

1 A bill to be entitled
2 An act relating to the reduction and simplification of
3 health care provider regulation; amending s. 112.0455,
4 F.S., relating to the Drug-Free Workplace Act; deleting an
5 obsolete provision; amending s. 318.21, F.S.; revising
6 distribution of funds from civil penalties imposed for
7 traffic infractions by county courts; repealing s.
8 383.325, F.S., relating to confidentiality of inspection
9 reports of licensed birth center facilities; amending s.
10 395.002, F.S.; revising and deleting definitions
11 applicable to regulation of hospitals and other licensed
12 facilities; conforming a cross-reference; amending s.
13 395.003, F.S.; deleting an obsolete provision; conforming
14 a cross-reference; amending s. 395.0193, F.S.; requiring a
15 licensed facility to report certain peer review
16 information and final disciplinary actions to the Division
17 of Medical Quality Assurance of the Department of Health
18 rather than the Division of Health Quality Assurance of
19 the Agency for Health Care Administration; amending s.
20 395.1023, F.S.; providing for the Department of Children
21 and Family Services rather than the Department of Health
22 to perform certain functions with respect to child
23 protection cases; requiring certain hospitals to notify
24 the Department of Children and Family Services of
25 compliance; amending s. 395.1041, F.S., relating to
26 hospital emergency services and care; deleting obsolete
27 provisions; repealing s. 395.1046, F.S., relating to
28 complaint investigation procedures; amending s. 395.1055,

29 F.S.; requiring licensed facility beds to conform to
 30 standards specified by the Agency for Health Care
 31 Administration, the Florida Building Code, and the Florida
 32 Fire Prevention Code; amending s. 395.10972, F.S.;
 33 revising a reference to the Florida Society of Healthcare
 34 Risk Management to conform to the current designation;
 35 amending s. 395.2050, F.S.; revising a reference to the
 36 federal Health Care Financing Administration to conform to
 37 the current designation; amending s. 395.3036, F.S.;
 38 correcting a reference; repealing s. 395.3037, F.S.,
 39 relating to redundant definitions; amending ss. 154.11,
 40 394.741, 395.3038, 400.925, 400.9935, 408.05, 440.13,
 41 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015,
 42 F.S.; revising references to the Joint Commission on
 43 Accreditation of Healthcare Organizations, the Commission
 44 on Accreditation of Rehabilitation Facilities, and the
 45 Council on Accreditation to conform to their current
 46 designations; amending s. 395.602, F.S.; revising the
 47 definition of the term "rural hospital" to delete an
 48 obsolete provision; amending s. 400.021, F.S.; revising
 49 the definition of the term "geriatric outpatient clinic";
 50 amending s. 400.063, F.S.; deleting an obsolete provision;
 51 amending ss. 400.071 and 400.0712, F.S.; revising
 52 applicability of general licensure requirements under pt.
 53 II of ch. 408, F.S., to applications for nursing home
 54 licensure; revising provisions governing inactive
 55 licenses; amending s. 400.111, F.S.; providing for
 56 disclosure of controlling interest of a nursing home

57 facility upon request by the Agency for Health Care
58 Administration; amending s. 400.1183, F.S.; revising
59 grievance record maintenance and reporting requirements
60 for nursing homes; amending s. 400.141, F.S.; providing
61 criteria for the provision of respite services by nursing
62 homes; requiring a written plan of care; requiring a
63 contract for services; requiring resident release to
64 caregivers to be designated in writing; providing an
65 exemption to the application of discharge planning rules;
66 providing for residents' rights; providing for use of
67 personal medications; providing terms of respite stay;
68 providing for communication of patient information;
69 requiring a physician order for care and proof of a
70 physical examination; providing for services for respite
71 patients and duties of facilities with respect to such
72 patients; conforming a cross-reference; requiring
73 facilities to maintain clinical records that meet
74 specified standards; providing a fine relating to an
75 admissions moratorium; deleting requirement for facilities
76 to submit certain information related to management
77 companies to the agency; deleting a requirement for
78 facilities to notify the agency of certain bankruptcy
79 filings to conform to changes made by the act; amending s.
80 400.142, F.S.; deleting language relating to agency
81 adoption of rules; amending 400.147, F.S.; revising
82 reporting requirements for licensed nursing home
83 facilities relating to adverse incidents; repealing s.
84 400.148, F.S., relating to the Medicaid "Up-or-Out"

85 | Quality of Care Contract Management Program; amending s.
86 | 400.162, F.S., requiring nursing homes to provide a
87 | resident property statement annually and upon request;
88 | amending s. 400.179, F.S.; revising requirements for
89 | nursing home lease bond alternative fees; deleting an
90 | obsolete provision; amending s. 400.19, F.S.; revising
91 | inspection requirements; repealing s. 400.195, F.S.,
92 | relating to agency reporting requirements; amending s.
93 | 400.23, F.S.; deleting an obsolete provision; clarifying a
94 | reference; amending s. 400.275, F.S.; revising agency
95 | duties with regard to training nursing home surveyor
96 | teams; revising requirements for team members; amending s.
97 | 400.484, F.S.; revising the schedule of home health agency
98 | inspection violations; amending s. 400.606, F.S.; revising
99 | the content requirements of the plan accompanying an
100 | initial or change-of-ownership application for licensure
101 | of a hospice; revising requirements relating to
102 | certificates of need for certain hospice facilities;
103 | amending s. 400.607, F.S.; revising grounds for agency
104 | action against a hospice; amending s. 400.931, F.S.;
105 | deleting a requirement that an applicant for a home
106 | medical equipment provider license submit a surety bond to
107 | the agency; amending s. 400.932, F.S.; revising grounds
108 | for the imposition of administrative penalties for certain
109 | violations by an employee of a home medical equipment
110 | provider; amending s. 400.967, F.S.; revising the schedule
111 | of inspection violations for intermediate care facilities
112 | for the developmentally disabled; providing a penalty for

113 certain violations; amending s. 400.9905, F.S.; revising
114 definitions under the Health Care Clinic Act; amending s.
115 400.991, F.S.; conforming terminology; revising
116 application requirements relating to documentation of
117 financial ability to operate a mobile clinic; amending s.
118 408.034, F.S.; revising agency authority relating to
119 licensing of intermediate care facilities for the
120 developmentally disabled; amending s. 408.036, F.S.;
121 deleting an exemption from certain certificate-of-need
122 review requirements for a hospice or a hospice inpatient
123 facility; amending s. 408.043, F.S.; revising requirements
124 for certain freestanding inpatient hospice care facilities
125 to obtain a certificate of need; amending s. 408.061,
126 F.S.; revising health care facility data reporting
127 requirements; amending s. 408.10, F.S.; removing agency
128 authority to investigate certain consumer complaints;
129 amending s. 408.802, F.S.; removing applicability of pt.
130 II of ch. 408, F.S., relating to general licensure
131 requirements, to private review agents; amending s.
132 408.804, F.S.; providing penalties for altering, defacing,
133 or falsifying a license certificate issued by the agency
134 or displaying such an altered, defaced, or falsified
135 certificate; amending s. 408.806, F.S.; revising agency
136 responsibilities for notification of licensees of
137 impending expiration of a license; requiring payment of a
138 late fee for a license application to be considered
139 complete under certain circumstances; amending s. 408.810,
140 F.S.; revising provisions relating to information required

141 for licensure; requiring proof of submission of notice to
142 a mortgagor or landlord regarding provision of services
143 requiring licensure; requiring disclosure of information
144 by a controlling interest of certain court actions
145 relating to financial instability within a specified time
146 period; amending s. 408.813, F.S.; authorizing the agency
147 to impose fines for unclassified violations of pt. II of
148 ch. 408, F.S.; amending s. 408.815, F.S.; authorizing the
149 agency to extend a license expiration date under certain
150 circumstances; amending s. 409.221, F.S.; deleting a
151 reporting requirement relating to the consumer-directed
152 care program; amending s. 429.07, F.S.; deleting the
153 requirement for an assisted living facility to obtain an
154 additional license in order to provide limited nursing
155 services; deleting the requirement for the agency to
156 conduct quarterly monitoring visits of facilities that
157 hold a license to provide extended congregate care
158 services; deleting the requirement for the department to
159 report annually on the status of and recommendations
160 related to extended congregate care; deleting the
161 requirement for the agency to conduct monitoring visits at
162 least twice a year to facilities providing limited nursing
163 services; increasing the licensure fees and the maximum
164 fee required for the standard license; increasing the
165 licensure fees for the extended congregate care license;
166 eliminating the license fee for the limited nursing
167 services license; transferring from another provision of
168 law the requirement that a biennial survey of an assisted

169 living facility include specific actions to determine
170 whether the facility is adequately protecting residents'
171 rights; providing that an assisted living facility that
172 has a class I or class II violation is subject to
173 monitoring visits; requiring a registered nurse to
174 participate in certain monitoring visits; amending s.
175 429.11, F.S.; revising licensure application requirements
176 for assisted living facilities to eliminate provisional
177 licenses; amending s. 429.12, F.S.; revising notification
178 requirements for the sale or transfer of ownership of an
179 assisted living facility; amending s. 429.14, F.S.;
180 removing a ground for the imposition of an administrative
181 penalty; clarifying language relating to a facility's
182 request for a hearing under certain circumstances;
183 authorizing the agency to provide certain information
184 relating to the licensure status of assisted living
185 facilities electronically or through the agency's Internet
186 website; amending s. 429.17, F.S.; deleting provisions
187 relating to the limited nursing services license; revising
188 agency responsibilities regarding the issuance of
189 conditional licenses; amending s. 429.19, F.S.; clarifying
190 that a monitoring fee may be assessed in addition to an
191 administrative fine; amending s. 429.23, F.S.; deleting
192 reporting requirements for assisted living facilities
193 relating to liability claims; amending s. 429.255, F.S.;
194 eliminating provisions authorizing the use of volunteers
195 to provide certain health-care-related services in
196 assisted living facilities; authorizing assisted living

197 facilities to provide limited nursing services; requiring
198 an assisted living facility to be responsible for certain
199 recordkeeping and staff to be trained to monitor residents
200 receiving certain health-care-related services; amending
201 s. 429.28, F.S.; deleting a requirement for a biennial
202 survey of an assisted living facility, to conform to
203 changes made by the act; amending s. 429.35, F.S.;

204 authorizing the agency to provide certain information
205 relating to the inspections of assisted living facilities
206 electronically or through the agency's Internet website;
207 amending s. 429.41, F.S., relating to rulemaking;
208 conforming provisions to changes made by the act; amending
209 s. 429.53, F.S.; revising provisions relating to
210 consultation by the agency; revising a definition;
211 amending s. 429.54, F.S.; requiring licensed assisted
212 living facilities to electronically report certain data
213 semiannually to the agency in accordance with rules
214 adopted by the department; amending s. 429.71, F.S.;

215 revising schedule of inspection violations for adult
216 family-care homes; amending s. 429.911, F.S.; deleting a
217 ground for agency action against an adult day care center;
218 amending s. 429.915, F.S.; revising agency
219 responsibilities regarding the issuance of conditional
220 licenses; amending s. 483.294, F.S.; revising frequency of
221 agency inspections of multiphasic health testing centers;
222 amending ss. 394.4787, 400.0239, 408.07, 430.80, and
223 651.118, F.S.; conforming terminology and cross-

224 references; revising a reference; providing an effective
 225 date.

226

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

228

229 Section 1. Present paragraph (e) of subsection (10) and
 230 paragraph (e) of subsection (14) of section 112.0455, Florida
 231 Statutes, are amended, and paragraphs (f) through (k) of
 232 subsection (10) of that section are redesignated as paragraphs
 233 (e) through (j), respectively, to read:

234 112.0455 Drug-Free Workplace Act.—

235 (10) EMPLOYER PROTECTION.—

236 ~~(c) Nothing in this section shall be construed to operate~~
 237 ~~retroactively, and nothing in this section shall abrogate the~~
 238 ~~right of an employer under state law to conduct drug tests prior~~
 239 ~~to January 1, 1990. A drug test conducted by an employer prior~~
 240 ~~to January 1, 1990, is not subject to this section.~~

241 (14) DISCIPLINE REMEDIES.—

242 (e) Upon resolving an appeal filed pursuant to paragraph
 243 (c), and finding a violation of this section, the commission may
 244 order the following relief:

245 1. Rescind the disciplinary action, expunge related
 246 records from the personnel file of the employee or job applicant
 247 and reinstate the employee.

248 2. Order compliance with paragraph (10) (f) ~~(g)~~.

249 3. Award back pay and benefits.

250 4. Award the prevailing employee or job applicant the
 251 necessary costs of the appeal, reasonable attorney's fees, and

CS/HB 1143

2010

252 expert witness fees.

253 Section 2. Paragraph (n) of subsection (1) of section
254 154.11, Florida Statutes, is amended to read:

255 154.11 Powers of board of trustees.—

256 (1) The board of trustees of each public health trust
257 shall be deemed to exercise a public and essential governmental
258 function of both the state and the county and in furtherance
259 thereof it shall, subject to limitation by the governing body of
260 the county in which such board is located, have all of the
261 powers necessary or convenient to carry out the operation and
262 governance of designated health care facilities, including, but
263 without limiting the generality of, the foregoing:

264 (n) To appoint originally the staff of physicians to
265 practice in any designated facility owned or operated by the
266 board and to approve the bylaws and rules to be adopted by the
267 medical staff of any designated facility owned and operated by
268 the board, such governing regulations to be in accordance with
269 the standards of The Joint Commission ~~on the Accreditation of~~
270 ~~Hospitals~~ which provide, among other things, for the method of
271 appointing additional staff members and for the removal of staff
272 members.

273 Section 3. Subsection (15) of section 318.21, Florida
274 Statutes, is amended to read:

275 318.21 Disposition of civil penalties by county courts.—

276 All civil penalties received by a county court pursuant to the
277 provisions of this chapter shall be distributed and paid monthly
278 as follows:

279 (15) Of the additional fine assessed under s. 318.18(3)(e)

CS/HB 1143

2010

280 for a violation of s. 316.1893, 50 percent of the moneys
 281 received from the fines shall be remitted to the Department of
 282 Revenue and deposited into the Brain and Spinal Cord Injury
 283 Trust Fund of Department of Health and shall be appropriated to
 284 the Department of Health Agency for Health Care Administration
 285 as general revenue to ~~provide an enhanced Medicaid payment to~~
 286 ~~nursing homes that~~ serve Medicaid recipients with spinal cord
 287 injuries that are medically complex and who are technologically
 288 and respiratory dependent ~~with brain and spinal cord injuries.~~
 289 The remaining 50 percent of the moneys received from the
 290 enhanced fine imposed under s. 318.18(3)(e) shall be remitted to
 291 the Department of Revenue and deposited into the Department of
 292 Health Administrative Trust Fund to provide financial support to
 293 certified trauma centers in the counties where enhanced penalty
 294 zones are established to ensure the availability and
 295 accessibility of trauma services. Funds deposited into the
 296 Administrative Trust Fund under this subsection shall be
 297 allocated as follows:

298 (a) Fifty percent shall be allocated equally among all
 299 Level I, Level II, and pediatric trauma centers in recognition
 300 of readiness costs for maintaining trauma services.

301 (b) Fifty percent shall be allocated among Level I, Level
 302 II, and pediatric trauma centers based on each center's relative
 303 volume of trauma cases as reported in the Department of Health
 304 Trauma Registry.

305 Section 4. Section 383.325, Florida Statutes, is repealed.

306 Section 5. Subsection (2) of section 394.741, Florida
 307 Statutes, is amended to read:

308 394.741 Accreditation requirements for providers of
 309 behavioral health care services.—

310 (2) Notwithstanding any provision of law to the contrary,
 311 accreditation shall be accepted by the agency and department in
 312 lieu of the agency's and department's facility licensure onsite
 313 review requirements and shall be accepted as a substitute for
 314 the department's administrative and program monitoring
 315 requirements, except as required by subsections (3) and (4),
 316 for:

317 (a) Any organization from which the department purchases
 318 behavioral health care services that is accredited by The Joint
 319 Commission ~~on Accreditation of Healthcare Organizations~~ or the
 320 Council on Accreditation ~~for Children and Family Services~~, or
 321 has those services that are being purchased by the department
 322 accredited by the Commission on Accreditation of Rehabilitation
 323 Facilities ~~CARF—the Rehabilitation Accreditation Commission~~.

324 (b) Any mental health facility licensed by the agency or
 325 any substance abuse component licensed by the department that is
 326 accredited by The Joint Commission ~~on Accreditation of~~
 327 ~~Healthcare Organizations~~, the Commission on Accreditation of
 328 Rehabilitation Facilities ~~CARF—the Rehabilitation Accreditation~~
 329 ~~Commission~~, or the Council on Accreditation ~~of Children and~~
 330 ~~Family Services~~.

331 (c) Any network of providers from which the department or
 332 the agency purchases behavioral health care services accredited
 333 by The Joint Commission ~~on Accreditation of Healthcare~~
 334 ~~Organizations~~, the Commission on Accreditation of Rehabilitation
 335 Facilities ~~CARF—the Rehabilitation Accreditation Commission~~, the

336 Council on Accreditation ~~of Children and Family Services~~, or the
 337 National Committee for Quality Assurance. A provider
 338 organization, which is part of an accredited network, is
 339 afforded the same rights under this part.

340 Section 6. Present subsections (15) through (32) of
 341 section 395.002, Florida Statutes, are renumbered as subsections
 342 (14) through (28), respectively, and present subsections (1),
 343 (14), (24), (30), and (31), and paragraph (c) of present
 344 subsection (28) of that section are amended to read:

345 395.002 Definitions.—As used in this chapter:

346 (1) "Accrediting organizations" means nationally
 347 recognized or approved accrediting organizations whose standards
 348 incorporate comparable licensure requirements as determined by
 349 the agency ~~the Joint Commission on Accreditation of Healthcare~~
 350 ~~Organizations, the American Osteopathic Association, the~~
 351 ~~Commission on Accreditation of Rehabilitation Facilities, and~~
 352 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

353 ~~(14) "Initial denial determination" means a determination~~
 354 ~~by a private review agent that the health care services~~
 355 ~~furnished or proposed to be furnished to a patient are~~
 356 ~~inappropriate, not medically necessary, or not reasonable.~~

357 ~~(24) "Private review agent" means any person or entity~~
 358 ~~which performs utilization review services for third-party~~
 359 ~~payors on a contractual basis for outpatient or inpatient~~
 360 ~~services. However, the term shall not include full-time~~
 361 ~~employees, personnel, or staff of health insurers, health~~
 362 ~~maintenance organizations, or hospitals, or wholly owned~~
 363 ~~subsidiaries thereof or affiliates under common ownership, when~~

364 ~~performing utilization review for their respective hospitals,~~
 365 ~~health maintenance organizations, or insureds of the same~~
 366 ~~insurance group. For this purpose, health insurers, health~~
 367 ~~maintenance organizations, and hospitals, or wholly owned~~
 368 ~~subsidiaries thereof or affiliates under common ownership,~~
 369 ~~include such entities engaged as administrators of self-~~
 370 ~~insurance as defined in s. 624.031.~~

371 (26) ~~(28)~~ "Specialty hospital" means any facility which
 372 meets the provisions of subsection (12), and which regularly
 373 makes available either:

374 (c) Intensive residential treatment programs for children
 375 and adolescents as defined in subsection (14) ~~(15)~~.

376 ~~(30)~~ ~~"Utilization review" means a system for reviewing the~~
 377 ~~medical necessity or appropriateness in the allocation of health~~
 378 ~~care resources of hospital services given or proposed to be~~
 379 ~~given to a patient or group of patients.~~

380 ~~(31)~~ ~~"Utilization review plan" means a description of the~~
 381 ~~policies and procedures governing utilization review activities~~
 382 ~~performed by a private review agent.~~

383 Section 7. Paragraph (c) of subsection (1) and paragraph
 384 (b) of subsection (2) of section 395.003, Florida Statutes, are
 385 amended to read:

386 395.003 Licensure; denial, suspension, and revocation.—

387 (1)

388 ~~(c) Until July 1, 2006, additional emergency departments~~
 389 ~~located off the premises of licensed hospitals may not be~~
 390 ~~authorized by the agency.~~

391 (2)

392 (b) The agency shall, at the request of a licensee that is
 393 a teaching hospital as defined in s. 408.07(45), issue a single
 394 license to a licensee for facilities that have been previously
 395 licensed as separate premises, provided such separately licensed
 396 facilities, taken together, constitute the same premises as
 397 defined in s. 395.002 (22) ~~(23)~~. Such license for the single
 398 premises shall include all of the beds, services, and programs
 399 that were previously included on the licenses for the separate
 400 premises. The granting of a single license under this paragraph
 401 shall not in any manner reduce the number of beds, services, or
 402 programs operated by the licensee.

403 Section 8. Paragraph (e) of subsection (2) and subsection
 404 (4) of section 395.0193, Florida Statutes, are amended to read:

405 395.0193 Licensed facilities; peer review; disciplinary
 406 powers; agency or partnership with physicians.—

407 (2) Each licensed facility, as a condition of licensure,
 408 shall provide for peer review of physicians who deliver health
 409 care services at the facility. Each licensed facility shall
 410 develop written, binding procedures by which such peer review
 411 shall be conducted. Such procedures shall include:

412 (e) Recording of agendas and minutes which do not contain
 413 confidential material, for review by the Division of Medical
 414 Quality Assurance of the department ~~Health Quality Assurance of~~
 415 ~~the agency~~.

416 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
 417 actions taken under subsection (3) shall be reported in writing
 418 to the Division of Medical Quality Assurance of the department
 419 ~~Health Quality Assurance of the agency~~ within 30 working days

420 after its initial occurrence, regardless of the pendency of
 421 appeals to the governing board of the hospital. The notification
 422 shall identify the disciplined practitioner, the action taken,
 423 and the reason for such action. All final disciplinary actions
 424 taken under subsection (3), if different from those which were
 425 reported to the department ~~agency~~ within 30 days after the
 426 initial occurrence, shall be reported within 10 working days to
 427 the Division of Medical Quality Assurance of the department
 428 ~~Health Quality Assurance of the agency~~ in writing and shall
 429 specify the disciplinary action taken and the specific grounds
 430 therefor. The division shall review each report and determine
 431 whether it potentially involved conduct by the licensee that is
 432 subject to disciplinary action, in which case s. 456.073 shall
 433 apply. The reports are not subject to inspection under s.
 434 119.07(1) even if the division's investigation results in a
 435 finding of probable cause.

436 Section 9. Section 395.1023, Florida Statutes, is amended
 437 to read:

438 395.1023 Child abuse and neglect cases; duties.—Each
 439 licensed facility shall adopt a protocol that, at a minimum,
 440 requires the facility to:

441 (1) Incorporate a facility policy that every staff member
 442 has an affirmative duty to report, pursuant to chapter 39, any
 443 actual or suspected case of child abuse, abandonment, or
 444 neglect; and

445 (2) In any case involving suspected child abuse,
 446 abandonment, or neglect, designate, at the request of the
 447 Department of Children and Family Services, a staff physician to

CS/HB 1143

2010

448 act as a liaison between the hospital and the Department of
 449 Children and Family Services office which is investigating the
 450 suspected abuse, abandonment, or neglect, and the child
 451 protection team, as defined in s. 39.01, when the case is
 452 referred to such a team.

453
 454 Each general hospital and appropriate specialty hospital shall
 455 comply with the provisions of this section and shall notify the
 456 agency and the Department of Children and Family Services of its
 457 compliance by sending a copy of its policy to the agency and the
 458 Department of Children and Family Services as required by rule.
 459 The failure by a general hospital or appropriate specialty
 460 hospital to comply shall be punished by a fine not exceeding
 461 \$1,000, to be fixed, imposed, and collected by the agency. Each
 462 day in violation is considered a separate offense.

463 Section 10. Subsection (2) and paragraph (d) of subsection
 464 (3) of section 395.1041, Florida Statutes, are amended to read:

465 395.1041 Access to emergency services and care.—

466 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency
 467 shall establish and maintain an inventory of hospitals with
 468 emergency services. The inventory shall list all services within
 469 the service capability of the hospital, and such services shall
 470 appear on the face of the hospital license. Each hospital having
 471 emergency services shall notify the agency of its service
 472 capability in the manner and form prescribed by the agency. The
 473 agency shall use the inventory to assist emergency medical
 474 services providers and others in locating appropriate emergency
 475 medical care. The inventory shall also be made available to the

476 | ~~general public. On or before August 1, 1992, the agency shall~~
 477 | ~~request that each hospital identify the services which are~~
 478 | ~~within its service capability. On or before November 1, 1992,~~
 479 | ~~the agency shall notify each hospital of the service capability~~
 480 | ~~to be included in the inventory. The hospital has 15 days from~~
 481 | ~~the date of receipt to respond to the notice. By December 1,~~
 482 | ~~1992, the agency shall publish a final inventory. Each hospital~~
 483 | shall reaffirm its service capability when its license is
 484 | renewed and shall notify the agency of the addition of a new
 485 | service or the termination of a service prior to a change in its
 486 | service capability.

487 | (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
 488 | FACILITY OR HEALTH CARE PERSONNEL.—

489 | (d)1. Every hospital shall ensure the provision of
 490 | services within the service capability of the hospital, at all
 491 | times, either directly or indirectly through an arrangement with
 492 | another hospital, through an arrangement with one or more
 493 | physicians, or as otherwise made through prior arrangements. A
 494 | hospital may enter into an agreement with another hospital for
 495 | purposes of meeting its service capability requirement, and
 496 | appropriate compensation or other reasonable conditions may be
 497 | negotiated for these backup services.

498 | 2. If any arrangement requires the provision of emergency
 499 | medical transportation, such arrangement must be made in
 500 | consultation with the applicable provider and may not require
 501 | the emergency medical service provider to provide transportation
 502 | that is outside the routine service area of that provider or in
 503 | a manner that impairs the ability of the emergency medical

504 service provider to timely respond to prehospital emergency
 505 calls.

506 3. A hospital shall not be required to ensure service
 507 capability at all times as required in subparagraph 1. if, prior
 508 to the receiving of any patient needing such service capability,
 509 such hospital has demonstrated to the agency that it lacks the
 510 ability to ensure such capability and it has exhausted all
 511 reasonable efforts to ensure such capability through backup
 512 arrangements. In reviewing a hospital's demonstration of lack of
 513 ability to ensure service capability, the agency shall consider
 514 factors relevant to the particular case, including the
 515 following:

516 a. Number and proximity of hospitals with the same service
 517 capability.

518 b. Number, type, credentials, and privileges of
 519 specialists.

520 c. Frequency of procedures.

521 d. Size of hospital.

522 4. The agency shall publish ~~proposed~~ rules implementing a
 523 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~
 524 ~~1. shall become effective upon the effective date of said rules~~
 525 ~~or January 31, 1993, whichever is earlier. For a period not to~~
 526 ~~exceed 1 year from the effective date of subparagraph 1., a~~
 527 ~~hospital requesting an exemption shall be deemed to be exempt~~
 528 ~~from offering the service until the agency initially acts to~~
 529 ~~deny or grant the original request.~~ The agency has 45 days from
 530 the date of receipt of the request to approve or deny the
 531 request. ~~After the first year from the effective date of~~

532 ~~subparagraph 1.7~~, If the agency fails to initially act within the
 533 time period, the hospital is deemed to be exempt from offering
 534 the service until the agency initially acts to deny the request.

535 Section 11. Section 395.1046, Florida Statutes, is
 536 repealed.

537 Section 12. Paragraph (e) of subsection (1) of section
 538 395.1055, Florida Statutes, is amended to read:

539 395.1055 Rules and enforcement.—

540 (1) The agency shall adopt rules pursuant to ss.
 541 120.536(1) and 120.54 to implement the provisions of this part,
 542 which shall include reasonable and fair minimum standards for
 543 ensuring that:

544 (e) Licensed facility beds conform to minimum space,
 545 equipment, and furnishings standards as specified by the agency,
 546 the Florida Building Code, and the Florida Fire Prevention Code
 547 department.

548 Section 13. Subsection (1) of section 395.10972, Florida
 549 Statutes, is amended to read:

550 395.10972 Health Care Risk Manager Advisory Council.—The
 551 Secretary of Health Care Administration may appoint a seven-
 552 member advisory council to advise the agency on matters
 553 pertaining to health care risk managers. The members of the
 554 council shall serve at the pleasure of the secretary. The
 555 council shall designate a chair. The council shall meet at the
 556 call of the secretary or at those times as may be required by
 557 rule of the agency. The members of the advisory council shall
 558 receive no compensation for their services, but shall be
 559 reimbursed for travel expenses as provided in s. 112.061. The

CS/HB 1143

2010

560 council shall consist of individuals representing the following
561 areas:

562 (1) Two shall be active health care risk managers,
563 including one risk manager who is recommended by and a member of
564 the Florida Society for ~~of~~ Healthcare Risk Management and
565 Patient Safety.

566 Section 14. Subsection (3) of section 395.2050, Florida
567 Statutes, is amended to read:

568 395.2050 Routine inquiry for organ and tissue donation;
569 certification for procurement activities; death records review.—

570 (3) Each organ procurement organization designated by the
571 federal Centers for Medicare and Medicaid Services ~~Health Care~~
572 ~~Financing Administration~~ and licensed by the state shall conduct
573 an annual death records review in the organ procurement
574 organization's affiliated donor hospitals. The organ procurement
575 organization shall enlist the services of every Florida licensed
576 tissue bank and eye bank affiliated with or providing service to
577 the donor hospital and operating in the same service area to
578 participate in the death records review.

579 Section 15. Subsection (2) of section 395.3036, Florida
580 Statutes, is amended to read:

581 395.3036 Confidentiality of records and meetings of
582 corporations that lease public hospitals or other public health
583 care facilities.—The records of a private corporation that
584 leases a public hospital or other public health care facility
585 are confidential and exempt from the provisions of s. 119.07(1)
586 and s. 24(a), Art. I of the State Constitution, and the meetings
587 of the governing board of a private corporation are exempt from

CS/HB 1143

2010

588 s. 286.011 and s. 24(b), Art. I of the State Constitution when
 589 the public lessor complies with the public finance
 590 accountability provisions of s. 155.40(5) with respect to the
 591 transfer of any public funds to the private lessee and when the
 592 private lessee meets at least three of the five following
 593 criteria:

594 (2) The public lessor and the private lessee do not
 595 commingle any of their funds in any account maintained by either
 596 of them, other than the payment of the rent and administrative
 597 fees or the transfer of funds pursuant to s. 155.40(2)
 598 ~~subsection (2)~~.

599 Section 16. Section 395.3037, Florida Statutes, is
 600 repealed.

601 Section 17. Subsections (1), (4), and (5) of section
 602 395.3038, Florida Statutes, are amended to read:

603 395.3038 State-listed primary stroke centers and
 604 comprehensive stroke centers; notification of hospitals.—

605 (1) The agency shall make available on its website and to
 606 the department a list of the name and address of each hospital
 607 that meets the criteria for a primary stroke center and the name
 608 and address of each hospital that meets the criteria for a
 609 comprehensive stroke center. The list of primary and
 610 comprehensive stroke centers shall include only those hospitals
 611 that attest in an affidavit submitted to the agency that the
 612 hospital meets the named criteria, or those hospitals that
 613 attest in an affidavit submitted to the agency that the hospital
 614 is certified as a primary or a comprehensive stroke center by

615 The Joint Commission ~~on Accreditation of Healthcare~~
 616 ~~Organizations.~~

617 (4) The agency shall adopt by rule criteria for a primary
 618 stroke center which are substantially similar to the
 619 certification standards for primary stroke centers of The Joint
 620 Commission ~~on Accreditation of Healthcare Organizations.~~

621 (5) The agency shall adopt by rule criteria for a
 622 comprehensive stroke center. However, if The Joint Commission ~~on~~
 623 ~~Accreditation of Healthcare Organizations~~ establishes criteria
 624 for a comprehensive stroke center, the agency shall establish
 625 criteria for a comprehensive stroke center which are
 626 substantially similar to those criteria established by The Joint
 627 Commission ~~on Accreditation of Healthcare Organizations.~~

628 Section 18. Paragraph (e) of subsection (2) of section
 629 395.602, Florida Statutes, is amended to read:

630 395.602 Rural hospitals.—

631 (2) DEFINITIONS.—As used in this part:

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

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

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

CS/HB 1143

2010

642 3. A hospital supported by a tax district or subdistrict
643 whose boundaries encompass a population of 100 persons or fewer
644 per square mile;

645 ~~4. A hospital in a constitutional charter county with a~~
646 ~~population of over 1 million persons that has imposed a local~~
647 ~~option health service tax pursuant to law and in an area that~~
648 ~~was directly impacted by a catastrophic event on August 24,~~
649 ~~1992, for which the Governor of Florida declared a state of~~
650 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
651 ~~serves an agricultural community with an emergency room~~
652 ~~utilization of no less than 20,000 visits and a Medicaid~~
653 ~~inpatient utilization rate greater than 15 percent;~~

654 4.5. A hospital with a service area that has a population
655 of 100 persons or fewer per square mile. As used in this
656 subparagraph, the term "service area" means the fewest number of
657 zip codes that account for 75 percent of the hospital's
658 discharges for the most recent 5-year period, based on
659 information available from the hospital inpatient discharge
660 database in the Florida Center for Health Information and Policy
661 Analysis at the Agency for Health Care Administration; or

662 ~~5.6.~~ A hospital designated as a critical access hospital,
663 as defined in s. 408.07(15).

664
665 Population densities used in this paragraph must be based upon
666 the most recently completed United States census. A hospital
667 that received funds under s. 409.9116 for a quarter beginning no
668 later than July 1, 2002, is deemed to have been and shall
669 continue to be a rural hospital from that date through June 30,

CS/HB 1143

2010

670 2015, if the hospital continues to have 100 or fewer licensed
 671 beds and an emergency room, ~~or meets the criteria of~~
 672 ~~subparagraph 4~~. An acute care hospital that has not previously
 673 been designated as a rural hospital and that meets the criteria
 674 of this paragraph shall be granted such designation upon
 675 application, including supporting documentation to the Agency
 676 for Health Care Administration.

677 Section 19. Subsection (8) of section 400.021, Florida
 678 Statutes, is amended to read:

679 400.021 Definitions.—When used in this part, unless the
 680 context otherwise requires, the term:

681 (8) "Geriatric outpatient clinic" means a site for
 682 providing outpatient health care to persons 60 years of age or
 683 older, which is staffed by a registered nurse or a physician
 684 assistant, or a licensed practical nurse under the direct
 685 supervision of a registered nurse, advanced registered nurse
 686 practitioner, or physician assistant.

687 Section 20. Subsection (2) of section 400.063, Florida
 688 Statutes, is amended to read:

689 400.063 Resident protection.—

690 (2) The agency is authorized to establish for each
 691 facility, subject to intervention by the agency, a separate bank
 692 account for the deposit to the credit of the agency of any
 693 moneys received from the Health Care Trust Fund or any other
 694 moneys received for the maintenance and care of residents in the
 695 facility, and the agency is authorized to disburse moneys from
 696 such account to pay obligations incurred for the purposes of
 697 this section. The agency is authorized to requisition moneys

CS/HB 1143

2010

698 from the Health Care Trust Fund in advance of an actual need for
 699 cash on the basis of an estimate by the agency of moneys to be
 700 spent under the authority of this section. Any bank account
 701 established under this section need not be approved in advance
 702 of its creation as required by s. 17.58, but shall be secured by
 703 depository insurance equal to or greater than the balance of
 704 such account or by the pledge of collateral security ~~in~~
 705 ~~conformance with criteria established in s. 18.11.~~ The agency
 706 shall notify the Chief Financial Officer of any such account so
 707 established and shall make a quarterly accounting to the Chief
 708 Financial Officer for all moneys deposited in such account.

709 Section 21. Subsections (1) and (5) of section 400.071,
 710 Florida Statutes, are amended to read:

711 400.071 Application for license.—

712 (1) In addition to the requirements of part II of chapter
 713 408, the application for a license shall be under oath and must
 714 contain the following:

715 (a) The location of the facility for which a license is
 716 sought and an indication, as in the original application, that
 717 such location conforms to the local zoning ordinances.

718 ~~(b) A signed affidavit disclosing any financial or~~
 719 ~~ownership interest that a controlling interest as defined in~~
 720 ~~part II of chapter 408 has held in the last 5 years in any~~
 721 ~~entity licensed by this state or any other state to provide~~
 722 ~~health or residential care which has closed voluntarily or~~
 723 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
 724 ~~appointed; has had a license denied, suspended, or revoked; or~~
 725 ~~has had an injunction issued against it which was initiated by a~~

CS/HB 1143

2010

726 ~~regulatory agency. The affidavit must disclose the reason any~~
 727 ~~such entity was closed, whether voluntarily or involuntarily.~~

728 ~~(c) The total number of beds and the total number of~~
 729 ~~Medicare and Medicaid certified beds.~~

730 (b)~~(d)~~ Information relating to the applicant and employees
 731 which the agency requires by rule. The applicant must
 732 demonstrate that sufficient numbers of qualified staff, by
 733 training or experience, will be employed to properly care for
 734 the type and number of residents who will reside in the
 735 facility.

736 (c)~~(e)~~ Copies of any civil verdict or judgment involving
 737 the applicant rendered within the 10 years preceding the
 738 application, relating to medical negligence, violation of
 739 residents' rights, or wrongful death. As a condition of
 740 licensure, the licensee agrees to provide to the agency copies
 741 of any new verdict or judgment involving the applicant, relating
 742 to such matters, within 30 days after filing with the clerk of
 743 the court. The information required in this paragraph shall be
 744 maintained in the facility's licensure file and in an agency
 745 database which is available as a public record.

746 (5) As a condition of licensure, each facility must
 747 establish ~~and submit with its application~~ a plan for quality
 748 assurance and for conducting risk management.

749 Section 22. Section 400.0712, Florida Statutes, is amended
 750 to read:

751 400.0712 Application for inactive license.—

752 ~~(1) As specified in this section, the agency may issue an~~
 753 ~~inactive license to a nursing home facility for all or a portion~~

754 ~~of its beds. Any request by a licensee that a nursing home or~~
 755 ~~portion of a nursing home become inactive must be submitted to~~
 756 ~~the agency in the approved format. The facility may not initiate~~
 757 ~~any suspension of services, notify residents, or initiate~~
 758 ~~inactivity before receiving approval from the agency; and a~~
 759 ~~licensee that violates this provision may not be issued an~~
 760 ~~inactive license.~~

761 (1)~~(2)~~ In addition to the powers granted under part II of
 762 chapter 408, the agency may issue an inactive license to a
 763 nursing home that chooses to use an unoccupied contiguous
 764 portion of the facility for an alternative use to meet the needs
 765 of elderly persons through the use of less restrictive, less
 766 institutional services.

767 (a) An inactive license issued under this subsection may
 768 be granted for a period not to exceed the current licensure
 769 expiration date but may be renewed by the agency at the time of
 770 licensure renewal.

771 (b) A request to extend the inactive license must be
 772 submitted to the agency in the approved format and approved by
 773 the agency in writing.

774 (c) Nursing homes that receive an inactive license to
 775 provide alternative services shall not receive preference for
 776 participation in the Assisted Living for the Elderly Medicaid
 777 waiver.

778 (2)~~(3)~~ The agency shall adopt rules pursuant to ss.
 779 120.536(1) and 120.54 necessary to implement this section.

780 Section 23. Section 400.111, Florida Statutes, is amended
 781 to read:

CS/HB 1143

2010

782 400.111 Disclosure of controlling interest.—In addition to
 783 the requirements of part II of chapter 408, when requested by
 784 the agency, the licensee shall submit a signed affidavit
 785 disclosing any financial or ownership interest that a
 786 controlling interest has held within the last 5 years in any
 787 entity licensed by the state or any other state to provide
 788 health or residential care which entity has closed voluntarily
 789 or involuntarily; has filed for bankruptcy; has had a receiver
 790 appointed; has had a license denied, suspended, or revoked; or
 791 has had an injunction issued against it which was initiated by a
 792 regulatory agency. The affidavit must disclose the reason such
 793 entity was closed, whether voluntarily or involuntarily.

794 Section 24. Subsection (2) of section 400.1183, Florida
 795 Statutes, is amended to read:

796 400.1183 Resident grievance procedures.—

797 (2) Each facility shall maintain records of all grievances
 798 for agency inspection ~~and shall report to the agency at the time~~
 799 ~~of relicensure the total number of grievances handled during the~~
 800 ~~prior licensure period, a categorization of the cases underlying~~
 801 ~~the grievances, and the final disposition of the grievances.~~

802 Section 25. Paragraphs (o) through (w) of subsection (1)
 803 of section 400.141, Florida Statutes, are redesignated as
 804 paragraphs (n) through (u), respectively, and present paragraphs
 805 (f), (g), (j), (n), (o), and (r) of that subsection are amended,
 806 to read:

807 400.141 Administration and management of nursing home
 808 facilities.—

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

811 (f) Be allowed and encouraged by the agency to provide
 812 other needed services under certain conditions. If the facility
 813 has a standard licensure status, ~~and has had no class I or class~~
 814 ~~II deficiencies during the past 2 years~~ or has been awarded a
 815 Gold Seal under the program established in s. 400.235, it may ~~be~~
 816 ~~encouraged by the agency to provide services, including, but not~~
 817 limited to, respite and adult day services, which enable
 818 individuals to move in and out of the facility. A facility is
 819 not subject to any additional licensure requirements for
 820 providing these services.

821 1. Respite care may be offered to persons in need of
 822 short-term or temporary nursing home services. For each person
 823 admitted under the respite care program, the facility licensee
 824 must:

825 a. Have a written abbreviated plan of care that, at a
 826 minimum, includes nutritional requirements, medication orders,
 827 physician orders, nursing assessments, and dietary preferences.
 828 The nursing or physician assessments may take the place of all
 829 other assessments required for full-time residents.

830 b. Have a contract that, at a minimum, specifies the
 831 services to be provided to the respite resident, including
 832 charges for services, activities, equipment, emergency medical
 833 services, and the administration of medications. If multiple
 834 respite admissions for a single person are anticipated, the
 835 original contract is valid for 1 year after the date of
 836 execution.

CS/HB 1143

2010

837 c. Ensure that each resident is released to his or her
838 caregiver or an individual designated in writing by the
839 caregiver.

840 2. A person admitted under the respite care program is:

841 a. Exempt from requirements in rule related to discharge
842 planning.

843 b. Covered by the resident's rights set forth in s.
844 400.022(1)(a)-(o) and (r)-(t). Funds or property of the resident
845 shall not be considered trust funds subject to the requirements
846 of s. 400.022(1)(h) until the resident has been in the facility
847 for more than 14 consecutive days.

848 c. Allowed to use his or her personal medications for the
849 respite stay if permitted by facility policy. The facility must
850 obtain a physician's orders for the medications. The caregiver
851 may provide information regarding the medications as part of the
852 nursing assessment, which must agree with the physician's
853 orders. Medications shall be released with the resident upon
854 discharge in accordance with current orders.

855 3. A person receiving respite care is entitled to a total
856 of 60 days in the facility within a contract year or a calendar
857 year if the contract is for less than 12 months. However, each
858 single stay may not exceed 14 days. If a stay exceeds 14
859 consecutive days, the facility must comply with all assessment
860 and care planning requirements applicable to nursing home
861 residents.

862 4. A person receiving respite care must reside in a
863 licensed nursing home bed.

864 5. A prospective respite resident must provide medical

CS/HB 1143

2010

865 information from a physician, a physician assistant, or a nurse
866 practitioner and other information from the primary caregiver as
867 may be required by the facility prior to or at the time of
868 admission to receive respite care. The medical information must
869 include a physician's order for respite care and proof of a
870 physical examination by a licensed physician, physician
871 assistant, or nurse practitioner. The physician's order and
872 physical examination may be used to provide intermittent respite
873 care for up to 12 months after the date the order is written.

874 6. The facility must assume the duties of the primary
875 caregiver. To ensure continuity of care and services, the
876 resident is entitled to retain his or her personal physician and
877 must have access to medically necessary services such as
878 physical therapy, occupational therapy, or speech therapy, as
879 needed. The facility must arrange for transportation to these
880 services if necessary. ~~Respite care must be provided in~~
881 ~~accordance with this part and rules adopted by the agency.~~
882 ~~However, the agency shall, by rule, adopt modified requirements~~
883 ~~for resident assessment, resident care plans, resident~~
884 ~~contracts, physician orders, and other provisions, as~~
885 ~~appropriate, for short-term or temporary nursing home services.~~

886 7. The agency shall allow for shared programming and staff
887 in a facility which meets minimum standards and offers services
888 pursuant to this paragraph, but, if the facility is cited for
889 deficiencies in patient care, may require additional staff and
890 programs appropriate to the needs of service recipients. A
891 person who receives respite care may not be counted as a
892 resident of the facility for purposes of the facility's licensed

893 capacity unless that person receives 24-hour respite care. A
894 person receiving either respite care for 24 hours or longer or
895 adult day services must be included when calculating minimum
896 staffing for the facility. Any costs and revenues generated by a
897 nursing home facility from nonresidential programs or services
898 shall be excluded from the calculations of Medicaid per diems
899 for nursing home institutional care reimbursement.

900 (g) If the facility has a standard license or is a Gold
901 Seal facility, exceeds the minimum required hours of licensed
902 nursing and certified nursing assistant direct care per resident
903 per day, and is part of a continuing care facility licensed
904 under chapter 651 or a retirement community that offers other
905 services pursuant to part III of this chapter or part I or part
906 III of chapter 429 on a single campus, be allowed to share
907 programming and staff. At the time of inspection and in the
908 semiannual report required pursuant to paragraph (n) ~~(o)~~, a
909 continuing care facility or retirement community that uses this
910 option must demonstrate through staffing records that minimum
911 staffing requirements for the facility were met. Licensed nurses
912 and certified nursing assistants who work in the nursing home
913 facility may be used to provide services elsewhere on campus if
914 the facility exceeds the minimum number of direct care hours
915 required per resident per day and the total number of residents
916 receiving direct care services from a licensed nurse or a
917 certified nursing assistant does not cause the facility to
918 violate the staffing ratios required under s. 400.23(3)(a).
919 Compliance with the minimum staffing ratios shall be based on
920 total number of residents receiving direct care services,

CS/HB 1143

2010

921 | regardless of where they reside on campus. If the facility
 922 | receives a conditional license, it may not share staff until the
 923 | conditional license status ends. This paragraph does not
 924 | restrict the agency's authority under federal or state law to
 925 | require additional staff if a facility is cited for deficiencies
 926 | in care which are caused by an insufficient number of certified
 927 | nursing assistants or licensed nurses. The agency may adopt
 928 | rules for the documentation necessary to determine compliance
 929 | with this provision.

930 | (j) Keep full records of resident admissions and
 931 | discharges; medical and general health status, including medical
 932 | records, personal and social history, and identity and address
 933 | of next of kin or other persons who may have responsibility for
 934 | the affairs of the residents; and individual resident care plans
 935 | including, but not limited to, prescribed services, service
 936 | frequency and duration, and service goals. The records shall be
 937 | open to inspection by the agency. The facility must maintain
 938 | clinical records on each resident in accordance with accepted
 939 | professional standards and practices that are complete,
 940 | accurately documented, readily accessible, and systematically
 941 | organized.

942 | ~~(n) Submit to the agency the information specified in s.~~
 943 | ~~400.071(1)(b) for a management company within 30 days after the~~
 944 | ~~effective date of the management agreement.~~

945 | (n)~~(e)~~1. Submit semiannually to the agency, or more
 946 | frequently if requested by the agency, information regarding
 947 | facility staff-to-resident ratios, staff turnover, and staff
 948 | stability, including information regarding certified nursing

949 assistants, licensed nurses, the director of nursing, and the
950 facility administrator. For purposes of this reporting:

951 a. Staff-to-resident ratios must be reported in the
952 categories specified in s. 400.23(3)(a) and applicable rules.
953 The ratio must be reported as an average for the most recent
954 calendar quarter.

955 b. Staff turnover must be reported for the most recent 12-
956 month period ending on the last workday of the most recent
957 calendar quarter prior to the date the information is submitted.
958 The turnover rate must be computed quarterly, with the annual
959 rate being the cumulative sum of the quarterly rates. The
960 turnover rate is the total number of terminations or separations
961 experienced during the quarter, excluding any employee
962 terminated during a probationary period of 3 months or less,
963 divided by the total number of staff employed at the end of the
964 period for which the rate is computed, and expressed as a
965 percentage.

966 c. The formula for determining staff stability is the
967 total number of employees that have been employed for more than
968 12 months, divided by the total number of employees employed at
969 the end of the most recent calendar quarter, and expressed as a
970 percentage.

971 d. A nursing facility that has failed to comply with state
972 minimum-staffing requirements for 2 consecutive days is
973 prohibited from accepting new admissions until the facility has
974 achieved the minimum-staffing requirements for a period of 6
975 consecutive days. For the purposes of this sub-subparagraph, any
976 person who was a resident of the facility and was absent from

CS/HB 1143

2010

977 | the facility for the purpose of receiving medical care at a
 978 | separate location or was on a leave of absence is not considered
 979 | a new admission. Failure to impose such an admissions moratorium
 980 | is subject to a \$1,000 fine ~~constitutes a class II deficiency.~~

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

986 | f. A facility which has a conditional license must be in
 987 | compliance with the standards in s. 400.23(3)(a) at all times.

988 | 2. This paragraph does not limit the agency's ability to
 989 | impose a deficiency or take other actions if a facility does not
 990 | have enough staff to meet the residents' needs.

991 | ~~(r) Report to the agency any filing for bankruptcy~~
 992 | ~~protection by the facility or its parent corporation,~~
 993 | ~~divestiture or spin-off of its assets, or corporate~~
 994 | ~~reorganization within 30 days after the completion of such~~
 995 | ~~activity.~~

996 | Section 26. Subsection (3) of section 400.142, Florida
 997 | Statutes, is amended to read:

998 | 400.142 Emergency medication kits; orders not to
 999 | resuscitate.—

1000 | (3) Facility staff may withhold or withdraw
 1001 | cardiopulmonary resuscitation if presented with an order not to
 1002 | resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
 1003 | ~~adopt rules providing for the implementation of such orders.~~
 1004 | Facility staff and facilities shall not be subject to criminal

CS/HB 1143

2010

1005 prosecution or civil liability, nor be considered to have
 1006 engaged in negligent or unprofessional conduct, for withholding
 1007 or withdrawing cardiopulmonary resuscitation pursuant to such an
 1008 order and rules adopted by the agency. The absence of an order
 1009 not to resuscitate executed pursuant to s. 401.45 does not
 1010 preclude a physician from withholding or withdrawing
 1011 cardiopulmonary resuscitation as otherwise permitted by law.

1012 Section 27. Subsections (11) through (15) of section
 1013 400.147, Florida Statutes, are renumbered as subsections (10)
 1014 through (14), respectively, and present subsection (10) is
 1015 amended to read:

1016 400.147 Internal risk management and quality assurance
 1017 program.—

1018 ~~(10) By the 10th of each month, each facility subject to~~
 1019 ~~this section shall report any notice received pursuant to s.~~
 1020 ~~400.0233(2) and each initial complaint that was filed with the~~
 1021 ~~clerk of the court and served on the facility during the~~
 1022 ~~previous month by a resident or a resident's family member,~~
 1023 ~~guardian, conservator, or personal legal representative. The~~
 1024 ~~report must include the name of the resident, the resident's~~
 1025 ~~date of birth and social security number, the Medicaid~~
 1026 ~~identification number for Medicaid-eligible persons, the date or~~
 1027 ~~dates of the incident leading to the claim or dates of~~
 1028 ~~residency, if applicable, and the type of injury or violation of~~
 1029 ~~rights alleged to have occurred. Each facility shall also submit~~
 1030 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~
 1031 ~~complaints filed with the clerk of the court. This report is~~
 1032 ~~confidential as provided by law and is not discoverable or~~

CS/HB 1143

2010

1033 ~~admissible in any civil or administrative action, except in such~~
 1034 ~~actions brought by the agency to enforce the provisions of this~~
 1035 ~~part.~~

1036 Section 28. Section 400.148, Florida Statutes, is
 1037 repealed.

1038 Section 29. Paragraph (f) of subsection (5) of section
 1039 400.162, Florida Statutes, is amended to read:

1040 400.162 Property and personal affairs of residents.—

1041 (5)

1042 (f) At least every 3 months, the licensee shall furnish
 1043 the resident and the guardian, trustee, or conservator, if any,
 1044 for the resident a complete and verified statement of all funds
 1045 ~~and other property~~ to which this subsection applies, detailing
 1046 the amounts ~~and items~~ received, together with their sources and
 1047 disposition. For resident property, the licensee shall furnish
 1048 such a statement annually and within 7 calendar days after a
 1049 request for a statement. In any event, the licensee shall
 1050 furnish such statements ~~a statement~~ annually and upon the
 1051 discharge or transfer of a resident. Any governmental agency or
 1052 private charitable agency contributing funds or other property
 1053 on account of a resident also shall be entitled to receive such
 1054 statements ~~statement~~ annually and upon discharge or transfer and
 1055 such other report as it may require pursuant to law.

1056 Section 30. Paragraphs (d) and (e) of subsection (2) of
 1057 section 400.179, Florida Statutes, are amended to read:

1058 400.179 Liability for Medicaid underpayments and
 1059 overpayments.—

1060 (2) Because any transfer of a nursing facility may expose

CS/HB 1143

2010

1061 the fact that Medicaid may have underpaid or overpaid the
 1062 transferor, and because in most instances, any such underpayment
 1063 or overpayment can only be determined following a formal field
 1064 audit, the liabilities for any such underpayments or
 1065 overpayments shall be as follows:

1066 (d) Where the transfer involves a facility that has been
 1067 leased by the transferor:

1068 1. The transferee shall, as a condition to being issued a
 1069 license by the agency, acquire, maintain, and provide proof to
 1070 the agency of a bond with a term of 30 months, renewable
 1071 annually, in an amount not less than the total of 3 months'
 1072 Medicaid payments to the facility computed on the basis of the
 1073 preceding 12-month average Medicaid payments to the facility.

1074 2. A leasehold licensee may meet the requirements of
 1075 subparagraph 1. by payment of a nonrefundable fee, paid at
 1076 initial licensure, paid at the time of any subsequent change of
 1077 ownership, and paid annually thereafter, in the amount of 1
 1078 percent of the total of 3 months' Medicaid payments to the
 1079 facility computed on the basis of the preceding 12-month average
 1080 Medicaid payments to the facility. If a preceding 12-month
 1081 average is not available, projected Medicaid payments may be
 1082 used. The fee shall be deposited into the Grants and Donations
 1083 Trust Fund and shall be accounted for separately as a Medicaid
 1084 nursing home overpayment account. These fees shall be used at
 1085 the sole discretion of the agency to repay nursing home Medicaid
 1086 overpayments. Payment of this fee shall not release the licensee
 1087 from any liability for any Medicaid overpayments, nor shall
 1088 payment bar the agency from seeking to recoup overpayments from

1089 the licensee and any other liable party. As a condition of
 1090 exercising this lease bond alternative, licensees paying this
 1091 fee must maintain an existing lease bond through the end of the
 1092 30-month term period of that bond. The agency is herein granted
 1093 specific authority to promulgate all rules pertaining to the
 1094 administration and management of this account, including
 1095 withdrawals from the account, subject to federal review and
 1096 approval. This provision shall take effect upon becoming law and
 1097 shall apply to any leasehold license application. The financial
 1098 viability of the Medicaid nursing home overpayment account shall
 1099 be determined by the agency through annual review of the account
 1100 balance and the amount of total outstanding, unpaid Medicaid
 1101 overpayments owing from leasehold licensees to the agency as
 1102 determined by final agency audits. By March 31 of each year, the
 1103 agency shall assess the cumulative fees collected under this
 1104 subparagraph, minus any amounts used to repay nursing home
 1105 Medicaid overpayments. If the net cumulative collections, minus
 1106 amounts utilized to repay nursing home Medicaid overpayments,
 1107 exceed \$25 million, the provisions of this paragraph shall not
 1108 apply for the subsequent fiscal year.

1109 3. The leasehold licensee may meet the bond requirement
 1110 through other arrangements acceptable to the agency. The agency
 1111 is herein granted specific authority to promulgate rules
 1112 pertaining to lease bond arrangements.

1113 4. All existing nursing facility licensees, operating the
 1114 facility as a leasehold, shall acquire, maintain, and provide
 1115 proof to the agency of the 30-month bond required in
 1116 subparagraph 1., above, on and after July 1, 1993, for each

CS/HB 1143

2010

1117 license renewal.

1118 5. It shall be the responsibility of all nursing facility
 1119 operators, operating the facility as a leasehold, to renew the
 1120 30-month bond and to provide proof of such renewal to the agency
 1121 annually.

1122 6. Any failure of the nursing facility operator to
 1123 acquire, maintain, renew annually, or provide proof to the
 1124 agency shall be grounds for the agency to deny, revoke, and
 1125 suspend the facility license to operate such facility and to
 1126 take any further action, including, but not limited to,
 1127 enjoining the facility, asserting a moratorium pursuant to part
 1128 II of chapter 408, or applying for a receiver, deemed necessary
 1129 to ensure compliance with this section and to safeguard and
 1130 protect the health, safety, and welfare of the facility's
 1131 residents. A lease agreement required as a condition of bond
 1132 financing or refinancing under s. 154.213 by a health facilities
 1133 authority or required under s. 159.30 by a county or
 1134 municipality is not a leasehold for purposes of this paragraph
 1135 and is not subject to the bond requirement of this paragraph.

1136 ~~(e) For the 2009-2010 fiscal year only, the provisions of~~
 1137 ~~paragraph (d) shall not apply. This paragraph expires July 1,~~
 1138 ~~2010.~~

1139 Section 31. Subsection (3) of section 400.19, Florida
 1140 Statutes, is amended to read:

1141 400.19 Right of entry and inspection.—

1142 (3) The agency shall every 15 months conduct at least one
 1143 unannounced inspection to determine compliance by the licensee
 1144 with statutes, and with rules promulgated under the provisions

CS/HB 1143

2010

1145 of those statutes, governing minimum standards of construction,
1146 quality and adequacy of care, and rights of residents. The
1147 survey shall be conducted every 6 months for the next 2-year
1148 period if the facility has been cited for a class I deficiency,
1149 has been cited for two or more class II deficiencies arising
1150 from separate surveys or investigations within a 60-day period,
1151 or has had three or more substantiated complaints within a 6-
1152 month period, each resulting in at least one class I or class II
1153 deficiency. In addition to any other fees or fines in this part,
1154 the agency shall assess a fine for each facility that is subject
1155 to the 6-month survey cycle. The fine for the 2-year period
1156 shall be \$6,000, one-half to be paid at the completion of each
1157 survey. The agency may adjust this fine by the change in the
1158 Consumer Price Index, based on the 12 months immediately
1159 preceding the increase, to cover the cost of the additional
1160 surveys. The agency shall verify through subsequent inspection
1161 that any deficiency identified during inspection is corrected.
1162 However, the agency may verify the correction of a class III or
1163 class IV deficiency ~~unrelated to resident rights or resident~~
1164 ~~care~~ without reinspecting the facility if adequate written
1165 documentation has been received from the facility, which
1166 provides assurance that the deficiency has been corrected. The
1167 giving or causing to be given of advance notice of such
1168 unannounced inspections by an employee of the agency to any
1169 unauthorized person shall constitute cause for suspension of not
1170 fewer than 5 working days according to the provisions of chapter
1171 110.

CS/HB 1143

2010

1172 Section 32. Section 400.195, Florida Statutes, is
 1173 repealed.

1174 Section 33. Subsection (5) of section 400.23, Florida
 1175 Statutes, is amended to read:

1176 400.23 Rules; evaluation and deficiencies; licensure
 1177 status.—

1178 (5) The agency, in collaboration with the Division of
 1179 Children's Medical Services Network of the Department of Health,
 1180 ~~must, no later than December 31, 1993,~~ adopt rules for minimum
 1181 standards of care for persons under 21 years of age who reside
 1182 in nursing home facilities. The rules must include a methodology
 1183 for reviewing a nursing home facility under ss. 408.031-408.045
 1184 which serves only persons under 21 years of age. A facility may
 1185 be exempt from these standards for specific persons between 18
 1186 and 21 years of age, if the person's physician agrees that
 1187 minimum standards of care based on age are not necessary.

1188 Section 34. Subsection (1) of section 400.275, Florida
 1189 Statutes, is amended to read:

1190 400.275 Agency duties.—

1191 ~~(1) The agency shall ensure that each newly hired nursing~~
 1192 ~~home surveyor, as a part of basic training, is assigned full-~~
 1193 ~~time to a licensed nursing home for at least 2 days within a 7-~~
 1194 ~~day period to observe facility operations outside of the survey~~
 1195 ~~process before the surveyor begins survey responsibilities. Such~~
 1196 ~~observations may not be the sole basis of a deficiency citation~~
 1197 ~~against the facility.~~ The agency may not assign an individual to
 1198 be a member of a survey team for purposes of a survey,
 1199 evaluation, or consultation visit at a nursing home facility in

CS/HB 1143

2010

1200 which the surveyor was an employee within the preceding 2 ~~5~~
 1201 years.

1202 Section 35. Subsection (2) of section 400.484, Florida
 1203 Statutes, is amended to read:

1204 400.484 Right of inspection; violations ~~deficiencies~~;
 1205 fines.-

1206 (2) The agency shall impose fines for various classes of
 1207 violations ~~deficiencies~~ in accordance with the following
 1208 schedule:

1209 (a) Class I violations are defined in s. 408.813. ~~A class~~
 1210 ~~I deficiency is any act, omission, or practice that results in a~~
 1211 ~~patient's death, disablement, or permanent injury, or places a~~
 1212 ~~patient at imminent risk of death, disablement, or permanent~~
 1213 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
 1214 shall impose an administrative fine in the amount of \$15,000 for
 1215 each occurrence and each day that the violation ~~deficiency~~
 1216 exists.

1217 (b) Class II violations are defined in s. 408.813. ~~A class~~
 1218 ~~II deficiency is any act, omission, or practice that has a~~
 1219 ~~direct adverse effect on the health, safety, or security of a~~
 1220 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
 1221 agency shall impose an administrative fine in the amount of
 1222 \$5,000 for each occurrence and each day that the violation
 1223 ~~deficiency~~ exists.

1224 (c) Class III violations are defined in s. 408.813. ~~A~~
 1225 ~~class III deficiency is any act, omission, or practice that has~~
 1226 ~~an indirect, adverse effect on the health, safety, or security~~
 1227 ~~of a patient.~~ Upon finding an uncorrected or repeated class III

1228 violation ~~deficiency~~, the agency shall impose an administrative
 1229 fine not to exceed \$1,000 for each occurrence and each day that
 1230 the uncorrected or repeated violation ~~deficiency~~ exists.

1231 (d) Class IV violations are defined in s. 408.813. ~~A class~~
 1232 ~~IV deficiency is any act, omission, or practice related to~~
 1233 ~~required reports, forms, or documents which does not have the~~
 1234 ~~potential of negatively affecting patients. These violations are~~
 1235 ~~of a type that the agency determines do not threaten the health,~~
 1236 ~~safety, or security of patients.~~ Upon finding an uncorrected or
 1237 repeated class IV violation ~~deficiency~~, the agency shall impose
 1238 an administrative fine not to exceed \$500 for each occurrence
 1239 and each day that the uncorrected or repeated violation
 1240 ~~deficiency~~ exists.

1241 Section 36. Paragraph (i) of subsection (1) and subsection
 1242 (4) of section 400.606, Florida Statutes, are amended to read:

1243 400.606 License; application; renewal; conditional license
 1244 or permit; certificate of need.—

1245 (1) In addition to the requirements of part II of chapter
 1246 408, the initial application and change of ownership application
 1247 must be accompanied by a plan for the delivery of home,
 1248 residential, and homelike inpatient hospice services to
 1249 terminally ill persons and their families. Such plan must
 1250 contain, but need not be limited to:

1251 ~~(i) The projected annual operating cost of the hospice.~~

1252
 1253 If the applicant is an existing licensed health care provider,
 1254 the application must be accompanied by a copy of the most recent

CS/HB 1143

2010

1255 profit-loss statement and, if applicable, the most recent
 1256 licensure inspection report.

1257 (4) A freestanding hospice facility that is ~~primarily~~
 1258 engaged in providing inpatient and related services and that is
 1259 not otherwise licensed as a health care facility shall be
 1260 required to obtain a certificate of need. However, a
 1261 freestanding hospice facility with six or fewer beds shall not
 1262 be required to comply with institutional standards such as, but
 1263 not limited to, standards requiring sprinkler systems, emergency
 1264 electrical systems, or special lavatory devices.

1265 Section 37. Subsection (2) of section 400.607, Florida
 1266 Statutes, is amended to read:

1267 400.607 Denial, suspension, revocation of license;
 1268 emergency actions; imposition of administrative fine; grounds.—

1269 (2) A violation of this part, part II of chapter 408, or
 1270 applicable rules ~~Any of the following actions~~ by a licensed
 1271 hospice or any of its employees shall be grounds for
 1272 administrative action by the agency against a hospice.÷

1273 ~~(a) A violation of the provisions of this part, part II of~~
 1274 ~~chapter 408, or applicable rules.~~

1275 ~~(b) An intentional or negligent act materially affecting~~
 1276 ~~the health or safety of a patient.~~

1277 Section 38. Subsection (1) of section 400.925, Florida
 1278 Statutes, is amended to read:

1279 400.925 Definitions.—As used in this part, the term:

1280 (1) "Accrediting organizations" means The Joint Commission
 1281 ~~on Accreditation of Healthcare Organizations~~ or other national

CS/HB 1143

2010

1282 accreditation agencies whose standards for accreditation are
 1283 comparable to those required by this part for licensure.

1284 Section 39. Subsections (3) through (6) of section
 1285 400.931, Florida Statutes, are renumbered as subsections (2)
 1286 through (5), respectively, and present subsection (2) of that
 1287 section is amended to read:

1288 400.931 Application for license; ~~fee; provisional license;~~
 1289 ~~temporary permit.~~-

1290 ~~(2) As an alternative to submitting proof of financial~~
 1291 ~~ability to operate as required in s. 408.810(8), the applicant~~
 1292 ~~may submit a \$50,000 surety bond to the agency.~~

1293 Section 40. Subsection (2) of section 400.932, Florida
 1294 Statutes, is amended to read:

1295 400.932 Administrative penalties.-

1296 (2) A violation of this part, part II of chapter 408, or
 1297 applicable rules ~~Any of the following actions~~ by an employee of
 1298 a home medical equipment provider shall be ~~are~~ grounds for
 1299 administrative action or penalties by the agency.÷

1300 ~~(a) Violation of this part, part II of chapter 408, or~~
 1301 ~~applicable rules.~~

1302 ~~(b) An intentional, reckless, or negligent act that~~
 1303 ~~materially affects the health or safety of a patient.~~

1304 Section 41. Subsection (3) of section 400.967, Florida
 1305 Statutes, is amended to read:

1306 400.967 Rules and classification of violations
 1307 deficiencies.-

1308 (3) The agency shall adopt rules to provide that, when the
 1309 criteria established under this part and part II of chapter 408

CS/HB 1143

2010

1310 are not met, such violations ~~deficiencies~~ shall be classified
1311 according to the nature of the violation ~~deficiency~~. The agency
1312 shall indicate the classification on the face of the notice of
1313 deficiencies as follows:

1314 (a) Class I violations ~~deficiencies~~ are defined in s.
1315 408.813 ~~those which the agency determines present an imminent~~
1316 ~~danger to the residents or guests of the facility or a~~
1317 ~~substantial probability that death or serious physical harm~~
1318 ~~would result therefrom. The condition or practice constituting a~~
1319 ~~class I violation must be abated or eliminated immediately,~~
1320 ~~unless a fixed period of time, as determined by the agency, is~~
1321 ~~required for correction.~~ A class I violation ~~deficiency~~ is
1322 subject to a civil penalty in an amount not less than \$5,000 and
1323 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may
1324 be levied notwithstanding the correction of the violation
1325 ~~deficiency~~.

1326 (b) Class II violations ~~deficiencies~~ are defined in s.
1327 408.813 ~~those which the agency determines have a direct or~~
1328 ~~immediate relationship to the health, safety, or security of the~~
1329 ~~facility residents, other than class I deficiencies.~~ A class II
1330 violation ~~deficiency~~ is subject to a civil penalty in an amount
1331 not less than \$1,000 and not exceeding \$5,000 for each violation
1332 ~~deficiency~~. A citation for a class II violation ~~deficiency~~ shall
1333 specify the time within which the violation ~~deficiency~~ must be
1334 corrected. If a class II violation ~~deficiency~~ is corrected
1335 within the time specified, no civil penalty shall be imposed,
1336 unless it is a repeated offense.

CS/HB 1143

2010

1337 (c) Class III violations ~~deficiencies~~ are defined in s.
 1338 408.813 ~~those which the agency determines to have an indirect or~~
 1339 ~~potential relationship to the health, safety, or security of the~~
 1340 ~~facility residents, other than class I or class II deficiencies.~~
 1341 A class III violation ~~deficiency~~ is subject to a civil penalty
 1342 of not less than \$500 and not exceeding \$1,000 for each
 1343 deficiency. A citation for a class III violation ~~deficiency~~
 1344 shall specify the time within which the violation ~~deficiency~~
 1345 must be corrected. If a class III violation ~~deficiency~~ is
 1346 corrected within the time specified, no civil penalty shall be
 1347 imposed, unless it is a repeated offense.

1348 (d) Class IV violations are defined in s. 408.813. Upon
 1349 finding an uncorrected or repeated class IV violation, the
 1350 agency shall impose an administrative fine not to exceed \$500
 1351 for each occurrence and each day that the uncorrected or
 1352 repeated violation exists.

1353 Section 42. Subsections (4) and (7) of section 400.9905,
 1354 Florida Statutes, are amended to read:

1355 400.9905 Definitions.—

1356 (4) "Clinic" means an entity at which health care services
 1357 are provided to individuals and which tenders charges for
 1358 reimbursement for such services, including a mobile clinic and a
 1359 portable health service or equipment provider. For purposes of
 1360 this part, the term does not include and the licensure
 1361 requirements of this part do not apply to:

1362 (a) Entities licensed or registered by the state under
 1363 chapter 395; or entities licensed or registered by the state and
 1364 providing only health care services within the scope of services

1365 authorized under their respective licenses granted under ss.
 1366 383.30-383.335, chapter 390, chapter 394, chapter 397, this
 1367 chapter except part X, chapter 429, chapter 463, chapter 465,
 1368 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
 1369 chapter 651; end-stage renal disease providers authorized under
 1370 42 C.F.R. part 405, subpart U; or providers certified under 42
 1371 C.F.R. part 485, subpart B or subpart H; or any entity that
 1372 provides neonatal or pediatric hospital-based health care
 1373 services or other health care services by licensed practitioners
 1374 solely within a hospital licensed under chapter 395.

1375 (b) Entities that own, directly or indirectly, entities
 1376 licensed or registered by the state pursuant to chapter 395; or
 1377 entities that own, directly or indirectly, entities licensed or
 1378 registered by the state and providing only health care services
 1379 within the scope of services authorized pursuant to their
 1380 respective licenses granted under ss. 383.30-383.335, chapter
 1381 390, chapter 394, chapter 397, this chapter except part X,
 1382 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
 1383 part I of chapter 483, chapter 484, chapter 651; end-stage renal
 1384 disease providers authorized under 42 C.F.R. part 405, subpart
 1385 U; or providers certified under 42 C.F.R. part 485, subpart B or
 1386 subpart H; or any entity that provides neonatal or pediatric
 1387 hospital-based health care services by licensed practitioners
 1388 solely within a hospital licensed under chapter 395.

1389 (c) Entities that are owned, directly or indirectly, by an
 1390 entity licensed or registered by the state pursuant to chapter
 1391 395; or entities that are owned, directly or indirectly, by an
 1392 entity licensed or registered by the state and providing only

1393 health care services within the scope of services authorized
 1394 pursuant to their respective licenses granted under ss. 383.30-
 1395 383.335, chapter 390, chapter 394, chapter 397, this chapter
 1396 except part X, chapter 429, chapter 463, chapter 465, chapter
 1397 466, chapter 478, part I of chapter 483, chapter 484, or chapter
 1398 651; end-stage renal disease providers authorized under 42
 1399 C.F.R. part 405, subpart U; or providers certified under 42
 1400 C.F.R. part 485, subpart B or subpart H; or any entity that
 1401 provides neonatal or pediatric hospital-based health care
 1402 services by licensed practitioners solely within a hospital
 1403 under chapter 395.

1404 (d) Entities that are under common ownership, directly or
 1405 indirectly, with an entity licensed or registered by the state
 1406 pursuant to chapter 395; or entities that are under common
 1407 ownership, directly or indirectly, with an entity licensed or
 1408 registered by the state and providing only health care services
 1409 within the scope of services authorized pursuant to their
 1410 respective licenses granted under ss. 383.30-383.335, chapter
 1411 390, chapter 394, chapter 397, this chapter except part X,
 1412 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
 1413 part I of chapter 483, chapter 484, or chapter 651; end-stage
 1414 renal disease providers authorized under 42 C.F.R. part 405,
 1415 subpart U; or providers certified under 42 C.F.R. part 485,
 1416 subpart B or subpart H; or any entity that provides neonatal or
 1417 pediatric hospital-based health care services by licensed
 1418 practitioners solely within a hospital licensed under chapter
 1419 395.

1420 (e) An entity that is exempt from federal taxation under

CS/HB 1143

2010

1421 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
 1422 under 26 U.S.C. s. 409 that has a board of trustees not less
 1423 than two-thirds of which are Florida-licensed health care
 1424 practitioners and provides only physical therapy services under
 1425 physician orders, any community college or university clinic,
 1426 and any entity owned or operated by the federal or state
 1427 government, including agencies, subdivisions, or municipalities
 1428 thereof.

1429 (f) A sole proprietorship, group practice, partnership, or
 1430 corporation that provides health care services by physicians
 1431 covered by s. 627.419, that is directly supervised by one or
 1432 more of such physicians, and that is wholly owned by one or more
 1433 of those physicians or by a physician and the spouse, parent,
 1434 child, or sibling of that physician.

1435 (g) A sole proprietorship, group practice, partnership, or
 1436 corporation that provides health care services by licensed
 1437 health care practitioners under chapter 457, chapter 458,
 1438 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 1439 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
 1440 chapter 490, chapter 491, or part I, part III, part X, part
 1441 XIII, or part XIV of chapter 468, or s. 464.012, which are
 1442 wholly owned by one or more licensed health care practitioners,
 1443 or the licensed health care practitioners set forth in this
 1444 paragraph and the spouse, parent, child, or sibling of a
 1445 licensed health care practitioner, so long as one of the owners
 1446 who is a licensed health care practitioner is supervising the
 1447 business activities and is legally responsible for the entity's
 1448 compliance with all federal and state laws. However, a health

CS/HB 1143

2010

1449 care practitioner may not supervise services beyond the scope of
 1450 the practitioner's license, except that, for the purposes of
 1451 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
 1452 provides only services authorized pursuant to s. 456.053(3)(b)
 1453 may be supervised by a licensee specified in s. 456.053(3)(b).

1454 (h) Clinical facilities affiliated with an accredited
 1455 medical school at which training is provided for medical
 1456 students, residents, or fellows.

1457 (i) Entities that provide only oncology or radiation
 1458 therapy services by physicians licensed under chapter 458 or
 1459 chapter 459 or entities that provide oncology or radiation
 1460 therapy services by physicians licensed under chapter 458 or
 1461 chapter 459 which are owned by a corporation whose shares are
 1462 publicly traded on a recognized stock exchange.

1463 (j) Clinical facilities affiliated with a college of
 1464 chiropractic accredited by the Council on Chiropractic Education
 1465 at which training is provided for chiropractic students.

1466 (k) Entities that provide licensed practitioners to staff
 1467 emergency departments or to deliver anesthesia services in
 1468 facilities licensed under chapter 395 and that derive at least
 1469 90 percent of their gross annual revenues from the provision of
 1470 such services. Entities claiming an exemption from licensure
 1471 under this paragraph must provide documentation demonstrating
 1472 compliance.

1473 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or
 1474 perinatology clinical facilities that are a publicly traded
 1475 corporation or that are wholly owned, directly or indirectly, by
 1476 a publicly traded corporation. As used in this paragraph, a

CS/HB 1143

2010

1477 publicly traded corporation is a corporation that issues
 1478 securities traded on an exchange registered with the United
 1479 States Securities and Exchange Commission as a national
 1480 securities exchange.

1481 (7) "Portable health service or equipment provider" means
 1482 an entity that contracts with or employs persons to provide
 1483 portable health care services or equipment to multiple locations
 1484 ~~performing treatment or diagnostic testing of individuals,~~ that
 1485 bills third-party payors for those services, and that otherwise
 1486 meets the definition of a clinic in subsection (4).

1487 Section 43. Paragraph (b) of subsection (1) and paragraph
 1488 (c) of subsection (4) of section 400.991, Florida Statutes, are
 1489 amended to read:

1490 400.991 License requirements; background screenings;
 1491 prohibitions.—

1492 (1)

1493 (b) Each mobile clinic must obtain a separate health care
 1494 clinic license and must provide to the agency, at least
 1495 quarterly, its projected street location to enable the agency to
 1496 locate and inspect such clinic. A portable health service or
 1497 equipment provider must obtain a health care clinic license for
 1498 a single administrative office and is not required to submit
 1499 quarterly projected street locations.

1500 (4) In addition to the requirements of part II of chapter
 1501 408, the applicant must file with the application satisfactory
 1502 proof that the clinic is in compliance with this part and
 1503 applicable rules, including:

1504 (c) Proof of financial ability to operate as required
 1505 under ss. s. 408.810(8) and 408.8065. ~~As an alternative to~~
 1506 ~~submitting proof of financial ability to operate as required~~
 1507 ~~under s. 408.810(8), the applicant may file a surety bond of at~~
 1508 ~~least \$500,000 which guarantees that the clinic will act in full~~
 1509 ~~conformity with all legal requirements for operating a clinic,~~
 1510 ~~payable to the agency. The agency may adopt rules to specify~~
 1511 ~~related requirements for such surety bond.~~

1512 Section 44. Paragraph (g) of subsection (1) and paragraph
 1513 (a) of subsection (7) of section 400.9935, Florida Statutes, are
 1514 amended to read:

1515 400.9935 Clinic responsibilities.—

1516 (1) Each clinic shall appoint a medical director or clinic
 1517 director who shall agree in writing to accept legal
 1518 responsibility for the following activities on behalf of the
 1519 clinic. The medical director or the clinic director shall:

1520 (g) Conduct systematic reviews of clinic billings to
 1521 ensure that the billings are not fraudulent or unlawful. Upon
 1522 discovery of an unlawful charge, the medical director or clinic
 1523 director shall take immediate corrective action. If the clinic
 1524 performs only the technical component of magnetic resonance
 1525 imaging, static radiographs, computed tomography, or positron
 1526 emission tomography, and provides the professional
 1527 interpretation of such services, in a fixed facility that is
 1528 accredited by The Joint Commission ~~on Accreditation of~~
 1529 ~~Healthcare Organizations~~ or the Accreditation Association for
 1530 Ambulatory Health Care, and the American College of Radiology;
 1531 and if, in the preceding quarter, the percentage of scans

CS/HB 1143

2010

1532 performed by that clinic which was billed to all personal injury
 1533 protection insurance carriers was less than 15 percent, the
 1534 chief financial officer of the clinic may, in a written
 1535 acknowledgment provided to the agency, assume the responsibility
 1536 for the conduct of the systematic reviews of clinic billings to
 1537 ensure that the billings are not fraudulent or unlawful.

1538 (7) (a) Each clinic engaged in magnetic resonance imaging
 1539 services must be accredited by The Joint Commission ~~or~~
 1540 ~~Accreditation of Healthcare Organizations~~, the American College
 1541 of Radiology, or the Accreditation Association for Ambulatory
 1542 Health Care, within 1 year after licensure. A clinic that is
 1543 accredited by the American College of Radiology or is within the
 1544 original 1-year period after licensure and replaces its core
 1545 magnetic resonance imaging equipment shall be given 1 year after
 1546 the date on which the equipment is replaced to attain
 1547 accreditation. However, a clinic may request a single, 6-month
 1548 extension if it provides evidence to the agency establishing
 1549 that, for good cause shown, such clinic cannot be accredited
 1550 within 1 year after licensure, and that such accreditation will
 1551 be completed within the 6-month extension. After obtaining
 1552 accreditation as required by this subsection, each such clinic
 1553 must maintain accreditation as a condition of renewal of its
 1554 license. A clinic that files a change of ownership application
 1555 must comply with the original accreditation timeframe
 1556 requirements of the transferor. The agency shall deny a change
 1557 of ownership application if the clinic is not in compliance with
 1558 the accreditation requirements. When a clinic adds, replaces, or
 1559 modifies magnetic resonance imaging equipment and the

CS/HB 1143

2010

1560 accreditation agency requires new accreditation, the clinic must
 1561 be accredited within 1 year after the date of the addition,
 1562 replacement, or modification but may request a single, 6-month
 1563 extension if the clinic provides evidence of good cause to the
 1564 agency.

1565 Section 45. Subsection (2) of section 408.034, Florida
 1566 Statutes, is amended to read:

1567 408.034 Duties and responsibilities of agency; rules.—

1568 (2) In the exercise of its authority to issue licenses to
 1569 health care facilities and health service providers, as provided
 1570 under chapters 393 and 395 and parts II, and IV, and VIII of
 1571 chapter 400, the agency may not issue a license to any health
 1572 care facility or health service provider that fails to receive a
 1573 certificate of need or an exemption for the licensed facility or
 1574 service.

1575 Section 46. Paragraph (d) of subsection (1) of section
 1576 408.036, Florida Statutes, is amended to read:

1577 408.036 Projects subject to review; exemptions.—

1578 (1) APPLICABILITY.—Unless exempt under subsection (3), all
 1579 health-care-related projects, as described in paragraphs (a)–
 1580 (g), are subject to review and must file an application for a
 1581 certificate of need with the agency. The agency is exclusively
 1582 responsible for determining whether a health-care-related
 1583 project is subject to review under ss. 408.031–408.045.

1584 (d) The establishment of a hospice or hospice inpatient
 1585 facility, ~~except as provided in s. 408.043.~~

1586 Section 47. Subsection (2) of section 408.043, Florida
 1587 Statutes, is amended to read:

CS/HB 1143

2010

1588 408.043 Special provisions.—

1589 (2) HOSPICES.—When an application is made for a
 1590 certificate of need to establish or to expand a hospice, the
 1591 need for such hospice shall be determined on the basis of the
 1592 need for and availability of hospice services in the community.
 1593 The formula on which the certificate of need is based shall
 1594 discourage regional monopolies and promote competition. The
 1595 inpatient hospice care component of a hospice which is a
 1596 freestanding facility, or a part of a facility, ~~which is~~
 1597 ~~primarily engaged in providing inpatient care and related~~
 1598 ~~services~~ and is not licensed as a health care facility shall
 1599 also be required to obtain a certificate of need. Provision of
 1600 hospice care by any current provider of health care is a
 1601 significant change in service and therefore requires a
 1602 certificate of need for such services.

1603 Section 48. Paragraph (k) of subsection (3) of section
 1604 408.05, Florida Statutes, is amended to read:

1605 408.05 Florida Center for Health Information and Policy
 1606 Analysis.—

1607 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
 1608 produce comparable and uniform health information and statistics
 1609 for the development of policy recommendations, the agency shall
 1610 perform the following functions:

1611 (k) Develop, in conjunction with the State Consumer Health
 1612 Information and Policy Advisory Council, and implement a long-
 1613 range plan for making available health care quality measures and
 1614 financial data that will allow consumers to compare health care
 1615 services. The health care quality measures and financial data

1616 the agency must make available shall include, but is not limited
 1617 to, pharmaceuticals, physicians, health care facilities, and
 1618 health plans and managed care entities. The agency shall submit
 1619 the initial plan to the Governor, the President of the Senate,
 1620 and the Speaker of the House of Representatives by January 1,
 1621 2006, and shall update the plan and report on the status of its
 1622 implementation annually thereafter. The agency shall also make
 1623 the plan and status report available to the public on its
 1624 Internet website. As part of the plan, the agency shall identify
 1625 the process and timeframes for implementation, any barriers to
 1626 implementation, and recommendations of changes in the law that
 1627 may be enacted by the Legislature to eliminate the barriers. As
 1628 preliminary elements of the plan, the agency shall:

1629 1. Make available patient-safety indicators, inpatient
 1630 quality indicators, and performance outcome and patient charge
 1631 data collected from health care facilities pursuant to s.
 1632 408.061(1)(a) and (2). The terms "patient-safety indicators" and
 1633 "inpatient quality indicators" shall be as defined by the
 1634 Centers for Medicare and Medicaid Services, the National Quality
 1635 Forum, ~~The Joint Commission on Accreditation of Healthcare~~
 1636 ~~Organizations~~, the Agency for Healthcare Research and Quality,
 1637 the Centers for Disease Control and Prevention, or a similar
 1638 national entity that establishes standards to measure the
 1639 performance of health care providers, or by other states. The
 1640 agency shall determine which conditions, procedures, health care
 1641 quality measures, and patient charge data to disclose based upon
 1642 input from the council. When determining which conditions and
 1643 procedures are to be disclosed, the council and the agency shall

1644 consider variation in costs, variation in outcomes, and
 1645 magnitude of variations and other relevant information. When
 1646 determining which health care quality measures to disclose, the
 1647 agency:

1648 a. Shall consider such factors as volume of cases; average
 1649 patient charges; average length of stay; complication rates;
 1650 mortality rates; and infection rates, among others, which shall
 1651 be adjusted for case mix and severity, if applicable.

1652 b. May consider such additional measures that are adopted
 1653 by the Centers for Medicare and Medicaid Studies, National
 1654 Quality Forum, The Joint Commission ~~on Accreditation of~~
 1655 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
 1656 Quality, Centers for Disease Control and Prevention, or a
 1657 similar national entity that establishes standards to measure
 1658 the performance of health care providers, or by other states.

1659
 1660 When determining which patient charge data to disclose, the
 1661 agency shall include such measures as the average of
 1662 undiscounted charges on frequently performed procedures and
 1663 preventive diagnostic procedures, the range of procedure charges
 1664 from highest to lowest, average net revenue per adjusted patient
 1665 day, average cost per adjusted patient day, and average cost per
 1666 admission, among others.

1667 2. Make available performance measures, benefit design,
 1668 and premium cost data from health plans licensed pursuant to
 1669 chapter 627 or chapter 641. The agency shall determine which
 1670 health care quality measures and member and subscriber cost data
 1671 to disclose, based upon input from the council. When determining

1672 | which data to disclose, the agency shall consider information
 1673 | that may be required by either individual or group purchasers to
 1674 | assess the value of the product, which may include membership
 1675 | satisfaction, quality of care, current enrollment or membership,
 1676 | coverage areas, accreditation status, premium costs, plan costs,
 1677 | premium increases, range of benefits, copayments and
 1678 | deductibles, accuracy and speed of claims payment, credentials
 1679 | of physicians, number of providers, names of network providers,
 1680 | and hospitals in the network. Health plans shall make available
 1681 | to the agency any such data or information that is not currently
 1682 | reported to the agency or the office.

1683 | 3. Determine the method and format for public disclosure
 1684 | of data reported pursuant to this paragraph. The agency shall
 1685 | make its determination based upon input from the State Consumer
 1686 | Health Information and Policy Advisory Council. At a minimum,
 1687 | the data shall be made available on the agency's Internet
 1688 | website in a manner that allows consumers to conduct an
 1689 | interactive search that allows them to view and compare the
 1690 | information for specific providers. The website must include
 1691 | such additional information as is determined necessary to ensure
 1692 | that the website enhances informed decisionmaking among
 1693 | consumers and health care purchasers, which shall include, at a
 1694 | minimum, appropriate guidance on how to use the data and an
 1695 | explanation of why the data may vary from provider to provider.
 1696 | The data specified in subparagraph 1. shall be released no later
 1697 | than January 1, 2006, for the reporting of infection rates, and
 1698 | no later than October 1, 2005, for mortality rates and
 1699 | complication rates. The data specified in subparagraph 2. shall

1700 be released no later than October 1, 2006.

1701 4. Publish on its website undiscounted charges for no
 1702 fewer than 150 of the most commonly performed adult and
 1703 pediatric procedures, including outpatient, inpatient,
 1704 diagnostic, and preventative procedures.

1705 Section 49. Paragraph (a) of subsection (1) of section
 1706 408.061, Florida Statutes, is amended to read:

1707 408.061 Data collection; uniform systems of financial
 1708 reporting; information relating to physician charges;
 1709 confidential information; immunity.—

1710 (1) The agency shall require the submission by health care
 1711 facilities, health care providers, and health insurers of data
 1712 necessary to carry out the agency's duties. Specifications for
 1713 data to be collected under this section shall be developed by
 1714 the agency with the assistance of technical advisory panels
 1715 including representatives of affected entities, consumers,
 1716 purchasers, and such other interested parties as may be
 1717 determined by the agency.

1718 (a) Data submitted by health care facilities, including
 1719 the facilities as defined in chapter 395, shall include, but are
 1720 not limited to: case-mix data, patient admission and discharge
 1721 data, hospital emergency department data which shall include the
 1722 number of patients treated in the emergency department of a
 1723 licensed hospital reported by patient acuity level, data on
 1724 hospital-acquired infections as specified by rule, data on
 1725 complications as specified by rule, data on readmissions as
 1726 specified by rule, with patient and provider-specific
 1727 identifiers included, actual charge data by diagnostic groups,

CS/HB 1143

2010

1728 financial data, accounting data, operating expenses, expenses
 1729 incurred for rendering services to patients who cannot or do not
 1730 pay, interest charges, depreciation expenses based on the
 1731 expected useful life of the property and equipment involved, and
 1732 demographic data. The agency shall adopt nationally recognized
 1733 risk adjustment methodologies or software consistent with the
 1734 standards of the Agency for Healthcare Research and Quality and
 1735 as selected by the agency for all data submitted as required by
 1736 this section. Data may be obtained from documents such as, but
 1737 not limited to: leases, contracts, debt instruments, itemized
 1738 patient bills, medical record abstracts, and related diagnostic
 1739 information. Reported data elements shall be reported
 1740 electronically and in accordance with rule 59E-7.012, Florida
 1741 ~~Administrative Code. Data submitted shall be~~ certified by the
 1742 chief executive officer or an appropriate and duly authorized
 1743 representative or employee of the licensed facility that the
 1744 information submitted is true and accurate.

1745 Section 50. Section 408.10, Florida Statutes, is amended
 1746 to read:

1747 408.10 Consumer complaints.—The agency shall:

1748 ~~(1)~~ publish and make available to the public a toll-free
 1749 telephone number for the purpose of handling consumer complaints
 1750 and shall serve as a liaison between consumer entities and other
 1751 private entities and governmental entities for the disposition
 1752 of problems identified by consumers of health care.

1753 ~~(2) Be empowered to investigate consumer complaints~~
 1754 ~~relating to problems with health care facilities' billing~~
 1755 ~~practices and issue reports to be made public in any cases where~~

CS/HB 1143

2010

1756 ~~the agency determines the health care facility has engaged in~~
1757 ~~billing practices which are unreasonable and unfair to the~~
1758 ~~consumer.~~

1759 Section 51. Subsections (12) through (30) of section
1760 408.802, Florida Statutes, are renumbered as subsections (11)
1761 through (29), respectively, and present subsection (11) of that
1762 section is amended to read:

1763 408.802 Applicability.—The provisions of this part apply
1764 to the provision of services that require licensure as defined
1765 in this part and to the following entities licensed, registered,
1766 or certified by the agency, as described in chapters 112, 383,
1767 390, 394, 395, 400, 429, 440, 483, and 765:

1768 ~~(11) Private review agents, as provided under part I of~~
1769 ~~chapter 395.~~

1770 Section 52. Subsection (3) is added to section 408.804,
1771 Florida Statutes, to read:

1772 408.804 License required; display.—

1773 (3) Any person who knowingly alters, defaces, or falsifies
1774 a license certificate issued by the agency, or causes or
1775 procures any person to commit such an offense, commits a
1776 misdemeanor of the second degree, punishable as provided in s.
1777 775.082 or s 775.083. Any licensee or provider who displays an
1778 altered, defaced, or falsified license certificate is subject to
1779 the penalties set forth in s. 408.815 and an administrative fine
1780 of \$1,000 for each day of illegal display.

1781 Section 53. Paragraph (d) of subsection (2) of section
1782 408.806, Florida Statutes, is amended, present subsections (3)
1783 through (8) are renumbered as subsections (4) through (9),

CS/HB 1143

2010

1784 respectively, and a new subsection (3) is added to that section,
 1785 to read:

1786 408.806 License application process.-

1787 (2)

1788 ~~(d) The agency shall notify the licensee by mail or~~
 1789 ~~electronically at least 90 days before the expiration of a~~
 1790 ~~license that a renewal license is necessary to continue~~
 1791 ~~operation.~~ The licensee's failure to timely file ~~submit~~ a
 1792 renewal application and license application fee with the agency
 1793 shall result in a \$50 per day late fee charged to the licensee
 1794 by the agency; however, the aggregate amount of the late fee may
 1795 not exceed 50 percent of the licensure fee or \$500, whichever is
 1796 less. The agency shall provide a courtesy notice to the licensee
 1797 by United States mail, electronically, or by any other manner at
 1798 its address of record or mailing address, if provided, at least
 1799 90 days prior to the expiration of a license informing the
 1800 licensee of the expiration of the license. If the agency does
 1801 not provide the courtesy notice or the licensee does not receive
 1802 the courtesy notice, the licensee continues to be legally
 1803 obligated to timely file the renewal application and license
 1804 application fee with the agency and is not excused from the
 1805 payment of a late fee. If an application is received after the
 1806 required filing date and exhibits a hand-canceled postmark
 1807 obtained from a United States post office dated on or before the
 1808 required filing date, no fine will be levied.

1809 (3) Payment of the late fee is required to consider any
 1810 late application complete, and failure to pay the late fee is
 1811 considered an omission from the application.

CS/HB 1143

2010

1812 Section 54. Subsections (6) and (9) of section 408.810,
1813 Florida Statutes, are amended to read:

1814 408.810 Minimum licensure requirements.—In addition to the
1815 licensure requirements specified in this part, authorizing
1816 statutes, and applicable rules, each applicant and licensee must
1817 comply with the requirements of this section in order to obtain
1818 and maintain a license.

1819 (6) (a) An applicant must provide the agency with proof of
1820 the applicant's legal right to occupy the property before a
1821 license may be issued. Proof may include, but need not be
1822 limited to, copies of warranty deeds, lease or rental
1823 agreements, contracts for deeds, quitclaim deeds, or other such
1824 documentation.

1825 (b) In the event the property is encumbered by a mortgage
1826 or is leased, an applicant must provide the agency with proof
1827 that the mortgagor or landlord has been provided written notice
1828 of the applicant's intent as mortgagee or tenant to provide
1829 services that require licensure and instruct the mortgagor or
1830 landlord to serve the agency by certified mail with copies of
1831 any foreclosure or eviction actions initiated by the mortgagor
1832 or landlord against the applicant.

1833 (9) A controlling interest may not withhold from the
1834 agency any evidence of financial instability, including, but not
1835 limited to, checks returned due to insufficient funds,
1836 delinquent accounts, nonpayment of withholding taxes, unpaid
1837 utility expenses, nonpayment for essential services, or adverse
1838 court action concerning the financial viability of the provider
1839 or any other provider licensed under this part that is under the

CS/HB 1143

2010

1840 control of the controlling interest. A controlling interest
 1841 shall notify the agency within 10 days after a court action to
 1842 initiate bankruptcy, foreclosure, or eviction proceedings
 1843 concerning the provider, in which the controlling interest is a
 1844 petitioner or defendant. Any person who violates this subsection
 1845 commits a misdemeanor of the second degree, punishable as
 1846 provided in s. 775.082 or s. 775.083. Each day of continuing
 1847 violation is a separate offense.

1848 Section 55. Subsection (3) is added to section 408.813,
 1849 Florida Statutes, to read:

1850 408.813 Administrative fines; violations.—As a penalty for
 1851 any violation of this part, authorizing statutes, or applicable
 1852 rules, the agency may impose an administrative fine.

1853 (3) The agency may impose an administrative fine for a
 1854 violation that does not qualify as a class I, class II, class
 1855 III, or class IV violation. Unless otherwise specified by law,
 1856 the amount of the fine shall not exceed \$500 for each violation.

1857 Unclassified violations may include:

- 1858 (a) Violating any term or condition of a license.
- 1859 (b) Violating any provision of this part, authorizing
 1860 statutes, or applicable rules.
- 1861 (c) Exceeding licensed capacity.
- 1862 (d) Providing services beyond the scope of the license.
- 1863 (e) Violating a moratorium imposed pursuant to s. 408.814.

1864 Section 56. Subsection (5) is added to section 408.815,
 1865 Florida Statutes, to read:

1866 408.815 License or application denial; revocation.—

1867 (5) In order to ensure the health, safety, and welfare of
 1868 clients when a license has been denied, revoked, or is set to
 1869 terminate, the agency may extend the license expiration date for
 1870 a period of up to 30 days for the sole purpose of allowing the
 1871 safe and orderly discharge of clients. The agency may impose
 1872 conditions on the extension, including, but not limited to,
 1873 prohibiting or limiting admissions, expedited discharge
 1874 planning, required status reports, and mandatory monitoring by
 1875 the agency or third parties. In imposing these conditions, the
 1876 agency shall take into consideration the nature and number of
 1877 clients, the availability and location of acceptable alternative
 1878 placements, and the ability of the licensee to continue
 1879 providing care to the clients. The agency may terminate the
 1880 extension or modify the conditions at any time. This authority
 1881 is in addition to any other authority granted to the agency
 1882 under chapter 120, this part, and authorizing statutes but
 1883 creates no right or entitlement to an extension of a license
 1884 expiration date.

1885 Section 57. Paragraph (k) of subsection (4) of section
 1886 409.221, Florida Statutes, is amended to read:

1887 409.221 Consumer-directed care program.—

1888 (4) CONSUMER-DIRECTED CARE.—

1889 ~~(k) Reviews and reports. The agency and the Departments of~~
 1890 ~~Elderly Affairs, Health, and Children and Family Services and~~
 1891 ~~the Agency for Persons with Disabilities shall each, on an~~
 1892 ~~ongoing basis, review and assess the implementation of the~~
 1893 ~~consumer-directed care program. By January 15 of each year, the~~
 1894 ~~agency shall submit a written report to the Legislature that~~

1895 ~~includes each department's review of the program and contains~~
 1896 ~~recommendations for improvements to the program.~~

1897 Section 58. Subsections (3) and (4) of section 429.07,
 1898 Florida Statutes, are amended, and subsections (6) and (7) are
 1899 added to that section, to read:

1900 429.07 License required; fee; inspections.-

1901 (3) In addition to the requirements of s. 408.806, each
 1902 license granted by the agency must state the type of care for
 1903 which the license is granted. Licenses shall be issued for one
 1904 or more of the following categories of care: standard, extended
 1905 congregate care, ~~limited nursing services,~~ or limited mental
 1906 health.

1907 (a) A standard license shall be issued to a facility
 1908 ~~facilities~~ providing one or more of the personal services
 1909 identified in s. 429.02. Such licensee ~~facilities~~ may also
 1910 employ or contract with a person ~~licensed under part I of~~
 1911 ~~chapter 464 to administer medications and perform other tasks as~~
 1912 specified in s. 429.255.

1913 (b) An extended congregate care license shall be issued to
 1914 a licensee ~~facilities~~ providing, directly or through contract,
 1915 services beyond those authorized in paragraph (a), including
 1916 acts performed pursuant to part I of chapter 464 by persons
 1917 licensed thereunder, and supportive services defined by rule to
 1918 persons who otherwise would be disqualified from continued
 1919 residence in a facility licensed under this part.

1920 1. In order for extended congregate care services to be
 1921 provided in a facility licensed under this part, the agency must
 1922 first determine that all requirements established in law and

1923 rule are met and must specifically designate, on the ~~facility's~~
 1924 license, that such services may be provided and whether the
 1925 designation applies to all or part of a facility. Such
 1926 designation may be made at the time of initial licensure or
 1927 relicensure, or upon request in writing by a licensee under this
 1928 part and part II of chapter 408. Notification of approval or
 1929 denial of such request shall be made in accordance with part II
 1930 of chapter 408. An existing licensee ~~facilities~~ qualifying to
 1931 provide extended congregate care services must have maintained a
 1932 standard license and ~~may not have~~ been subject to administrative
 1933 sanctions during the previous 2 years, or since initial
 1934 licensure if ~~the facility has been~~ licensed for less than 2
 1935 years, for any of the following reasons:

- 1936 a. A class I or class II violation;
- 1937 b. Three or more repeat or recurring class III violations
 1938 of identical or similar resident care standards as specified in
 1939 rule from which a pattern of noncompliance is found by the
 1940 agency;
- 1941 c. Three or more class III violations that were not
 1942 corrected in accordance with the corrective action plan approved
 1943 by the agency;
- 1944 d. Violation of resident care standards resulting in a
 1945 requirement to employ the services of a consultant pharmacist or
 1946 consultant dietitian;
- 1947 e. Denial, suspension, or revocation of a license for
 1948 another facility under this part in which the applicant for an
 1949 extended congregate care license has at least 25 percent
 1950 ownership interest; or

1951 f. Imposition of a moratorium pursuant to this part or
 1952 part II of chapter 408 or initiation of injunctive proceedings.
 1953 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide
 1954 extended congregate care services shall maintain a written
 1955 progress report for ~~on~~ each person who receives such services,
 1956 and the ~~which~~ report must describe ~~describes~~ the type, amount,
 1957 duration, scope, and outcome of services that are rendered and
 1958 the general status of the resident's health. ~~A registered nurse,~~
 1959 ~~or appropriate designee, representing the agency shall visit~~
 1960 ~~such facilities at least quarterly to monitor residents who are~~
 1961 ~~receiving extended congregate care services and to determine if~~
 1962 ~~the facility is in compliance with this part, part II of chapter~~
 1963 ~~408, and rules that relate to extended congregate care. One of~~
 1964 ~~these visits may be in conjunction with the regular survey. The~~
 1965 ~~monitoring visits may be provided through contractual~~
 1966 ~~arrangements with appropriate community agencies. A registered~~
 1967 ~~nurse shall serve as part of the team that inspects such~~
 1968 ~~facility. The agency may waive one of the required yearly~~
 1969 ~~monitoring visits for a facility that has been licensed for at~~
 1970 ~~least 24 months to provide extended congregate care services,~~
 1971 ~~if, during the inspection, the registered nurse determines that~~
 1972 ~~extended congregate care services are being provided~~
 1973 ~~appropriately, and if the facility has no class I or class II~~
 1974 ~~violations and no uncorrected class III violations. Before such~~
 1975 ~~decision is made, the agency shall consult with the long-term~~
 1976 ~~care ombudsman council for the area in which the facility is~~
 1977 ~~located to determine if any complaints have been made and~~
 1978 ~~substantiated about the quality of services or care. The agency~~

1979 ~~may not waive one of the required yearly monitoring visits if~~
 1980 ~~complaints have been made and substantiated.~~

1981 3. Licensees Facilities that are licensed to provide
 1982 extended congregate care services shall:

1983 a. Demonstrate the capability to meet unanticipated
 1984 resident service needs.

1985 b. Offer a physical environment that promotes a homelike
 1986 setting, provides for resident privacy, promotes resident
 1987 independence, and allows sufficient congregate space as defined
 1988 by rule.

1989 c. Have sufficient staff available, taking into account
 1990 the physical plant and firesafety features of the building, to
 1991 assist with the evacuation of residents in an emergency, as
 1992 necessary.

1993 d. Adopt and follow policies and procedures that maximize
 1994 resident independence, dignity, choice, and decisionmaking to
 1995 permit residents to age in place to the extent possible, so that
 1996 moves due to changes in functional status are minimized or
 1997 avoided.

1998 e. Allow residents or, if applicable, a resident's
 1999 representative, designee, surrogate, guardian, or attorney in
 2000 fact to make a variety of personal choices, participate in
 2001 developing service plans, and share responsibility in
 2002 decisionmaking.

2003 f. Implement the concept of managed risk.

2004 g. Provide, either directly or through contract, the
 2005 services of a person licensed pursuant to part I of chapter 464.

2006 h. In addition to the training mandated in s. 429.52,

2007 provide specialized training as defined by rule for facility
 2008 staff.

2009 4. Licensees ~~Facilities~~ licensed to provide extended
 2010 congregate care services are exempt from the criteria for
 2011 continued residency as set forth in rules adopted under s.
 2012 429.41. Licensees ~~Facilities~~ ~~so licensed~~ shall adopt their own
 2013 requirements within guidelines for continued residency set forth
 2014 by rule. However, such licensees ~~facilities~~ may not serve
 2015 residents who require 24-hour nursing supervision. Licensees
 2016 ~~Facilities~~ licensed to provide extended congregate care services
 2017 shall provide each resident with a written copy of facility
 2018 policies governing admission and retention.

2019 5. The primary purpose of extended congregate care
 2020 services is to allow residents, as they become more impaired,
 2021 the option of remaining in a familiar setting from which they
 2022 would otherwise be disqualified for continued residency. A
 2023 facility licensed to provide extended congregate care services
 2024 may also admit an individual who exceeds the admission criteria
 2025 for a facility with a standard license, if the individual is
 2026 determined appropriate for admission to the extended congregate
 2027 care facility.

2028 6. Before admission of an individual to a facility
 2029 licensed to provide extended congregate care services, the
 2030 individual must undergo a medical examination as provided in s.
 2031 429.26(4) and the facility must develop a preliminary service
 2032 plan for the individual.

2033 7. When a licensee ~~facility~~ can no longer provide or
 2034 arrange for services in accordance with the resident's service

2035 plan and needs and the licensee's ~~facility's~~ policy, the
 2036 licensee ~~facility~~ shall make arrangements for relocating the
 2037 person in accordance with s. 429.28(1)(k).

2038 8. Failure to provide extended congregate care services
 2039 may result in denial of extended congregate care license
 2040 renewal.

2041 ~~9. No later than January 1 of each year, the department,
 2042 in consultation with the agency, shall prepare and submit to the
 2043 Governor, the President of the Senate, the Speaker of the House
 2044 of Representatives, and the chairs of appropriate legislative
 2045 committees, a report on the status of, and recommendations
 2046 related to, extended congregate care services. The status report
 2047 must include, but need not be limited to, the following
 2048 information:~~

2049 ~~a. A description of the facilities licensed to provide
 2050 such services, including total number of beds licensed under
 2051 this part.~~

2052 ~~b. The number and characteristics of residents receiving
 2053 such services.~~

2054 ~~c. The types of services rendered that could not be
 2055 provided through a standard license.~~

2056 ~~d. An analysis of deficiencies cited during licensure
 2057 inspections.~~

2058 ~~e. The number of residents who required extended
 2059 congregate care services at admission and the source of
 2060 admission.~~

2061 ~~f. Recommendations for statutory or regulatory changes.~~

2062 ~~g. The availability of extended congregate care to state~~

2063 ~~clients residing in facilities licensed under this part and in~~
 2064 ~~need of additional services, and recommendations for~~
 2065 ~~appropriations to subsidize extended congregate care services~~
 2066 ~~for such persons.~~

2067 ~~h. Such other information as the department considers~~
 2068 ~~appropriate.~~

2069 ~~(c) A limited nursing services license shall be issued to~~
 2070 ~~a facility that provides services beyond those authorized in~~
 2071 ~~paragraph (a) and as specified in this paragraph.~~

2072 ~~1. In order for limited nursing services to be provided in~~
 2073 ~~a facility licensed under this part, the agency must first~~
 2074 ~~determine that all requirements established in law and rule are~~
 2075 ~~met and must specifically designate, on the facility's license,~~
 2076 ~~that such services may be provided. Such designation may be made~~
 2077 ~~at the time of initial licensure or relicensure, or upon request~~
 2078 ~~in writing by a licensee under this part and part II of chapter~~
 2079 ~~408. Notification of approval or denial of such request shall be~~
 2080 ~~made in accordance with part II of chapter 408. Existing~~
 2081 ~~facilities qualifying to provide limited nursing services shall~~
 2082 ~~have maintained a standard license and may not have been subject~~
 2083 ~~to administrative sanctions that affect the health, safety, and~~
 2084 ~~welfare of residents for the previous 2 years or since initial~~
 2085 ~~licensure if the facility has been licensed for less than 2~~
 2086 ~~years.~~

2087 ~~2. Facilities that are licensed to provide limited nursing~~
 2088 ~~services shall maintain a written progress report on each person~~
 2089 ~~who receives such nursing services, which report describes the~~
 2090 ~~type, amount, duration, scope, and outcome of services that are~~

2091 ~~rendered and the general status of the resident's health. A~~
 2092 ~~registered nurse representing the agency shall visit such~~
 2093 ~~facilities at least twice a year to monitor residents who are~~
 2094 ~~receiving limited nursing services and to determine if the~~
 2095 ~~facility is in compliance with applicable provisions of this~~
 2096 ~~part, part II of chapter 408, and related rules. The monitoring~~
 2097 ~~visits may be provided through contractual arrangements with~~
 2098 ~~appropriate community agencies. A registered nurse shall also~~
 2099 ~~serve as part of the team that inspects such facility.~~

2100 ~~3. A person who receives limited nursing services under~~
 2101 ~~this part must meet the admission criteria established by the~~
 2102 ~~agency for assisted living facilities. When a resident no longer~~
 2103 ~~meets the admission criteria for a facility licensed under this~~
 2104 ~~part, arrangements for relocating the person shall be made in~~
 2105 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
 2106 ~~to provide extended congregate care services.~~

2107 (4) In accordance with s. 408.805, an applicant or
 2108 licensee shall pay a fee for each license application submitted
 2109 under this part, part II of chapter 408, and applicable rules.
 2110 The amount of the fee shall be established by rule.

2111 (a) The biennial license fee required of a facility is
 2112 \$356 ~~\$300~~ per license, with an additional fee of \$67.50 ~~\$50~~ per
 2113 resident based on the total licensed resident capacity of the
 2114 facility, except that no additional fee will be assessed for
 2115 beds designated for recipients of optional state supplementation
 2116 payments provided for in s. 409.212. The total fee may not
 2117 exceed \$18,000 ~~\$10,000~~.

2118 (b) In addition to the total fee assessed under paragraph

CS/HB 1143

2010

2119 (a), the agency shall require facilities that are licensed to
 2120 provide extended congregate care services under this part to pay
 2121 an additional fee per licensed facility. The amount of the
 2122 biennial fee shall be \$501 ~~\$400~~ per license, with an additional
 2123 fee of \$10 per resident based on the total licensed resident
 2124 capacity of the facility.

2125 ~~(c) In addition to the total fee assessed under paragraph~~
 2126 ~~(a), the agency shall require facilities that are licensed to~~
 2127 ~~provide limited nursing services under this part to pay an~~
 2128 ~~additional fee per licensed facility. The amount of the biennial~~
 2129 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~
 2130 ~~resident based on the total licensed resident capacity of the~~
 2131 ~~facility.~~

2132 (6) In order to determine whether the facility is
 2133 adequately protecting residents' rights as provided in s.
 2134 429.28, the biennial survey shall include private informal
 2135 conversations with a sample of residents and consultation with
 2136 the ombudsman council in the planning and service area in which
 2137 the facility is located to discuss residents' experiences within
 2138 the facility.

2139 (7) An assisted living facility that has been cited within
 2140 the previous 24-month period for a class I or class II
 2141 violation, regardless of the status of any enforcement or
 2142 disciplinary action, is subject to periodic unannounced
 2143 monitoring to determine if the facility is in compliance with
 2144 this part, part II of chapter 408, and applicable rules.
 2145 Monitoring may occur through a desk review or an onsite
 2146 assessment. If the class I or class II violation relates to

CS/HB 1143

2010

2147 providing or failing to provide nursing care, a registered nurse
 2148 must participate in at least two onsite monitoring visits within
 2149 a 12-month period.

2150 Section 59. Subsection (7) of section 429.11, Florida
 2151 Statutes, is renumbered as subsection (6), and present
 2152 subsection (6) of that section is amended to read:

2153 429.11 Initial application for license; ~~provisional~~
 2154 ~~license.~~-

2155 ~~(6) In addition to the license categories available in s.~~
 2156 ~~408.808, a provisional license may be issued to an applicant~~
 2157 ~~making initial application for licensure or making application~~
 2158 ~~for a change of ownership. A provisional license shall be~~
 2159 ~~limited in duration to a specific period of time not to exceed 6~~
 2160 ~~months, as determined by the agency.~~

2161 Section 60. Section 429.12, Florida Statutes, is amended
 2162 to read:

2163 429.12 Sale or transfer of ownership of a facility.-It is
 2164 the intent of the Legislature to protect the rights of the
 2165 residents of an assisted living facility when the facility is
 2166 sold or the ownership thereof is transferred. Therefore, in
 2167 addition to the requirements of part II of chapter 408, whenever
 2168 a facility is sold or the ownership thereof is transferred,
 2169 including leasing+.

2170 ~~(1)~~ The transferee shall notify the residents, in writing,
 2171 of the change of ownership within 7 days after receipt of the
 2172 new license.

2173 ~~(2)~~ ~~The transferor of a facility the license of which is~~
 2174 ~~denied pending an administrative hearing shall, as a part of the~~

CS/HB 1143

2010

2175 ~~written change of ownership contract, advise the transferee that~~
 2176 ~~a plan of correction must be submitted by the transferee and~~
 2177 ~~approved by the agency at least 7 days before the change of~~
 2178 ~~ownership and that failure to correct the condition which~~
 2179 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~
 2180 ~~denial of licensure is grounds for denial of the transferee's~~
 2181 ~~license.~~

2182 Section 61. Paragraphs (b) through (l) of subsection (1)
 2183 of section 429.14, Florida Statutes, are redesignated as
 2184 paragraphs (a) through (k), respectively, and present paragraph
 2185 (a) of subsection (1) and subsections (5) and (6) of that
 2186 section are amended to read:

2187 429.14 Administrative penalties.—

2188 (1) In addition to the requirements of part II of chapter
 2189 408, the agency may deny, revoke, and suspend any license issued
 2190 under this part and impose an administrative fine in the manner
 2191 provided in chapter 120 against a licensee of an assisted living
 2192 facility for a violation of any provision of this part, part II
 2193 of chapter 408, or applicable rules, or for any of the following
 2194 actions by a licensee of an assisted living facility, for the
 2195 actions of any person subject to level 2 background screening
 2196 under s. 408.809, or for the actions of any facility employee:

2197 ~~(a) An intentional or negligent act seriously affecting~~
 2198 ~~the health, safety, or welfare of a resident of the facility.~~

2199 (5) An action taken by the agency to suspend, deny, or
 2200 revoke a facility's license under this part or part II of
 2201 chapter 408, in which the agency claims that the facility owner
 2202 or an employee of the facility has threatened the health,

CS/HB 1143

2010

2203 safety, or welfare of a resident of the facility shall be heard
 2204 by the Division of Administrative Hearings of the Department of
 2205 Management Services within 120 days after receipt of the
 2206 facility's request for a hearing, unless that time limitation is
 2207 waived by both parties. The administrative law judge must render
 2208 a decision within 30 days after receipt of a proposed
 2209 recommended order.

2210 (6) The agency shall provide to the Division of Hotels and
 2211 Restaurants of the Department of Business and Professional
 2212 Regulation, on a monthly basis, a list of those assisted living
 2213 facilities that have had their licenses denied, suspended, or
 2214 revoked or that are involved in an appellate proceeding pursuant
 2215 to s. 120.60 related to the denial, suspension, or revocation of
 2216 a license. This information may be provided electronically or
 2217 through the agency's Internet website.

2218 Section 62. Subsections (1), (4), and (5) of section
 2219 429.17, Florida Statutes, are amended to read:

2220 429.17 Expiration of license; renewal; conditional
 2221 license.—

2222 (1) ~~Limited nursing,~~ Extended congregate care, and limited
 2223 mental health licenses shall expire at the same time as the
 2224 facility's standard license, regardless of when issued.

2225 (4) In addition to the license categories available in s.
 2226 408.808, a conditional license may be issued to an applicant for
 2227 license renewal if the applicant fails to meet all standards and
 2228 requirements for licensure. A conditional license issued under
 2229 this subsection shall be limited in duration to a specific
 2230 period of time not to exceed 6 months, as determined by the

CS/HB 1143

2010

2231 ~~agency, and shall be accompanied by an agency approved plan of~~
 2232 ~~correction.~~

2233 (5) When an extended congregate care ~~or limited nursing~~
 2234 ~~license~~ is requested during a facility's biennial license
 2235 period, the fee shall be prorated in order to permit the
 2236 additional license to expire at the end of the biennial license
 2237 period. The fee shall be calculated as of the date the
 2238 additional license application is received by the agency.

2239 Section 63. Subsection (7) of section 429.19, Florida
 2240 Statutes, is amended to read:

2241 429.19 Violations; imposition of administrative fines;
 2242 grounds.—

2243 (7) In addition to any administrative fines imposed, the
 2244 agency may assess a survey or monitoring fee, equal to the
 2245 lesser of one half of the facility's biennial license and bed
 2246 fee or \$500, to cover the cost of conducting initial complaint
 2247 investigations that result in the finding of a violation that
 2248 was the subject of the complaint or to monitor the health,
 2249 safety, or security of residents under s. 429.07(7) monitoring
 2250 ~~visits conducted under s. 429.28(3)(c) to verify the correction~~
 2251 ~~of the violations.~~

2252 Section 64. Subsections (6) through (10) of section
 2253 429.23, Florida Statutes, are renumbered as subsections (5)
 2254 through (9), respectively, and present subsection (5) of that
 2255 section is amended to read:

2256 429.23 Internal risk management and quality assurance
 2257 program; adverse incidents and reporting requirements.—

2258 ~~(5) Each facility shall report monthly to the agency any~~

2259 ~~liability claim filed against it. The report must include the~~
 2260 ~~name of the resident, the dates of the incident leading to the~~
 2261 ~~claim, if applicable, and the type of injury or violation of~~
 2262 ~~rights alleged to have occurred. This report is not discoverable~~
 2263 ~~in any civil or administrative action, except in such actions~~
 2264 ~~brought by the agency to enforce the provisions of this part.~~

2265 Section 65. Paragraph (a) of subsection (1) and subsection
 2266 (2) of section 429.255, Florida Statutes, are amended to read:

2267 429.255 Use of personnel; emergency care.—

2268 (1) (a) Persons under contract to the facility or, facility
 2269 ~~staff, or volunteers,~~ who are licensed according to part I of
 2270 chapter 464, or those persons exempt under s. 464.022(1), and
 2271 others as defined by rule, may administer medications to
 2272 residents, take residents' vital signs, manage individual weekly
 2273 pill organizers for residents who self-administer medication,
 2274 give prepackaged enemas ordered by a physician, observe
 2275 residents, document observations on the appropriate resident's
 2276 record, report observations to the resident's physician, and
 2277 contract or allow residents or a resident's representative,
 2278 designee, surrogate, guardian, or attorney in fact to contract
 2279 with a third party, provided residents meet the criteria for
 2280 appropriate placement as defined in s. 429.26. Persons under
 2281 contract to the facility or facility staff who are licensed
 2282 according to part I of chapter 464 may provide limited nursing
 2283 services. Nursing assistants certified pursuant to part II of
 2284 chapter 464 may take residents' vital signs as directed by a
 2285 licensed nurse or physician. The facility is responsible for
 2286 maintaining documentation of services provided under this

2287 paragraph as required by rule and ensuring that staff are
 2288 adequately trained to monitor residents receiving these
 2289 services.

2290 (2) In facilities licensed to provide extended congregate
 2291 care, persons under contract to the facility or ~~facility staff,~~
 2292 ~~or volunteers,~~ who are licensed according to part I of chapter
 2293 464, or those persons exempt under s. 464.022(1), or those
 2294 persons certified as nursing assistants pursuant to part II of
 2295 chapter 464, may also perform all duties within the scope of
 2296 their license or certification, as approved by the facility
 2297 administrator and pursuant to this part.

2298 Section 66. Subsection (3) of section 429.28, Florida
 2299 Statutes, is amended to read:

2300 429.28 Resident bill of rights.—

2301 ~~(3)(a) The agency shall conduct a survey to determine~~
 2302 ~~general compliance with facility standards and compliance with~~
 2303 ~~residents' rights as a prerequisite to initial licensure or~~
 2304 ~~licensure renewal.~~

2305 ~~(b) In order to determine whether the facility is~~
 2306 ~~adequately protecting residents' rights, the biennial survey~~
 2307 ~~shall include private informal conversations with a sample of~~
 2308 ~~residents and consultation with the ombudsman council in the~~
 2309 ~~planning and service area in which the facility is located to~~
 2310 ~~discuss residents' experiences within the facility.~~

2311 ~~(c) During any calendar year in which no survey is~~
 2312 ~~conducted, the agency shall conduct at least one monitoring~~
 2313 ~~visit of each facility cited in the previous year for a class I~~
 2314 ~~or class II violation, or more than three uncorrected class III~~

2315 ~~violations.~~

2316 ~~(d) The agency may conduct periodic followup inspections~~
 2317 ~~as necessary to monitor the compliance of facilities with a~~
 2318 ~~history of any class I, class II, or class III violations that~~
 2319 ~~threaten the health, safety, or security of residents.~~

2320 ~~(e) The agency may conduct complaint investigations as~~
 2321 ~~warranted to investigate any allegations of noncompliance with~~
 2322 ~~requirements required under this part or rules adopted under~~
 2323 ~~this part.~~

2324 Section 67. Subsection (2) of section 429.35, Florida
 2325 Statutes, is amended to read:

2326 429.35 Maintenance of records; reports.—

2327 (2) Within 60 days after the date of the biennial
 2328 inspection visit required under s. 408.811 or within 30 days
 2329 after the date of any interim visit, the agency shall forward
 2330 the results of the inspection to the local ombudsman council in
 2331 whose planning and service area, as defined in part II of
 2332 chapter 400, the facility is located; to at least one public
 2333 library or, in the absence of a public library, the county seat
 2334 in the county in which the inspected assisted living facility is
 2335 located; and, when appropriate, to the district Adult Services
 2336 and Mental Health Program Offices. This information may be
 2337 provided electronically or through the agency's Internet
 2338 website.

2339 Section 68. Paragraphs (i) and (j) of subsection (1) of
 2340 section 429.41, Florida Statutes, are amended to read:

2341 429.41 Rules establishing standards.—

2342 (1) It is the intent of the Legislature that rules

2343 published and enforced pursuant to this section shall include
 2344 criteria by which a reasonable and consistent quality of
 2345 resident care and quality of life may be ensured and the results
 2346 of such resident care may be demonstrated. Such rules shall also
 2347 ensure a safe and sanitary environment that is residential and
 2348 noninstitutional in design or nature. It is further intended
 2349 that reasonable efforts be made to accommodate the needs and
 2350 preferences of residents to enhance the quality of life in a
 2351 facility. The agency, in consultation with the department, may
 2352 adopt rules to administer the requirements of part II of chapter
 2353 408. In order to provide safe and sanitary facilities and the
 2354 highest quality of resident care accommodating the needs and
 2355 preferences of residents, the department, in consultation with
 2356 the agency, the Department of Children and Family Services, and
 2357 the Department of Health, shall adopt rules, policies, and
 2358 procedures to administer this part, which must include
 2359 reasonable and fair minimum standards in relation to:

2360 (i) Facilities holding an ~~a limited nursing,~~ extended
 2361 congregate care, or limited mental health license.

2362 (j) The establishment of specific criteria to define
 2363 appropriateness of resident admission and continued residency in
 2364 a facility holding a standard, ~~limited nursing,~~ extended
 2365 congregate care, and limited mental health license.

2366 Section 69. Subsections (1) and (2) of section 429.53,
 2367 Florida Statutes, are amended to read:

2368 429.53 Consultation by the agency.—

2369 (1) ~~The area offices of licensure and certification of the~~
 2370 agency shall provide consultation to the following upon request:

CS/HB 1143

2010

2371 (a) A licensee of a facility.
 2372 (b) A person interested in obtaining a license to operate
 2373 a facility under this part.

2374 (2) As used in this section, "consultation" includes:

2375 (a) An explanation of the requirements of this part and
 2376 rules adopted pursuant thereto;

2377 (b) An explanation of the license application and renewal
 2378 procedures;

2379 ~~(c) The provision of a checklist of general local and
 2380 state approvals required prior to constructing or developing a
 2381 facility and a listing of the types of agencies responsible for
 2382 such approvals;~~

2383 ~~(d) An explanation of benefits and financial assistance
 2384 available to a recipient of supplemental security income
 2385 residing in a facility;~~

2386 (c)~~(e)~~ Any other information which the agency deems
 2387 necessary to promote compliance with the requirements of this
 2388 part; and

2389 ~~(f) A preconstruction review of a facility to ensure
 2390 compliance with agency rules and this part.~~

2391 Section 70. Subsections (1) and (2) of section 429.54,
 2392 Florida Statutes, are renumbered as subsections (2) and (3),
 2393 respectively, and a new subsection (1) is added to that section
 2394 to read:

2395 429.54 Collection of information; local subsidy.—

2396 (1) A facility that is licensed under this part must
 2397 report electronically to the agency semiannually, or more
 2398 frequently as determined by rule, data related to the facility,

CS/HB 1143

2010

2399 including, but not limited to, the total number of residents,
 2400 the number of residents who are receiving limited mental health
 2401 services, the number of residents who are receiving extended
 2402 congregate care services, the number of residents who are
 2403 receiving limited nursing services, funding sources of the
 2404 residents, and professional staffing employed by or under
 2405 contract with the licensee to provide resident services. The
 2406 department, in consultation with the agency, shall adopt rules
 2407 to administer this subsection.

2408 Section 71. Subsections (1) and (5) of section 429.71,
 2409 Florida Statutes, are amended to read:

2410 429.71 Classification of violations ~~deficiencies~~;
 2411 administrative fines.—

2412 (1) In addition to the requirements of part II of chapter
 2413 408 and in addition to any other liability or penalty provided
 2414 by law, the agency may impose an administrative fine on a
 2415 provider according to the following classification:

2416 (a) Class I violations are defined in s. 408.813 ~~those~~
 2417 ~~conditions or practices related to the operation and maintenance~~
 2418 ~~of an adult family care home or to the care of residents which~~
 2419 ~~the agency determines present an imminent danger to the~~
 2420 ~~residents or guests of the facility or a substantial probability~~
 2421 ~~that death or serious physical or emotional harm would result~~
 2422 ~~therefrom. The condition or practice that constitutes a class I~~
 2423 ~~violation must be abated or eliminated within 24 hours, unless a~~
 2424 ~~fixed period, as determined by the agency, is required for~~
 2425 ~~correction.~~ A class I violation ~~deficiency~~ is subject to an
 2426 administrative fine in an amount not less than \$500 and not

2427 | exceeding \$1,000 for each violation. ~~A fine may be levied~~
 2428 | ~~notwithstanding the correction of the deficiency.~~

2429 | (b) Class II violations are defined in s. 408.813 ~~those~~
 2430 | ~~conditions or practices related to the operation and maintenance~~
 2431 | ~~of an adult family care home or to the care of residents which~~
 2432 | ~~the agency determines directly threaten the physical or~~
 2433 | ~~emotional health, safety, or security of the residents, other~~
 2434 | ~~than class I violations.~~ A class II violation is subject to an
 2435 | administrative fine in an amount not less than \$250 and not
 2436 | exceeding \$500 for each violation. ~~A citation for a class II~~
 2437 | ~~violation must specify the time within which the violation is~~
 2438 | ~~required to be corrected. If a class II violation is corrected~~
 2439 | ~~within the time specified, no civil penalty shall be imposed,~~
 2440 | ~~unless it is a repeated offense.~~

2441 | (c) Class III violations are defined in s. 408.813 ~~those~~
 2442 | ~~conditions or practices related to the operation and maintenance~~
 2443 | ~~of an adult family care home or to the care of residents which~~
 2444 | ~~the agency determines indirectly or potentially threaten the~~
 2445 | ~~physical or emotional health, safety, or security of residents,~~
 2446 | ~~other than class I or class II violations.~~ A class III violation
 2447 | is subject to an administrative fine in an amount not less than
 2448 | \$100 and not exceeding \$250 for each violation. ~~A citation for a~~
 2449 | ~~class III violation shall specify the time within which the~~
 2450 | ~~violation is required to be corrected.~~ If a class III violation
 2451 | is corrected within the time specified, no civil penalty shall
 2452 | be imposed, unless it is a repeated violation ~~offense.~~

2453 | (d) Class IV violations are defined in s. 408.813 ~~those~~
 2454 | ~~conditions or occurrences related to the operation and~~

CS/HB 1143

2010

2455 ~~maintenance of an adult family care home, or related to the~~
2456 ~~required reports, forms, or documents, which do not have the~~
2457 ~~potential of negatively affecting the residents. A provider that~~
2458 ~~does not correct A class IV violation within the time limit~~
2459 ~~specified by the agency is subject to an administrative fine in~~
2460 ~~an amount not less than \$50 and not exceeding \$100 for each~~
2461 ~~violation. Any class IV violation that is corrected during the~~
2462 ~~time the agency survey is conducted will be identified as an~~
2463 ~~agency finding and not as a violation, unless it is a repeat~~
2464 ~~violation.~~

2465 ~~(5) As an alternative to or in conjunction with an~~
2466 ~~administrative action against a provider, the agency may request~~
2467 ~~a plan of corrective action that demonstrates a good faith~~
2468 ~~effort to remedy each violation by a specific date, subject to~~
2469 ~~the approval of the agency.~~

2470 Section 72. Paragraphs (b) through (e) of subsection (2)
2471 of section 429.911, Florida Statutes, are redesignated as
2472 paragraphs (a) through (d), respectively, and present paragraph
2473 (a) of that subsection is amended to read:

2474 429.911 Denial, suspension, revocation of license;
2475 emergency action; administrative fines; investigations and
2476 inspections.—

2477 (2) Each of the following actions by the owner of an adult
2478 day care center or by its operator or employee is a ground for
2479 action by the agency against the owner of the center or its
2480 operator or employee:

2481 ~~(a) An intentional or negligent act materially affecting~~
2482 ~~the health or safety of center participants.~~

CS/HB 1143

2010

2483 Section 73. Section 429.915, Florida Statutes, is amended
 2484 to read:

2485 429.915 Conditional license.—In addition to the license
 2486 categories available in part II of chapter 408, the agency may
 2487 issue a conditional license to an applicant for license renewal
 2488 or change of ownership if the applicant fails to meet all
 2489 standards and requirements for licensure. A conditional license
 2490 issued under this subsection must be limited to a specific
 2491 period not exceeding 6 months, as determined by the agency, ~~and~~
 2492 ~~must be accompanied by an approved plan of correction.~~

2493 Section 74. Subsection (7) of section 394.4787, Florida
 2494 Statutes, is amended to read:

2495 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
 2496 and 394.4789.—As used in this section and ss. 394.4786,
 2497 394.4788, and 394.4789:

2498 (7) "Specialty psychiatric hospital" means a hospital
 2499 licensed by the agency pursuant to s. 395.002 (26) ~~(28)~~ and part
 2500 II of chapter 408 as a specialty psychiatric hospital.

2501 Section 75. Paragraph (g) of subsection (2) of section
 2502 400.0239, Florida Statutes, is amended to read:

2503 400.0239 Quality of Long-Term Care Facility Improvement
 2504 Trust Fund.—

2505 (2) Expenditures from the trust fund shall be allowable
 2506 for direct support of the following:

2507 (g) Other initiatives authorized by the Centers for
 2508 Medicare and Medicaid Services for the use of federal civil
 2509 monetary penalties, ~~including projects recommended through the~~
 2510 ~~Medicaid "Up or Out" Quality of Care Contract Management Program~~

2511 ~~pursuant to s. 400.148.~~

2512 Section 76. Subsection (43) of section 408.07, Florida
 2513 Statutes, is amended to read:

2514 408.07 Definitions.—As used in this chapter, with the
 2515 exception of ss. 408.031-408.045, the term:

2516 (43) "Rural hospital" means an acute care hospital
 2517 licensed under chapter 395, having 100 or fewer licensed beds
 2518 and an emergency room, and which is:

2519 (a) The sole provider within a county with a population
 2520 density of no greater than 100 persons per square mile;

2521 (b) An acute care hospital, in a county with a population
 2522 density of no greater than 100 persons per square mile, which is
 2523 at least 30 minutes of travel time, on normally traveled roads
 2524 under normal traffic conditions, from another acute care
 2525 hospital within the same county;

2526 (c) A hospital supported by a tax district or subdistrict
 2527 whose boundaries encompass a population of 100 persons or fewer
 2528 per square mile;

2529 (d) A hospital with a service area that has a population
 2530 of 100 persons or fewer per square mile. As used in this
 2531 paragraph, the term "service area" means the fewest number of
 2532 zip codes that account for 75 percent of the hospital's
 2533 discharges for the most recent 5-year period, based on
 2534 information available from the hospital inpatient discharge
 2535 database in the Florida Center for Health Information and Policy
 2536 Analysis at the Agency for Health Care Administration; or

2537 (e) A critical access hospital.

2538

CS/HB 1143

2010

2539 Population densities used in this subsection must be based upon
 2540 the most recently completed United States census. A hospital
 2541 that received funds under s. 409.9116 for a quarter beginning no
 2542 later than July 1, 2002, is deemed to have been and shall
 2543 continue to be a rural hospital from that date through June 30,
 2544 2015, if the hospital continues to have 100 or fewer licensed
 2545 beds and an emergency room, ~~or meets the criteria of s.~~
 2546 ~~395.602(2)(c)~~ 4. An acute care hospital that has not previously
 2547 been designated as a rural hospital and that meets the criteria
 2548 of this subsection shall be granted such designation upon
 2549 application, including supporting documentation, to the Agency
 2550 for Health Care Administration.

2551 Section 77. Paragraphs (b) and (h) of subsection (3) of
 2552 section 430.80, Florida Statutes, are amended to read:

2553 430.80 Implementation of a teaching nursing home pilot
 2554 project.-

2555 (3) To be designated as a teaching nursing home, a nursing
 2556 home licensee must, at a minimum:

2557 (b) Participate in a nationally recognized accreditation
 2558 program and hold a valid accreditation, such as the
 2559 accreditation awarded by The Joint Commission ~~on Accreditation~~
 2560 ~~of Healthcare Organizations;~~

2561 (h) Maintain insurance coverage pursuant to s.
 2562 400.141(1) (g) ~~(s)~~ or proof of financial responsibility in a
 2563 minimum amount of \$750,000. Such proof of financial
 2564 responsibility may include:

2565 1. Maintaining an escrow account consisting of cash or
 2566 assets eligible for deposit in accordance with s. 625.52; or

2567 2. Obtaining and maintaining pursuant to chapter 675 an
 2568 unexpired, irrevocable, nontransferable and nonassignable letter
 2569 of credit issued by any bank or savings association organized
 2570 and existing under the laws of this state or any bank or savings
 2571 association organized under the laws of the United States that
 2572 has its principal place of business in this state or has a
 2573 branch office which is authorized to receive deposits in this
 2574 state. The letter of credit shall be used to satisfy the
 2575 obligation of the facility to the claimant upon presentment of a
 2576 final judgment indicating liability and awarding damages to be
 2577 paid by the facility or upon presentment of a settlement
 2578 agreement signed by all parties to the agreement when such final
 2579 judgment or settlement is a result of a liability claim against
 2580 the facility.

2581 Section 78. Paragraph (a) of subsection (2) of section
 2582 440.13, Florida Statutes, is amended to read:

2583 440.13 Medical services and supplies; penalty for
 2584 violations; limitations.—

2585 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

2586 (a) Subject to the limitations specified elsewhere in this
 2587 chapter, the employer shall furnish to the employee such
 2588 medically necessary remedial treatment, care, and attendance for
 2589 such period as the nature of the injury or the process of
 2590 recovery may require, which is in accordance with established
 2591 practice parameters and protocols of treatment as provided for
 2592 in this chapter, including medicines, medical supplies, durable
 2593 medical equipment, orthoses, prostheses, and other medically
 2594 necessary apparatus. Remedial treatment, care, and attendance,

CS/HB 1143

2010

2595 including work-hardening programs or pain-management programs
 2596 accredited by the Commission on Accreditation of Rehabilitation
 2597 Facilities or The Joint Commission ~~on the Accreditation of~~
 2598 ~~Health Organizations~~ or pain-management programs affiliated with
 2599 medical schools, shall be considered as covered treatment only
 2600 when such care is given based on a referral by a physician as
 2601 defined in this chapter. Medically necessary treatment, care,
 2602 and attendance does not include chiropractic services in excess
 2603 of 24 treatments or rendered 12 weeks beyond the date of the
 2604 initial chiropractic treatment, whichever comes first, unless
 2605 the carrier authorizes additional treatment or the employee is
 2606 catastrophically injured.

2607
 2608 Failure of the carrier to timely comply with this subsection
 2609 shall be a violation of this chapter and the carrier shall be
 2610 subject to penalties as provided for in s. 440.525.

2611 Section 79. Section 483.294, Florida Statutes, is amended
 2612 to read:

2613 483.294 Inspection of centers.—In accordance with s.
 2614 408.811, the agency shall biennially, ~~at least once annually~~,
 2615 inspect the premises and operations of all centers subject to
 2616 licensure under this part.

2617 Section 80. Subsection (1) of section 627.645, Florida
 2618 Statutes, is amended to read:

2619 627.645 Denial of health insurance claims restricted.—

2620 (1) No claim for payment under a health insurance policy
 2621 or self-insured program of health benefits for treatment, care,
 2622 or services in a licensed hospital which is accredited by The

CS/HB 1143

2010

2623 Joint Commission ~~on the Accreditation of Hospitals~~, the American
 2624 Osteopathic Association, or the Commission on the Accreditation
 2625 of Rehabilitative Facilities shall be denied because such
 2626 hospital lacks major surgical facilities and is primarily of a
 2627 rehabilitative nature, if such rehabilitation is specifically
 2628 for treatment of physical disability.

2629 Section 81. Paragraph (c) of subsection (2) of section
 2630 627.668, Florida Statutes, is amended to read:

2631 627.668 Optional coverage for mental and nervous disorders
 2632 required; exception.—

2633 (2) Under group policies or contracts, inpatient hospital
 2634 benefits, partial hospitalization benefits, and outpatient
 2635 benefits consisting of durational limits, dollar amounts,
 2636 deductibles, and coinsurance factors shall not be less favorable
 2637 than for physical illness generally, except that:

2638 (c) Partial hospitalization benefits shall be provided
 2639 under the direction of a licensed physician. For purposes of
 2640 this part, the term "partial hospitalization services" is
 2641 defined as those services offered by a program accredited by The
 2642 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
 2643 compliance with equivalent standards. Alcohol rehabilitation
 2644 programs accredited by The Joint Commission ~~on Accreditation of~~
 2645 ~~Hospitals~~ or approved by the state and licensed drug abuse
 2646 rehabilitation programs shall also be qualified providers under
 2647 this section. In any benefit year, if partial hospitalization
 2648 services or a combination of inpatient and partial
 2649 hospitalization are utilized, the total benefits paid for all
 2650 such services shall not exceed the cost of 30 days of inpatient

CS/HB 1143

2010

2651 hospitalization for psychiatric services, including physician
 2652 fees, which prevail in the community in which the partial
 2653 hospitalization services are rendered. If partial
 2654 hospitalization services benefits are provided beyond the limits
 2655 set forth in this paragraph, the durational limits, dollar
 2656 amounts, and coinsurance factors thereof need not be the same as
 2657 those applicable to physical illness generally.

2658 Section 82. Subsection (3) of section 627.669, Florida
 2659 Statutes, is amended to read:

2660 627.669 Optional coverage required for substance abuse
 2661 impaired persons; exception.—

2662 (3) The benefits provided under this section shall be
 2663 applicable only if treatment is provided by, or under the
 2664 supervision of, or is prescribed by, a licensed physician or
 2665 licensed psychologist and if services are provided in a program
 2666 accredited by The Joint Commission ~~on Accreditation of Hospitals~~
 2667 or approved by the state.

2668 Section 83. Paragraph (a) of subsection (1) of section
 2669 627.736, Florida Statutes, is amended to read:

2670 627.736 Required personal injury protection benefits;
 2671 exclusions; priority; claims.—

2672 (1) REQUIRED BENEFITS.—Every insurance policy complying
 2673 with the security requirements of s. 627.733 shall provide
 2674 personal injury protection to the named insured, relatives
 2675 residing in the same household, persons operating the insured
 2676 motor vehicle, passengers in such motor vehicle, and other
 2677 persons struck by such motor vehicle and suffering bodily injury
 2678 while not an occupant of a self-propelled vehicle, subject to

CS/HB 1143

2010

2679 the provisions of subsection (2) and paragraph (4) (e), to a
 2680 limit of \$10,000 for loss sustained by any such person as a
 2681 result of bodily injury, sickness, disease, or death arising out
 2682 of the ownership, maintenance, or use of a motor vehicle as
 2683 follows:

2684 (a) Medical benefits.—Eighty percent of all reasonable
 2685 expenses for medically necessary medical, surgical, X-ray,
 2686 dental, and rehabilitative services, including prosthetic
 2687 devices, and medically necessary ambulance, hospital, and
 2688 nursing services. However, the medical benefits shall provide
 2689 reimbursement only for such services and care that are lawfully
 2690 provided, supervised, ordered, or prescribed by a physician
 2691 licensed under chapter 458 or chapter 459, a dentist licensed
 2692 under chapter 466, or a chiropractic physician licensed under
 2693 chapter 460 or that are provided by any of the following persons
 2694 or entities:

2695 1. A hospital or ambulatory surgical center licensed under
 2696 chapter 395.

2697 2. A person or entity licensed under ss. 401.2101-401.45
 2698 that provides emergency transportation and treatment.

2699 3. An entity wholly owned by one or more physicians
 2700 licensed under chapter 458 or chapter 459, chiropractic
 2701 physicians licensed under chapter 460, or dentists licensed
 2702 under chapter 466 or by such practitioner or practitioners and
 2703 the spouse, parent, child, or sibling of that practitioner or
 2704 those practitioners.

2705 4. An entity wholly owned, directly or indirectly, by a
 2706 hospital or hospitals.

CS/HB 1143

2010

2707 5. A health care clinic licensed under ss. 400.990-400.995
 2708 that is:

2709 a. Accredited by The Joint Commission ~~on Accreditation of~~
 2710 ~~Healthcare Organizations~~, the American Osteopathic Association,
 2711 the Commission on Accreditation of Rehabilitation Facilities, or
 2712 the Accreditation Association for Ambulatory Health Care, Inc.;
 2713 or

2714 b. A health care clinic that:

2715 (I) Has a medical director licensed under chapter 458,
 2716 chapter 459, or chapter 460;

2717 (II) Has been continuously licensed for more than 3 years
 2718 or is a publicly traded corporation that issues securities
 2719 traded on an exchange registered with the United States
 2720 Securities and Exchange Commission as a national securities
 2721 exchange; and

2722 (III) Provides at least four of the following medical
 2723 specialties:

2724 (A) General medicine.

2725 (B) Radiography.

2726 (C) Orthopedic medicine.

2727 (D) Physical medicine.

2728 (E) Physical therapy.

2729 (F) Physical rehabilitation.

2730 (G) Prescribing or dispensing outpatient prescription
 2731 medication.

2732 (H) Laboratory services.

2733

2734 The Financial Services Commission shall adopt by rule the form

CS/HB 1143

2010

2735 that must be used by an insurer and a health care provider
 2736 specified in subparagraph 3., subparagraph 4., or subparagraph
 2737 5. to document that the health care provider meets the criteria
 2738 of this paragraph, which rule must include a requirement for a
 2739 sworn statement or affidavit.

2740
 2741 Only insurers writing motor vehicle liability insurance in this
 2742 state may provide the required benefits of this section, and no
 2743 such insurer shall require the purchase of any other motor
 2744 vehicle coverage other than the purchase of property damage
 2745 liability coverage as required by s. 627.7275 as a condition for
 2746 providing such required benefits. Insurers may not require that
 2747 property damage liability insurance in an amount greater than
 2748 \$10,000 be purchased in conjunction with personal injury
 2749 protection. Such insurers shall make benefits and required
 2750 property damage liability insurance coverage available through
 2751 normal marketing channels. Any insurer writing motor vehicle
 2752 liability insurance in this state who fails to comply with such
 2753 availability requirement as a general business practice shall be
 2754 deemed to have violated part IX of chapter 626, and such
 2755 violation shall constitute an unfair method of competition or an
 2756 unfair or deceptive act or practice involving the business of
 2757 insurance; and any such insurer committing such violation shall
 2758 be subject to the penalties afforded in such part, as well as
 2759 those which may be afforded elsewhere in the insurance code.

2760 Section 84. Subsection (12) of section 641.495, Florida
 2761 Statutes, is amended to read:

2762 641.495 Requirements for issuance and maintenance of

CS/HB 1143

2010

2763 certificate.-

2764 (12) The provisions of part I of chapter 395 do not apply
 2765 to a health maintenance organization that, on or before January
 2766 1, 1991, provides not more than 10 outpatient holding beds for
 2767 short-term and hospice-type patients in an ambulatory care
 2768 facility for its members, provided that such health maintenance
 2769 organization maintains current accreditation by The Joint
 2770 Commission ~~on Accreditation of Health Care Organizations~~, the
 2771 Accreditation Association for Ambulatory Health Care, or the
 2772 National Committee for Quality Assurance.

2773 Section 85. Subsection (13) of section 651.118, Florida
 2774 Statutes, is amended to read:

2775 651.118 Agency for Health Care Administration;
 2776 certificates of need; sheltered beds; community beds.-

2777 (13) Residents, as defined in this chapter, are not
 2778 considered new admissions for the purpose of s.

2779 400.141(1) (n) ~~(o)~~ 1.d.

2780 Section 86. Subsection (2) of section 766.1015, Florida
 2781 Statutes, is amended to read:

2782 766.1015 Civil immunity for members of or consultants to
 2783 certain boards, committees, or other entities.-

2784 (2) Such committee, board, group, commission, or other
 2785 entity must be established in accordance with state law or in
 2786 accordance with requirements of The Joint Commission ~~on~~
 2787 ~~Accreditation of Healthcare Organizations~~, established and duly
 2788 constituted by one or more public or licensed private hospitals
 2789 or behavioral health agencies, or established by a governmental
 2790 agency. To be protected by this section, the act, decision,

CS/HB 1143

2010

2791 | omission, or utterance may not be made or done in bad faith or
2792 | with malicious intent.

2793 | Section 87. This act shall take effect July 1, 2010.