

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; amending s.  
8 381.0072, F.S.; limiting Department of Health food service  
9 inspections in nursing homes; requiring the department to  
10 coordinate inspections with the Agency for Health Care  
11 Administration; repealing s. 383.325, F.S., relating to  
12 confidentiality of inspection reports of licensed birth  
13 center facilities; amending s. 395.002, F.S.; revising and  
14 deleting definitions applicable to regulation of hospitals  
15 and other licensed facilities; conforming a cross-  
16 reference; amending s. 395.003, F.S.; deleting an obsolete  
17 provision; conforming a cross-reference; amending s.  
18 395.0193, F.S.; requiring a licensed facility to report  
19 certain peer review information and final disciplinary  
20 actions to the Division of Medical Quality Assurance of  
21 the Department of Health rather than the Division of  
22 Health Quality Assurance of the Agency for Health Care  
23 Administration; amending s. 395.1023, F.S.; providing for  
24 the Department of Children and Family Services rather than  
25 the Department of Health to perform certain functions with  
26 respect to child protection cases; requiring certain  
27 hospitals to notify the Department of Children and Family  
28 Services of compliance; amending s. 395.1041, F.S.,

29 relating to hospital emergency services and care; deleting  
 30 obsolete provisions; repealing s. 395.1046, F.S., relating  
 31 to complaint investigation procedures; amending s.  
 32 395.1055, F.S.; requiring licensed facility beds to  
 33 conform to standards specified by the Agency for Health  
 34 Care Administration, the Florida Building Code, and the  
 35 Florida Fire Prevention Code; amending s. 395.10972, F.S.;  
 36 revising a reference to the Florida Society of Healthcare  
 37 Risk Management to conform to the current designation;  
 38 amending s. 395.2050, F.S.; revising a reference to the  
 39 federal Health Care Financing Administration to conform to  
 40 the current designation; amending s. 395.3036, F.S.;  
 41 correcting a reference; repealing s. 395.3037, F.S.,  
 42 relating to redundant definitions; amending ss. 154.11,  
 43 394.741, 395.3038, 400.925, 400.9935, 408.05, 440.13,  
 44 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015,  
 45 F.S.; revising references to the Joint Commission on  
 46 Accreditation of Healthcare Organizations, the Commission  
 47 on Accreditation of Rehabilitation Facilities, and the  
 48 Council on Accreditation to conform to their current  
 49 designations; amending s. 395.602, F.S.; revising the  
 50 definition of the term "rural hospital" to delete an  
 51 obsolete provision; amending s. 400.021, F.S.; revising  
 52 the definition of the term "geriatric outpatient clinic";  
 53 amending s. 400.063, F.S.; deleting an obsolete provision;  
 54 amending ss. 400.071 and 400.0712, F.S.; revising  
 55 applicability of general licensure requirements under pt.  
 56 II of ch. 408, F.S., to applications for nursing home

57 licensure; revising provisions governing inactive  
58 licenses; amending s. 400.111, F.S.; providing for  
59 disclosure of controlling interest of a nursing home  
60 facility upon request by the Agency for Health Care  
61 Administration; amending s. 400.1183, F.S.; revising  
62 grievance record maintenance and reporting requirements  
63 for nursing homes; amending s. 400.141, F.S.; providing  
64 criteria for the provision of respite services by nursing  
65 homes; requiring a written plan of care; requiring a  
66 contract for services; requiring resident release to  
67 caregivers to be designated in writing; providing an  
68 exemption to the application of discharge planning rules;  
69 providing for residents' rights; providing for use of  
70 personal medications; providing terms of respite stay;  
71 providing for communication of patient information;  
72 requiring a physician order for care and proof of a  
73 physical examination; providing for services for respite  
74 patients and duties of facilities with respect to such  
75 patients; conforming a cross-reference; requiring  
76 facilities to maintain clinical records that meet  
77 specified standards; providing a fine relating to an  
78 admissions moratorium; deleting requirement for facilities  
79 to submit certain information related to management  
80 companies to the agency; deleting a requirement for  
81 facilities to notify the agency of certain bankruptcy  
82 filings to conform to changes made by the act; amending s.  
83 400.142, F.S.; deleting language relating to agency  
84 adoption of rules; amending 400.147, F.S.; revising

85 reporting requirements for licensed nursing home  
86 facilities relating to adverse incidents; repealing s.  
87 400.148, F.S., relating to the Medicaid "Up-or-Out"  
88 Quality of Care Contract Management Program; amending s.  
89 400.162, F.S., requiring nursing homes to provide a  
90 resident property statement annually and upon request;  
91 amending s. 400.179, F.S.; revising requirements for  
92 nursing home lease bond alternative fees; deleting an  
93 obsolete provision; amending s. 400.19, F.S.; revising  
94 inspection requirements; repealing s. 400.195, F.S.,  
95 relating to agency reporting requirements; amending s.  
96 400.23, F.S.; deleting an obsolete provision; clarifying a  
97 reference; amending s. 400.275, F.S.; revising agency  
98 duties with regard to training nursing home surveyor  
99 teams; revising requirements for team members; amending s.  
100 400.484, F.S.; revising the schedule of home health agency  
101 inspection violations; amending s. 400.606, F.S.; revising  
102 the content requirements of the plan accompanying an  
103 initial or change-of-ownership application for licensure  
104 of a hospice; revising requirements relating to  
105 certificates of need for certain hospice facilities;  
106 amending s. 400.607, F.S.; revising grounds for agency  
107 action against a hospice; amending s. 400.931, F.S.;  
108 deleting a requirement that an applicant for a home  
109 medical equipment provider license submit a surety bond to  
110 the agency; amending s. 400.932, F.S.; revising grounds  
111 for the imposition of administrative penalties for certain  
112 violations by an employee of a home medical equipment

113 provider; amending s. 400.967, F.S.; revising the schedule  
114 of inspection violations for intermediate care facilities  
115 for the developmentally disabled; providing a penalty for  
116 certain violations; amending s. 400.9905, F.S.; providing  
117 that pt. X of ch, 400, F.S., the Health Care Clinic Act,  
118 does not apply to an entity owned by a corporation with a  
119 specified amount of annual sales of health care services  
120 under certain circumstances; amending s. 400.991, F.S.;  
121 conforming terminology; revising application requirements  
122 relating to documentation of financial ability to operate  
123 a mobile clinic; amending s. 408.034, F.S.; revising  
124 agency authority relating to licensing of intermediate  
125 care facilities for the developmentally disabled; amending  
126 s. 408.036, F.S.; deleting an exemption from certain  
127 certificate-of-need review requirements for a hospice or a  
128 hospice inpatient facility; amending s. 408.043, F.S.;  
129 revising requirements for certain freestanding inpatient  
130 hospice care facilities to obtain a certificate of need;  
131 amending s. 408.061, F.S.; revising health care facility  
132 data reporting requirements; amending s. 408.10, F.S.;  
133 removing agency authority to investigate certain consumer  
134 complaints; amending s. 408.802, F.S.; removing  
135 applicability of pt. II of ch. 408, F.S., relating to  
136 general licensure requirements, to private review agents;  
137 amending s. 408.804, F.S.; providing penalties for  
138 altering, defacing, or falsifying a license certificate  
139 issued by the agency or displaying such an altered,  
140 defaced, or falsified certificate; amending s. 408.806,

141 F.S.; revising agency responsibilities for notification of  
142 licensees of impending expiration of a license; requiring  
143 payment of a late fee for a license application to be  
144 considered complete under certain circumstances; amending  
145 s. 408.810, F.S.; revising provisions relating to  
146 information required for licensure; requiring proof of  
147 submission of notice to a mortgagor or landlord regarding  
148 provision of services requiring licensure; requiring  
149 disclosure of information by a controlling interest of  
150 certain court actions relating to financial instability  
151 within a specified time period; amending s. 408.813, F.S.;  
152 authorizing the agency to impose fines for unclassified  
153 violations of pt. II of ch. 408, F.S.; amending s.  
154 408.815, F.S.; authorizing the agency to extend a license  
155 expiration date under certain circumstances; amending s.  
156 409.221, F.S.; deleting a reporting requirement relating  
157 to the consumer-directed care program; amending s. 429.07,  
158 F.S.; deleting the requirement for an assisted living  
159 facility to obtain an additional license in order to  
160 provide limited nursing services; deleting the requirement  
161 for the agency to conduct quarterly monitoring visits of  
162 facilities that hold a license to provide extended  
163 congregate care services; deleting the requirement for the  
164 department to report annually on the status of and  
165 recommendations related to extended congregate care;  
166 deleting the requirement for the agency to conduct  
167 monitoring visits at least twice a year to facilities  
168 providing limited nursing services; increasing the

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

197 s. 429.23, F.S.; deleting reporting requirements for  
 198 assisted living facilities relating to liability claims;  
 199 amending s. 429.255, F.S.; eliminating provisions  
 200 authorizing the use of volunteers to provide certain  
 201 health-care-related services in assisted living  
 202 facilities; authorizing assisted living facilities to  
 203 provide limited nursing services; requiring an assisted  
 204 living facility to be responsible for certain  
 205 recordkeeping and staff to be trained to monitor residents  
 206 receiving certain health-care-related services; amending  
 207 s. 429.28, F.S.; deleting a requirement for a biennial  
 208 survey of an assisted living facility, to conform to  
 209 changes made by the act; amending s. 429.35, F.S.;  
 210 authorizing the agency to provide certain information  
 211 relating to the inspections of assisted living facilities  
 212 electronically or through the agency's Internet website;  
 213 amending s. 429.41, F.S., relating to rulemaking;  
 214 conforming provisions to changes made by the act; amending  
 215 s. 429.53, F.S.; revising provisions relating to  
 216 consultation by the agency; revising a definition;  
 217 amending s. 429.54, F.S.; requiring licensed assisted  
 218 living facilities to electronically report certain data  
 219 semiannually to the agency in accordance with rules  
 220 adopted by the department; amending s. 429.71, F.S.;  
 221 revising schedule of inspection violations for adult  
 222 family-care homes; amending s. 429.911, F.S.; deleting a  
 223 ground for agency action against an adult day care center;  
 224 amending s. 429.915, F.S.; revising agency



225 | responsibilities regarding the issuance of conditional  
 226 | licenses; amending s. 483.294, F.S.; revising frequency of  
 227 | agency inspections of multiphasic health testing centers;  
 228 | amending s. 499.003, F.S.; removing a requirement that  
 229 | certain prescription drug purchasers maintain a separate  
 230 | inventory of certain prescription drugs; amending s.  
 231 | 499.01212, F.S.; exempting prescription drugs contained in  
 232 | sealed medical convenience kits from the pedigree paper  
 233 | requirements under specified circumstances; amending s.  
 234 | 633.081, F.S.; limiting Fire Marshal inspections of  
 235 | nursing homes to once a year; providing for additional  
 236 | inspections based on complaints and violations identified  
 237 | in the course of orientation or training activities;  
 238 | amending s. 766.202, F.S.; adding persons licensed under  
 239 | pt. XIV of ch. 468, F.S., to the definition of "health  
 240 | care provider"; amending ss. 394.4787, 400.0239, 408.07,  
 241 | 430.80, and 651.118, F.S.; conforming terminology and  
 242 | cross-references; revising a reference; providing an  
 243 | effective date.

244 |

245 | Be It Enacted by the Legislature of the State of Florida:

246 |

247 | Section 1. Present paragraph (e) of subsection (10) and  
 248 | paragraph (e) of subsection (14) of section 112.0455, Florida  
 249 | Statutes, are amended, and paragraphs (f) through (k) of  
 250 | subsection (10) of that section are redesignated as paragraphs  
 251 | (e) through (j), respectively, to read:

252 | 112.0455 Drug-Free Workplace Act.—

253 (10) EMPLOYER PROTECTION.—

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

259 (14) DISCIPLINE REMEDIES.—

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

- 263 1. Rescind the disciplinary action, expunge related
- 264 records from the personnel file of the employee or job applicant
- 265 and reinstate the employee.
- 266 2. Order compliance with paragraph (10) (f) ~~(g)~~.
- 267 3. Award back pay and benefits.
- 268 4. Award the prevailing employee or job applicant the
- 269 necessary costs of the appeal, reasonable attorney's fees, and
- 270 expert witness fees.

271 Section 2. Paragraph (n) of subsection (1) of section  
 272 154.11, Florida Statutes, is amended to read:

273 154.11 Powers of board of trustees.—

274 (1) The board of trustees of each public health trust  
 275 shall be deemed to exercise a public and essential governmental  
 276 function of both the state and the county and in furtherance  
 277 thereof it shall, subject to limitation by the governing body of  
 278 the county in which such board is located, have all of the  
 279 powers necessary or convenient to carry out the operation and  
 280 governance of designated health care facilities, including, but

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281 without limiting the generality of, the foregoing:

282 (n) To appoint originally the staff of physicians to  
 283 practice in any designated facility owned or operated by the  
 284 board and to approve the bylaws and rules to be adopted by the  
 285 medical staff of any designated facility owned and operated by  
 286 the board, such governing regulations to be in accordance with  
 287 the standards of The Joint Commission ~~on the Accreditation of~~  
 288 ~~Hospitals~~ which provide, among other things, for the method of  
 289 appointing additional staff members and for the removal of staff  
 290 members.

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

293 318.21 Disposition of civil penalties by county courts.—  
 294 All civil penalties received by a county court pursuant to the  
 295 provisions of this chapter shall be distributed and paid monthly  
 296 as follows:

297 (15) Of the additional fine assessed under s. 318.18(3)(e)  
 298 for a violation of s. 316.1893, 50 percent of the moneys  
 299 received from the fines shall be remitted to the Department of  
 300 Revenue and deposited into the Brain and Spinal Cord Injury  
 301 Trust Fund of Department of Health and shall be appropriated to  
 302 the Department of Health Agency for Health Care Administration  
 303 as general revenue to ~~provide an enhanced Medicaid payment to~~  
 304 ~~nursing homes that~~ serve Medicaid recipients with spinal cord  
 305 injuries that are medically complex and who are technologically  
 306 and respiratory dependent with brain and spinal cord injuries.  
 307 The remaining 50 percent of the moneys received from the  
 308 enhanced fine imposed under s. 318.18(3)(e) shall be remitted to

309 the Department of Revenue and deposited into the Department of  
 310 Health Administrative Trust Fund to provide financial support to  
 311 certified trauma centers in the counties where enhanced penalty  
 312 zones are established to ensure the availability and  
 313 accessibility of trauma services. Funds deposited into the  
 314 Administrative Trust Fund under this subsection shall be  
 315 allocated as follows:

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

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

323 Section 4. Paragraph (e) is added to subsection (2) of  
 324 section 381.0072, Florida Statutes, to read:

325 381.0072 Food service protection.—It shall be the duty of  
 326 the Department of Health to adopt and enforce sanitation rules  
 327 consistent with law to ensure the protection of the public from  
 328 food-borne illness. These rules shall provide the standards and  
 329 requirements for the storage, preparation, serving, or display  
 330 of food in food service establishments as defined in this  
 331 section and which are not permitted or licensed under chapter  
 332 500 or chapter 509.

333 (2) DUTIES.—

334 (e) The department shall inspect food service  
 335 establishments in nursing homes licensed under part II of  
 336 chapter 400 twice each year. The department may make additional

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337 inspections only in response to complaints. The department shall  
338 coordinate inspections with the Agency for Health Care  
339 Administration, such that the department's inspection is at  
340 least 60 days after a recertification visit by the Agency for  
341 Health Care Administration.

342 Section 5. Section 383.325, Florida Statutes, is repealed.

343 Section 6. Subsection (7) of section 394.4787, Florida  
344 Statutes, is amended to read:

345 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,  
346 and 394.4789.—As used in this section and ss. 394.4786,  
347 394.4788, and 394.4789:

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

351 Section 7. Subsection (2) of section 394.741, Florida  
352 Statutes, is amended to read:

353 394.741 Accreditation requirements for providers of  
354 behavioral health care services.—

355 (2) Notwithstanding any provision of law to the contrary,  
356 accreditation shall be accepted by the agency and department in  
357 lieu of the agency's and department's facility licensure onsite  
358 review requirements and shall be accepted as a substitute for  
359 the department's administrative and program monitoring  
360 requirements, except as required by subsections (3) and (4),  
361 for:

362 (a) Any organization from which the department purchases  
363 behavioral health care services that is accredited by The Joint  
364 Commission ~~on Accreditation of Healthcare Organizations~~ or the

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365 Council on Accreditation ~~for Children and Family Services~~, or  
366 has those services that are being purchased by the department  
367 accredited by the Commission on Accreditation of Rehabilitation  
368 Facilities ~~CARF the Rehabilitation Accreditation Commission.~~

369 (b) Any mental health facility licensed by the agency or  
370 any substance abuse component licensed by the department that is  
371 accredited by The Joint Commission ~~on Accreditation of~~  
372 ~~Healthcare Organizations~~, the Commission on Accreditation of  
373 Rehabilitation Facilities ~~CARF the Rehabilitation Accreditation~~  
374 ~~Commission~~, or the Council on Accreditation ~~of Children and~~  
375 ~~Family Services~~.

376 (c) Any network of providers from which the department or  
377 the agency purchases behavioral health care services accredited  
378 by The Joint Commission ~~on Accreditation of Healthcare~~  
379 ~~Organizations~~, the Commission on Accreditation of Rehabilitation  
380 Facilities ~~CARF the Rehabilitation Accreditation Commission~~, the  
381 Council on Accreditation ~~of Children and Family Services~~, or the  
382 National Committee for Quality Assurance. A provider  
383 organization, which is part of an accredited network, is  
384 afforded the same rights under this part.

385 Section 8. Present subsections (15) through (32) of  
386 section 395.002, Florida Statutes, are renumbered as subsections  
387 (14) through (28), respectively, and present subsections (1),  
388 (14), (24), (30), and (31), and paragraph (c) of present  
389 subsection (28) of that section are amended to read:

390 395.002 Definitions.—As used in this chapter:

391 (1) "Accrediting organizations" means nationally  
392 recognized or approved accrediting organizations whose standards

393 incorporate comparable licensure requirements as determined by  
 394 the agency ~~the Joint Commission on Accreditation of Healthcare~~  
 395 ~~Organizations, the American Osteopathic Association, the~~  
 396 ~~Commission on Accreditation of Rehabilitation Facilities, and~~  
 397 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

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

402 ~~(24) "Private review agent" means any person or entity~~  
 403 ~~which performs utilization review services for third-party~~  
 404 ~~payors on a contractual basis for outpatient or inpatient~~  
 405 ~~services. However, the term shall not include full-time~~  
 406 ~~employees, personnel, or staff of health insurers, health~~  
 407 ~~maintenance organizations, or hospitals, or wholly owned~~  
 408 ~~subsidiaries thereof or affiliates under common ownership, when~~  
 409 ~~performing utilization review for their respective hospitals,~~  
 410 ~~health maintenance organizations, or insureds of the same~~  
 411 ~~insurance group. For this purpose, health insurers, health~~  
 412 ~~maintenance organizations, and hospitals, or wholly owned~~  
 413 ~~subsidiaries thereof or affiliates under common ownership,~~  
 414 ~~include such entities engaged as administrators of self-~~  
 415 ~~insurance as defined in s. 624.031.~~

416 ~~(26)~~~~(28)~~ (26) "Specialty hospital" means any facility which  
 417 meets the provisions of subsection (12), and which regularly  
 418 makes available either:

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

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

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

428 Section 9. Paragraph (c) of subsection (1) and paragraph  
429 (b) of subsection (2) of section 395.003, Florida Statutes, are  
430 amended to read:

431 395.003 Licensure; denial, suspension, and revocation.—

432 (1)

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

436 (2)

437 (b) The agency shall, at the request of a licensee that is  
438 a teaching hospital as defined in s. 408.07(45), issue a single  
439 license to a licensee for facilities that have been previously  
440 licensed as separate premises, provided such separately licensed  
441 facilities, taken together, constitute the same premises as  
442 defined in s. 395.002 (22) ~~(23)~~. Such license for the single  
443 premises shall include all of the beds, services, and programs  
444 that were previously included on the licenses for the separate  
445 premises. The granting of a single license under this paragraph  
446 shall not in any manner reduce the number of beds, services, or  
447 programs operated by the licensee.



448 Section 10. Paragraph (e) of subsection (2) and subsection  
 449 (4) of section 395.0193, Florida Statutes, are amended to read:  
 450 395.0193 Licensed facilities; peer review; disciplinary  
 451 powers; agency or partnership with physicians.—

452 (2) Each licensed facility, as a condition of licensure,  
 453 shall provide for peer review of physicians who deliver health  
 454 care services at the facility. Each licensed facility shall  
 455 develop written, binding procedures by which such peer review  
 456 shall be conducted. Such procedures shall include:

457 (e) Recording of agendas and minutes which do not contain  
 458 confidential material, for review by the Division of Medical  
 459 Quality Assurance of the department ~~Health Quality Assurance of~~  
 460 ~~the agency~~.

461 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary  
 462 actions taken under subsection (3) shall be reported in writing  
 463 to the Division of Medical Quality Assurance of the department  
 464 ~~Health Quality Assurance of the agency~~ within 30 working days  
 465 after its initial occurrence, regardless of the pendency of  
 466 appeals to the governing board of the hospital. The notification  
 467 shall identify the disciplined practitioner, the action taken,  
 468 and the reason for such action. All final disciplinary actions  
 469 taken under subsection (3), if different from those which were  
 470 reported to the department ~~agency~~ within 30 days after the  
 471 initial occurrence, shall be reported within 10 working days to  
 472 the Division of Medical Quality Assurance of the department  
 473 ~~Health Quality Assurance of the agency~~ in writing and shall  
 474 specify the disciplinary action taken and the specific grounds  
 475 therefor. The division shall review each report and determine

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476 whether it potentially involved conduct by the licensee that is  
477 subject to disciplinary action, in which case s. 456.073 shall  
478 apply. The reports are not subject to inspection under s.  
479 119.07(1) even if the division's investigation results in a  
480 finding of probable cause.

481 Section 11. Section 395.1023, Florida Statutes, is amended  
482 to read:

483 395.1023 Child abuse and neglect cases; duties.—Each  
484 licensed facility shall adopt a protocol that, at a minimum,  
485 requires the facility to:

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

490 (2) In any case involving suspected child abuse,  
491 abandonment, or neglect, designate, at the request of the  
492 Department of Children and Family Services, a staff physician to  
493 act as a liaison between the hospital and the Department of  
494 Children and Family Services office which is investigating the  
495 suspected abuse, abandonment, or neglect, and the child  
496 protection team, as defined in s. 39.01, when the case is  
497 referred to such a team.

498  
499 Each general hospital and appropriate specialty hospital shall  
500 comply with the provisions of this section and shall notify the  
501 agency and the Department of Children and Family Services of its  
502 compliance by sending a copy of its policy to the agency and the  
503 Department of Children and Family Services as required by rule.

504 The failure by a general hospital or appropriate specialty  
 505 hospital to comply shall be punished by a fine not exceeding  
 506 \$1,000, to be fixed, imposed, and collected by the agency. Each  
 507 day in violation is considered a separate offense.

508 Section 12. Subsection (2) and paragraph (d) of subsection  
 509 (3) of section 395.1041, Florida Statutes, are amended to read:

510 395.1041 Access to emergency services and care.—

511 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency  
 512 shall establish and maintain an inventory of hospitals with  
 513 emergency services. The inventory shall list all services within  
 514 the service capability of the hospital, and such services shall  
 515 appear on the face of the hospital license. Each hospital having  
 516 emergency services shall notify the agency of its service  
 517 capability in the manner and form prescribed by the agency. The  
 518 agency shall use the inventory to assist emergency medical  
 519 services providers and others in locating appropriate emergency  
 520 medical care. The inventory shall also be made available to the  
 521 general public. ~~On or before August 1, 1992, the agency shall~~  
 522 ~~request that each hospital identify the services which are~~  
 523 ~~within its service capability. On or before November 1, 1992,~~  
 524 ~~the agency shall notify each hospital of the service capability~~  
 525 ~~to be included in the inventory. The hospital has 15 days from~~  
 526 ~~the date of receipt to respond to the notice. By December 1,~~  
 527 ~~1992, the agency shall publish a final inventory.~~ Each hospital  
 528 shall reaffirm its service capability when its license is  
 529 renewed and shall notify the agency of the addition of a new  
 530 service or the termination of a service prior to a change in its  
 531 service capability.

532 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF  
533 FACILITY OR HEALTH CARE PERSONNEL.—

534 (d)1. Every hospital shall ensure the provision of  
535 services within the service capability of the hospital, at all  
536 times, either directly or indirectly through an arrangement with  
537 another hospital, through an arrangement with one or more  
538 physicians, or as otherwise made through prior arrangements. A  
539 hospital may enter into an agreement with another hospital for  
540 purposes of meeting its service capability requirement, and  
541 appropriate compensation or other reasonable conditions may be  
542 negotiated for these backup services.

543 2. If any arrangement requires the provision of emergency  
544 medical transportation, such arrangement must be made in  
545 consultation with the applicable provider and may not require  
546 the emergency medical service provider to provide transportation  
547 that is outside the routine service area of that provider or in  
548 a manner that impairs the ability of the emergency medical  
549 service provider to timely respond to prehospital emergency  
550 calls.

551 3. A hospital shall not be required to ensure service  
552 capability at all times as required in subparagraph 1. if, prior  
553 to the receiving of any patient needing such service capability,  
554 such hospital has demonstrated to the agency that it lacks the  
555 ability to ensure such capability and it has exhausted all  
556 reasonable efforts to ensure such capability through backup  
557 arrangements. In reviewing a hospital's demonstration of lack of  
558 ability to ensure service capability, the agency shall consider

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559 factors relevant to the particular case, including the  
 560 following:

561 a. Number and proximity of hospitals with the same service  
 562 capability.

563 b. Number, type, credentials, and privileges of  
 564 specialists.

565 c. Frequency of procedures.

566 d. Size of hospital.

567 4. The agency shall publish ~~proposed~~ rules implementing a  
 568 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~  
 569 ~~1. shall become effective upon the effective date of said rules~~  
 570 ~~or January 31, 1993, whichever is earlier. For a period not to~~  
 571 ~~exceed 1 year from the effective date of subparagraph 1., a~~  
 572 ~~hospital requesting an exemption shall be deemed to be exempt~~  
 573 ~~from offering the service until the agency initially acts to~~  
 574 ~~deny or grant the original request. The agency has 45 days from~~  
 575 ~~the date of receipt of the request to approve or deny the~~  
 576 ~~request. After the first year from the effective date of~~  
 577 ~~subparagraph 1.,~~ If the agency fails to initially act within the  
 578 time period, the hospital is deemed to be exempt from offering  
 579 the service until the agency initially acts to deny the request.

580 Section 13. Section 395.1046, Florida Statutes, is  
 581 repealed.

582 Section 14. Paragraph (e) of subsection (1) of section  
 583 395.1055, Florida Statutes, is amended to read:

584 395.1055 Rules and enforcement.—

585 (1) The agency shall adopt rules pursuant to ss.

586 120.536(1) and 120.54 to implement the provisions of this part,

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587 | which shall include reasonable and fair minimum standards for  
 588 | ensuring that:

589 |       (e) Licensed facility beds conform to minimum space,  
 590 | equipment, and furnishings standards as specified by the agency,  
 591 | the Florida Building Code, and the Florida Fire Prevention Code  
 592 | ~~department.~~

593 |       Section 15. Subsection (1) of section 395.10972, Florida  
 594 | Statutes, is amended to read:

595 |       395.10972 Health Care Risk Manager Advisory Council.—The  
 596 | Secretary of Health Care Administration may appoint a seven-  
 597 | member advisory council to advise the agency on matters  
 598 | pertaining to health care risk managers. The members of the  
 599 | council shall serve at the pleasure of the secretary. The  
 600 | council shall designate a chair. The council shall meet at the  
 601 | call of the secretary or at those times as may be required by  
 602 | rule of the agency. The members of the advisory council shall  
 603 | receive no compensation for their services, but shall be  
 604 | reimbursed for travel expenses as provided in s. 112.061. The  
 605 | council shall consist of individuals representing the following  
 606 | areas:

607 |       (1) Two shall be active health care risk managers,  
 608 | including one risk manager who is recommended by and a member of  
 609 | the Florida Society for ~~of~~ Healthcare Risk Management and  
 610 | Patient Safety.

611 |       Section 16. Subsection (3) of section 395.2050, Florida  
 612 | Statutes, is amended to read:

613 |       395.2050 Routine inquiry for organ and tissue donation;  
 614 | certification for procurement activities; death records review.—

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615 (3) Each organ procurement organization designated by the  
616 federal Centers for Medicare and Medicaid Services ~~Health Care~~  
617 ~~Financing Administration~~ and licensed by the state shall conduct  
618 an annual death records review in the organ procurement  
619 organization's affiliated donor hospitals. The organ procurement  
620 organization shall enlist the services of every Florida licensed  
621 tissue bank and eye bank affiliated with or providing service to  
622 the donor hospital and operating in the same service area to  
623 participate in the death records review.

624 Section 17. Subsection (2) of section 395.3036, Florida  
625 Statutes, is amended to read:

626 395.3036 Confidentiality of records and meetings of  
627 corporations that lease public hospitals or other public health  
628 care facilities.—The records of a private corporation that  
629 leases a public hospital or other public health care facility  
630 are confidential and exempt from the provisions of s. 119.07(1)  
631 and s. 24(a), Art. I of the State Constitution, and the meetings  
632 of the governing board of a private corporation are exempt from  
633 s. 286.011 and s. 24(b), Art. I of the State Constitution when  
634 the public lessor complies with the public finance  
635 accountability provisions of s. 155.40(5) with respect to the  
636 transfer of any public funds to the private lessee and when the  
637 private lessee meets at least three of the five following  
638 criteria:

639 (2) The public lessor and the private lessee do not  
640 commingle any of their funds in any account maintained by either  
641 of them, other than the payment of the rent and administrative  
642 fees or the transfer of funds pursuant to s. 155.40(2)

643 ~~subsection (2).~~

644 Section 18. Section 395.3037, Florida Statutes, is  
 645 repealed.

646 Section 19. Subsections (1), (4), and (5) of section  
 647 395.3038, Florida Statutes, are amended to read:

648 395.3038 State-listed primary stroke centers and  
 649 comprehensive stroke centers; notification of hospitals.—

650 (1) The agency shall make available on its website and to  
 651 the department a list of the name and address of each hospital  
 652 that meets the criteria for a primary stroke center and the name  
 653 and address of each hospital that meets the criteria for a  
 654 comprehensive stroke center. The list of primary and  
 655 comprehensive stroke centers shall include only those hospitals  
 656 that attest in an affidavit submitted to the agency that the  
 657 hospital meets the named criteria, or those hospitals that  
 658 attest in an affidavit submitted to the agency that the hospital  
 659 is certified as a primary or a comprehensive stroke center by  
 660 The Joint Commission ~~on Accreditation of Healthcare~~  
 661 ~~Organizations.~~

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

666 (5) The agency shall adopt by rule criteria for a  
 667 comprehensive stroke center. However, if The Joint Commission ~~on~~  
 668 ~~Accreditation of Healthcare Organizations~~ establishes criteria  
 669 for a comprehensive stroke center, the agency shall establish  
 670 criteria for a comprehensive stroke center which are



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671 substantially similar to those criteria established by The Joint  
672 Commission ~~on Accreditation of Healthcare Organizations.~~

673 Section 20. Paragraph (e) of subsection (2) of section  
674 395.602, Florida Statutes, is amended to read:

675 395.602 Rural hospitals.—

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

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

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

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

687 3. A hospital supported by a tax district or subdistrict  
688 whose boundaries encompass a population of 100 persons or fewer  
689 per square mile;

690 ~~4. A hospital in a constitutional charter county with a~~  
691 ~~population of over 1 million persons that has imposed a local~~  
692 ~~option health service tax pursuant to law and in an area that~~  
693 ~~was directly impacted by a catastrophic event on August 24,~~  
694 ~~1992, for which the Governor of Florida declared a state of~~  
695 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~  
696 ~~serves an agricultural community with an emergency room~~  
697 ~~utilization of no less than 20,000 visits and a Medicaid~~  
698 ~~inpatient utilization rate greater than 15 percent;~~

699           4.5. A hospital with a service area that has a population  
 700 of 100 persons or fewer per square mile. As used in this  
 701 subparagraph, the term "service area" means the fewest number of  
 702 zip codes that account for 75 percent of the hospital's  
 703 discharges for the most recent 5-year period, based on  
 704 information available from the hospital inpatient discharge  
 705 database in the Florida Center for Health Information and Policy  
 706 Analysis at the Agency for Health Care Administration; or

707           5.6. A hospital designated as a critical access hospital,  
 708 as defined in s. 408.07(15).

709  
 710 Population densities used in this paragraph must be based upon  
 711 the most recently completed United States census. A hospital  
 712 that received funds under s. 409.9116 for a quarter beginning no  
 713 later than July 1, 2002, is deemed to have been and shall  
 714 continue to be a rural hospital from that date through June 30,  
 715 2015, if the hospital continues to have 100 or fewer licensed  
 716 beds and an emergency room, ~~or meets the criteria of~~  
 717 ~~subparagraph 4.~~ An acute care hospital that has not previously  
 718 been designated as a rural hospital and that meets the criteria  
 719 of this paragraph shall be granted such designation upon  
 720 application, including supporting documentation to the Agency  
 721 for Health Care Administration.

722           Section 21. Subsection (8) of section 400.021, Florida  
 723 Statutes, is amended to read:

724           400.021 Definitions.—When used in this part, unless the  
 725 context otherwise requires, the term:

726           (8) "Geriatric outpatient clinic" means a site for

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727 providing outpatient health care to persons 60 years of age or  
 728 older, which is staffed by a registered nurse or a physician  
 729 assistant, or a licensed practical nurse under the direct  
 730 supervision of a registered nurse, advanced registered nurse  
 731 practitioner, or physician.

732 Section 22. Paragraph (g) of subsection (2) of section  
 733 400.0239, Florida Statutes, is amended to read:

734 400.0239 Quality of Long-Term Care Facility Improvement  
 735 Trust Fund.—

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

738 (g) Other initiatives authorized by the Centers for  
 739 Medicare and Medicaid Services for the use of federal civil  
 740 monetary penalties, ~~including projects recommended through the~~  
 741 ~~Medicaid "Up or Out" Quality of Care Contract Management Program~~  
 742 ~~pursuant to s. 400.148.~~

743 Section 23. Subsection (2) of section 400.063, Florida  
 744 Statutes, is amended to read:

745 400.063 Resident protection.—

746 (2) The agency is authorized to establish for each  
 747 facility, subject to intervention by the agency, a separate bank  
 748 account for the deposit to the credit of the agency of any  
 749 moneys received from the Health Care Trust Fund or any other  
 750 moneys received for the maintenance and care of residents in the  
 751 facility, and the agency is authorized to disburse moneys from  
 752 such account to pay obligations incurred for the purposes of  
 753 this section. The agency is authorized to requisition moneys  
 754 from the Health Care Trust Fund in advance of an actual need for

755 cash on the basis of an estimate by the agency of moneys to be  
 756 spent under the authority of this section. Any bank account  
 757 established under this section need not be approved in advance  
 758 of its creation as required by s. 17.58, but shall be secured by  
 759 depository insurance equal to or greater than the balance of  
 760 such account or by the pledge of collateral security ~~in~~  
 761 ~~conformance with criteria established in s. 18.11.~~ The agency  
 762 shall notify the Chief Financial Officer of any such account so  
 763 established and shall make a quarterly accounting to the Chief  
 764 Financial Officer for all moneys deposited in such account.

765 Section 24. Subsections (1) and (5) of section 400.071,  
 766 Florida Statutes, are amended to read:

767 400.071 Application for license.—

768 (1) In addition to the requirements of part II of chapter  
 769 408, the application for a license shall be under oath and must  
 770 contain the following:

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

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

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

784 ~~(c) The total number of beds and the total number of~~  
 785 ~~Medicare and Medicaid certified beds.~~

786 (b) ~~(d)~~ Information relating to the applicant and employees  
 787 which the agency requires by rule. The applicant must  
 788 demonstrate that sufficient numbers of qualified staff, by  
 789 training or experience, will be employed to properly care for  
 790 the type and number of residents who will reside in the  
 791 facility.

792 (c) ~~(e)~~ Copies of any civil verdict or judgment involving  
 793 the applicant rendered within the 10 years preceding the  
 794 application, relating to medical negligence, violation of  
 795 residents' rights, or wrongful death. As a condition of  
 796 licensure, the licensee agrees to provide to the agency copies  
 797 of any new verdict or judgment involving the applicant, relating  
 798 to such matters, within 30 days after filing with the clerk of  
 799 the court. The information required in this paragraph shall be  
 800 maintained in the facility's licensure file and in an agency  
 801 database which is available as a public record.

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

805 Section 25. Section 400.0712, Florida Statutes, is amended  
 806 to read:

807 400.0712 Application for inactive license.—

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

810 ~~of its beds. Any request by a licensee that a nursing home or~~  
 811 ~~portion of a nursing home become inactive must be submitted to~~  
 812 ~~the agency in the approved format. The facility may not initiate~~  
 813 ~~any suspension of services, notify residents, or initiate~~  
 814 ~~inactivity before receiving approval from the agency; and a~~  
 815 ~~licensee that violates this provision may not be issued an~~  
 816 ~~inactive license.~~

817 (1)~~(2)~~ In addition to the powers granted under part II of  
 818 chapter 408, the agency may issue an inactive license to a  
 819 nursing home that chooses to use an unoccupied contiguous  
 820 portion of the facility for an alternative use to meet the needs  
 821 of elderly persons through the use of less restrictive, less  
 822 institutional services.

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

827 (b) A request to extend the inactive license must be  
 828 submitted to the agency in the approved format and approved by  
 829 the agency in writing.

830 (c) Nursing homes that receive an inactive license to  
 831 provide alternative services shall not receive preference for  
 832 participation in the Assisted Living for the Elderly Medicaid  
 833 waiver.

834 (2)~~(3)~~ The agency shall adopt rules pursuant to ss.  
 835 120.536(1) and 120.54 necessary to implement this section.

836 Section 26. Section 400.111, Florida Statutes, is amended  
 837 to read:

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838 400.111 Disclosure of controlling interest.—In addition to  
839 the requirements of part II of chapter 408, when requested by  
840 the agency, the licensee shall submit a signed affidavit  
841 disclosing any financial or ownership interest that a  
842 controlling interest has held within the last 5 years in any  
843 entity licensed by the state or any other state to provide  
844 health or residential care which entity has closed voluntarily  
845 or involuntarily; has filed for bankruptcy; has had a receiver  
846 appointed; has had a license denied, suspended, or revoked; or  
847 has had an injunction issued against it which was initiated by a  
848 regulatory agency. The affidavit must disclose the reason such  
849 entity was closed, whether voluntarily or involuntarily.

850 Section 27. Subsection (2) of section 400.1183, Florida  
851 Statutes, is amended to read:

852 400.1183 Resident grievance procedures.—

853 (2) Each facility shall maintain records of all grievances  
854 for agency inspection and ~~shall report to the agency at the time~~  
855 ~~of relicensure the total number of grievances handled during the~~  
856 ~~prior licensure period, a categorization of the cases underlying~~  
857 ~~the grievances, and the final disposition of the grievances.~~

858 Section 28. Paragraphs (o) through (w) of subsection (1)  
859 of section 400.141, Florida Statutes, are redesignated as  
860 paragraphs (n) through (u), respectively, and present paragraphs  
861 (f), (g), (j), (n), (o), and (r) of that subsection are amended,  
862 to read:

863 400.141 Administration and management of nursing home  
864 facilities.—

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

867 (f) Be allowed and encouraged by the agency to provide  
868 other needed services under certain conditions. If the facility  
869 has a standard licensure status, ~~and has had no class I or class~~  
870 ~~II deficiencies during the past 2 years~~ or has been awarded a  
871 Gold Seal under the program established in s. 400.235, it may ~~be~~  
872 ~~encouraged by the agency to~~ provide services, including, but not  
873 limited to, respite and adult day services, which enable  
874 individuals to move in and out of the facility. A facility is  
875 not subject to any additional licensure requirements for  
876 providing these services.

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

881 a. Have a written abbreviated plan of care that, at a  
882 minimum, includes nutritional requirements, medication orders,  
883 physician orders, nursing assessments, and dietary preferences.  
884 The nursing or physician assessments may take the place of all  
885 other assessments required for full-time residents.

886 b. Have a contract that, at a minimum, specifies the  
887 services to be provided to the respite resident, including  
888 charges for services, activities, equipment, emergency medical  
889 services, and the administration of medications. If multiple  
890 respite admissions for a single person are anticipated, the  
891 original contract is valid for 1 year after the date of  
892 execution.



893        c. Ensure that each resident is released to his or her  
 894 caregiver or an individual designated in writing by the  
 895 caregiver.

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

897        a. Exempt from requirements in rule related to discharge  
 898 planning.

899        b. Covered by the resident's rights set forth in s.  
 900 400.022(1)(a)-(o) and (r)-(t). Funds or property of the resident  
 901 shall not be considered trust funds subject to the requirements  
 902 of s. 400.022(1)(h) until the resident has been in the facility  
 903 for more than 14 consecutive days.

904        c. Allowed to use his or her personal medications for the  
 905 respite stay if permitted by facility policy. The facility must  
 906 obtain a physician's orders for the medications. The caregiver  
 907 may provide information regarding the medications as part of the  
 908 nursing assessment, which must agree with the physician's  
 909 orders. Medications shall be released with the resident upon  
 910 discharge in accordance with current orders.

911        3. A person receiving respite care is entitled to a total  
 912 of 60 days in the facility within a contract year or a calendar  
 913 year if the contract is for less than 12 months. However, each  
 914 single stay may not exceed 14 days. If a stay exceeds 14  
 915 consecutive days, the facility must comply with all assessment  
 916 and care planning requirements applicable to nursing home  
 917 residents.

918        4. A person receiving respite care must reside in a  
 919 licensed nursing home bed.

920        5. A prospective respite resident must provide medical

921 information from a physician, a physician assistant, or a nurse  
 922 practitioner and other information from the primary caregiver as  
 923 may be required by the facility prior to or at the time of  
 924 admission to receive respite care. The medical information must  
 925 include a physician's order for respite care and proof of a  
 926 physical examination by a licensed physician, physician  
 927 assistant, or nurse practitioner. The physician's order and  
 928 physical examination may be used to provide intermittent respite  
 929 care for up to 12 months after the date the order is written.

930 6. The facility must assume the duties of the primary  
 931 caregiver. To ensure continuity of care and services, the  
 932 resident is entitled to retain his or her personal physician and  
 933 must have access to medically necessary services such as  
 934 physical therapy, occupational therapy, or speech therapy, as  
 935 needed. The facility must arrange for transportation to these  
 936 services if necessary. ~~Respite care must be provided in~~  
 937 ~~accordance with this part and rules adopted by the agency.~~  
 938 ~~However, the agency shall, by rule, adopt modified requirements~~  
 939 ~~for resident assessment, resident care plans, resident~~  
 940 ~~contracts, physician orders, and other provisions, as~~  
 941 ~~appropriate, for short-term or temporary nursing home services.~~

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

949 capacity unless that person receives 24-hour respite care. A  
950 person receiving either respite care for 24 hours or longer or  
951 adult day services must be included when calculating minimum  
952 staffing for the facility. Any costs and revenues generated by a  
953 nursing home facility from nonresidential programs or services  
954 shall be excluded from the calculations of Medicaid per diems  
955 for nursing home institutional care reimbursement.

956 (g) If the facility has a standard license or is a Gold  
957 Seal facility, exceeds the minimum required hours of licensed  
958 nursing and certified nursing assistant direct care per resident  
959 per day, and is part of a continuing care facility licensed  
960 under chapter 651 or a retirement community that offers other  
961 services pursuant to part III of this chapter or part I or part  
962 III of chapter 429 on a single campus, be allowed to share  
963 programming and staff. At the time of inspection and in the  
964 semiannual report required pursuant to paragraph (n) ~~(o)~~, a  
965 continuing care facility or retirement community that uses this  
966 option must demonstrate through staffing records that minimum  
967 staffing requirements for the facility were met. Licensed nurses  
968 and certified nursing assistants who work in the nursing home  
969 facility may be used to provide services elsewhere on campus if  
970 the facility exceeds the minimum number of direct care hours  
971 required per resident per day and the total number of residents  
972 receiving direct care services from a licensed nurse or a  
973 certified nursing assistant does not cause the facility to  
974 violate the staffing ratios required under s. 400.23(3)(a).  
975 Compliance with the minimum staffing ratios shall be based on  
976 total number of residents receiving direct care services,

977 | regardless of where they reside on campus. If the facility  
 978 | receives a conditional license, it may not share staff until the  
 979 | conditional license status ends. This paragraph does not  
 980 | restrict the agency's authority under federal or state law to  
 981 | require additional staff if a facility is cited for deficiencies  
 982 | in care which are caused by an insufficient number of certified  
 983 | nursing assistants or licensed nurses. The agency may adopt  
 984 | rules for the documentation necessary to determine compliance  
 985 | with this provision.

986 |       (j) Keep full records of resident admissions and  
 987 | discharges; medical and general health status, including medical  
 988 | records, personal and social history, and identity and address  
 989 | of next of kin or other persons who may have responsibility for  
 990 | the affairs of the residents; and individual resident care plans  
 991 | including, but not limited to, prescribed services, service  
 992 | frequency and duration, and service goals. The records shall be  
 993 | open to inspection by the agency. The facility must maintain  
 994 | clinical records on each resident in accordance with accepted  
 995 | professional standards and practices that are complete,  
 996 | accurately documented, readily accessible, and systematically  
 997 | organized.

998 |       ~~(n) Submit to the agency the information specified in s.~~  
 999 | ~~400.071(1)(b) for a management company within 30 days after the~~  
 1000 | ~~effective date of the management agreement.~~

1001 |       (n)~~(e)~~1. Submit semiannually to the agency, or more  
 1002 | frequently if requested by the agency, information regarding  
 1003 | facility staff-to-resident ratios, staff turnover, and staff  
 1004 | stability, including information regarding certified nursing

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1005 assistants, licensed nurses, the director of nursing, and the  
1006 facility administrator. For purposes of this reporting:

1007 a. Staff-to-resident ratios must be reported in the  
1008 categories specified in s. 400.23(3)(a) and applicable rules.  
1009 The ratio must be reported as an average for the most recent  
1010 calendar quarter.

1011 b. Staff turnover must be reported for the most recent 12-  
1012 month period ending on the last workday of the most recent  
1013 calendar quarter prior to the date the information is submitted.  
1014 The turnover rate must be computed quarterly, with the annual  
1015 rate being the cumulative sum of the quarterly rates. The  
1016 turnover rate is the total number of terminations or separations  
1017 experienced during the quarter, excluding any employee  
1018 terminated during a probationary period of 3 months or less,  
1019 divided by the total number of staff employed at the end of the  
1020 period for which the rate is computed, and expressed as a  
1021 percentage.

1022 c. The formula for determining staff stability is the  
1023 total number of employees that have been employed for more than  
1024 12 months, divided by the total number of employees employed at  
1025 the end of the most recent calendar quarter, and expressed as a  
1026 percentage.

1027 d. A nursing facility that has failed to comply with state  
1028 minimum-staffing requirements for 2 consecutive days is  
1029 prohibited from accepting new admissions until the facility has  
1030 achieved the minimum-staffing requirements for a period of 6  
1031 consecutive days. For the purposes of this sub-subparagraph, any  
1032 person who was a resident of the facility and was absent from

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1033 the facility for the purpose of receiving medical care at a  
 1034 separate location or was on a leave of absence is not considered  
 1035 a new admission. Failure to impose such an admissions moratorium  
 1036 is subject to a \$1,000 fine ~~constitutes a class II deficiency.~~

1037 e. A nursing facility which does not have a conditional  
 1038 license may be cited for failure to comply with the standards in  
 1039 s. 400.23(3)(a)1.a. only if it has failed to meet those  
 1040 standards on 2 consecutive days or if it has failed to meet at  
 1041 least 97 percent of those standards on any one day.

1042 f. A facility which has a conditional license must be in  
 1043 compliance with the standards in s. 400.23(3)(a) at all times.

1044 2. This paragraph does not limit the agency's ability to  
 1045 impose a deficiency or take other actions if a facility does not  
 1046 have enough staff to meet the residents' needs.

1047 ~~(r) Report to the agency any filing for bankruptcy~~  
 1048 ~~protection by the facility or its parent corporation,~~  
 1049 ~~divestiture or spin-off of its assets, or corporate~~  
 1050 ~~reorganization within 30 days after the completion of such~~  
 1051 ~~activity.~~

1052 Section 29. Subsection (3) of section 400.142, Florida  
 1053 Statutes, is amended to read:

1054 400.142 Emergency medication kits; orders not to  
 1055 resuscitate.-

1056 (3) Facility staff may withhold or withdraw  
 1057 cardiopulmonary resuscitation if presented with an order not to  
 1058 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~  
 1059 ~~adopt rules providing for the implementation of such orders.~~  
 1060 Facility staff and facilities shall not be subject to criminal

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1061 prosecution or civil liability, nor be considered to have  
 1062 engaged in negligent or unprofessional conduct, for withholding  
 1063 or withdrawing cardiopulmonary resuscitation pursuant to such an  
 1064 order and rules adopted by the agency. The absence of an order  
 1065 not to resuscitate executed pursuant to s. 401.45 does not  
 1066 preclude a physician from withholding or withdrawing  
 1067 cardiopulmonary resuscitation as otherwise permitted by law.

1068 Section 30. Subsections (11) through (15) of section  
 1069 400.147, Florida Statutes, are renumbered as subsections (10)  
 1070 through (14), respectively, and present subsection (10) is  
 1071 amended to read:

1072 400.147 Internal risk management and quality assurance  
 1073 program.—

1074 ~~(10) By the 10th of each month, each facility subject to~~  
 1075 ~~this section shall report any notice received pursuant to s.~~  
 1076 ~~400.0233(2) and each initial complaint that was filed with the~~  
 1077 ~~clerk of the court and served on the facility during the~~  
 1078 ~~previous month by a resident or a resident's family member,~~  
 1079 ~~guardian, conservator, or personal legal representative. The~~  
 1080 ~~report must include the name of the resident, the resident's~~  
 1081 ~~date of birth and social security number, the Medicaid~~  
 1082 ~~identification number for Medicaid-eligible persons, the date or~~  
 1083 ~~dates of the incident leading to the claim or dates of~~  
 1084 ~~residency, if applicable, and the type of injury or violation of~~  
 1085 ~~rights alleged to have occurred. Each facility shall also submit~~  
 1086 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~  
 1087 ~~complaints filed with the clerk of the court. This report is~~  
 1088 ~~confidential as provided by law and is not discoverable or~~

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1089 ~~admissible in any civil or administrative action, except in such~~  
 1090 ~~actions brought by the agency to enforce the provisions of this~~  
 1091 ~~part.~~

1092 Section 31. Section 400.148, Florida Statutes, is  
 1093 repealed.

1094 Section 32. Paragraph (f) of subsection (5) of section  
 1095 400.162, Florida Statutes, is amended to read:

1096 400.162 Property and personal affairs of residents.—

1097 (5)

1098 (f) At least every 3 months, the licensee shall furnish  
 1099 the resident and the guardian, trustee, or conservator, if any,  
 1100 for the resident a complete and verified statement of all funds  
 1101 ~~and other property~~ to which this subsection applies, detailing  
 1102 the amounts ~~and items~~ received, together with their sources and  
 1103 disposition. For resident property, the licensee shall furnish  
 1104 such a statement annually and within 7 calendar days after a  
 1105 request for a statement. In any event, the licensee shall  
 1106 furnish such statements ~~a statement~~ annually and upon the  
 1107 discharge or transfer of a resident. Any governmental agency or  
 1108 private charitable agency contributing funds or other property  
 1109 on account of a resident also shall be entitled to receive such  
 1110 statements ~~statement~~ annually and upon discharge or transfer and  
 1111 such other report as it may require pursuant to law.

1112 Section 33. Paragraphs (d) and (e) of subsection (2) of  
 1113 section 400.179, Florida Statutes, are amended to read:

1114 400.179 Liability for Medicaid underpayments and  
 1115 overpayments.—

1116 (2) Because any transfer of a nursing facility may expose



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1117 the fact that Medicaid may have underpaid or overpaid the  
1118 transferor, and because in most instances, any such underpayment  
1119 or overpayment can only be determined following a formal field  
1120 audit, the liabilities for any such underpayments or  
1121 overpayments shall be as follows:

1122 (d) Where the transfer involves a facility that has been  
1123 leased by the transferor:

1124 1. The transferee shall, as a condition to being issued a  
1125 license by the agency, acquire, maintain, and provide proof to  
1126 the agency of a bond with a term of 30 months, renewable  
1127 annually, in an amount not less than the total of 3 months'  
1128 Medicaid payments to the facility computed on the basis of the  
1129 preceding 12-month average Medicaid payments to the facility.

1130 2. A leasehold licensee may meet the requirements of  
1131 subparagraph 1. by payment of a nonrefundable fee, paid at  
1132 initial licensure, paid at the time of any subsequent change of  
1133 ownership, and paid annually thereafter, in the amount of 1  
1134 percent of the total of 3 months' Medicaid payments to the  
1135 facility computed on the basis of the preceding 12-month average  
1136 Medicaid payments to the facility. If a preceding 12-month  
1137 average is not available, projected Medicaid payments may be  
1138 used. The fee shall be deposited into the Grants and Donations  
1139 Trust Fund and shall be accounted for separately as a Medicaid  
1140 nursing home overpayment account. These fees shall be used at  
1141 the sole discretion of the agency to repay nursing home Medicaid  
1142 overpayments. Payment of this fee shall not release the licensee  
1143 from any liability for any Medicaid overpayments, nor shall  
1144 payment bar the agency from seeking to recoup overpayments from

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1145 the licensee and any other liable party. As a condition of  
1146 exercising this lease bond alternative, licensees paying this  
1147 fee must maintain an existing lease bond through the end of the  
1148 30-month term period of that bond. The agency is herein granted  
1149 specific authority to promulgate all rules pertaining to the  
1150 administration and management of this account, including  
1151 withdrawals from the account, subject to federal review and  
1152 approval. This provision shall take effect upon becoming law and  
1153 shall apply to any leasehold license application. The financial  
1154 viability of the Medicaid nursing home overpayment account shall  
1155 be determined by the agency through annual review of the account  
1156 balance and the amount of total outstanding, unpaid Medicaid  
1157 overpayments owing from leasehold licensees to the agency as  
1158 determined by final agency audits. By March 31 of each year, the  
1159 agency shall assess the cumulative fees collected under this  
1160 subparagraph, minus any amounts used to repay nursing home  
1161 Medicaid overpayments and amounts transferred to contribute to  
1162 the General Revenue Fund pursuant to s. 215.20. If the net  
1163 cumulative collections, minus amounts utilized to repay nursing  
1164 home Medicaid overpayments, exceed \$25 million, the provisions  
1165 of this paragraph shall not apply for the subsequent fiscal  
1166 year.

1167 3. The leasehold licensee may meet the bond requirement  
1168 through other arrangements acceptable to the agency. The agency  
1169 is herein granted specific authority to promulgate rules  
1170 pertaining to lease bond arrangements.

1171 4. All existing nursing facility licensees, operating the  
1172 facility as a leasehold, shall acquire, maintain, and provide

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1173 proof to the agency of the 30-month bond required in  
 1174 subparagraph 1., above, on and after July 1, 1993, for each  
 1175 license renewal.

1176 5. It shall be the responsibility of all nursing facility  
 1177 operators, operating the facility as a leasehold, to renew the  
 1178 30-month bond and to provide proof of such renewal to the agency  
 1179 annually.

1180 6. Any failure of the nursing facility operator to  
 1181 acquire, maintain, renew annually, or provide proof to the  
 1182 agency shall be grounds for the agency to deny, revoke, and  
 1183 suspend the facility license to operate such facility and to  
 1184 take any further action, including, but not limited to,  
 1185 enjoining the facility, asserting a moratorium pursuant to part  
 1186 II of chapter 408, or applying for a receiver, deemed necessary  
 1187 to ensure compliance with this section and to safeguard and  
 1188 protect the health, safety, and welfare of the facility's  
 1189 residents. A lease agreement required as a condition of bond  
 1190 financing or refinancing under s. 154.213 by a health facilities  
 1191 authority or required under s. 159.30 by a county or  
 1192 municipality is not a leasehold for purposes of this paragraph  
 1193 and is not subject to the bond requirement of this paragraph.

1194 ~~(c) For the 2009-2010 fiscal year only, the provisions of~~  
 1195 ~~paragraph (d) shall not apply. This paragraph expires July 1,~~  
 1196 ~~2010.~~

1197 Section 34. Subsection (3) of section 400.19, Florida  
 1198 Statutes, is amended to read:

1199 400.19 Right of entry and inspection.—

1200 (3) The agency shall every 15 months conduct at least one

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1201 unannounced inspection to determine compliance by the licensee  
 1202 with statutes, and with rules promulgated under the provisions  
 1203 of those statutes, governing minimum standards of construction,  
 1204 quality and adequacy of care, and rights of residents. The  
 1205 survey shall be conducted every 6 months for the next 2-year  
 1206 period if the facility has been cited for a class I deficiency,  
 1207 has been cited for two or more class II deficiencies arising  
 1208 from separate surveys or investigations within a 60-day period,  
 1209 or has had three or more substantiated complaints within a 6-  
 1210 month period, each resulting in at least one class I or class II  
 1211 deficiency. In addition to any other fees or fines in this part,  
 1212 the agency shall assess a fine for each facility that is subject  
 1213 to the 6-month survey cycle. The fine for the 2-year period  
 1214 shall be \$6,000, one-half to be paid at the completion of each  
 1215 survey. The agency may adjust this fine by the change in the  
 1216 Consumer Price Index, based on the 12 months immediately  
 1217 preceding the increase, to cover the cost of the additional  
 1218 surveys. The agency shall verify through subsequent inspection  
 1219 that any deficiency identified during inspection is corrected.  
 1220 However, the agency may verify the correction of a class III or  
 1221 class IV deficiency ~~unrelated to resident rights or resident~~  
 1222 ~~care~~ without reinspecting the facility if adequate written  
 1223 documentation has been received from the facility, which  
 1224 provides assurance that the deficiency has been corrected. The  
 1225 giving or causing to be given of advance notice of such  
 1226 unannounced inspections by an employee of the agency to any  
 1227 unauthorized person shall constitute cause for suspension of not  
 1228 fewer than 5 working days according to the provisions of chapter

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1229 110.

1230 Section 35. Section 400.195, Florida Statutes, is  
 1231 repealed.

1232 Section 36. Subsection (5) of section 400.23, Florida  
 1233 Statutes, is amended to read:

1234 400.23 Rules; evaluation and deficiencies; licensure  
 1235 status.—

1236 (5) The agency, in collaboration with the Division of  
 1237 Children's Medical Services Network of the Department of Health,  
 1238 ~~must, no later than December 31, 1993,~~ adopt rules for minimum  
 1239 standards of care for persons under 21 years of age who reside  
 1240 in nursing home facilities. The rules must include a methodology  
 1241 for reviewing a nursing home facility under ss. 408.031-408.045  
 1242 which serves only persons under 21 years of age. A facility may  
 1243 be exempt from these standards for specific persons between 18  
 1244 and 21 years of age, if the person's physician agrees that  
 1245 minimum standards of care based on age are not necessary.

1246 Section 37. Subsection (1) of section 400.275, Florida  
 1247 Statutes, is amended to read:

1248 400.275 Agency duties.—

1249 (1) ~~The agency shall ensure that each newly hired nursing~~  
 1250 ~~home surveyor, as a part of basic training, is assigned full-~~  
 1251 ~~time to a licensed nursing home for at least 2 days within a 7-~~  
 1252 ~~day period to observe facility operations outside of the survey~~  
 1253 ~~process before the surveyor begins survey responsibilities. Such~~  
 1254 ~~observations may not be the sole basis of a deficiency citation~~  
 1255 ~~against the facility.~~ The agency may not assign an individual to  
 1256 be a member of a survey team for purposes of a survey,

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1257 evaluation, or consultation visit at a nursing home facility in  
1258 which the surveyor was an employee within the preceding 2 ~~5~~  
1259 years.

1260 Section 38. Subsection (2) of section 400.484, Florida  
1261 Statutes, is amended to read:

1262 400.484 Right of inspection; violations ~~deficiencies~~;  
1263 fines.—

1264 (2) The agency shall impose fines for various classes of  
1265 violations ~~deficiencies~~ in accordance with the following  
1266 schedule:

1267 (a) Class I violations are defined in s. 408.813. ~~A class~~  
1268 ~~I deficiency is any act, omission, or practice that results in a~~  
1269 ~~patient's death, disablement, or permanent injury, or places a~~  
1270 ~~patient at imminent risk of death, disablement, or permanent~~  
1271 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency  
1272 shall impose an administrative fine in the amount of \$15,000 for  
1273 each occurrence and each day that the violation ~~deficiency~~  
1274 exists.

1275 (b) Class II violations are defined in s. 408.813. ~~A class~~  
1276 ~~II deficiency is any act, omission, or practice that has a~~  
1277 ~~direct adverse effect on the health, safety, or security of a~~  
1278 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the  
1279 agency shall impose an administrative fine in the amount of  
1280 \$5,000 for each occurrence and each day that the violation  
1281 ~~deficiency~~ exists.

1282 (c) Class III violations are defined in s. 408.813. ~~A~~  
1283 ~~class III deficiency is any act, omission, or practice that has~~  
1284 ~~an indirect, adverse effect on the health, safety, or security~~

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1285 ~~of a patient.~~ Upon finding an uncorrected or repeated class III  
 1286 violation deficiency, the agency shall impose an administrative  
 1287 fine not to exceed \$1,000 for each occurrence and each day that  
 1288 the uncorrected or repeated violation deficiency exists.

1289 (d) Class IV violations are defined in s. 408.813. ~~A class~~  
 1290 ~~IV deficiency is any act, omission, or practice related to~~  
 1291 ~~required reports, forms, or documents which does not have the~~  
 1292 ~~potential of negatively affecting patients. These violations are~~  
 1293 ~~of a type that the agency determines do not threaten the health,~~  
 1294 ~~safety, or security of patients.~~ Upon finding an uncorrected or  
 1295 repeated class IV violation deficiency, the agency shall impose  
 1296 an administrative fine not to exceed \$500 for each occurrence  
 1297 and each day that the uncorrected or repeated violation  
 1298 deficiency exists.

1299 Section 39. Paragraph (i) of subsection (1) and subsection  
 1300 (4) of section 400.606, Florida Statutes, are amended to read:

1301 400.606 License; application; renewal; conditional license  
 1302 or permit; certificate of need.—

1303 (1) In addition to the requirements of part II of chapter  
 1304 408, the initial application and change of ownership application  
 1305 must be accompanied by a plan for the delivery of home,  
 1306 residential, and homelike inpatient hospice services to  
 1307 terminally ill persons and their families. Such plan must  
 1308 contain, but need not be limited to:

1309 ~~(i) The projected annual operating cost of the hospice.~~

1310  
 1311 If the applicant is an existing licensed health care provider,  
 1312 the application must be accompanied by a copy of the most recent

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1313 profit-loss statement and, if applicable, the most recent  
 1314 licensure inspection report.

1315 (4) A freestanding hospice facility that is ~~primarily~~  
 1316 engaged in providing inpatient and related services and that is  
 1317 not otherwise licensed as a health care facility shall be  
 1318 required to obtain a certificate of need. However, a  
 1319 freestanding hospice facility with six or fewer beds shall not  
 1320 be required to comply with institutional standards such as, but  
 1321 not limited to, standards requiring sprinkler systems, emergency  
 1322 electrical systems, or special lavatory devices.

1323 Section 40. Subsection (2) of section 400.607, Florida  
 1324 Statutes, is amended to read:

1325 400.607 Denial, suspension, revocation of license;  
 1326 emergency actions; imposition of administrative fine; grounds.—

1327 (2) A violation of this part, part II of chapter 408, or  
 1328 applicable rules ~~Any of the following actions~~ by a licensed  
 1329 hospice or any of its employees shall be grounds for  
 1330 administrative action by the agency against a hospice.÷

1331 ~~(a) A violation of the provisions of this part, part II of~~  
 1332 ~~chapter 408, or applicable rules.~~

1333 ~~(b) An intentional or negligent act materially affecting~~  
 1334 ~~the health or safety of a patient.~~

1335 Section 41. Subsection (1) of section 400.925, Florida  
 1336 Statutes, is amended to read:

1337 400.925 Definitions.—As used in this part, the term:

1338 (1) "Accrediting organizations" means The Joint Commission  
 1339 ~~on Accreditation of Healthcare Organizations~~ or other national



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1340 accreditation agencies whose standards for accreditation are  
 1341 comparable to those required by this part for licensure.

1342 Section 42. Subsections (3) through (6) of section  
 1343 400.931, Florida Statutes, are renumbered as subsections (2)  
 1344 through (5), respectively, and present subsection (2) of that  
 1345 section is amended to read:

1346 400.931 Application for license; ~~fee; provisional license;~~  
 1347 ~~temporary permit.~~-

1348 ~~(2) As an alternative to submitting proof of financial~~  
 1349 ~~ability to operate as required in s. 408.810(8), the applicant~~  
 1350 ~~may submit a \$50,000 surety bond to the agency.~~

1351 Section 43. Subsection (2) of section 400.932, Florida  
 1352 Statutes, is amended to read:

1353 400.932 Administrative penalties.-

1354 (2) A violation of this part, part II of chapter 408, or  
 1355 applicable rules ~~Any of the following actions~~ by an employee of  
 1356 a home medical equipment provider shall be ~~are~~ grounds for  
 1357 administrative action or penalties by the agency.÷

1358 ~~(a) Violation of this part, part II of chapter 408, or~~  
 1359 ~~applicable rules.~~

1360 ~~(b) An intentional, reckless, or negligent act that~~  
 1361 ~~materially affects the health or safety of a patient.~~

1362 Section 44. Subsection (3) of section 400.967, Florida  
 1363 Statutes, is amended to read:

1364 400.967 Rules and classification of violations  
 1365 ~~deficiencies.~~-

1366 (3) The agency shall adopt rules to provide that, when the  
 1367 criteria established under this part and part II of chapter 408

1368 are not met, such violations ~~deficiencies~~ shall be classified  
 1369 according to the nature of the violation ~~deficiency~~. The agency  
 1370 shall indicate the classification on the face of the notice of  
 1371 deficiencies as follows:

1372 (a) Class I violations ~~deficiencies~~ are defined in s.  
 1373 408.813 ~~those which the agency determines present an imminent~~  
 1374 ~~danger to the residents or guests of the facility or a~~  
 1375 ~~substantial probability that death or serious physical harm~~  
 1376 ~~would result therefrom. The condition or practice constituting a~~  
 1377 ~~class I violation must be abated or eliminated immediately,~~  
 1378 ~~unless a fixed period of time, as determined by the agency, is~~  
 1379 ~~required for correction.~~ A class I violation ~~deficiency~~ is  
 1380 subject to a civil penalty in an amount not less than \$5,000 and  
 1381 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may  
 1382 be levied notwithstanding the correction of the violation  
 1383 ~~deficiency~~.

1384 (b) Class II violations ~~deficiencies~~ are defined in s.  
 1385 408.813 ~~those which the agency determines have a direct or~~  
 1386 ~~immediate relationship to the health, safety, or security of the~~  
 1387 ~~facility residents, other than class I deficiencies.~~ A class II  
 1388 violation ~~deficiency~~ is subject to a civil penalty in an amount  
 1389 not less than \$1,000 and not exceeding \$5,000 for each violation  
 1390 ~~deficiency~~. A citation for a class II violation ~~deficiency~~ shall  
 1391 specify the time within which the violation ~~deficiency~~ must be  
 1392 corrected. If a class II violation ~~deficiency~~ is corrected  
 1393 within the time specified, no civil penalty shall be imposed,  
 1394 unless it is a repeated offense.

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1395 (c) Class III violations ~~deficiencies~~ are defined in s.  
 1396 408.813 ~~those which the agency determines to have an indirect or~~  
 1397 ~~potential relationship to the health, safety, or security of the~~  
 1398 ~~facility residents, other than class I or class II deficiencies.~~  
 1399 A class III violation ~~deficiency~~ is subject to a civil penalty  
 1400 of not less than \$500 and not exceeding \$1,000 for each  
 1401 deficiency. A citation for a class III violation ~~deficiency~~  
 1402 shall specify the time within which the violation ~~deficiency~~  
 1403 must be corrected. If a class III violation ~~deficiency~~ is  
 1404 corrected within the time specified, no civil penalty shall be  
 1405 imposed, unless it is a repeated offense.

1406 (d) Class IV violations are defined in s. 408.813. Upon  
 1407 finding an uncorrected or repeated class IV violation, the  
 1408 agency shall impose an administrative fine not to exceed \$500  
 1409 for each occurrence and each day that the uncorrected or  
 1410 repeated violation exists.

1411 Section 45. Subsections (4) and (7) of section 400.9905,  
 1412 Florida Statutes, are amended to read:

1413 400.9905 Definitions.—

1414 (4) "Clinic" means an entity at which health care services  
 1415 are provided to individuals and which tenders charges for  
 1416 reimbursement for such services, including a mobile clinic and a  
 1417 portable health service or equipment provider. For purposes of  
 1418 this part, the term does not include and the licensure  
 1419 requirements of this part do not apply to:

1420 (a) Entities licensed or registered by the state under  
 1421 chapter 395; or entities licensed or registered by the state and  
 1422 providing only health care services within the scope of services

1423 authorized under their respective licenses granted under ss.  
 1424 383.30-383.335, chapter 390, chapter 394, chapter 397, this  
 1425 chapter except part X, chapter 429, chapter 463, chapter 465,  
 1426 chapter 466, chapter 478, part I of chapter 483, chapter 484, or  
 1427 chapter 651; end-stage renal disease providers authorized under  
 1428 42 C.F.R. part 405, subpart U; or providers certified under 42  
 1429 C.F.R. part 485, subpart B or subpart H; or any entity that  
 1430 provides neonatal or pediatric hospital-based health care  
 1431 services or other health care services by licensed practitioners  
 1432 solely within a hospital licensed under chapter 395.

1433 (b) Entities that own, directly or indirectly, entities  
 1434 licensed or registered by the state pursuant to chapter 395; or  
 1435 entities that own, directly or indirectly, entities licensed or  
 1436 registered by the state and providing only health care services  
 1437 within the scope of services authorized pursuant to their  
 1438 respective licenses granted under ss. 383.30-383.335, chapter  
 1439 390, chapter 394, chapter 397, this chapter except part X,  
 1440 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
 1441 part I of chapter 483, chapter 484, chapter 651; end-stage renal  
 1442 disease providers authorized under 42 C.F.R. part 405, subpart  
 1443 U; or providers certified under 42 C.F.R. part 485, subpart B or  
 1444 subpart H; or any entity that provides neonatal or pediatric  
 1445 hospital-based health care services by licensed practitioners  
 1446 solely within a hospital licensed under chapter 395.

1447 (c) Entities that are owned, directly or indirectly, by an  
 1448 entity licensed or registered by the state pursuant to chapter  
 1449 395; or entities that are owned, directly or indirectly, by an  
 1450 entity licensed or registered by the state and providing only

1451 health care services within the scope of services authorized  
1452 pursuant to their respective licenses granted under ss. 383.30-  
1453 383.335, chapter 390, chapter 394, chapter 397, this chapter  
1454 except part X, chapter 429, chapter 463, chapter 465, chapter  
1455 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
1456 651; end-stage renal disease providers authorized under 42  
1457 C.F.R. part 405, subpart U; or providers certified under 42  
1458 C.F.R. part 485, subpart B or subpart H; or any entity that  
1459 provides neonatal or pediatric hospital-based health care  
1460 services by licensed practitioners solely within a hospital  
1461 under chapter 395.

1462 (d) Entities that are under common ownership, directly or  
1463 indirectly, with an entity licensed or registered by the state  
1464 pursuant to chapter 395; or entities that are under common  
1465 ownership, directly or indirectly, with an entity licensed or  
1466 registered by the state and providing only health care services  
1467 within the scope of services authorized pursuant to their  
1468 respective licenses granted under ss. 383.30-383.335, chapter  
1469 390, chapter 394, chapter 397, this chapter except part X,  
1470 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
1471 part I of chapter 483, chapter 484, or chapter 651; end-stage  
1472 renal disease providers authorized under 42 C.F.R. part 405,  
1473 subpart U; or providers certified under 42 C.F.R. part 485,  
1474 subpart B or subpart H; or any entity that provides neonatal or  
1475 pediatric hospital-based health care services by licensed  
1476 practitioners solely within a hospital licensed under chapter  
1477 395.

1478 (e) An entity that is exempt from federal taxation under

1479 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
 1480 under 26 U.S.C. s. 409 that has a board of trustees not less  
 1481 than two-thirds of which are Florida-licensed health care  
 1482 practitioners and provides only physical therapy services under  
 1483 physician orders, any community college or university clinic,  
 1484 and any entity owned or operated by the federal or state  
 1485 government, including agencies, subdivisions, or municipalities  
 1486 thereof.

1487 (f) A sole proprietorship, group practice, partnership, or  
 1488 corporation that provides health care services by physicians  
 1489 covered by s. 627.419, that is directly supervised by one or  
 1490 more of such physicians, and that is wholly owned by one or more  
 1491 of those physicians or by a physician and the spouse, parent,  
 1492 child, or sibling of that physician.

1493 (g) A sole proprietorship, group practice, partnership, or  
 1494 corporation that provides health care services by licensed  
 1495 health care practitioners under chapter 457, chapter 458,  
 1496 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
 1497 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
 1498 chapter 490, chapter 491, or part I, part III, part X, part  
 1499 XIII, or part XIV of chapter 468, or s. 464.012, which are  
 1500 wholly owned by one or more licensed health care practitioners,  
 1501 or the licensed health care practitioners set forth in this  
 1502 paragraph and the spouse, parent, child, or sibling of a  
 1503 licensed health care practitioner, so long as one of the owners  
 1504 who is a licensed health care practitioner is supervising the  
 1505 business activities and is legally responsible for the entity's  
 1506 compliance with all federal and state laws. However, a health

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1507 care practitioner may not supervise services beyond the scope of  
1508 the practitioner's license, except that, for the purposes of  
1509 this part, a clinic owned by a licensee in s. 456.053(3)(b) that  
1510 provides only services authorized pursuant to s. 456.053(3)(b)  
1511 may be supervised by a licensee specified in s. 456.053(3)(b).

1512 (h) Clinical facilities affiliated with an accredited  
1513 medical school at which training is provided for medical  
1514 students, residents, or fellows.

1515 (i) Entities that provide only oncology or radiation  
1516 therapy services by physicians licensed under chapter 458 or  
1517 chapter 459 or entities that provide oncology or radiation  
1518 therapy services by physicians licensed under chapter 458 or  
1519 chapter 459 which are owned by a corporation whose shares are  
1520 publicly traded on a recognized stock exchange.

1521 (j) Clinical facilities affiliated with a college of  
1522 chiropractic accredited by the Council on Chiropractic Education  
1523 at which training is provided for chiropractic students.

1524 (k) Entities that provide licensed practitioners to staff  
1525 emergency departments or to deliver anesthesia services in  
1526 facilities licensed under chapter 395 and that derive at least  
1527 90 percent of their gross annual revenues from the provision of  
1528 such services. Entities claiming an exemption from licensure  
1529 under this paragraph must provide documentation demonstrating  
1530 compliance.

1531 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or  
1532 perinatology clinical facilities that are a publicly traded  
1533 corporation or that are wholly owned, directly or indirectly, by  
1534 a publicly traded corporation. As used in this paragraph, a

1535 publicly traded corporation is a corporation that issues  
 1536 securities traded on an exchange registered with the United  
 1537 States Securities and Exchange Commission as a national  
 1538 securities exchange.

1539 (m) Entities that are owned by a corporation that has \$250  
 1540 million or more in total annual sales of health care services  
 1541 provided by licensed health care practitioners if one or more of  
 1542 the owners of the entity is a health care practitioner who is  
 1543 licensed in this state, is responsible for supervising the  
 1544 business activities of the entity, and is legally responsible  
 1545 for the entity's compliance with state law for purposes of this  
 1546 section.

1547 (7) "Portable health service or equipment provider" means  
 1548 an entity that contracts with or employs persons to provide  
 1549 portable health care services or equipment to multiple locations  
 1550 ~~performing treatment or diagnostic testing of individuals~~, that  
 1551 bills third-party payors for those services, and that otherwise  
 1552 meets the definition of a clinic in subsection (4).

1553 Section 46. Paragraph (b) of subsection (1) and paragraph  
 1554 (c) of subsection (4) of section 400.991, Florida Statutes, are  
 1555 amended to read:

1556 400.991 License requirements; background screenings;  
 1557 prohibitions.—

1558 (1)

1559 (b) Each mobile clinic must obtain a separate health care  
 1560 clinic license and must provide to the agency, at least  
 1561 quarterly, its projected street location to enable the agency to  
 1562 locate and inspect such clinic. A portable health service or



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1563 equipment provider must obtain a health care clinic license for  
1564 a single administrative office and is not required to submit  
1565 quarterly projected street locations.

1566 (4) In addition to the requirements of part II of chapter  
1567 408, the applicant must file with the application satisfactory  
1568 proof that the clinic is in compliance with this part and  
1569 applicable rules, including:

1570 (c) Proof of financial ability to operate as required  
1571 under ss. s. 408.810(8) and 408.8065. ~~As an alternative to~~  
1572 ~~submitting proof of financial ability to operate as required~~  
1573 ~~under s. 408.810(8), the applicant may file a surety bond of at~~  
1574 ~~least \$500,000 which guarantees that the clinic will act in full~~  
1575 ~~conformity with all legal requirements for operating a clinic,~~  
1576 ~~payable to the agency. The agency may adopt rules to specify~~  
1577 ~~related requirements for such surety bond.~~

1578 Section 47. Paragraph (g) of subsection (1) and paragraph  
1579 (a) of subsection (7) of section 400.9935, Florida Statutes, are  
1580 amended to read:

1581 400.9935 Clinic responsibilities.—

1582 (1) Each clinic shall appoint a medical director or clinic  
1583 director who shall agree in writing to accept legal  
1584 responsibility for the following activities on behalf of the  
1585 clinic. The medical director or the clinic director shall:

1586 (g) Conduct systematic reviews of clinic billings to  
1587 ensure that the billings are not fraudulent or unlawful. Upon  
1588 discovery of an unlawful charge, the medical director or clinic  
1589 director shall take immediate corrective action. If the clinic  
1590 performs only the technical component of magnetic resonance

1591 imaging, static radiographs, computed tomography, or positron  
 1592 emission tomography, and provides the professional  
 1593 interpretation of such services, in a fixed facility that is  
 1594 accredited by The Joint Commission ~~on Accreditation of~~  
 1595 ~~Healthcare Organizations~~ or the Accreditation Association for  
 1596 Ambulatory Health Care, and the American College of Radiology;  
 1597 and if, in the preceding quarter, the percentage of scans  
 1598 performed by that clinic which was billed to all personal injury  
 1599 protection insurance carriers was less than 15 percent, the  
 1600 chief financial officer of the clinic may, in a written  
 1601 acknowledgment provided to the agency, assume the responsibility  
 1602 for the conduct of the systematic reviews of clinic billings to  
 1603 ensure that the billings are not fraudulent or unlawful.

1604 (7) (a) Each clinic engaged in magnetic resonance imaging  
 1605 services must be accredited by The Joint Commission ~~on~~  
 1606 ~~Accreditation of Healthcare Organizations~~, the American College  
 1607 of Radiology, or the Accreditation Association for Ambulatory  
 1608 Health Care, within 1 year after licensure. A clinic that is  
 1609 accredited by the American College of Radiology or is within the  
 1610 original 1-year period after licensure and replaces its core  
 1611 magnetic resonance imaging equipment shall be given 1 year after  
 1612 the date on which the equipment is replaced to attain  
 1613 accreditation. However, a clinic may request a single, 6-month  
 1614 extension if it provides evidence to the agency establishing  
 1615 that, for good cause shown, such clinic cannot be accredited  
 1616 within 1 year after licensure, and that such accreditation will  
 1617 be completed within the 6-month extension. After obtaining  
 1618 accreditation as required by this subsection, each such clinic

1619 must maintain accreditation as a condition of renewal of its  
 1620 license. A clinic that files a change of ownership application  
 1621 must comply with the original accreditation timeframe  
 1622 requirements of the transferor. The agency shall deny a change  
 1623 of ownership application if the clinic is not in compliance with  
 1624 the accreditation requirements. When a clinic adds, replaces, or  
 1625 modifies magnetic resonance imaging equipment and the  
 1626 accreditation agency requires new accreditation, the clinic must  
 1627 be accredited within 1 year after the date of the addition,  
 1628 replacement, or modification but may request a single, 6-month  
 1629 extension if the clinic provides evidence of good cause to the  
 1630 agency.

1631 Section 48. Subsection (2) of section 408.034, Florida  
 1632 Statutes, is amended to read:

1633 408.034 Duties and responsibilities of agency; rules.—

1634 (2) In the exercise of its authority to issue licenses to  
 1635 health care facilities and health service providers, as provided  
 1636 under chapters 393 and 395 and parts II, and IV, and VIII of  
 1637 chapter 400, the agency may not issue a license to any health  
 1638 care facility or health service provider that fails to receive a  
 1639 certificate of need or an exemption for the licensed facility or  
 1640 service.

1641 Section 49. Paragraph (d) of subsection (1) of section  
 1642 408.036, Florida Statutes, is amended to read:

1643 408.036 Projects subject to review; exemptions.—

1644 (1) APPLICABILITY.—Unless exempt under subsection (3), all  
 1645 health-care-related projects, as described in paragraphs (a)–  
 1646 (g), are subject to review and must file an application for a

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1647 certificate of need with the agency. The agency is exclusively  
 1648 responsible for determining whether a health-care-related  
 1649 project is subject to review under ss. 408.031-408.045.

1650 (d) The establishment of a hospice or hospice inpatient  
 1651 facility, ~~except as provided in s. 408.043.~~

1652 Section 50. Subsection (2) of section 408.043, Florida  
 1653 Statutes, is amended to read:

1654 408.043 Special provisions.—

1655 (2) HOSPICES.—When an application is made for a  
 1656 certificate of need to establish or to expand a hospice, the  
 1657 need for such hospice shall be determined on the basis of the  
 1658 need for and availability of hospice services in the community.  
 1659 The formula on which the certificate of need is based shall  
 1660 discourage regional monopolies and promote competition. The  
 1661 inpatient hospice care component of a hospice which is a  
 1662 freestanding facility, or a part of a facility, ~~which is~~  
 1663 ~~primarily engaged in providing inpatient care and related~~  
 1664 ~~services~~ and is not licensed as a health care facility shall  
 1665 also be required to obtain a certificate of need. Provision of  
 1666 hospice care by any current provider of health care is a  
 1667 significant change in service and therefore requires a  
 1668 certificate of need for such services.

1669 Section 51. Paragraph (k) of subsection (3) of section  
 1670 408.05, Florida Statutes, is amended to read:

1671 408.05 Florida Center for Health Information and Policy  
 1672 Analysis.—

1673 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to  
 1674 produce comparable and uniform health information and statistics

1675 for the development of policy recommendations, the agency shall  
 1676 perform the following functions:

1677 (k) Develop, in conjunction with the State Consumer Health  
 1678 Information and Policy Advisory Council, and implement a long-  
 1679 range plan for making available health care quality measures and  
 1680 financial data that will allow consumers to compare health care  
 1681 services. The health care quality measures and financial data  
 1682 the agency must make available shall include, but is not limited  
 1683 to, pharmaceuticals, physicians, health care facilities, and  
 1684 health plans and managed care entities. The agency shall submit  
 1685 the initial plan to the Governor, the President of the Senate,  
 1686 and the Speaker of the House of Representatives by January 1,  
 1687 2006, and shall update the plan and report on the status of its  
 1688 implementation annually thereafter. The agency shall also make  
 1689 the plan and status report available to the public on its  
 1690 Internet website. As part of the plan, the agency shall identify  
 1691 the process and timeframes for implementation, any barriers to  
 1692 implementation, and recommendations of changes in the law that  
 1693 may be enacted by the Legislature to eliminate the barriers. As  
 1694 preliminary elements of the plan, the agency shall:

1695 1. Make available patient-safety indicators, inpatient  
 1696 quality indicators, and performance outcome and patient charge  
 1697 data collected from health care facilities pursuant to s.  
 1698 408.061(1)(a) and (2). The terms "patient-safety indicators" and  
 1699 "inpatient quality indicators" shall be as defined by the  
 1700 Centers for Medicare and Medicaid Services, the National Quality  
 1701 Forum, The Joint Commission ~~on Accreditation of Healthcare~~  
 1702 ~~Organizations~~, the Agency for Healthcare Research and Quality,

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1703 the Centers for Disease Control and Prevention, or a similar  
 1704 national entity that establishes standards to measure the  
 1705 performance of health care providers, or by other states. The  
 1706 agency shall determine which conditions, procedures, health care  
 1707 quality measures, and patient charge data to disclose based upon  
 1708 input from the council. When determining which conditions and  
 1709 procedures are to be disclosed, the council and the agency shall  
 1710 consider variation in costs, variation in outcomes, and  
 1711 magnitude of variations and other relevant information. When  
 1712 determining which health care quality measures to disclose, the  
 1713 agency:

1714 a. Shall consider such factors as volume of cases; average  
 1715 patient charges; average length of stay; complication rates;  
 1716 mortality rates; and infection rates, among others, which shall  
 1717 be adjusted for case mix and severity, if applicable.

1718 b. May consider such additional measures that are adopted  
 1719 by the Centers for Medicare and Medicaid Studies, National  
 1720 Quality Forum, The Joint Commission ~~on Accreditation of~~  
 1721 ~~Healthcare Organizations~~, the Agency for Healthcare Research and  
 1722 Quality, Centers for Disease Control and Prevention, or a  
 1723 similar national entity that establishes standards to measure  
 1724 the performance of health care providers, or by other states.

1725  
 1726 When determining which patient charge data to disclose, the  
 1727 agency shall include such measures as the average of  
 1728 undiscounted charges on frequently performed procedures and  
 1729 preventive diagnostic procedures, the range of procedure charges  
 1730 from highest to lowest, average net revenue per adjusted patient

1731 day, average cost per adjusted patient day, and average cost per  
 1732 admission, among others.

1733 2. Make available performance measures, benefit design,  
 1734 and premium cost data from health plans licensed pursuant to  
 1735 chapter 627 or chapter 641. The agency shall determine which  
 1736 health care quality measures and member and subscriber cost data  
 1737 to disclose, based upon input from the council. When determining  
 1738 which data to disclose, the agency shall consider information  
 1739 that may be required by either individual or group purchasers to  
 1740 assess the value of the product, which may include membership  
 1741 satisfaction, quality of care, current enrollment or membership,  
 1742 coverage areas, accreditation status, premium costs, plan costs,  
 1743 premium increases, range of benefits, copayments and  
 1744 deductibles, accuracy and speed of claims payment, credentials  
 1745 of physicians, number of providers, names of network providers,  
 1746 and hospitals in the network. Health plans shall make available  
 1747 to the agency any such data or information that is not currently  
 1748 reported to the agency or the office.

1749 3. Determine the method and format for public disclosure  
 1750 of data reported pursuant to this paragraph. The agency shall  
 1751 make its determination based upon input from the State Consumer  
 1752 Health Information and Policy Advisory Council. At a minimum,  
 1753 the data shall be made available on the agency's Internet  
 1754 website in a manner that allows consumers to conduct an  
 1755 interactive search that allows them to view and compare the  
 1756 information for specific providers. The website must include  
 1757 such additional information as is determined necessary to ensure  
 1758 that the website enhances informed decisionmaking among

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1759 consumers and health care purchasers, which shall include, at a  
1760 minimum, appropriate guidance on how to use the data and an  
1761 explanation of why the data may vary from provider to provider.  
1762 The data specified in subparagraph 1. shall be released no later  
1763 than January 1, 2006, for the reporting of infection rates, and  
1764 no later than October 1, 2005, for mortality rates and  
1765 complication rates. The data specified in subparagraph 2. shall  
1766 be released no later than October 1, 2006.

1767 4. Publish on its website undiscounted charges for no  
1768 fewer than 150 of the most commonly performed adult and  
1769 pediatric procedures, including outpatient, inpatient,  
1770 diagnostic, and preventative procedures.

1771 Section 52. Paragraph (a) of subsection (1) of section  
1772 408.061, Florida Statutes, is amended to read:

1773 408.061 Data collection; uniform systems of financial  
1774 reporting; information relating to physician charges;  
1775 confidential information; immunity.—

1776 (1) The agency shall require the submission by health care  
1777 facilities, health care providers, and health insurers of data  
1778 necessary to carry out the agency's duties. Specifications for  
1779 data to be collected under this section shall be developed by  
1780 the agency with the assistance of technical advisory panels  
1781 including representatives of affected entities, consumers,  
1782 purchasers, and such other interested parties as may be  
1783 determined by the agency.

1784 (a) Data submitted by health care facilities, including  
1785 the facilities as defined in chapter 395, shall include, but are  
1786 not limited to: case-mix data, patient admission and discharge



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1787 data, hospital emergency department data which shall include the  
 1788 number of patients treated in the emergency department of a  
 1789 licensed hospital reported by patient acuity level, data on  
 1790 hospital-acquired infections as specified by rule, data on  
 1791 complications as specified by rule, data on readmissions as  
 1792 specified by rule, with patient and provider-specific  
 1793 identifiers included, actual charge data by diagnostic groups,  
 1794 financial data, accounting data, operating expenses, expenses  
 1795 incurred for rendering services to patients who cannot or do not  
 1796 pay, interest charges, depreciation expenses based on the  
 1797 expected useful life of the property and equipment involved, and  
 1798 demographic data. The agency shall adopt nationally recognized  
 1799 risk adjustment methodologies or software consistent with the  
 1800 standards of the Agency for Healthcare Research and Quality and  
 1801 as selected by the agency for all data submitted as required by  
 1802 this section. Data may be obtained from documents such as, but  
 1803 not limited to: leases, contracts, debt instruments, itemized  
 1804 patient bills, medical record abstracts, and related diagnostic  
 1805 information. Reported data elements shall be reported  
 1806 electronically and ~~in accordance with rule 59E-7.012, Florida~~  
 1807 ~~Administrative Code. Data submitted shall be~~ certified by the  
 1808 chief executive officer or an appropriate and duly authorized  
 1809 representative or employee of the licensed facility that the  
 1810 information submitted is true and accurate.

1811 Section 53. Subsection (43) of section 408.07, Florida  
 1812 Statutes, is amended to read:

1813 408.07 Definitions.—As used in this chapter, with the  
 1814 exception of ss. 408.031-408.045, the term:

1815           (43) "Rural hospital" means an acute care hospital  
 1816 licensed under chapter 395, having 100 or fewer licensed beds  
 1817 and an emergency room, and which is:

1818           (a) The sole provider within a county with a population  
 1819 density of no greater than 100 persons per square mile;

1820           (b) An acute care hospital, in a county with a population  
 1821 density of no greater than 100 persons per square mile, which is  
 1822 at least 30 minutes of travel time, on normally traveled roads  
 1823 under normal traffic conditions, from another acute care  
 1824 hospital within the same county;

1825           (c) A hospital supported by a tax district or subdistrict  
 1826 whose boundaries encompass a population of 100 persons or fewer  
 1827 per square mile;

1828           (d) A hospital with a service area that has a population  
 1829 of 100 persons or fewer per square mile. As used in this  
 1830 paragraph, the term "service area" means the fewest number of  
 1831 zip codes that account for 75 percent of the hospital's  
 1832 discharges for the most recent 5-year period, based on  
 1833 information available from the hospital inpatient discharge  
 1834 database in the Florida Center for Health Information and Policy  
 1835 Analysis at the Agency for Health Care Administration; or

1836           (e) A critical access hospital.

1837

1838 Population densities used in this subsection must be based upon  
 1839 the most recently completed United States census. A hospital  
 1840 that received funds under s. 409.9116 for a quarter beginning no  
 1841 later than July 1, 2002, is deemed to have been and shall  
 1842 continue to be a rural hospital from that date through June 30,

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1843 2015, if the hospital continues to have 100 or fewer licensed  
 1844 beds and an emergency room, ~~or meets the criteria of s.~~  
 1845 ~~395.602(2)(c)~~ 4. An acute care hospital that has not previously  
 1846 been designated as a rural hospital and that meets the criteria  
 1847 of this subsection shall be granted such designation upon  
 1848 application, including supporting documentation, to the Agency  
 1849 for Health Care Administration.

1850 Section 54. Section 408.10, Florida Statutes, is amended  
 1851 to read:

1852 408.10 Consumer complaints.—The agency shall:

1853 ~~(1)~~ publish and make available to the public a toll-free  
 1854 telephone number for the purpose of handling consumer complaints  
 1855 and shall serve as a liaison between consumer entities and other  
 1856 private entities and governmental entities for the disposition  
 1857 of problems identified by consumers of health care.

1858 ~~(2) Be empowered to investigate consumer complaints~~  
 1859 ~~relating to problems with health care facilities' billing~~  
 1860 ~~practices and issue reports to be made public in any cases where~~  
 1861 ~~the agency determines the health care facility has engaged in~~  
 1862 ~~billing practices which are unreasonable and unfair to the~~  
 1863 ~~consumer.~~

1864 Section 55. Subsections (12) through (30) of section  
 1865 408.802, Florida Statutes, are renumbered as subsections (11)  
 1866 through (29), respectively, and present subsection (11) of that  
 1867 section is amended to read:

1868 408.802 Applicability.—The provisions of this part apply  
 1869 to the provision of services that require licensure as defined  
 1870 in this part and to the following entities licensed, registered,

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1871 or certified by the agency, as described in chapters 112, 383,  
 1872 390, 394, 395, 400, 429, 440, 483, and 765:

1873 ~~(11) Private review agents, as provided under part I of~~  
 1874 ~~chapter 395.~~

1875 Section 56. Subsection (3) is added to section 408.804,  
 1876 Florida Statutes, to read:

1877 408.804 License required; display.—

1878 (3) Any person who knowingly alters, defaces, or falsifies  
 1879 a license certificate issued by the agency, or causes or  
 1880 procures any person to commit such an offense, commits a  
 1881 misdemeanor of the second degree, punishable as provided in s.  
 1882 775.082 or s 775.083. Any licensee or provider who displays an  
 1883 altered, defaced, or falsified license certificate is subject to  
 1884 the penalties set forth in s. 408.815 and an administrative fine  
 1885 of \$1,000 for each day of illegal display.

1886 Section 57. Paragraph (d) of subsection (2) of section  
 1887 408.806, Florida Statutes, is amended, present subsections (3)  
 1888 through (8) are renumbered as subsections (4) through (9),  
 1889 respectively, and a new subsection (3) is added to that section,  
 1890 to read:

1891 408.806 License application process.—

1892 (2)

1893 ~~(d) The agency shall notify the licensee by mail or~~  
 1894 ~~electronically at least 90 days before the expiration of a~~  
 1895 ~~license that a renewal license is necessary to continue~~  
 1896 ~~operation.~~ The licensee's failure to timely file submit a  
 1897 renewal application and license application fee with the agency  
 1898 shall result in a \$50 per day late fee charged to the licensee

1899 | by the agency; however, the aggregate amount of the late fee may  
 1900 | not exceed 50 percent of the licensure fee or \$500, whichever is  
 1901 | less. The agency shall provide a courtesy notice to the licensee  
 1902 | by United States mail, electronically, or by any other manner at  
 1903 | its address of record or mailing address, if provided, at least  
 1904 | 90 days prior to the expiration of a license informing the  
 1905 | licensee of the expiration of the license. If the agency does  
 1906 | not provide the courtesy notice or the licensee does not receive  
 1907 | the courtesy notice, the licensee continues to be legally  
 1908 | obligated to timely file the renewal application and license  
 1909 | application fee with the agency and is not excused from the  
 1910 | payment of a late fee. If an application is received after the  
 1911 | required filing date and exhibits a hand-canceled postmark  
 1912 | obtained from a United States post office dated on or before the  
 1913 | required filing date, no fine will be levied.

1914 |       (3) Payment of the late fee is required to consider any  
 1915 | late application complete, and failure to pay the late fee is  
 1916 | considered an omission from the application.

1917 |       Section 58. Subsections (6) and (9) of section 408.810,  
 1918 | Florida Statutes, are amended to read:

1919 |       408.810 Minimum licensure requirements.—In addition to the  
 1920 | licensure requirements specified in this part, authorizing  
 1921 | statutes, and applicable rules, each applicant and licensee must  
 1922 | comply with the requirements of this section in order to obtain  
 1923 | and maintain a license.

1924 |       (6)(a) An applicant must provide the agency with proof of  
 1925 | the applicant's legal right to occupy the property before a  
 1926 | license may be issued. Proof may include, but need not be

1927 limited to, copies of warranty deeds, lease or rental  
 1928 agreements, contracts for deeds, quitclaim deeds, or other such  
 1929 documentation.

1930 (b) In the event the property is encumbered by a mortgage  
 1931 or is leased, an applicant must provide the agency with proof  
 1932 that the mortgagor or landlord has been provided written notice  
 1933 of the applicant's intent as mortgagee or tenant to provide  
 1934 services that require licensure and instruct the mortgagor or  
 1935 landlord to serve the agency by certified mail with copies of  
 1936 any foreclosure or eviction actions initiated by the mortgagor  
 1937 or landlord against the applicant.

1938 (9) A controlling interest may not withhold from the  
 1939 agency any evidence of financial instability, including, but not  
 1940 limited to, checks returned due to insufficient funds,  
 1941 delinquent accounts, nonpayment of withholding taxes, unpaid  
 1942 utility expenses, nonpayment for essential services, or adverse  
 1943 court action concerning the financial viability of the provider  
 1944 or any other provider licensed under this part that is under the  
 1945 control of the controlling interest. A controlling interest  
 1946 shall notify the agency within 10 days after a court action to  
 1947 initiate bankruptcy, foreclosure, or eviction proceedings  
 1948 concerning the provider, in which the controlling interest is a  
 1949 petitioner or defendant. Any person who violates this subsection  
 1950 commits a misdemeanor of the second degree, punishable as  
 1951 provided in s. 775.082 or s. 775.083. Each day of continuing  
 1952 violation is a separate offense.

1953 Section 59. Subsection (3) is added to section 408.813,  
 1954 Florida Statutes, to read:

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1955 408.813 Administrative fines; violations.—As a penalty for  
 1956 any violation of this part, authorizing statutes, or applicable  
 1957 rules, the agency may impose an administrative fine.

1958 (3) The agency may impose an administrative fine for a  
 1959 violation that does not qualify as a class I, class II, class  
 1960 III, or class IV violation. Unless otherwise specified by law,  
 1961 the amount of the fine shall not exceed \$500 for each violation.

1962 Unclassified violations may include:

1963 (a) Violating any term or condition of a license.

1964 (b) Violating any provision of this part, authorizing  
 1965 statutes, or applicable rules.

1966 (c) Exceeding licensed capacity.

1967 (d) Providing services beyond the scope of the license.

1968 (e) Violating a moratorium imposed pursuant to s. 408.814.

1969 Section 60. Subsection (5) is added to section 408.815,  
 1970 Florida Statutes, to read:

1971 408.815 License or application denial; revocation.—

1972 (5) In order to ensure the health, safety, and welfare of  
 1973 clients when a license has been denied, revoked, or is set to  
 1974 terminate, the agency may extend the license expiration date for  
 1975 a period of up to 30 days for the sole purpose of allowing the  
 1976 safe and orderly discharge of clients. The agency may impose  
 1977 conditions on the extension, including, but not limited to,  
 1978 prohibiting or limiting admissions, expedited discharge  
 1979 planning, required status reports, and mandatory monitoring by  
 1980 the agency or third parties. In imposing these conditions, the  
 1981 agency shall take into consideration the nature and number of  
 1982 clients, the availability and location of acceptable alternative

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1983 placements, and the ability of the licensee to continue  
 1984 providing care to the clients. The agency may terminate the  
 1985 extension or modify the conditions at any time. This authority  
 1986 is in addition to any other authority granted to the agency  
 1987 under chapter 120, this part, and authorizing statutes but  
 1988 creates no right or entitlement to an extension of a license  
 1989 expiration date.

1990 Section 61. Paragraph (k) of subsection (4) of section  
 1991 409.221, Florida Statutes, is amended to read:

1992 409.221 Consumer-directed care program.—

1993 (4) CONSUMER-DIRECTED CARE.—

1994 ~~(k) Reviews and reports. The agency and the Departments of~~  
 1995 ~~Elderly Affairs, Health, and Children and Family Services and~~  
 1996 ~~the Agency for Persons with Disabilities shall each, on an~~  
 1997 ~~ongoing basis, review and assess the implementation of the~~  
 1998 ~~consumer-directed care program. By January 15 of each year, the~~  
 1999 ~~agency shall submit a written report to the Legislature that~~  
 2000 ~~includes each department's review of the program and contains~~  
 2001 ~~recommendations for improvements to the program.~~

2002 Section 62. Subsections (3) and (4) of section 429.07,  
 2003 Florida Statutes, are amended, and subsections (6) and (7) are  
 2004 added to that section, to read:

2005 429.07 License required; fee; inspections.—

2006 (3) In addition to the requirements of s. 408.806, each  
 2007 license granted by the agency must state the type of care for  
 2008 which the license is granted. Licenses shall be issued for one  
 2009 or more of the following categories of care: standard, extended  
 2010 congregate care, ~~limited nursing services,~~ or limited mental



2011 health.

2012 (a) A standard license shall be issued to a facility  
 2013 ~~facilities~~ providing one or more of the personal services  
 2014 identified in s. 429.02. Such licensee ~~facilities~~ may also  
 2015 employ or contract with a person ~~licensed under part I of~~  
 2016 ~~chapter 464 to administer medications and~~ perform other tasks as  
 2017 specified in s. 429.255.

2018 (b) An extended congregate care license shall be issued to  
 2019 a licensee ~~facilities~~ providing, directly or through contract,  
 2020 services beyond those authorized in paragraph (a), including  
 2021 acts performed pursuant to part I of chapter 464 by persons  
 2022 licensed thereunder, and supportive services defined by rule to  
 2023 persons who otherwise would be disqualified from continued  
 2024 residence in a facility licensed under this part.

2025 1. In order for extended congregate care services to be  
 2026 provided in a facility licensed under this part, the agency must  
 2027 first determine that all requirements established in law and  
 2028 rule are met and must specifically designate, on the ~~facility's~~  
 2029 license, that such services may be provided and whether the  
 2030 designation applies to all or part of a facility. Such  
 2031 designation may be made at the time of initial licensure or  
 2032 relicensure, or upon request in writing by a licensee under this  
 2033 part and part II of chapter 408. Notification of approval or  
 2034 denial of such request shall be made in accordance with part II  
 2035 of chapter 408. An existing licensee ~~facilities~~ qualifying to  
 2036 provide extended congregate care services must have maintained a  
 2037 standard license and ~~may not have~~ been subject to administrative  
 2038 sanctions during the previous 2 years, or since initial

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2039 licensure if ~~the facility has been~~ licensed for less than 2  
 2040 years, for any of the following reasons:

- 2041 a. A class I or class II violation;
- 2042 b. Three or more repeat or recurring class III violations  
 2043 of identical or similar resident care standards as specified in  
 2044 rule from which a pattern of noncompliance is found by the  
 2045 agency;
- 2046 c. Three or more class III violations that were not  
 2047 corrected in accordance with the corrective action plan approved  
 2048 by the agency;
- 2049 d. Violation of resident care standards resulting in a  
 2050 requirement to employ the services of a consultant pharmacist or  
 2051 consultant dietitian;
- 2052 e. Denial, suspension, or revocation of a license for  
 2053 another facility under this part in which the applicant for an  
 2054 extended congregate care license has at least 25 percent  
 2055 ownership interest; or
- 2056 f. Imposition of a moratorium pursuant to this part or  
 2057 part II of chapter 408 or initiation of injunctive proceedings.

2058 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide  
 2059 extended congregate care services shall maintain a written  
 2060 progress report for ~~on~~ each person who receives such services,  
 2061 and the ~~which~~ report must describe ~~describes~~ the type, amount,  
 2062 duration, scope, and outcome of services that are rendered and  
 2063 the general status of the resident's health. ~~A registered nurse,~~  
 2064 ~~or appropriate designee, representing the agency shall visit~~  
 2065 ~~such facilities at least quarterly to monitor residents who are~~  
 2066 ~~receiving extended congregate care services and to determine if~~

2067 ~~the facility is in compliance with this part, part II of chapter~~  
 2068 ~~408, and rules that relate to extended congregate care. One of~~  
 2069 ~~these visits may be in conjunction with the regular survey. The~~  
 2070 ~~monitoring visits may be provided through contractual~~  
 2071 ~~arrangements with appropriate community agencies. A registered~~  
 2072 ~~nurse shall serve as part of the team that inspects such~~  
 2073 ~~facility. The agency may waive one of the required yearly~~  
 2074 ~~monitoring visits for a facility that has been licensed for at~~  
 2075 ~~least 24 months to provide extended congregate care services,~~  
 2076 ~~if, during the inspection, the registered nurse determines that~~  
 2077 ~~extended congregate care services are being provided~~  
 2078 ~~appropriately, and if the facility has no class I or class II~~  
 2079 ~~violations and no uncorrected class III violations. Before such~~  
 2080 ~~decision is made, the agency shall consult with the long-term~~  
 2081 ~~care ombudsman council for the area in which the facility is~~  
 2082 ~~located to determine if any complaints have been made and~~  
 2083 ~~substantiated about the quality of services or care. The agency~~  
 2084 ~~may not waive one of the required yearly monitoring visits if~~  
 2085 ~~complaints have been made and substantiated.~~

2086       3. Licensees ~~Facilities~~ that are licensed to provide  
 2087 extended congregate care services shall:

2088       a. Demonstrate the capability to meet unanticipated  
 2089 resident service needs.

2090       b. Offer a physical environment that promotes a homelike  
 2091 setting, provides for resident privacy, promotes resident  
 2092 independence, and allows sufficient congregate space as defined  
 2093 by rule.

2094       c. Have sufficient staff available, taking into account

2095 the physical plant and firesafety features of the building, to  
 2096 assist with the evacuation of residents in an emergency, as  
 2097 necessary.

2098 d. Adopt and follow policies and procedures that maximize  
 2099 resident independence, dignity, choice, and decisionmaking to  
 2100 permit residents to age in place to the extent possible, so that  
 2101 moves due to changes in functional status are minimized or  
 2102 avoided.

2103 e. Allow residents or, if applicable, a resident's  
 2104 representative, designee, surrogate, guardian, or attorney in  
 2105 fact to make a variety of personal choices, participate in  
 2106 developing service plans, and share responsibility in  
 2107 decisionmaking.

2108 f. Implement the concept of managed risk.

2109 g. Provide, either directly or through contract, the  
 2110 services of a person licensed pursuant to part I of chapter 464.

2111 h. In addition to the training mandated in s. 429.52,  
 2112 provide specialized training as defined by rule for facility  
 2113 staff.

2114 4. Licensees ~~Facilities~~ licensed to provide extended  
 2115 congregate care services are exempt from the criteria for  
 2116 continued residency as set forth in rules adopted under s.  
 2117 429.41. Licensees ~~Facilities so licensed~~ shall adopt their own  
 2118 requirements within guidelines for continued residency set forth  
 2119 by rule. However, such licensees ~~facilities~~ may not serve  
 2120 residents who require 24-hour nursing supervision. Licensees  
 2121 ~~Facilities~~ licensed to provide extended congregate care services  
 2122 shall provide each resident with a written copy of facility

2123 policies governing admission and retention.

2124 5. The primary purpose of extended congregate care  
 2125 services is to allow residents, as they become more impaired,  
 2126 the option of remaining in a familiar setting from which they  
 2127 would otherwise be disqualified for continued residency. A  
 2128 facility licensed to provide extended congregate care services  
 2129 may also admit an individual who exceeds the admission criteria  
 2130 for a facility with a standard license, if the individual is  
 2131 determined appropriate for admission to the extended congregate  
 2132 care facility.

2133 6. Before admission of an individual to a facility  
 2134 licensed to provide extended congregate care services, the  
 2135 individual must undergo a medical examination as provided in s.  
 2136 429.26(4) and the facility must develop a preliminary service  
 2137 plan for the individual.

2138 7. When a licensee ~~facility~~ can no longer provide or  
 2139 arrange for services in accordance with the resident's service  
 2140 plan and needs and the licensee's ~~facility's~~ policy, the  
 2141 licensee ~~faeility~~ shall make arrangements for relocating the  
 2142 person in accordance with s. 429.28(1)(k).

2143 8. Failure to provide extended congregate care services  
 2144 may result in denial of extended congregate care license  
 2145 renewal.

2146 ~~9. No later than January 1 of each year, the department,~~  
 2147 ~~in consultation with the agency, shall prepare and submit to the~~  
 2148 ~~Governor, the President of the Senate, the Speaker of the House~~  
 2149 ~~of Representatives, and the chairs of appropriate legislative~~  
 2150 ~~committees, a report on the status of, and recommendations~~

2151 ~~related to, extended congregate care services. The status report~~  
 2152 ~~must include, but need not be limited to, the following~~  
 2153 ~~information:~~

2154 ~~a. A description of the facilities licensed to provide~~  
 2155 ~~such services, including total number of beds licensed under~~  
 2156 ~~this part.~~

2157 ~~b. The number and characteristics of residents receiving~~  
 2158 ~~such services.~~

2159 ~~c. The types of services rendered that could not be~~  
 2160 ~~provided through a standard license.~~

2161 ~~d. An analysis of deficiencies cited during licensure~~  
 2162 ~~inspections.~~

2163 ~~e. The number of residents who required extended~~  
 2164 ~~congregate care services at admission and the source of~~  
 2165 ~~admission.~~

2166 ~~f. Recommendations for statutory or regulatory changes.~~

2167 ~~g. The availability of extended congregate care to state~~  
 2168 ~~clients residing in facilities licensed under this part and in~~  
 2169 ~~need of additional services, and recommendations for~~  
 2170 ~~appropriations to subsidize extended congregate care services~~  
 2171 ~~for such persons.~~

2172 ~~h. Such other information as the department considers~~  
 2173 ~~appropriate.~~

2174 ~~(c) A limited nursing services license shall be issued to~~  
 2175 ~~a facility that provides services beyond those authorized in~~  
 2176 ~~paragraph (a) and as specified in this paragraph.~~

2177 ~~1. In order for limited nursing services to be provided in~~  
 2178 ~~a facility licensed under this part, the agency must first~~

2179 ~~determine that all requirements established in law and rule are~~  
2180 ~~met and must specifically designate, on the facility's license,~~  
2181 ~~that such services may be provided. Such designation may be made~~  
2182 ~~at the time of initial licensure or relicensure, or upon request~~  
2183 ~~in writing by a licensee under this part and part II of chapter~~  
2184 ~~408. Notification of approval or denial of such request shall be~~  
2185 ~~made in accordance with part II of chapter 408. Existing~~  
2186 ~~facilities qualifying to provide limited nursing services shall~~  
2187 ~~have maintained a standard license and may not have been subject~~  
2188 ~~to administrative sanctions that affect the health, safety, and~~  
2189 ~~welfare of residents for the previous 2 years or since initial~~  
2190 ~~licensure if the facility has been licensed for less than 2~~  
2191 ~~years.~~

2192 ~~2. Facilities that are licensed to provide limited nursing~~  
2193 ~~services shall maintain a written progress report on each person~~  
2194 ~~who receives such nursing services, which report describes the~~  
2195 ~~type, amount, duration, scope, and outcome of services that are~~  
2196 ~~rendered and the general status of the resident's health. A~~  
2197 ~~registered nurse representing the agency shall visit such~~  
2198 ~~facilities at least twice a year to monitor residents who are~~  
2199 ~~receiving limited nursing services and to determine if the~~  
2200 ~~facility is in compliance with applicable provisions of this~~  
2201 ~~part, part II of chapter 408, and related rules. The monitoring~~  
2202 ~~visits may be provided through contractual arrangements with~~  
2203 ~~appropriate community agencies. A registered nurse shall also~~  
2204 ~~serve as part of the team that inspects such facility.~~

2205 ~~3. A person who receives limited nursing services under~~  
2206 ~~this part must meet the admission criteria established by the~~

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2207 ~~agency for assisted living facilities. When a resident no longer~~  
 2208 ~~meets the admission criteria for a facility licensed under this~~  
 2209 ~~part, arrangements for relocating the person shall be made in~~  
 2210 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~  
 2211 ~~to provide extended congregate care services.~~

2212 (4) In accordance with s. 408.805, an applicant or  
 2213 licensee shall pay a fee for each license application submitted  
 2214 under this part, part II of chapter 408, and applicable rules.  
 2215 The amount of the fee shall be established by rule.

2216 (a) The biennial license fee required of a facility is  
 2217 \$356 ~~\$300~~ per license, with an additional fee of \$67.50 ~~\$50~~ per  
 2218 resident based on the total licensed resident capacity of the  
 2219 facility, except that no additional fee will be assessed for  
 2220 beds designated for recipients of optional state supplementation  
 2221 payments provided for in s. 409.212. The total fee may not  
 2222 exceed \$18,000 ~~\$10,000~~.

2223 (b) In addition to the total fee assessed under paragraph  
 2224 (a), the agency shall require facilities that are licensed to  
 2225 provide extended congregate care services under this part to pay  
 2226 an additional fee per licensed facility. The amount of the  
 2227 biennial fee shall be \$501 ~~\$400~~ per license, with an additional  
 2228 fee of \$10 per resident based on the total licensed resident  
 2229 capacity of the facility.

2230 ~~(c) In addition to the total fee assessed under paragraph~~  
 2231 ~~(a), the agency shall require facilities that are licensed to~~  
 2232 ~~provide limited nursing services under this part to pay an~~  
 2233 ~~additional fee per licensed facility. The amount of the biennial~~  
 2234 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~



2235 ~~resident based on the total licensed resident capacity of the~~  
 2236 ~~facility.~~

2237 (6) In order to determine whether the facility is  
 2238 adequately protecting residents' rights as provided in s.  
 2239 429.28, the biennial survey shall include private informal  
 2240 conversations with a sample of residents and consultation with  
 2241 the ombudsman council in the planning and service area in which  
 2242 the facility is located to discuss residents' experiences within  
 2243 the facility.

2244 (7) An assisted living facility that has been cited within  
 2245 the previous 24-month period for a class I or class II  
 2246 violation, regardless of the status of any enforcement or  
 2247 disciplinary action, is subject to periodic unannounced  
 2248 monitoring to determine if the facility is in compliance with  
 2249 this part, part II of chapter 408, and applicable rules.  
 2250 Monitoring may occur through a desk review or an onsite  
 2251 assessment. If the class I or class II violation relates to  
 2252 providing or failing to provide nursing care, a registered nurse  
 2253 must participate in at least two onsite monitoring visits within  
 2254 a 12-month period.

2255 Section 63. Subsection (7) of section 429.11, Florida  
 2256 Statutes, is renumbered as subsection (6), and present  
 2257 subsection (6) of that section is amended to read:

2258 429.11 Initial application for license; ~~provisional~~  
 2259 ~~license.~~

2260 ~~(6) In addition to the license categories available in s.~~  
 2261 ~~408.808, a provisional license may be issued to an applicant~~  
 2262 ~~making initial application for licensure or making application~~

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2263 ~~for a change of ownership. A provisional license shall be~~  
 2264 ~~limited in duration to a specific period of time not to exceed 6~~  
 2265 ~~months, as determined by the agency.~~

2266 Section 64. Section 429.12, Florida Statutes, is amended  
 2267 to read:

2268 429.12 Sale or transfer of ownership of a facility.—It is  
 2269 the intent of the Legislature to protect the rights of the  
 2270 residents of an assisted living facility when the facility is  
 2271 sold or the ownership thereof is transferred. Therefore, in  
 2272 addition to the requirements of part II of chapter 408, whenever  
 2273 a facility is sold or the ownership thereof is transferred,  
 2274 including leasing<sup>+</sup>.

2275 ~~(1)~~ The transferee shall notify the residents, in writing,  
 2276 of the change of ownership within 7 days after receipt of the  
 2277 new license.

2278 ~~(2) The transferor of a facility the license of which is~~  
 2279 ~~denied pending an administrative hearing shall, as a part of the~~  
 2280 ~~written change of ownership contract, advise the transferee that~~  
 2281 ~~a plan of correction must be submitted by the transferee and~~  
 2282 ~~approved by the agency at least 7 days before the change of~~  
 2283 ~~ownership and that failure to correct the condition which~~  
 2284 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~  
 2285 ~~denial of licensure is grounds for denial of the transferee's~~  
 2286 ~~license.~~

2287 Section 65. Paragraphs (b) through (l) of subsection (1)  
 2288 of section 429.14, Florida Statutes, are redesignated as  
 2289 paragraphs (a) through (k), respectively, and present paragraph

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2290 (a) of subsection (1) and subsections (5) and (6) of that  
 2291 section are amended to read:

2292 429.14 Administrative penalties.—

2293 (1) In addition to the requirements of part II of chapter  
 2294 408, the agency may deny, revoke, and suspend any license issued  
 2295 under this part and impose an administrative fine in the manner  
 2296 provided in chapter 120 against a licensee of an assisted living  
 2297 facility for a violation of any provision of this part, part II  
 2298 of chapter 408, or applicable rules, or for any of the following  
 2299 actions by a licensee of an assisted living facility, for the  
 2300 actions of any person subject to level 2 background screening  
 2301 under s. 408.809, or for the actions of any facility employee:

2302 ~~(a) An intentional or negligent act seriously affecting~~  
 2303 ~~the health, safety, or welfare of a resident of the facility.~~

2304 (5) An action taken by the agency to suspend, deny, or  
 2305 revoke a facility's license under this part or part II of  
 2306 chapter 408, in which the agency claims that the facility owner  
 2307 or an employee of the facility has threatened the health,  
 2308 safety, or welfare of a resident of the facility shall be heard  
 2309 by the Division of Administrative Hearings of the Department of  
 2310 Management Services within 120 days after receipt of the  
 2311 facility's request for a hearing, unless that time limitation is  
 2312 waived by both parties. The administrative law judge must render  
 2313 a decision within 30 days after receipt of a proposed  
 2314 recommended order.

2315 (6) The agency shall provide to the Division of Hotels and  
 2316 Restaurants of the Department of Business and Professional  
 2317 Regulation, on a monthly basis, a list of those assisted living

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2318 facilities that have had their licenses denied, suspended, or  
 2319 revoked or that are involved in an appellate proceeding pursuant  
 2320 to s. 120.60 related to the denial, suspension, or revocation of  
 2321 a license. This information may be provided electronically or  
 2322 through the agency's Internet website.

2323 Section 66. Subsections (1), (4), and (5) of section  
 2324 429.17, Florida Statutes, are amended to read:

2325 429.17 Expiration of license; renewal; conditional  
 2326 license.—

2327 (1) ~~Limited nursing,~~ Extended congregate care, and limited  
 2328 mental health licenses shall expire at the same time as the  
 2329 facility's standard license, regardless of when issued.

2330 (4) In addition to the license categories available in s.  
 2331 408.808, a conditional license may be issued to an applicant for  
 2332 license renewal if the applicant fails to meet all standards and  
 2333 requirements for licensure. A conditional license issued under  
 2334 this subsection shall be limited in duration to a specific  
 2335 period of time not to exceed 6 months, as determined by the  
 2336 agency, ~~and shall be accompanied by an agency approved plan of~~  
 2337 ~~correction.~~

2338 (5) When an extended congregate care ~~or limited nursing~~  
 2339 ~~license~~ is requested during a facility's biennial license  
 2340 period, the fee shall be prorated in order to permit the  
 2341 additional license to expire at the end of the biennial license  
 2342 period. The fee shall be calculated as of the date the  
 2343 additional license application is received by the agency.

2344 Section 67. Subsection (7) of section 429.19, Florida  
 2345 Statutes, is amended to read:

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2346 429.19 Violations; imposition of administrative fines;  
 2347 grounds.—

2348 (7) In addition to any administrative fines imposed, the  
 2349 agency may assess a survey or monitoring fee, equal to the  
 2350 lesser of one half of the facility's biennial license and bed  
 2351 fee or \$500, to cover the cost of conducting initial complaint  
 2352 investigations that result in the finding of a violation that  
 2353 was the subject of the complaint or to monitor the health,  
 2354 safety, or security of residents under s. 429.07(7) monitoring  
 2355 ~~visits conducted under s. 429.28(3)(c) to verify the correction~~  
 2356 ~~of the violations.~~

2357 Section 68. Subsections (6) through (10) of section  
 2358 429.23, Florida Statutes, are renumbered as subsections (5)  
 2359 through (9), respectively, and present subsection (5) of that  
 2360 section is amended to read:

2361 429.23 Internal risk management and quality assurance  
 2362 program; adverse incidents and reporting requirements.—

2363 ~~(5) Each facility shall report monthly to the agency any~~  
 2364 ~~liability claim filed against it. The report must include the~~  
 2365 ~~name of the resident, the dates of the incident leading to the~~  
 2366 ~~claim, if applicable, and the type of injury or violation of~~  
 2367 ~~rights alleged to have occurred. This report is not discoverable~~  
 2368 ~~in any civil or administrative action, except in such actions~~  
 2369 ~~brought by the agency to enforce the provisions of this part.~~

2370 Section 69. Paragraph (a) of subsection (1) and subsection  
 2371 (2) of section 429.255, Florida Statutes, are amended to read:

2372 429.255 Use of personnel; emergency care.—

2373 (1) (a) Persons under contract to the facility or facility

2374 staff, ~~or volunteers,~~ who are licensed according to part I of  
 2375 chapter 464, or those persons exempt under s. 464.022(1), and  
 2376 others as defined by rule, may administer medications to  
 2377 residents, take residents' vital signs, manage individual weekly  
 2378 pill organizers for residents who self-administer medication,  
 2379 give prepackaged enemas ordered by a physician, observe  
 2380 residents, document observations on the appropriate resident's  
 2381 record, report observations to the resident's physician, and  
 2382 contract or allow residents or a resident's representative,  
 2383 designee, surrogate, guardian, or attorney in fact to contract  
 2384 with a third party, provided residents meet the criteria for  
 2385 appropriate placement as defined in s. 429.26. Persons under  
 2386 contract to the facility or facility staff who are licensed  
 2387 according to part I of chapter 464 may provide limited nursing  
 2388 services. Nursing assistants certified pursuant to part II of  
 2389 chapter 464 may take residents' vital signs as directed by a  
 2390 licensed nurse or physician. The facility is responsible for  
 2391 maintaining documentation of services provided under this  
 2392 paragraph as required by rule and ensuring that staff are  
 2393 adequately trained to monitor residents receiving these  
 2394 services.

2395 (2) In facilities licensed to provide extended congregate  
 2396 care, persons under contract to the facility or ~~facility staff,~~  
 2397 ~~or volunteers,~~ who are licensed according to part I of chapter  
 2398 464, or those persons exempt under s. 464.022(1), or those  
 2399 persons certified as nursing assistants pursuant to part II of  
 2400 chapter 464, may also perform all duties within the scope of  
 2401 their license or certification, as approved by the facility

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2402 administrator and pursuant to this part.

2403 Section 70. Subsection (3) of section 429.28, Florida  
 2404 Statutes, is amended to read:

2405 429.28 Resident bill of rights.—

2406 ~~(3)(a) The agency shall conduct a survey to determine~~  
 2407 ~~general compliance with facility standards and compliance with~~  
 2408 ~~residents' rights as a prerequisite to initial licensure or~~  
 2409 ~~licensure renewal.~~

2410 ~~(b) In order to determine whether the facility is~~  
 2411 ~~adequately protecting residents' rights, the biennial survey~~  
 2412 ~~shall include private informal conversations with a sample of~~  
 2413 ~~residents and consultation with the ombudsman council in the~~  
 2414 ~~planning and service area in which the facility is located to~~  
 2415 ~~discuss residents' experiences within the facility.~~

2416 ~~(c) During any calendar year in which no survey is~~  
 2417 ~~conducted, the agency shall conduct at least one monitoring~~  
 2418 ~~visit of each facility cited in the previous year for a class I~~  
 2419 ~~or class II violation, or more than three uncorrected class III~~  
 2420 ~~violations.~~

2421 ~~(d) The agency may conduct periodic followup inspections~~  
 2422 ~~as necessary to monitor the compliance of facilities with a~~  
 2423 ~~history of any class I, class II, or class III violations that~~  
 2424 ~~threaten the health, safety, or security of residents.~~

2425 ~~(e) The agency may conduct complaint investigations as~~  
 2426 ~~warranted to investigate any allegations of noncompliance with~~  
 2427 ~~requirements required under this part or rules adopted under~~  
 2428 ~~this part.~~

2429 Section 71. Subsection (2) of section 429.35, Florida

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2430 Statutes, is amended to read:

2431 429.35 Maintenance of records; reports.—

2432 (2) Within 60 days after the date of the biennial  
2433 inspection visit required under s. 408.811 or within 30 days  
2434 after the date of any interim visit, the agency shall forward  
2435 the results of the inspection to the local ombudsman council in  
2436 whose planning and service area, as defined in part II of  
2437 chapter 400, the facility is located; to at least one public  
2438 library or, in the absence of a public library, the county seat  
2439 in the county in which the inspected assisted living facility is  
2440 located; and, when appropriate, to the district Adult Services  
2441 and Mental Health Program Offices. This information may be  
2442 provided electronically or through the agency's Internet  
2443 website.

2444 Section 72. Paragraphs (i) and (j) of subsection (1) of  
2445 section 429.41, Florida Statutes, are amended to read:

2446 429.41 Rules establishing standards.—

2447 (1) It is the intent of the Legislature that rules  
2448 published and enforced pursuant to this section shall include  
2449 criteria by which a reasonable and consistent quality of  
2450 resident care and quality of life may be ensured and the results  
2451 of such resident care may be demonstrated. Such rules shall also  
2452 ensure a safe and sanitary environment that is residential and  
2453 noninstitutional in design or nature. It is further intended  
2454 that reasonable efforts be made to accommodate the needs and  
2455 preferences of residents to enhance the quality of life in a  
2456 facility. The agency, in consultation with the department, may  
2457 adopt rules to administer the requirements of part II of chapter



2458 408. In order to provide safe and sanitary facilities and the  
 2459 highest quality of resident care accommodating the needs and  
 2460 preferences of residents, the department, in consultation with  
 2461 the agency, the Department of Children and Family Services, and  
 2462 the Department of Health, shall adopt rules, policies, and  
 2463 procedures to administer this part, which must include  
 2464 reasonable and fair minimum standards in relation to:

2465 (i) Facilities holding an ~~a limited nursing,~~ extended  
 2466 congregate care, or limited mental health license.

2467 (j) The establishment of specific criteria to define  
 2468 appropriateness of resident admission and continued residency in  
 2469 a facility holding a standard, ~~limited nursing,~~ extended  
 2470 congregate care, and limited mental health license.

2471 Section 73. Subsections (1) and (2) of section 429.53,  
 2472 Florida Statutes, are amended to read:

2473 429.53 Consultation by the agency.—

2474 (1) ~~The area offices of licensure and certification of the~~  
 2475 agency shall provide consultation to the following upon request:

2476 (a) A licensee of a facility.

2477 (b) A person interested in obtaining a license to operate  
 2478 a facility under this part.

2479 (2) As used in this section, "consultation" includes:

2480 (a) An explanation of the requirements of this part and  
 2481 rules adopted pursuant thereto;

2482 (b) An explanation of the license application and renewal  
 2483 procedures;

2484 ~~(c) The provision of a checklist of general local and~~  
 2485 ~~state approvals required prior to constructing or developing a~~

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2486 ~~facility and a listing of the types of agencies responsible for~~  
 2487 ~~such approvals;~~

2488 ~~(d) An explanation of benefits and financial assistance~~  
 2489 ~~available to a recipient of supplemental security income~~  
 2490 ~~residing in a facility;~~

2491 ~~(c)(e)~~ Any other information which the agency deems  
 2492 necessary to promote compliance with the requirements of this  
 2493 part; and

2494 ~~(f) A preconstruction review of a facility to ensure~~  
 2495 ~~compliance with agency rules and this part.~~

2496 Section 74. Subsections (1) and (2) of section 429.54,  
 2497 Florida Statutes, are renumbered as subsections (2) and (3),  
 2498 respectively, and a new subsection (1) is added to that section  
 2499 to read:

2500 429.54 Collection of information; local subsidy.—

2501 (1) A facility that is licensed under this part must  
 2502 report electronically to the agency semiannually data related to  
 2503 the facility, including, but not limited to, the total number of  
 2504 residents, the number of residents who are receiving limited  
 2505 mental health services, the number of residents who are  
 2506 receiving extended congregate care services, the number of  
 2507 residents who are receiving limited nursing services, and  
 2508 professional staffing employed by or under contract with the  
 2509 licensee to provide resident services. The department, in  
 2510 consultation with the agency, shall adopt rules to administer  
 2511 this subsection.

2512 Section 75. Subsections (1) and (5) of section 429.71,  
 2513 Florida Statutes, are amended to read:

2514           429.71 Classification of violations ~~deficiencies~~;  
 2515 administrative fines.—

2516           (1) In addition to the requirements of part II of chapter  
 2517 408 and in addition to any other liability or penalty provided  
 2518 by law, the agency may impose an administrative fine on a  
 2519 provider according to the following classification:

2520           (a) Class I violations are defined in s. 408.813 ~~those~~  
 2521 ~~conditions or practices related to the operation and maintenance~~  
 2522 ~~of an adult family-care home or to the care of residents which~~  
 2523 ~~the agency determines present an imminent danger to the~~  
 2524 ~~residents or guests of the facility or a substantial probability~~  
 2525 ~~that death or serious physical or emotional harm would result~~  
 2526 ~~therefrom. The condition or practice that constitutes a class I~~  
 2527 ~~violation must be abated or eliminated within 24 hours, unless a~~  
 2528 ~~fixed period, as determined by the agency, is required for~~  
 2529 ~~correction. A class I violation ~~deficiency~~ is subject to an~~  
 2530 administrative fine in an amount not less than \$500 and not  
 2531 exceeding \$1,000 for each violation. ~~A fine may be levied~~  
 2532 ~~notwithstanding the correction of the deficiency.~~

2533           (b) Class II violations are defined in s. 408.813 ~~those~~  
 2534 ~~conditions or practices related to the operation and maintenance~~  
 2535 ~~of an adult family-care home or to the care of residents which~~  
 2536 ~~the agency determines directly threaten the physical or~~  
 2537 ~~emotional health, safety, or security of the residents, other~~  
 2538 ~~than class I violations. A class II violation is subject to an~~  
 2539 administrative fine in an amount not less than \$250 and not  
 2540 exceeding \$500 for each violation. ~~A citation for a class II~~  
 2541 ~~violation must specify the time within which the violation is~~

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2542 ~~required to be corrected. If a class II violation is corrected~~  
2543 ~~within the time specified, no civil penalty shall be imposed,~~  
2544 ~~unless it is a repeated offense.~~

2545 (c) Class III violations are defined in s. 408.813 ~~those~~  
2546 ~~conditions or practices related to the operation and maintenance~~  
2547 ~~of an adult family care home or to the care of residents which~~  
2548 ~~the agency determines indirectly or potentially threaten the~~  
2549 ~~physical or emotional health, safety, or security of residents,~~  
2550 ~~other than class I or class II violations.~~ A class III violation  
2551 is subject to an administrative fine in an amount not less than  
2552 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~  
2553 ~~class III violation shall specify the time within which the~~  
2554 ~~violation is required to be corrected.~~ If a class III violation  
2555 is corrected within the time specified, no civil penalty shall  
2556 be imposed, unless it is a repeated violation ~~offense.~~

2557 (d) Class IV violations are defined in s. 408.813 ~~those~~  
2558 ~~conditions or occurrences related to the operation and~~  
2559 ~~maintenance of an adult family care home, or related to the~~  
2560 ~~required reports, forms, or documents, which do not have the~~  
2561 ~~potential of negatively affecting the residents.~~ A provider that  
2562 ~~does not correct~~ A class IV violation ~~within the time limit~~  
2563 ~~specified by the agency~~ is subject to an administrative fine in  
2564 an amount not less than \$50 and not exceeding \$100 for each  
2565 violation. Any class IV violation that is corrected during the  
2566 time the agency survey is conducted will be identified as an  
2567 agency finding and not as a violation, unless it is a repeat  
2568 violation.

2569 ~~(5) As an alternative to or in conjunction with an~~  
 2570 ~~administrative action against a provider, the agency may request~~  
 2571 ~~a plan of corrective action that demonstrates a good faith~~  
 2572 ~~effort to remedy each violation by a specific date, subject to~~  
 2573 ~~the approval of the agency.~~

2574 Section 76. Paragraphs (b) through (e) of subsection (2)  
 2575 of section 429.911, Florida Statutes, are redesignated as  
 2576 paragraphs (a) through (d), respectively, and present paragraph  
 2577 (a) of that subsection is amended to read:

2578 429.911 Denial, suspension, revocation of license;  
 2579 emergency action; administrative fines; investigations and  
 2580 inspections.—

2581 (2) Each of the following actions by the owner of an adult  
 2582 day care center or by its operator or employee is a ground for  
 2583 action by the agency against the owner of the center or its  
 2584 operator or employee:

2585 ~~(a) An intentional or negligent act materially affecting~~  
 2586 ~~the health or safety of center participants.~~

2587 Section 77. Section 429.915, Florida Statutes, is amended  
 2588 to read:

2589 429.915 Conditional license.—In addition to the license  
 2590 categories available in part II of chapter 408, the agency may  
 2591 issue a conditional license to an applicant for license renewal  
 2592 or change of ownership if the applicant fails to meet all  
 2593 standards and requirements for licensure. A conditional license  
 2594 issued under this subsection must be limited to a specific  
 2595 period not exceeding 6 months, as determined by the agency, ~~and~~  
 2596 ~~must be accompanied by an approved plan of correction.~~

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2597 Section 78. Paragraphs (b) and (h) of subsection (3) of  
 2598 section 430.80, Florida Statutes, are amended to read:

2599 430.80 Implementation of a teaching nursing home pilot  
 2600 project.—

2601 (3) To be designated as a teaching nursing home, a nursing  
 2602 home licensee must, at a minimum:

2603 (b) Participate in a nationally recognized accreditation  
 2604 program and hold a valid accreditation, such as the  
 2605 accreditation awarded by The Joint Commission ~~on Accreditation~~  
 2606 ~~of Healthcare Organizations;~~

2607 (h) Maintain insurance coverage pursuant to s.  
 2608 400.141(1) (q) ~~(s)~~ or proof of financial responsibility in a  
 2609 minimum amount of \$750,000. Such proof of financial  
 2610 responsibility may include:

2611 1. Maintaining an escrow account consisting of cash or  
 2612 assets eligible for deposit in accordance with s. 625.52; or

2613 2. Obtaining and maintaining pursuant to chapter 675 an  
 2614 unexpired, irrevocable, nontransferable and nonassignable letter  
 2615 of credit issued by any bank or savings association organized  
 2616 and existing under the laws of this state or any bank or savings  
 2617 association organized under the laws of the United States that  
 2618 has its principal place of business in this state or has a  
 2619 branch office which is authorized to receive deposits in this  
 2620 state. The letter of credit shall be used to satisfy the  
 2621 obligation of the facility to the claimant upon presentment of a  
 2622 final judgment indicating liability and awarding damages to be  
 2623 paid by the facility or upon presentment of a settlement  
 2624 agreement signed by all parties to the agreement when such final

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2625 judgment or settlement is a result of a liability claim against  
 2626 the facility.

2627 Section 79. Paragraph (a) of subsection (2) of section  
 2628 440.13, Florida Statutes, is amended to read:

2629 440.13 Medical services and supplies; penalty for  
 2630 violations; limitations.—

2631 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

2632 (a) Subject to the limitations specified elsewhere in this  
 2633 chapter, the employer shall furnish to the employee such  
 2634 medically necessary remedial treatment, care, and attendance for  
 2635 such period as the nature of the injury or the process of  
 2636 recovery may require, which is in accordance with established  
 2637 practice parameters and protocols of treatment as provided for  
 2638 in this chapter, including medicines, medical supplies, durable  
 2639 medical equipment, orthoses, prostheses, and other medically  
 2640 necessary apparatus. Remedial treatment, care, and attendance,  
 2641 including work-hardening programs or pain-management programs  
 2642 accredited by the Commission on Accreditation of Rehabilitation  
 2643 Facilities or The Joint Commission ~~on the Accreditation of~~  
 2644 ~~Health Organizations~~ or pain-management programs affiliated with  
 2645 medical schools, shall be considered as covered treatment only  
 2646 when such care is given based on a referral by a physician as  
 2647 defined in this chapter. Medically necessary treatment, care,  
 2648 and attendance does not include chiropractic services in excess  
 2649 of 24 treatments or rendered 12 weeks beyond the date of the  
 2650 initial chiropractic treatment, whichever comes first, unless  
 2651 the carrier authorizes additional treatment or the employee is  
 2652 catastrophically injured.

2653  
 2654 Failure of the carrier to timely comply with this subsection  
 2655 shall be a violation of this chapter and the carrier shall be  
 2656 subject to penalties as provided for in s. 440.525.

2657 Section 80. Section 483.294, Florida Statutes, is amended  
 2658 to read:

2659 483.294 Inspection of centers.—In accordance with s.  
 2660 408.811, the agency shall biennially, ~~at least once annually~~,  
 2661 inspect the premises and operations of all centers subject to  
 2662 licensure under this part.

2663 Section 81. Paragraph (a) of subsection (53) of section  
 2664 499.003, Florida Statutes, is amended to read:

2665 499.003 Definitions of terms used in this part.—As used in  
 2666 this part, the term:

2667 (53) "Wholesale distribution" means distribution of  
 2668 prescription drugs to persons other than a consumer or patient,  
 2669 but does not include:

2670 (a) Any of the following activities, which is not a  
 2671 violation of s. 499.005(21) if such activity is conducted in  
 2672 accordance with s. 499.01(2)(g):

2673 1. The purchase or other acquisition by a hospital or  
 2674 other health care entity that is a member of a group purchasing  
 2675 organization of a prescription drug for its own use from the  
 2676 group purchasing organization or from other hospitals or health  
 2677 care entities that are members of that organization.

2678 2. The sale, purchase, or trade of a prescription drug or  
 2679 an offer to sell, purchase, or trade a prescription drug by a  
 2680 charitable organization described in s. 501(c)(3) of the



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2681 Internal Revenue Code of 1986, as amended and revised, to a  
 2682 nonprofit affiliate of the organization to the extent otherwise  
 2683 permitted by law.

2684 3. The sale, purchase, or trade of a prescription drug or  
 2685 an offer to sell, purchase, or trade a prescription drug among  
 2686 hospitals or other health care entities that are under common  
 2687 control. For purposes of this subparagraph, "common control"  
 2688 means the power to direct or cause the direction of the  
 2689 management and policies of a person or an organization, whether  
 2690 by ownership of stock, by voting rights, by contract, or  
 2691 otherwise.

2692 4. The sale, purchase, trade, or other transfer of a  
 2693 prescription drug from or for any federal, state, or local  
 2694 government agency or any entity eligible to purchase  
 2695 prescription drugs at public health services prices pursuant to  
 2696 Pub. L. No. 102-585, s. 602 to a contract provider or its  
 2697 subcontractor for eligible patients of the agency or entity  
 2698 under the following conditions:

2699 a. The agency or entity must obtain written authorization  
 2700 for the sale, purchase, trade, or other transfer of a  
 2701 prescription drug under this subparagraph from the State Surgeon  
 2702 General or his or her designee.

2703 b. The contract provider or subcontractor must be  
 2704 authorized by law to administer or dispense prescription drugs.

2705 c. In the case of a subcontractor, the agency or entity  
 2706 must be a party to and execute the subcontract.

2707 ~~d. A contract provider or subcontractor must maintain~~  
 2708 ~~separate and apart from other prescription drug inventory any~~

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2709 ~~prescription drugs of the agency or entity in its possession.~~

2710 d.e. The contract provider and subcontractor must maintain  
 2711 and produce immediately for inspection all records of movement  
 2712 or transfer of all the prescription drugs belonging to the  
 2713 agency or entity, including, but not limited to, the records of  
 2714 receipt and disposition of prescription drugs. Each contractor  
 2715 and subcontractor dispensing or administering these drugs must  
 2716 maintain and produce records documenting the dispensing or  
 2717 administration. Records that are required to be maintained  
 2718 include, but are not limited to, a perpetual inventory itemizing  
 2719 drugs received and drugs dispensed by prescription number or  
 2720 administered by patient identifier, which must be submitted to  
 2721 the agency or entity quarterly.

2722 e.f. The contract provider or subcontractor may administer  
 2723 or dispense the prescription drugs only to the eligible patients  
 2724 of the agency or entity or must return the prescription drugs  
 2725 for or to the agency or entity. The contract provider or  
 2726 subcontractor must require proof from each person seeking to  
 2727 fill a prescription or obtain treatment that the person is an  
 2728 eligible patient of the agency or entity and must, at a minimum,  
 2729 maintain a copy of this proof as part of the records of the  
 2730 contractor or subcontractor required under sub-subparagraph d.  
 2731 ~~e.~~

2732 f.g. In addition to the departmental inspection authority  
 2733 set forth in s. 499.051, the establishment of the contract  
 2734 provider and subcontractor and all records pertaining to  
 2735 prescription drugs subject to this subparagraph shall be subject  
 2736 to inspection by the agency or entity. All records relating to

2737 prescription drugs of a manufacturer under this subparagraph  
 2738 shall be subject to audit by the manufacturer of those drugs,  
 2739 without identifying individual patient information.

2740 Section 82. Paragraph (i) is added to subsection (3) of  
 2741 section 499.01212, Florida Statutes, to read:

2742 499.01212 Pedigree paper.—

2743 (3) EXCEPTIONS.—A pedigree paper is not required for:

2744 (i) The wholesale distribution of prescription drugs  
 2745 contained within a sealed medical convenience kit if the kit:

2746 1. Is assembled in an establishment that is registered as  
 2747 a medical device manufacturer with the Food and Drug  
 2748 Administration; and

2749 2. Does not contain any controlled substance that appears  
 2750 in any schedule contained in or subject to chapter 893 or the  
 2751 federal Comprehensive Drug Abuse Prevention and Control Act of  
 2752 1970.

2753 Section 83. Subsection (1) of section 627.645, Florida  
 2754 Statutes, is amended to read:

2755 627.645 Denial of health insurance claims restricted.—

2756 (1) No claim for payment under a health insurance policy  
 2757 or self-insured program of health benefits for treatment, care,  
 2758 or services in a licensed hospital which is accredited by The  
 2759 Joint Commission ~~on the Accreditation of Hospitals~~, the American  
 2760 Osteopathic Association, or the Commission on the Accreditation  
 2761 of Rehabilitative Facilities shall be denied because such  
 2762 hospital lacks major surgical facilities and is primarily of a  
 2763 rehabilitative nature, if such rehabilitation is specifically  
 2764 for treatment of physical disability.

2765 Section 84. Paragraph (c) of subsection (2) of section  
 2766 627.668, Florida Statutes, is amended to read:

2767 627.668 Optional coverage for mental and nervous disorders  
 2768 required; exception.—

2769 (2) Under group policies or contracts, inpatient hospital  
 2770 benefits, partial hospitalization benefits, and outpatient  
 2771 benefits consisting of durational limits, dollar amounts,  
 2772 deductibles, and coinsurance factors shall not be less favorable  
 2773 than for physical illness generally, except that:

2774 (c) Partial hospitalization benefits shall be provided  
 2775 under the direction of a licensed physician. For purposes of  
 2776 this part, the term "partial hospitalization services" is  
 2777 defined as those services offered by a program accredited by The  
 2778 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in  
 2779 compliance with equivalent standards. Alcohol rehabilitation  
 2780 programs accredited by The Joint Commission ~~on Accreditation of~~  
 2781 ~~Hospitals~~ or approved by the state and licensed drug abuse  
 2782 rehabilitation programs shall also be qualified providers under  
 2783 this section. In any benefit year, if partial hospitalization  
 2784 services or a combination of inpatient and partial  
 2785 hospitalization are utilized, the total benefits paid for all  
 2786 such services shall not exceed the cost of 30 days of inpatient  
 2787 hospitalization for psychiatric services, including physician  
 2788 fees, which prevail in the community in which the partial  
 2789 hospitalization services are rendered. If partial  
 2790 hospitalization services benefits are provided beyond the limits  
 2791 set forth in this paragraph, the durational limits, dollar  
 2792 amounts, and coinsurance factors thereof need not be the same as

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2793 those applicable to physical illness generally.

2794 Section 85. Subsection (3) of section 627.669, Florida  
 2795 Statutes, is amended to read:

2796 627.669 Optional coverage required for substance abuse  
 2797 impaired persons; exception.—

2798 (3) The benefits provided under this section shall be  
 2799 applicable only if treatment is provided by, or under the  
 2800 supervision of, or is prescribed by, a licensed physician or  
 2801 licensed psychologist and if services are provided in a program  
 2802 accredited by The Joint Commission ~~on Accreditation of Hospitals~~  
 2803 or approved by the state.

2804 Section 86. Paragraph (a) of subsection (1) of section  
 2805 627.736, Florida Statutes, is amended to read:

2806 627.736 Required personal injury protection benefits;  
 2807 exclusions; priority; claims.—

2808 (1) REQUIRED BENEFITS.—Every insurance policy complying  
 2809 with the security requirements of s. 627.733 shall provide  
 2810 personal injury protection to the named insured, relatives  
 2811 residing in the same household, persons operating the insured  
 2812 motor vehicle, passengers in such motor vehicle, and other  
 2813 persons struck by such motor vehicle and suffering bodily injury  
 2814 while not an occupant of a self-propelled vehicle, subject to  
 2815 the provisions of subsection (2) and paragraph (4)(e), to a  
 2816 limit of \$10,000 for loss sustained by any such person as a  
 2817 result of bodily injury, sickness, disease, or death arising out  
 2818 of the ownership, maintenance, or use of a motor vehicle as  
 2819 follows:

2820 (a) Medical benefits.—Eighty percent of all reasonable

2821 expenses for medically necessary medical, surgical, X-ray,  
 2822 dental, and rehabilitative services, including prosthetic  
 2823 devices, and medically necessary ambulance, hospital, and  
 2824 nursing services. However, the medical benefits shall provide  
 2825 reimbursement only for such services and care that are lawfully  
 2826 provided, supervised, ordered, or prescribed by a physician  
 2827 licensed under chapter 458 or chapter 459, a dentist licensed  
 2828 under chapter 466, or a chiropractic physician licensed under  
 2829 chapter 460 or that are provided by any of the following persons  
 2830 or entities:

2831 1. A hospital or ambulatory surgical center licensed under  
 2832 chapter 395.

2833 2. A person or entity licensed under ss. 401.2101-401.45  
 2834 that provides emergency transportation and treatment.

2835 3. An entity wholly owned by one or more physicians  
 2836 licensed under chapter 458 or chapter 459, chiropractic  
 2837 physicians licensed under chapter 460, or dentists licensed  
 2838 under chapter 466 or by such practitioner or practitioners and  
 2839 the spouse, parent, child, or sibling of that practitioner or  
 2840 those practitioners.

2841 4. An entity wholly owned, directly or indirectly, by a  
 2842 hospital or hospitals.

2843 5. A health care clinic licensed under ss. 400.990-400.995  
 2844 that is:

2845 a. Accredited by The Joint Commission ~~on Accreditation of~~  
 2846 ~~Healthcare Organizations~~, the American Osteopathic Association,  
 2847 the Commission on Accreditation of Rehabilitation Facilities, or  
 2848 the Accreditation Association for Ambulatory Health Care, Inc.;

2849 or

2850 b. A health care clinic that:

2851 (I) Has a medical director licensed under chapter 458,

2852 chapter 459, or chapter 460;

2853 (II) Has been continuously licensed for more than 3 years

2854 or is a publicly traded corporation that issues securities

2855 traded on an exchange registered with the United States

2856 Securities and Exchange Commission as a national securities

2857 exchange; and

2858 (III) Provides at least four of the following medical

2859 specialties:

2860 (A) General medicine.

2861 (B) Radiography.

2862 (C) Orthopedic medicine.

2863 (D) Physical medicine.

2864 (E) Physical therapy.

2865 (F) Physical rehabilitation.

2866 (G) Prescribing or dispensing outpatient prescription

2867 medication.

2868 (H) Laboratory services.

2869

2870 The Financial Services Commission shall adopt by rule the form

2871 that must be used by an insurer and a health care provider

2872 specified in subparagraph 3., subparagraph 4., or subparagraph

2873 5. to document that the health care provider meets the criteria

2874 of this paragraph, which rule must include a requirement for a

2875 sworn statement or affidavit.

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2877 Only insurers writing motor vehicle liability insurance in this  
 2878 state may provide the required benefits of this section, and no  
 2879 such insurer shall require the purchase of any other motor  
 2880 vehicle coverage other than the purchase of property damage  
 2881 liability coverage as required by s. 627.7275 as a condition for  
 2882 providing such required benefits. Insurers may not require that  
 2883 property damage liability insurance in an amount greater than  
 2884 \$10,000 be purchased in conjunction with personal injury  
 2885 protection. Such insurers shall make benefits and required  
 2886 property damage liability insurance coverage available through  
 2887 normal marketing channels. Any insurer writing motor vehicle  
 2888 liability insurance in this state who fails to comply with such  
 2889 availability requirement as a general business practice shall be  
 2890 deemed to have violated part IX of chapter 626, and such  
 2891 violation shall constitute an unfair method of competition or an  
 2892 unfair or deceptive act or practice involving the business of  
 2893 insurance; and any such insurer committing such violation shall  
 2894 be subject to the penalties afforded in such part, as well as  
 2895 those which may be afforded elsewhere in the insurance code.

2896 Section 87. Section 633.081, Florida Statutes, is amended  
 2897 to read:

2898 633.081 Inspection of buildings and equipment; orders;  
 2899 firesafety inspection training requirements; certification;  
 2900 disciplinary action.—The State Fire Marshal and her or his  
 2901 agents shall, at any reasonable hour, when the department has  
 2902 reasonable cause to believe that a violation of this chapter or  
 2903 s. 509.215, or a rule promulgated thereunder, or a minimum  
 2904 firesafety code adopted by a local authority, may exist, inspect



2905 any and all buildings and structures which are subject to the  
 2906 requirements of this chapter or s. 509.215 and rules promulgated  
 2907 thereunder. The authority to inspect shall extend to all  
 2908 equipment, vehicles, and chemicals which are located within the  
 2909 premises of any such building or structure. The State Fire  
 2910 Marshal and her or his agents shall inspect nursing homes  
 2911 licensed under part II of chapter 400 only once every calendar  
 2912 year and upon receiving a complaint forming the basis of a  
 2913 reasonable cause to believe that a violation of this chapter or  
 2914 s. 509.215, or a rule promulgated thereunder, or a minimum  
 2915 firesafety code adopted by a local authority may exist and upon  
 2916 identifying such a violation in the course of conducting  
 2917 orientation or training activities within a nursing home.

2918 (1) Each county, municipality, and special district that  
 2919 has firesafety enforcement responsibilities shall employ or  
 2920 contract with a firesafety inspector. The firesafety inspector  
 2921 must conduct all firesafety inspections that are required by  
 2922 law. The governing body of a county, municipality, or special  
 2923 district that has firesafety enforcement responsibilities may  
 2924 provide a schedule of fees to pay only the costs of inspections  
 2925 conducted pursuant to this subsection and related administrative  
 2926 expenses. Two or more counties, municipalities, or special  
 2927 districts that have firesafety enforcement responsibilities may  
 2928 jointly employ or contract with a firesafety inspector.

2929 (2) Every firesafety inspection conducted pursuant to  
 2930 state or local firesafety requirements shall be by a person  
 2931 certified as having met the inspection training requirements set  
 2932 by the State Fire Marshal. Such person shall:

- 2933 (a) Be a high school graduate or the equivalent as  
 2934 determined by the department;
- 2935 (b) Not have been found guilty of, or having pleaded  
 2936 guilty or nolo contendere to, a felony or a crime punishable by  
 2937 imprisonment of 1 year or more under the law of the United  
 2938 States, or of any state thereof, which involves moral turpitude,  
 2939 without regard to whether a judgment of conviction has been  
 2940 entered by the court having jurisdiction of such cases;
- 2941 (c) Have her or his fingerprints on file with the  
 2942 department or with an agency designated by the department;
- 2943 (d) Have good moral character as determined by the  
 2944 department;
- 2945 (e) Be at least 18 years of age;
- 2946 (f) Have satisfactorily completed the firesafety inspector  
 2947 certification examination as prescribed by the department; and
- 2948 (g)1. Have satisfactorily completed, as determined by the  
 2949 department, a firesafety inspector training program of not less  
 2950 than 200 hours established by the department and administered by  
 2951 agencies and institutions approved by the department for the  
 2952 purpose of providing basic certification training for firesafety  
 2953 inspectors; or
- 2954 2. Have received in another state training which is  
 2955 determined by the department to be at least equivalent to that  
 2956 required by the department for approved firesafety inspector  
 2957 education and training programs in this state.
- 2958 (3) Each special state firesafety inspection which is  
 2959 required by law and is conducted by or on behalf of an agency of  
 2960 the state must be performed by an individual who has met the

2961 provision of subsection (2), except that the duration of the  
2962 training program shall not exceed 120 hours of specific training  
2963 for the type of property that such special state firesafety  
2964 inspectors are assigned to inspect.

2965 (4) A firefighter certified pursuant to s. 633.35 may  
2966 conduct firesafety inspections, under the supervision of a  
2967 certified firesafety inspector, while on duty as a member of a  
2968 fire department company conducting inservice firesafety  
2969 inspections without being certified as a firesafety inspector,  
2970 if such firefighter has satisfactorily completed an inservice  
2971 fire department company inspector training program of at least  
2972 24 hours' duration as provided by rule of the department.

2973 (5) Every firesafety inspector or special state firesafety  
2974 inspector certificate is valid for a period of 3 years from the  
2975 date of issuance. Renewal of certification shall be subject to  
2976 the affected person's completing proper application for renewal  
2977 and meeting all of the requirements for renewal as established  
2978 under this chapter or by rule promulgated thereunder, which  
2979 shall include completion of at least 40 hours during the  
2980 preceding 3-year period of continuing education as required by  
2981 the rule of the department or, in lieu thereof, successful  
2982 passage of an examination as established by the department.

2983 (6) The State Fire Marshal may deny, refuse to renew,  
2984 suspend, or revoke the certificate of a firesafety inspector or  
2985 special state firesafety inspector if it finds that any of the  
2986 following grounds exist:

2987 (a) Any cause for which issuance of a certificate could  
2988 have been refused had it then existed and been known to the

2989 State Fire Marshal.

2990 (b) Violation of this chapter or any rule or order of the

2991 State Fire Marshal.

2992 (c) Falsification of records relating to the certificate.

2993 (d) Having been found guilty of or having pleaded guilty

2994 or nolo contendere to a felony, whether or not a judgment of

2995 conviction has been entered.

2996 (e) Failure to meet any of the renewal requirements.

2997 (f) Having been convicted of a crime in any jurisdiction

2998 which directly relates to the practice of fire code inspection,

2999 plan review, or administration.

3000 (g) Making or filing a report or record that the

3001 certificateholder knows to be false, or knowingly inducing

3002 another to file a false report or record, or knowingly failing

3003 to file a report or record required by state or local law, or

3004 knowingly impeding or obstructing such filing, or knowingly

3005 inducing another person to impede or obstruct such filing.

3006 (h) Failing to properly enforce applicable fire codes or

3007 permit requirements within this state which the

3008 certificateholder knows are applicable by committing willful

3009 misconduct, gross negligence, gross misconduct, repeated

3010 negligence, or negligence resulting in a significant danger to

3011 life or property.

3012 (i) Accepting labor, services, or materials at no charge

3013 or at a noncompetitive rate from any person who performs work

3014 that is under the enforcement authority of the certificateholder

3015 and who is not an immediate family member of the

3016 certificateholder. For the purpose of this paragraph, the term

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3017 "immediate family member" means a spouse, child, parent,  
 3018 sibling, grandparent, aunt, uncle, or first cousin of the person  
 3019 or the person's spouse or any person who resides in the primary  
 3020 residence of the certificateholder.

3021 (7) The department shall provide by rule for the  
 3022 certification of firesafety inspectors.

3023 Section 88. Subsection (12) of section 641.495, Florida  
 3024 Statutes, is amended to read:

3025 641.495 Requirements for issuance and maintenance of  
 3026 certificate.—

3027 (12) The provisions of part I of chapter 395 do not apply  
 3028 to a health maintenance organization that, on or before January  
 3029 1, 1991, provides not more than 10 outpatient holding beds for  
 3030 short-term and hospice-type patients in an ambulatory care  
 3031 facility for its members, provided that such health maintenance  
 3032 organization maintains current accreditation by The Joint  
 3033 Commission ~~on Accreditation of Health Care Organizations~~, the  
 3034 Accreditation Association for Ambulatory Health Care, or the  
 3035 National Committee for Quality Assurance.

3036 Section 89. Subsection (13) of section 651.118, Florida  
 3037 Statutes, is amended to read:

3038 651.118 Agency for Health Care Administration;  
 3039 certificates of need; sheltered beds; community beds.—

3040 (13) Residents, as defined in this chapter, are not  
 3041 considered new admissions for the purpose of s.

3042 400.141(1) (n) ~~(e)~~1.d.

3043 Section 90. Subsection (2) of section 766.1015, Florida  
 3044 Statutes, is amended to read:

3045           766.1015 Civil immunity for members of or consultants to  
3046 certain boards, committees, or other entities.—

3047           (2) Such committee, board, group, commission, or other  
3048 entity must be established in accordance with state law or in  
3049 accordance with requirements of The Joint Commission ~~on~~  
3050 ~~Accreditation of Healthcare Organizations~~, established and duly  
3051 constituted by one or more public or licensed private hospitals  
3052 or behavioral health agencies, or established by a governmental  
3053 agency. To be protected by this section, the act, decision,  
3054 omission, or utterance may not be made or done in bad faith or  
3055 with malicious intent.

3056           Section 91. Subsection (4) of section 766.202, Florida  
3057 Statutes, is amended to read:

3058           766.202 Definitions; ss. 766.201-766.212.—As used in ss.  
3059 766.201-766.212, the term:

3060           (4) "Health care provider" means any hospital, ambulatory  
3061 surgical center, or mobile surgical facility as defined and  
3062 licensed under chapter 395; a birth center licensed under  
3063 chapter 383; any person licensed under chapter 458, chapter 459,  
3064 chapter 460, chapter 461, chapter 462, chapter 463, part I of  
3065 chapter 464, chapter 466, chapter 467, part XIV of chapter 468,  
3066 or chapter 486; a clinical lab licensed under chapter 483; a  
3067 health maintenance organization certificated under part I of  
3068 chapter 641; a blood bank; a plasma center; an industrial  
3069 clinic; a renal dialysis facility; or a professional association  
3070 partnership, corporation, joint venture, or other association  
3071 for professional activity by health care providers.

3072           Section 92. This act shall take effect July 1, 2010.