040(2) (a), Florida Statutes, that is adopted
 1105 during the 2009 Regular Session or an extension thereof and
 1106 becomes law.

1107 Section 20. Subsection (43) of section 408.07, Florida
 1108 Statutes, is amended to read:

1109 408.07 Definitions.--As used in this chapter, with the
 1110 exception of ss. 408.031-408.045, the term:

1111 (43) "Rural hospital" means an acute care hospital
 1112 licensed under chapter 395, having 100 or fewer licensed beds
 1113 and an emergency room, and which is:

1114 (a) The sole provider within a county with a population
 1115 density of no greater than 100 persons per square mile;

1116 (b) An acute care hospital, in a county with a population
 1117 density of no greater than 100 persons per square mile, which is
 1118 at least 30 minutes of travel time, on normally traveled roads
 1119 under normal traffic conditions, from another acute care
 1120 hospital within the same county;

1121 (c) A hospital supported by a tax district or subdistrict
 1122 whose boundaries encompass a population of 100 persons or fewer
 1123 per square mile;

1124 (d) A hospital with a service area that has a population
 1125 of 100 persons or fewer per square mile. As used in this
 1126 paragraph, the term "service area" means the fewest number of
 1127 zip codes that account for 75 percent of the hospital's
 1128 discharges for the most recent 5-year period, based on
 1129 information available from the hospital inpatient discharge
 1130 database in the Florida Center for Health Information and Policy
 1131 Analysis at the Agency for Health Care Administration; or

1132 (e) A critical access hospital.

1133
 1134 Population densities used in this subsection must be based upon
 1135 the most recently completed United States census. A hospital
 1136 that received funds under s. 409.9116 for a quarter beginning no

1137 later than July 1, 2002, is deemed to have been and shall
 1138 continue to be a rural hospital from that date through June 30,
 1139 2015 ~~2012~~, if the hospital continues to have 100 or fewer
 1140 licensed beds and an emergency room, or meets the criteria of s.
 1141 395.602(2)(e)4. An acute care hospital that has not previously
 1142 been designated as a rural hospital and that meets the criteria
 1143 of this subsection shall be granted such designation upon
 1144 application, including supporting documentation, to the Agency
 1145 for Health Care Administration.

1146 Section 21. Subsections (5), (9), and (13) of section
 1147 408.803, Florida Statutes, are amended to read:

1148 408.803 Definitions.--As used in this part, the term:

1149 (5) "Change of ownership" means:

1150 (a) An event in which the licensee sells or otherwise
 1151 transfers its ownership ~~changes~~ to a different individual or
 1152 legal entity, as evidenced by a change in federal employer
 1153 identification number or taxpayer identification number; or

1154 (b) An event in which 51 ~~45~~ percent or more of the
 1155 ownership, ~~voting~~ shares, membership, or controlling interest of
 1156 a licensee is in any manner transferred or otherwise assigned.

1157 This paragraph does not apply to a licensee that is publicly
 1158 traded on a recognized stock exchange. ~~In a corporation whose~~
 1159 ~~shares are not publicly traded on a recognized stock exchange is~~
 1160 ~~transferred or assigned, including the final transfer or~~
 1161 ~~assignment of multiple transfers or assignments over a 2-year~~
 1162 ~~period that cumulatively total 45 percent or greater.~~

1163

1164 A change solely in the management company or board of directors
 1165 is not a change of ownership.

1166 (9) "Licensee" means an individual, corporation,
 1167 partnership, firm, association, ~~or~~ governmental entity, or other
 1168 entity that is issued a permit, registration, certificate, or
 1169 license by the agency. The licensee is legally responsible for
 1170 all aspects of the provider operation.

1171 (13) "Voluntary board member" means a board member of a
 1172 not-for-profit corporation or organization who serves solely in
 1173 a voluntary capacity, does not receive any remuneration for his
 1174 or her services on the board of directors, and has no financial
 1175 interest in the corporation or organization. ~~The agency shall~~
 1176 ~~recognize a person as a voluntary board member following~~
 1177 ~~submission of a statement to the agency by the board member and~~
 1178 ~~the not-for-profit corporation or organization that affirms that~~
 1179 ~~the board member conforms to this definition. The statement~~
 1180 ~~affirming the status of the board member must be submitted to~~
 1181 ~~the agency on a form provided by the agency.~~

1182 Section 22. Paragraph (a) of subsection (1), subsection
 1183 (2), paragraph (c) of subsection (7), and subsection (8) of
 1184 section 408.806, Florida Statutes, are amended to read:

1185 408.806 License application process.--

1186 (1) An application for licensure must be made to the
 1187 agency on forms furnished by the agency, submitted under oath,
 1188 and accompanied by the appropriate fee in order to be accepted
 1189 and considered timely. The application must contain information
 1190 required by authorizing statutes and applicable rules and must
 1191 include:

1192 (a) The name, address, and social security number of:

1193 1. The applicant;

1194 2. The administrator or a similarly titled person who is

1195 responsible for the day-to-day operation of the provider;

1196 3. The financial officer or similarly titled person who is

1197 responsible for the financial operation of the licensee or

1198 provider; and

1199 4. Each controlling interest if the applicant or

1200 controlling interest is an individual.

1201 (2)(a) The applicant for a renewal license must submit an

1202 application that must be received by the agency at least 60 days

1203 but no more than 120 days prior to the expiration of the current

1204 license. An application received more than 120 days prior to the

1205 expiration of the current license shall be returned to the

1206 applicant. If the renewal application and fee are received prior

1207 to the license expiration date, the license shall not be deemed

1208 to have expired if the license expiration date occurs during the

1209 agency's review of the renewal application.

1210 (b) The applicant for initial licensure due to a change of

1211 ownership must submit an application that must be received by

1212 the agency at least 60 days prior to the date of change of

1213 ownership.

1214 (c) For any other application or request, the applicant

1215 must submit an application or request that must be received by

1216 the agency at least 60 days but no more than 120 days prior to

1217 the requested effective date, unless otherwise specified in

1218 authorizing statutes or applicable rules. An application

1219 received more than 120 days prior to the requested effective
 1220 date shall be returned to the applicant.

1221 (d) The agency shall notify the licensee by mail or
 1222 electronically at least 90 days prior to the expiration of a
 1223 license that a renewal license is necessary to continue
 1224 operation. The failure to timely submit a renewal application
 1225 and license fee shall result in a \$50 per day late fee charged
 1226 to the licensee by the agency; however, the aggregate amount of
 1227 the late fee may not exceed 50 percent of the licensure fee or
 1228 \$500, whichever is less. If an application is received after the
 1229 required filing date and exhibits a hand-canceled postmark
 1230 obtained from a United States post office dated on or before the
 1231 required filing date, no fine will be levied.

1232 (7)

1233 (c) If an inspection is required by the authorizing
 1234 statute for a license application other than an initial
 1235 application, the inspection must be unannounced. This paragraph
 1236 does not apply to inspections required pursuant to ss. 383.324,
 1237 395.0161(4), 429.67(6), and 483.061(2).

1238 (8) The agency may establish procedures for the electronic
 1239 notification and submission of required information, including,
 1240 but not limited to:

- 1241 (a) Licensure applications.
- 1242 (b) Required signatures.
- 1243 (c) Payment of fees.
- 1244 (d) Notarization of applications.

1245

1246 Requirements for electronic submission of any documents required
 1247 by this part or authorizing statutes may be established by rule.
 1248 As an alternative to sending documents as required by
 1249 authorizing statutes, the agency may provide electronic access
 1250 to information or documents.

1251 Section 23. Subsection (2) of section 408.808, Florida
 1252 Statutes, is amended to read:

1253 408.808 License categories.--

1254 (2) PROVISIONAL LICENSE.--A provisional license may be
 1255 issued to an applicant pursuant to s. 408.809(3). An applicant
 1256 against whom a proceeding denying or revoking a license is
 1257 pending at the time of license renewal may be issued a
 1258 provisional license effective until final action not subject to
 1259 further appeal. A provisional license may also be issued to an
 1260 applicant applying for a change of ownership. A provisional
 1261 license shall be limited in duration to a specific period of
 1262 time, not to exceed 12 months, as determined by the agency.

1263 Section 24. Subsection (5) of section 408.809, Florida
 1264 Statutes, is amended, and new subsections (5) and (6) are added
 1265 to that section, to read:

1266 408.809 Background screening; prohibited offenses.--

1267 (5) Effective October 1, 2009, in addition to the offenses
 1268 listed in ss. 435.03 and 435.04, all persons required to undergo
 1269 background screening pursuant to this part or authorizing
 1270 statutes must not have been found guilty of, regardless of
 1271 adjudication, or entered a plea of nolo contendere or guilty to,
 1272 any of the following offenses or any similar offense of another
 1273 jurisdiction:

- 1274 (a) A violation of any authorizing statutes, if the
- 1275 offense was a felony.
- 1276 (b) A violation of this chapter, if the offense was a
- 1277 felony.
- 1278 (c) A violation of s. 409.920, relating to Medicaid
- 1279 provider fraud, if the offense was a felony.
- 1280 (d) A violation of s. 409.9201, relating to Medicaid
- 1281 fraud, if the offense was a felony.
- 1282 (e) A violation of s. 741.28, relating to domestic
- 1283 violence.
- 1284 (f) A violation of chapter 784, relating to assault,
- 1285 battery, and culpable negligence, if the offense was a felony.
- 1286 (g) A violation of s. 810.02, relating to burglary.
- 1287 (h) A violation of s. 817.034, relating to fraudulent acts
- 1288 through mail, wire, radio, electromagnetic, photoelectronic, or
- 1289 photooptical systems.
- 1290 (i) A violation of s. 817.234, relating to false and
- 1291 fraudulent insurance claims.
- 1292 (j) A violation of s. 817.505, relating to patient
- 1293 brokering.
- 1294 (k) A violation of s. 817.568, relating to criminal use of
- 1295 personal identification information.
- 1296 (l) A violation of s. 817.60, relating to obtaining a
- 1297 credit card through fraudulent means.
- 1298 (m) A violation of s. 817.61, relating to fraudulent use
- 1299 of credit cards, if the offense was a felony.
- 1300 (n) A violation of s. 831.01, relating to forgery.

1301 (o) A violation of s. 831.02, relating to uttering forged
1302 instruments.

1303 (p) A violation of s. 831.07, relating to forging bank
1304 bills, checks, drafts, or promissory notes.

1305 (q) A violation of s. 831.09, relating to uttering forged
1306 bank bills, checks, drafts, or promissory notes.

1307 (r) A violation of s. 831.30, relating to fraud in
1308 obtaining medicinal drugs.

1309 (s) A violation of s. 831.31, relating to the sale,
1310 manufacture, delivery, or possession with the intent to sell,
1311 manufacture, or deliver any counterfeit controlled substance, if
1312 the offense was a felony.

1313

1314 A person who serves as a controlling interest of or is employed
1315 by a licensee on September 30, 2009, shall not be required by
1316 law to submit to rescreening if that licensee has in its
1317 possession written evidence that the person has been screened
1318 and qualified according to the standards specified in s. 435.03
1319 or s. 435.04. However, if such person has been convicted of a
1320 disqualifying offense listed in this subsection, he or she may
1321 apply for an exemption from the appropriate licensing agency
1322 before September 30, 2009, and if agreed to by the employer, may
1323 continue to perform his or her duties until the licensing agency
1324 renders a decision on the application for exemption for an
1325 offense listed in this subsection. Exemptions from
1326 disqualification may be granted pursuant to s. 435.07.

1327 (6) The attestations required under ss. 435.04(5) and
1328 435.05(3) must be submitted at the time of license renewal,

1329 notwithstanding the provisions of ss. 435.04(5) and 435.05(3)
 1330 which require annual submission of an affidavit of compliance
 1331 with background screening requirements.

1332 ~~(5) Background screening is not required to obtain a~~
 1333 ~~certificate of exemption issued under s. 483.106.~~

1334 Section 25. Subsection (3) of section 408.810, Florida
 1335 Statutes, is amended to read:

1336 408.810 Minimum licensure requirements.--In addition to
 1337 the licensure requirements specified in this part, authorizing
 1338 statutes, and applicable rules, each applicant and licensee must
 1339 comply with the requirements of this section in order to obtain
 1340 and maintain a license.

1341 (3) Unless otherwise specified in this part, authorizing
 1342 statutes, or applicable rules, any information required to be
 1343 reported to the agency must be submitted within 21 calendar days
 1344 after the report period or effective date of the information,
 1345 whichever is earlier, including, but not limited to, any change
 1346 of:

1347 (a) Information contained in the most recent application
 1348 for licensure.

1349 (b) Required insurance or bonds.

1350 Section 26. Present subsection (4) of section 408.811,
 1351 Florida Statutes, is renumbered as subsection (6), subsections
 1352 (2) and (3) are amended, and new subsections (4) and (5) are
 1353 added to that section, to read:

1354 408.811 Right of inspection; copies; inspection reports;
 1355 plan for correction of deficiencies.--

1356 (2) Inspections conducted in conjunction with
 1357 certification, comparable licensure requirements, or a
 1358 recognized or approved accreditation organization may be
 1359 accepted in lieu of a complete licensure inspection. However, a
 1360 licensure inspection may also be conducted to review any
 1361 licensure requirements that are not also requirements for
 1362 certification.

1363 (3) The agency shall have access to and the licensee shall
 1364 provide, or if requested send, copies of all provider records
 1365 required during an inspection or other review at no cost to the
 1366 agency, including records requested during an offsite review.

1367 (4) Deficiencies must be corrected within 30 calendar days
 1368 after the provider is notified of inspection results unless an
 1369 alternative timeframe is required or approved by the agency.

1370 (5) The agency may require an applicant or licensee to
 1371 submit a plan of correction for deficiencies. If required, the
 1372 plan of correction must be filed with the agency within 10
 1373 calendar days after notification unless an alternative timeframe
 1374 is required.

1375 Section 27. Section 408.813, Florida Statutes, is amended
 1376 to read:

1377 408.813 Administrative fines; violations.--As a penalty
 1378 for any violation of this part, authorizing statutes, or
 1379 applicable rules, the agency may impose an administrative fine.

1380 (1) Unless the amount or aggregate limitation of the fine
 1381 is prescribed by authorizing statutes or applicable rules, the
 1382 agency may establish criteria by rule for the amount or
 1383 aggregate limitation of administrative fines applicable to this

1384 part, authorizing statutes, and applicable rules. Each day of
1385 violation constitutes a separate violation and is subject to a
1386 separate fine, unless a per-violation fine is prescribed by law.
1387 For fines imposed by final order of the agency and not subject
1388 to further appeal, the violator shall pay the fine plus interest
1389 at the rate specified in s. 55.03 for each day beyond the date
1390 set by the agency for payment of the fine.

1391 (2) Violations of this part, authorizing statutes, or
1392 applicable rules shall be classified according to the nature of
1393 the violation and the gravity of its probable effect on clients.
1394 The scope of a violation may be cited as an isolated, patterned,
1395 or widespread deficiency. An isolated deficiency is a deficiency
1396 affecting one or a very limited number of clients, or involving
1397 one or a very limited number of staff, or a situation that
1398 occurred only occasionally or in a very limited number of
1399 locations. A patterned deficiency is a deficiency in which more
1400 than a very limited number of clients are affected, or more than
1401 a very limited number of staff are involved, or the situation
1402 has occurred in several locations, or the same client or clients
1403 have been affected by repeated occurrences of the same deficient
1404 practice but the effect of the deficient practice is not found
1405 to be pervasive throughout the provider. A widespread deficiency
1406 is a deficiency in which the problems causing the deficiency are
1407 pervasive in the provider or represent systemic failure that has
1408 affected or has the potential to affect a large portion of the
1409 provider's clients. This subsection does not affect the
1410 legislative determination of the amount of a fine imposed under

1411 authorizing statutes. Violations shall be classified on the
1412 written notice as follows:

1413 (a) Class "I" violations are those conditions or
1414 occurrences related to the operation and maintenance of a
1415 provider or to the care of clients which the agency determines
1416 present an imminent danger to the clients of the provider or a
1417 substantial probability that death or serious physical or
1418 emotional harm would result therefrom. The condition or practice
1419 constituting a class I violation shall be abated or eliminated
1420 within 24 hours, unless a fixed period, as determined by the
1421 agency, is required for correction. The agency shall impose an
1422 administrative fine as provided by law for a cited class I
1423 violation. A fine shall be levied notwithstanding the correction
1424 of the violation.

1425 (b) Class "II" violations are those conditions or
1426 occurrences related to the operation and maintenance of a
1427 provider or to the care of clients which the agency determines
1428 directly threaten the physical or emotional health, safety, or
1429 security of the clients, other than class I violations. The
1430 agency shall impose an administrative fine as provided by law
1431 for a cited class II violation. A fine shall be levied
1432 notwithstanding the correction of the violation.

1433 (c) Class "III" violations are those conditions or
1434 occurrences related to the operation and maintenance of a
1435 provider or to the care of clients which the agency determines
1436 indirectly or potentially threaten the physical or emotional
1437 health, safety, or security of clients, other than class I or
1438 class II violations. The agency shall impose an administrative

1439 fine as provided by law for a cited class III violation. A
1440 citation for a class III violation must specify the time within
1441 which the violation is required to be corrected. If a class III
1442 violation is corrected within the time specified, a fine may not
1443 be imposed.

1444 (d) Class "IV" violations are those conditions or
1445 occurrences related to the operation and maintenance of a
1446 provider or to required reports, forms, or documents that do not
1447 have the potential of negatively affecting clients. These
1448 violations are of a type that the agency determines do not
1449 threaten the health, safety, or security of clients. The agency
1450 shall impose an administrative fine as provided by law for a
1451 cited class IV violation. A citation for a class IV violation
1452 must specify the time within which the violation is required to
1453 be corrected. If a class IV violation is corrected within the
1454 time specified, a fine may not be imposed.

1455 Section 28. Subsections (12) through (29) of section
1456 408.820, Florida Statutes, are renumbered as subsections (11)
1457 through (28), respectively, and present subsections (11), (12),
1458 (13), (21), and (26) of that section are amended to read:

1459 408.820 Exemptions.--Except as prescribed in authorizing
1460 statutes, the following exemptions shall apply to specified
1461 requirements of this part:

1462 ~~(11) Private review agents, as provided under part I of~~
1463 ~~chapter 395, are exempt from ss. 408.806(7), 408.810, and~~
1464 ~~408.811.~~

1465 (11)~~(12)~~ Health care risk managers, as provided under part
 1466 I of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-
 1467 (10), and 408.811.

1468 (12)~~(13)~~ Nursing homes, as provided under part II of
 1469 chapter 400, are exempt from ss. s. 408.810(7) and 408.813(2).

1470 (20)~~(21)~~ Transitional living facilities, as provided under
 1471 part V of chapter 400, are exempt from s. 408.810~~(7)~~(10).

1472 (25)~~(26)~~ Health care clinics, as provided under part X of
 1473 chapter 400, are exempt from s. ss. ~~408.809 and 408.810(1)~~, (6),
 1474 (7), and (10).

1475 Section 29. Section 408.821, Florida Statutes, is created
 1476 to read:

1477 408.821 Emergency management planning; emergency
 1478 operations; inactive license.--

1479 (1) Licensees required by authorizing statutes to have an
 1480 emergency operations plan must designate a safety liaison to
 1481 serve as the primary contact for emergency operations.

1482 (2) An entity subject to this part may temporarily exceed
 1483 its licensed capacity to act as a receiving provider in
 1484 accordance with an approved emergency operations plan for up to
 1485 15 days. While in an overcapacity status, each provider must
 1486 furnish or arrange for appropriate care and services to all
 1487 clients. In addition, the agency may approve requests for
 1488 overcapacity in excess of 15 days, which approvals may be based
 1489 upon satisfactory justification and need as provided by the
 1490 receiving and sending providers.

1491 (3) (a) An inactive license may be issued to a licensee
 1492 subject to this section when the provider is located in a

1493 geographic area in which a state of emergency was declared by
 1494 the Governor if the provider:

1495 1. Suffered damage to its operation during the state of
 1496 emergency.

1497 2. Is currently licensed.

1498 3. Does not have a provisional license.

1499 4. Will be temporarily unable to provide services but is
 1500 reasonably expected to resume services within 12 months.

1501 (b) An inactive license may be issued for a period not to
 1502 exceed 12 months but may be renewed by the agency for up to 12
 1503 additional months upon demonstration to the agency of progress
 1504 toward reopening. A request by a licensee for an inactive
 1505 license or to extend the previously approved inactive period
 1506 must be submitted in writing to the agency, accompanied by
 1507 written justification for the inactive license, which states the
 1508 beginning and ending dates of inactivity and includes a plan for
 1509 the transfer of any clients to other providers and appropriate
 1510 licensure fees. Upon agency approval, the licensee shall notify
 1511 clients of any necessary discharge or transfer as required by
 1512 authorizing statutes or applicable rules. The beginning of the
 1513 inactive licensure period shall be the date the provider ceases
 1514 operations. The end of the inactive period shall become the
 1515 license expiration date, and all licensure fees must be current,
 1516 must be paid in full, and may be prorated. Reactivation of an
 1517 inactive license requires the prior approval by the agency of a
 1518 renewal application, including payment of licensure fees and
 1519 agency inspections indicating compliance with all requirements
 1520 of this part and applicable rules and statutes.

1521 (4) The agency may adopt rules relating to emergency
 1522 management planning, communications, and operations. Licensees
 1523 providing residential or inpatient services must utilize an
 1524 online database approved by the agency to report information to
 1525 the agency regarding the provider's emergency status, planning,
 1526 or operations.

1527 Section 30. Subsections (3), (4), and (5) of section
 1528 408.831, Florida Statutes, are amended to read:

1529 408.831 Denial, suspension, or revocation of a license,
 1530 registration, certificate, or application.--

1531 ~~(3) An entity subject to this section may exceed its~~
 1532 ~~licensed capacity to act as a receiving facility in accordance~~
 1533 ~~with an emergency operations plan for clients of evacuating~~
 1534 ~~providers from a geographic area where an evacuation order has~~
 1535 ~~been issued by a local authority having jurisdiction. While in~~
 1536 ~~an overcapacity status, each provider must furnish or arrange~~
 1537 ~~for appropriate care and services to all clients. In addition,~~
 1538 ~~the agency may approve requests for overcapacity beyond 15 days,~~
 1539 ~~which approvals may be based upon satisfactory justification and~~
 1540 ~~need as provided by the receiving and sending facilities.~~

1541 ~~(4) (a) An inactive license may be issued to a licensee~~
 1542 ~~subject to this section when the provider is located in a~~
 1543 ~~geographic area where a state of emergency was declared by the~~
 1544 ~~Governor if the provider:~~

- 1545 ~~1. Suffered damage to its operation during that state of~~
- 1546 ~~emergency.~~
- 1547 ~~2. Is currently licensed.~~
- 1548 ~~3. Does not have a provisional license.~~

1549 ~~4. Will be temporarily unable to provide services but is~~
1550 ~~reasonably expected to resume services within 12 months.~~

1551 ~~(b) An inactive license may be issued for a period not to~~
1552 ~~exceed 12 months but may be renewed by the agency for up to 12~~
1553 ~~additional months upon demonstration to the agency of progress~~
1554 ~~toward reopening. A request by a licensee for an inactive~~
1555 ~~license or to extend the previously approved inactive period~~
1556 ~~must be submitted in writing to the agency, accompanied by~~
1557 ~~written justification for the inactive license, which states the~~
1558 ~~beginning and ending dates of inactivity and includes a plan for~~
1559 ~~the transfer of any clients to other providers and appropriate~~
1560 ~~licensure fees. Upon agency approval, the licensee shall notify~~
1561 ~~clients of any necessary discharge or transfer as required by~~
1562 ~~authorizing statutes or applicable rules. The beginning of the~~
1563 ~~inactive licensure period shall be the date the provider ceases~~
1564 ~~operations. The end of the inactive period shall become the~~
1565 ~~licensee expiration date, and all licensure fees must be~~
1566 ~~current, paid in full, and may be prorated. Reactivation of an~~
1567 ~~inactive license requires the prior approval by the agency of a~~
1568 ~~renewal application, including payment of licensure fees and~~
1569 ~~agency inspections indicating compliance with all requirements~~
1570 ~~of this part and applicable rules and statutes.~~

1571 ~~(3)-(5)~~ This section provides standards of enforcement
1572 applicable to all entities licensed or regulated by the Agency
1573 for Health Care Administration. This section controls over any
1574 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
1575 400, 408, 429, 468, 483, and 765 or rules adopted pursuant to
1576 those chapters.

1577 Section 31. Subsection (2) of section 408.918, Florida
 1578 Statutes, is amended, and subsection (3) is added to that
 1579 section, to read:

1580 408.918 Florida 211 Network; uniform certification
 1581 requirements.--

1582 (2) In order to participate in the Florida 211 Network, a
 1583 211 provider must be fully accredited by the National ~~certified~~
 1584 ~~by the Agency for Health Care Administration. The agency shall~~
 1585 ~~develop criteria for certification, as recommended by the~~
 1586 ~~Florida Alliance of Information and Referral Services~~ or have
 1587 received approval to operate, pending accreditation, from its
 1588 affiliate, the Florida Alliance of Information and Referral
 1589 Services, ~~and shall adopt the criteria as administrative rules.~~

1590 ~~(a)~~ If any provider of information and referral services
 1591 or other entity leases a 211 number from a local exchange
 1592 company and is not authorized as described in this section,
 1593 ~~certified by the agency, the agency shall, after consultation~~
 1594 ~~with the local exchange company and the Public Service~~
 1595 ~~Commission shall,~~ request that the Federal Communications
 1596 Commission direct the local exchange company to revoke the use
 1597 of the 211 number.

1598 ~~(b)~~ ~~The agency shall seek the assistance and guidance of~~
 1599 ~~the Public Service Commission and the Federal Communications~~
 1600 ~~Commission in resolving any disputes arising over jurisdiction~~
 1601 ~~related to 211 numbers.~~

1602 (3) The Florida Alliance of Information and Referral
 1603 Services is the 211 collaborative organization for the state
 1604 that is responsible for studying, designing, implementing,

1605 supporting, and coordinating the Florida 211 Network and
 1606 receiving federal grants.

1607 Section 32. Paragraph (e) of subsection (4) of section
 1608 409.221, Florida Statutes, is amended to read:

1609 409.221 Consumer-directed care program.--

1610 (4) CONSUMER-DIRECTED CARE.--

1611 (e) Services.--Consumers shall use the budget allowance
 1612 only to pay for home and community-based services that meet the
 1613 consumer's long-term care needs and are a cost-efficient use of
 1614 funds. Such services may include, but are not limited to, the
 1615 following:

1616 1. Personal care.

1617 2. Homemaking and chores, including housework, meals,
 1618 shopping, and transportation.

1619 3. Home modifications and assistive devices which may
 1620 increase the consumer's independence or make it possible to
 1621 avoid institutional placement.

1622 4. Assistance in taking self-administered medication.

1623 5. Day care and respite care services, including those
 1624 provided by nursing home facilities pursuant to s.

1625 400.141(1)(f) ~~(6)~~ or by adult day care facilities licensed
 1626 pursuant to s. 429.907.

1627 6. Personal care and support services provided in an
 1628 assisted living facility.

1629 Section 33. Subsection (5) of section 409.901, Florida
 1630 Statutes, is amended to read:

1631 409.901 Definitions; ss. 409.901-409.920.--As used in ss.
1632 409.901-409.920, except as otherwise specifically provided, the
1633 term:

1634 (5) "Change of ownership" means:

1635 (a) An event in which the provider ownership changes to a
1636 different individual legal entity, as evidenced by a change in
1637 federal employer identification number or taxpayer
1638 identification number; ~~or~~

1639 (b) An event in which 51 45 percent or more of the
1640 ownership, voting shares, membership, or controlling interest of
1641 a provider is in any manner transferred or otherwise assigned.
1642 This paragraph does not apply to a licensee that is publicly
1643 traded on a recognized stock exchange; or

1644 (c) When the provider is licensed or registered by the
1645 agency, an event considered a change of ownership for licensure
1646 as defined in s. 408.803 in a corporation whose shares are not
1647 publicly traded on a recognized stock exchange is transferred or
1648 assigned, including the final transfer or assignment of multiple
1649 transfers or assignments over a 2-year period that cumulatively
1650 total 45 percent or more.

1651
1652 A change solely in the management company or board of directors
1653 is not a change of ownership.

1654 Section 34. Section 429.071, Florida Statutes, is
1655 repealed.

1656 Section 35. Paragraph (e) of subsection (1) and
1657 subsections (2) and (3) of section 429.08, Florida Statutes, are
1658 amended to read:

1659 429.08 Unlicensed facilities; referral of person for
 1660 residency to unlicensed facility; penalties; verification of
 1661 licensure status.--

1662 (1)

1663 (e) The agency shall publish ~~provide to the department's~~
 1664 ~~elder information and referral providers~~ a list, by county, of
 1665 licensed assisted living facilities, ~~to assist persons who are~~
 1666 ~~considering an assisted living facility placement in locating a~~
 1667 ~~licensed facility.~~ This information may be provided
 1668 electronically or on the agency's Internet website.

1669 ~~(2) Each field office of the Agency for Health Care~~
 1670 ~~Administration shall establish a local coordinating workgroup~~
 1671 ~~which includes representatives of local law enforcement~~
 1672 ~~agencies, state attorneys, the Medicaid Fraud Control Unit of~~
 1673 ~~the Department of Legal Affairs, local fire authorities, the~~
 1674 ~~Department of Children and Family Services, the district long-~~
 1675 ~~term care ombudsman council, and the district human rights~~
 1676 ~~advocacy committee to assist in identifying the operation of~~
 1677 ~~unlicensed facilities and to develop and implement a plan to~~
 1678 ~~ensure effective enforcement of state laws relating to such~~
 1679 ~~facilities. The workgroup shall report its findings, actions,~~
 1680 ~~and recommendations semiannually to the Director of Health~~
 1681 ~~Quality Assurance of the agency.~~

1682 (2) ~~(3)~~ It is unlawful to knowingly refer a person for
 1683 residency to an unlicensed assisted living facility; to an
 1684 assisted living facility the license of which is under denial or
 1685 has been suspended or revoked; or to an assisted living facility
 1686 that has a moratorium pursuant to part II of chapter 408. ~~Any~~

1687 ~~person who violates this subsection commits a noncriminal~~
1688 ~~violation, punishable by a fine not exceeding \$500 as provided~~
1689 ~~in s. 775.083.~~

1690 (a) Any health care practitioner, as defined in s.
1691 456.001, who is aware of the operation of an unlicensed facility
1692 shall report that facility to the agency. Failure to report a
1693 facility that the practitioner knows or has reasonable cause to
1694 suspect is unlicensed shall be reported to the practitioner's
1695 licensing board.

1696 (b) Any provider as defined in s. 408.803 that ~~hospital or~~
1697 ~~community mental health center licensed under chapter 395 or~~
1698 ~~chapter 394 which~~ knowingly discharges a patient or client to an
1699 unlicensed facility is subject to sanction by the agency.

1700 (c) Any employee of the agency or department, or the
1701 Department of Children and Family Services, who knowingly refers
1702 a person for residency to an unlicensed facility; to a facility
1703 the license of which is under denial or has been suspended or
1704 revoked; or to a facility that has a moratorium pursuant to part
1705 II of chapter 408 is subject to disciplinary action by the
1706 agency or department, or the Department of Children and Family
1707 Services.

1708 (d) The employer of any person who is under contract with
1709 the agency or department, or the Department of Children and
1710 Family Services, and who knowingly refers a person for residency
1711 to an unlicensed facility; to a facility the license of which is
1712 under denial or has been suspended or revoked; or to a facility
1713 that has a moratorium pursuant to part II of chapter 408 shall

1714 be fined and required to prepare a corrective action plan
1715 designed to prevent such referrals.

1716 ~~(e) The agency shall provide the department and the~~
1717 ~~Department of Children and Family Services with a list of~~
1718 ~~licensed facilities within each county and shall update the list~~
1719 ~~at least quarterly.~~

1720 ~~(f) At least annually, the agency shall notify, in~~
1721 ~~appropriate trade publications, physicians licensed under~~
1722 ~~chapter 458 or chapter 459, hospitals licensed under chapter~~
1723 ~~395, nursing home facilities licensed under part II of chapter~~
1724 ~~400, and employees of the agency or the department, or the~~
1725 ~~Department of Children and Family Services, who are responsible~~
1726 ~~for referring persons for residency, that it is unlawful to~~
1727 ~~knowingly refer a person for residency to an unlicensed assisted~~
1728 ~~living facility and shall notify them of the penalty for~~
1729 ~~violating such prohibition. The department and the Department of~~
1730 ~~Children and Family Services shall, in turn, notify service~~
1731 ~~providers under contract to the respective departments who have~~
1732 ~~responsibility for resident referrals to facilities. Further,~~
1733 ~~the notice must direct each noticed facility and individual to~~
1734 ~~contact the appropriate agency office in order to verify the~~
1735 ~~licensure status of any facility prior to referring any person~~
1736 ~~for residency. Each notice must include the name, telephone~~
1737 ~~number, and mailing address of the appropriate office to~~
1738 ~~contact.~~

1739 Section 36. Paragraph (e) of subsection (1) of section
1740 429.14, Florida Statutes, is amended to read:

1741 429.14 Administrative penalties.--

1742 (1) In addition to the requirements of part II of chapter
 1743 408, the agency may deny, revoke, and suspend any license issued
 1744 under this part and impose an administrative fine in the manner
 1745 provided in chapter 120 against a licensee of an assisted living
 1746 facility for a violation of any provision of this part, part II
 1747 of chapter 408, or applicable rules, or for any of the following
 1748 actions by a licensee of an assisted living facility, for the
 1749 actions of any person subject to level 2 background screening
 1750 under s. 408.809, or for the actions of any facility employee:

1751 (e) A citation of any of the following deficiencies as
 1752 specified ~~defined~~ in s. 429.19:

- 1753 1. One or more cited class I deficiencies.
- 1754 2. Three or more cited class II deficiencies.
- 1755 3. Five or more cited class III deficiencies that have
 1756 been cited on a single survey and have not been corrected within
 1757 the times specified.

1758 Section 37. Subsections (2), (8), and (9) of section
 1759 429.19, Florida Statutes, are amended to read:

1760 429.19 Violations; imposition of administrative fines;
 1761 grounds.--

1762 (2) Each violation of this part and adopted rules shall be
 1763 classified according to the nature of the violation and the
 1764 gravity of its probable effect on facility residents. The agency
 1765 shall indicate the classification on the written notice of the
 1766 violation as follows:

1767 (a) Class "I" violations are defined in s. 408.813 ~~those~~
 1768 ~~conditions or occurrences related to the operation and~~
 1769 ~~maintenance of a facility or to the personal care of residents~~

1770 ~~which the agency determines present an imminent danger to the~~
1771 ~~residents or guests of the facility or a substantial probability~~
1772 ~~that death or serious physical or emotional harm would result~~
1773 ~~therefrom. The condition or practice constituting a class I~~
1774 ~~violation shall be abated or eliminated within 24 hours, unless~~
1775 ~~a fixed period, as determined by the agency, is required for~~
1776 ~~correction. The agency shall impose an administrative fine for a~~
1777 ~~cited class I violation in an amount not less than \$5,000 and~~
1778 ~~not exceeding \$10,000 for each violation. A fine may be levied~~
1779 ~~notwithstanding the correction of the violation.~~

1780 (b) Class "II" violations are defined in s. 408.813 ~~these~~
1781 ~~conditions or occurrences related to the operation and~~
1782 ~~maintenance of a facility or to the personal care of residents~~
1783 ~~which the agency determines directly threaten the physical or~~
1784 ~~emotional health, safety, or security of the facility residents,~~
1785 ~~other than class I violations. The agency shall impose an~~
1786 ~~administrative fine for a cited class II violation in an amount~~
1787 ~~not less than \$1,000 and not exceeding \$5,000 for each~~
1788 ~~violation. A fine shall be levied notwithstanding the correction~~
1789 ~~of the violation.~~

1790 (c) Class "III" violations are defined in s. 408.813 ~~these~~
1791 ~~conditions or occurrences related to the operation and~~
1792 ~~maintenance of a facility or to the personal care of residents~~
1793 ~~which the agency determines indirectly or potentially threaten~~
1794 ~~the physical or emotional health, safety, or security of~~
1795 ~~facility residents, other than class I or class II violations.~~
1796 The agency shall impose an administrative fine for a cited class
1797 III violation in an amount not less than \$500 and not exceeding

1798 \$1,000 for each violation. ~~A citation for a class III violation~~
1799 ~~must specify the time within which the violation is required to~~
1800 ~~be corrected. If a class III violation is corrected within the~~
1801 ~~time specified, no fine may be imposed, unless it is a repeated~~
1802 ~~offense.~~

1803 (d) Class "IV" violations are defined in s. 408.813 ~~those~~
1804 ~~conditions or occurrences related to the operation and~~
1805 ~~maintenance of a building or to required reports, forms, or~~
1806 ~~documents that do not have the potential of negatively affecting~~
1807 ~~residents. These violations are of a type that the agency~~
1808 ~~determines do not threaten the health, safety, or security of~~
1809 ~~residents of the facility. The agency shall impose an~~
1810 ~~administrative fine for a cited class IV violation in an amount~~
1811 ~~not less than \$100 and not exceeding \$200 for each violation. A~~
1812 ~~citation for a class IV violation must specify the time within~~
1813 ~~which the violation is required to be corrected. If a class IV~~
1814 ~~violation is corrected within the time specified, no fine shall~~
1815 ~~be imposed. Any class IV violation that is corrected during the~~
1816 ~~time an agency survey is being conducted will be identified as~~
1817 ~~an agency finding and not as a violation.~~

1818 (8) During an inspection, ~~the agency, as an alternative to~~
1819 ~~or in conjunction with an administrative action against a~~
1820 ~~facility for violations of this part and adopted rules, shall~~
1821 ~~make a reasonable attempt to discuss each violation and~~
1822 ~~recommended corrective action with the owner or administrator of~~
1823 ~~the facility, prior to written notification. The agency, instead~~
1824 ~~of fixing a period within which the facility shall enter into~~
1825 ~~compliance with standards, may request a plan of corrective~~

1826 ~~action from the facility which demonstrates a good faith effort~~
1827 ~~to remedy each violation by a specific date, subject to the~~
1828 ~~approval of the agency.~~

1829 (9) The agency shall develop and disseminate an annual
1830 list of all facilities sanctioned or fined ~~\$5,000 or more~~ for
1831 violations of state standards, the number and class of
1832 violations involved, the penalties imposed, and the current
1833 status of cases. The list shall be disseminated, at no charge,
1834 to the Department of Elderly Affairs, the Department of Health,
1835 the Department of Children and Family Services, the Agency for
1836 Persons with Disabilities, the area agencies on aging, the
1837 Florida Statewide Advocacy Council, and the state and local
1838 ombudsman councils. The Department of Children and Family
1839 Services shall disseminate the list to service providers under
1840 contract to the department who are responsible for referring
1841 persons to a facility for residency. The agency may charge a fee
1842 commensurate with the cost of printing and postage to other
1843 interested parties requesting a copy of this list. This
1844 information may be provided electronically or on the agency's
1845 Internet website.

1846 Section 38. Subsections (2) and (6) of section 429.23,
1847 Florida Statutes, are amended to read:

1848 429.23 Internal risk management and quality assurance
1849 program; adverse incidents and reporting requirements.--

1850 (2) Every facility licensed under this part is required to
1851 maintain adverse incident reports. For purposes of this section,
1852 the term, "adverse incident" means:

1853 (a) An event over which facility personnel could exercise
 1854 control rather than as a result of the resident's condition and
 1855 results in:

- 1856 1. Death;
- 1857 2. Brain or spinal damage;
- 1858 3. Permanent disfigurement;
- 1859 4. Fracture or dislocation of bones or joints;
- 1860 5. Any condition that required medical attention to which
 1861 the resident has not given his or her consent, including failure
 1862 to honor advanced directives;

1863 6. Any condition that requires the transfer of the
 1864 resident from the facility to a unit providing more acute care
 1865 due to the incident rather than the resident's condition before
 1866 the incident; ~~or-~~

1867 7. An event that is reported to law enforcement or its
 1868 personnel for investigation; or

1869 ~~(b) Abuse, neglect, or exploitation as defined in s.~~
 1870 ~~415.102;~~

1871 ~~(c) Events reported to law enforcement; or~~

1872 (b)(d) Resident elopement, if the elopement places the
 1873 resident at risk of harm or injury.

1874 (6) Abuse, neglect, or exploitation must be reported to
 1875 the Department of Children and Family Services as required under
 1876 chapter 415. The agency shall annually submit to the Legislature
 1877 a report on assisted living facility adverse incident reports.
 1878 The report must include the following information arranged by
 1879 county:

1880 ~~(a) A total number of adverse incidents;~~

1881 ~~(b) A listing, by category, of the type of adverse~~
 1882 ~~incidents occurring within each category and the type of staff~~
 1883 ~~involved;~~

1884 ~~(c) A listing, by category, of the types of injuries, if~~
 1885 ~~any, and the number of injuries occurring within each category;~~

1886 ~~(d) Types of liability claims filed based on an adverse~~
 1887 ~~incident report or reportable injury; and~~

1888 ~~(e) Disciplinary action taken against staff, categorized~~
 1889 ~~by the type of staff involved.~~

1890 Section 39. Subsections (1) and (3) of section 430.80,
 1891 Florida Statutes, are amended to read:

1892 430.80 Implementation of a teaching nursing home pilot
 1893 project.--

1894 (1) As used in this section, the term "teaching nursing
 1895 home" means a nursing home facility licensed under chapter 400
 1896 which contains a minimum of 275 ~~400~~ licensed nursing home beds;
 1897 has access to a resident senior population of sufficient size to
 1898 support education, training, and research relating to geriatric
 1899 care; and has a contractual relationship with a federally funded
 1900 accredited geriatric research center in this state or operates
 1901 in its own right a geriatric research center.

1902 (3) To be designated as a teaching nursing home, a nursing
 1903 home licensee must, at a minimum:

1904 (a) Provide a comprehensive program of integrated senior
 1905 services that include institutional services and community-based
 1906 services;

1907 (b) Participate in a nationally recognized accreditation
 1908 program and hold a valid accreditation, such as the

1909 accreditation awarded by the Joint Commission on Accreditation
 1910 of Healthcare Organizations, or possesses a Gold Seal Award as
 1911 conferred by the state on the licensed nursing home;

1912 (c) Have been in business in this state for a minimum of
 1913 10 consecutive years;

1914 (d) Demonstrate an active program in multidisciplinary
 1915 education and research that relates to gerontology;

1916 (e) Have a formalized contractual relationship with at
 1917 least one accredited health profession education program located
 1918 in this state;

1919 ~~(f) Have a formalized contractual relationship with an~~
 1920 ~~accredited hospital that is designated by law as a teaching~~
 1921 ~~hospital; and~~

1922 (f) ~~(g)~~ Have senior staff members who hold formal faculty
 1923 appointments at universities, which must include at least one
 1924 accredited health profession education program; and.

1925 (g) ~~(h)~~ Maintain insurance coverage pursuant to s.
 1926 400.141(1)(s) ~~s. 400.141(20)~~ or proof of financial
 1927 responsibility in a minimum amount of \$750,000. Such proof of
 1928 financial responsibility may include:

1929 1. Maintaining an escrow account consisting of cash or
 1930 assets eligible for deposit in accordance with s. 625.52; or

1931 2. Obtaining and maintaining pursuant to chapter 675 an
 1932 unexpired, irrevocable, nontransferable and nonassignable letter
 1933 of credit issued by any bank or savings association organized
 1934 and existing under the laws of this state or any bank or savings
 1935 association organized under the laws of the United States that
 1936 has its principal place of business in this state or has a

1937 | branch office which is authorized to receive deposits in this
 1938 | state. The letter of credit shall be used to satisfy the
 1939 | obligation of the facility to the claimant upon presentment of a
 1940 | final judgment indicating liability and awarding damages to be
 1941 | paid by the facility or upon presentment of a settlement
 1942 | agreement signed by all parties to the agreement when such final
 1943 | judgment or settlement is a result of a liability claim against
 1944 | the facility.

1945 | Section 40. Subsection (5) of section 435.04, Florida
 1946 | Statutes, is amended to read:

1947 | 435.04 Level 2 screening standards.--

1948 | (5) Under penalty of perjury, all employees in such
 1949 | positions of trust or responsibility shall attest to meeting the
 1950 | requirements for qualifying for employment and agreeing to
 1951 | inform the employer immediately if convicted of any of the
 1952 | disqualifying offenses while employed by the employer. Each
 1953 | employer of employees in such positions of trust or
 1954 | responsibilities which is licensed or registered by a state
 1955 | agency shall submit to the licensing agency annually or at the
 1956 | time of license renewal, under penalty of perjury, an affidavit
 1957 | of compliance with the provisions of this section.

1958 | Section 41. Subsection (3) of section 435.05, Florida
 1959 | Statutes, is amended to read:

1960 | 435.05 Requirements for covered employees.--Except as
 1961 | otherwise provided by law, the following requirements shall
 1962 | apply to covered employees:

1963 | (3) Each employer required to conduct level 2 background
 1964 | screening must sign an affidavit annually or at the time of

1965 license renewal, under penalty of perjury, stating that all
 1966 covered employees have been screened or are newly hired and are
 1967 awaiting the results of the required screening checks.

1968 Section 42. Subsection (2) of section 483.031, Florida
 1969 Statutes, is amended to read:

1970 483.031 Application of part; exemptions.--This part
 1971 applies to all clinical laboratories within this state, except:

1972 (2) A clinical laboratory that performs only waived tests
 1973 ~~and has received a certificate of exemption from the agency~~
 1974 ~~under s. 483.106.~~

1975 Section 43. Subsection (10) of section 483.041, Florida
 1976 Statutes, is amended to read:

1977 483.041 Definitions.--As used in this part, the term:

1978 (10) "Waived test" means a test that the federal Centers
 1979 for Medicare and Medicaid Services Health Care Financing
 1980 ~~Administration~~ has determined qualifies for a certificate of
 1981 waiver under the federal Clinical Laboratory Improvement
 1982 Amendments of 1988, and the federal rules adopted thereunder.

1983 Section 44. Section 483.106, Florida Statutes, is
 1984 repealed.

1985 Section 45. Subsection (3) of section 483.172, Florida
 1986 Statutes, is amended to read:

1987 483.172 License fees.--

1988 (3) The agency shall assess a ~~biennial fee of \$100 for a~~
 1989 ~~certificate of exemption and a \$100~~ biennial license fee under
 1990 this section for facilities surveyed by an approved accrediting
 1991 organization.

1992 Section 46. Paragraph (b) of subsection (1) of section
 1993 627.4239, Florida Statutes, is amended to read:

1994 627.4239 Coverage for use of drugs in treatment of
 1995 cancer.--

1996 (1) DEFINITIONS.--As used in this section, the term:

1997 (b) "Standard reference compendium" means authoritative
 1998 compendia identified by the Secretary of the United States
 1999 Department of Health and Human Services and recognized by the
 2000 federal Centers for Medicare and Medicaid Services;

- 2001 ~~1. The United States Pharmacopeia Drug Information;~~
- 2002 ~~2. The American Medical Association Drug Evaluations; or~~
- 2003 ~~3. The American Hospital Formulary Service Drug~~
- 2004 ~~Information.~~

2005 Section 47. Subsection (1) of section 651.105, Florida
 2006 Statutes, is amended to read:

2007 651.105 Examination and inspections.--

2008 (1) The office may at any time, and shall at least once
 2009 every 5 ~~3~~ years, examine the business of any applicant for a
 2010 certificate of authority and any provider engaged in the
 2011 execution of care contracts or engaged in the performance of
 2012 obligations under such contracts, in the same manner as is
 2013 provided for examination of insurance companies pursuant to s.
 2014 624.316. Such examinations shall be made by a representative or
 2015 examiner designated by the office, whose compensation will be
 2016 fixed by the office pursuant to s. 624.320. Routine examinations
 2017 may be made by having the necessary documents submitted to the
 2018 office; and, for this purpose, financial documents and records
 2019 conforming to commonly accepted accounting principles and

2020 practices, as required under s. 651.026, will be deemed
 2021 adequate. The final written report of each such examination
 2022 shall be filed with the office and, when so filed, will
 2023 constitute a public record. Any provider being examined shall,
 2024 upon request, give reasonable and timely access to all of its
 2025 records. The representative or examiner designated by the office
 2026 may at any time examine the records and affairs and inspect the
 2027 physical property of any provider, whether in connection with a
 2028 formal examination or not.

2029 Section 48. Subsection (1) of section 641.407, Florida
 2030 Statutes, is amended to read:

2031 641.407 Minimum surplus.--

2032 (1) Each prepaid health clinic licensed on or before July
 2033 1, 2009, shall have and maintain minimum surplus in accordance
 2034 with the following schedule: On January 1, 2010, \$225,000 ~~1996,~~
 2035 ~~\$150,000~~ or 10 percent of total liabilities, whichever is
 2036 greater; and on January 1, 2011, \$300,000 or 10 percent of total
 2037 liabilities, whichever is greater. A prepaid health clinic
 2038 licensed after July 1, 2009, shall have and maintain a surplus
 2039 of \$300,000 or 10 percent of total liabilities, whichever is
 2040 greater. A prepaid health clinic licensed on or before January
 2041 1, 2004, and that has an active membership on July 1, 2009,
 2042 shall have and maintain a minimum surplus of \$150,000 or 10
 2043 percent of total liabilities, whichever is greater

2044 Section 49. Subsection (13) of section 651.118, Florida
 2045 Statutes, is amended to read:

2046 651.118 Agency for Health Care Administration;
 2047 certificates of need; sheltered beds; community beds.--

2048 (13) Residents, as defined in this chapter, are not
 2049 considered new admissions for the purpose of s.
 2050 400.141(1)(o)1.d.~~(15)(d)~~.
 2051 Section 50. This act shall take effect upon becoming a
 2052 law.