

1 A bill to be entitled
2 An act relating to health care; amending s. 1.01, F.S.;
3 defining the term "Joint Commission"; amending s.
4 112.0455, F.S., relating to a prohibition against applying
5 the Drug-Free Workplace Act retroactively; conforming a
6 cross-reference; amending s. 154.11, F.S.; renaming the
7 Joint Commission on the Accreditation of Hospitals as the
8 "Joint Commission"; amending s. 318.21, F.S.; requiring
9 that certain fines received by the county court for
10 traffic infractions be remitted to the Department of
11 Revenue for deposit into the Brain and Spinal Cord Injury
12 Rehabilitation Trust Fund within the Department of Health
13 for use for Medicaid recipients who have spinal cord
14 injuries; repealing s. 383.325, F.S., relating to the
15 requirement of a licensed facility under s. 383.305, F.S.,
16 to maintain inspection reports; amending s. 394.4787,
17 F.S.; conforming a cross-reference; amending s. 394.741,
18 F.S.; renaming the Joint Commission on the Accreditation
19 of Healthcare Organizations as the "Joint Commission";
20 renaming the Council on Accreditation for Children and
21 Family Services as the "Council on Accreditation";
22 amending s. 395.002, F.S.; redefining the term
23 "accrediting organizations" as it relates to hospital
24 licensure and regulation; deleting the definitions for the
25 terms "initial denial determination," "private review
26 agent," and "utilization review plan" as they relate to
27 hospital licensure and regulation; amending s. 395.003,
28 F.S.; deleting a provision that prohibits the Agency for

29 Health Care Administration from authorizing emergency
30 departments that are located off the premises of a
31 licensed hospital; conforming a cross-reference; amending
32 s. 395.0193, F.S.; requiring the Division of Medical
33 Quality Assurance within the Department of Health to
34 conduct the reviews of the recordings of agendas and
35 minutes of licensed facilities; requiring the Division of
36 Medical Quality Assurance within the Department of Health
37 to report disciplinary actions rather than the Division of
38 Health Quality Assurance within the Agency for Health Care
39 Administration; amending s. 395.1023, F.S.; requiring a
40 licensed facility to adopt a protocol to designate a
41 physician in cases involving suspected child abuse at the
42 request of the Department of Children and Family Services
43 rather than the Department of Health; amending s.
44 395.1041, F.S.; deleting provisions that require the
45 Agency for Health Care Administration to request a
46 hospital to identify its services, notify each hospital of
47 the service capability to be included in the inventory,
48 and publish a final inventory; deleting obsolete
49 provisions; repealing s. 395.1046, F.S., relating to the
50 investigation of complaints regarding hospitals; amending
51 s. 395.1055, F.S.; requiring the agency to adopt rules
52 that ensure that licensed facility beds conform to certain
53 standards as specified by the agency, the Florida Building
54 Code, and the Florida Fire Prevention Code; amending s.
55 395.10972, F.S.; renaming the Florida Society of
56 Healthcare Risk Management as the "Florida Society for

57 | Healthcare Risk Management and Patient Safety"; amending
58 | s. 395.2050, F.S.; providing for an organ procurement
59 | organization to be designated by the federal Centers for
60 | Medicare and Medicaid Services rather than the federal
61 | Health Care Financing Administration; amending s.
62 | 395.3036, F.S.; correcting a cross-reference; repealing s.
63 | 395.3037, F.S.; deleting definitions relating to obsolete
64 | provisions governing primary and comprehensive stroke
65 | centers; amending s. 395.3038, F.S.; renaming the Joint
66 | Commission on the Accreditation of Healthcare
67 | Organizations as the "Joint Commission"; amending s.
68 | 395.602, F.S.; redefining the term "rural hospital" as it
69 | relates to hospital licensure and regulation; amending s.
70 | 400.021, F.S.; redefining the term "geriatric outpatient
71 | clinic" as it relates to nursing homes; amending ss.
72 | 400.0239 and 400.063, F.S., relating to trust funds;
73 | deleting obsolete provisions; amending s. 400.071, F.S.;
74 | revising the requirements for an application for a license
75 | to operate a nursing home facility; amending s. 400.0712,
76 | F.S.; deleting the agency's authority to issue an inactive
77 | license to a nursing home facility; amending s. 400.111,
78 | F.S.; requiring the agency to request a licensee to submit
79 | an affidavit disclosing financial or ownership interest
80 | that a controlling interest has held in certain entities;
81 | amending s. 400.1183, F.S.; requiring nursing home
82 | facilities to maintain records of grievances for agency
83 | inspection; deleting a requirement that a facility report
84 | the number of grievances handled during the prior

85 licensure period; amending s. 400.141, F.S.; conforming a
86 cross-reference; deleting the requirement that a facility
87 submit to the agency information regarding a management
88 company with which it has entered into an agreement;
89 specifying a fine for a nursing facility's failure to
90 impose an admissions moratorium for not complying with
91 state minimum-staffing requirements; deleting the
92 requirement for a facility to report to the agency any
93 filing of bankruptcy protection, divestiture, or corporate
94 reorganization; amending s. 400.142, F.S.; deleting a
95 provision that requires the agency to adopt rules
96 regarding orders not to resuscitate; repealing s.
97 400.147(10), F.S., relating to a requirement that a
98 nursing home facility report any notice of a filing of a
99 claim for a violation of a resident's rights or a claim of
100 negligence; repealing s. 400.148, F.S., relating to the
101 Medicaid "Up-or-Out" Quality of Care Contract Management
102 Program; amending s. 400.19, F.S.; authorizing the agency
103 to verify the correction of certain deficiencies after an
104 unannounced inspection of a nursing home facility;
105 repealing s. 400.195, F.S., relating to agency reporting
106 requirements; amending s. 400.23, F.S.; renaming the
107 Children's Medical Services of the Department of Health as
108 the "Children's Medical Services Network"; deleting an
109 obsolete provision; amending s. 400.275, F.S.; deleting a
110 requirement that the agency ensure that a newly hired
111 nursing home surveyor is assigned full time to a licensed
112 nursing home to observe facility operations; amending s.

113 400.462, F.S.; revising definitions with regard to the
114 Home Health Services Act; defining the terms "primary home
115 health agency" and "temporary" with regard to the Home
116 Health Services Act; amending s. 400.476, F.S.; providing
117 requirements for an alternative administrator of a home
118 health agency; revising the duties of the administrator;
119 revising the requirements for a director of nursing for a
120 specified number of home health agencies; prohibiting a
121 home health agency from using an individual as a home
122 health aide unless the person has completed training and
123 an evaluation program; requiring a home health aide to
124 meet certain standards in order to be competent in
125 performing certain tasks; requiring a home health agency
126 and staff to comply with accepted professional standards;
127 providing certain requirements for a written contract
128 between certain personnel and the agency; requiring a home
129 health agency to provide certain services through its
130 employees; authorizing a home health agency to provide
131 additional services with another organization; providing
132 responsibilities of a home health agency when it provides
133 home health aide services through another organization;
134 requiring the home health agency to coordinate personnel
135 that provide home health services; requiring personnel to
136 communicate with the home health agency; amending s.
137 400.484, F.S.; redefining class I, II, III, and IV
138 deficiencies as class I, II, III, and IV violations;
139 amending s. 400.487, F.S.; requiring a home health agency
140 to provide a copy of the agreement between the agency and

141 a patient which specifies the home health services to be
142 provided; providing the rights that are protected by the
143 home health agency; requiring the home health agency to
144 furnish nursing services by or under the supervision of a
145 registered nurse; requiring the home health agency to
146 provide therapy services through a qualified therapist or
147 therapy assistant; providing the duties and qualifications
148 of a therapist and therapy assistant; requiring
149 supervision by a physical therapist or occupational
150 therapist of a physical therapist assistant or
151 occupational therapist assistant; providing duties of a
152 physical therapist assistant or occupational therapist
153 assistant; providing for speech therapy services to be
154 provided by a qualified speech pathologist or audiologist;
155 providing for a plan of care; providing that only the
156 staff of a home health agency may administer drugs and
157 treatments as ordered by certain health professionals;
158 providing requirements for verbal orders; providing duties
159 of a registered nurse, licensed practical nurse, home
160 health aide, and certified nursing assistant who work for
161 a home health agency; amending s. 400.606, F.S.; revising
162 the requirements for the plan for the delivery of home,
163 residential, and homelike inpatient hospice services for
164 terminally ill patients and their families; amending s.
165 400.607, F.S.; revising the grounds under which the agency
166 may take administrative action against a hospice; amending
167 s. 400.925, F.S.; renaming the Joint Commission on the
168 Accreditation of Healthcare Organizations as the "Joint

169 Commission" within the definition of the term "accrediting
170 organizations" as it relates to home medical equipment
171 providers; amending s. 400.931, F.S.; deleting the
172 requirement that an applicant for a license to be a home
173 medical equipment provider submit a surety bond to the
174 agency; amending s. 400.932, F.S.; revising the grounds
175 under which the agency may take administrative action
176 against a home medical equipment provider; amending s.
177 400.933, F.S.; prohibiting a home medical equipment
178 provider from submitting a survey or inspection of an
179 accrediting organization if the home medical equipment
180 provider's licensure is conditional or provisional;
181 amending s. 400.953, F.S.; deleting the requirement of a
182 general manager of a home medical equipment provider to
183 annually sign an affidavit regarding the background
184 screening of personnel; providing requirements for
185 submission of the affidavit; amending s. 400.967, F.S.;

186 redefining class I, II, III, and IV deficiencies as class
187 I, II, III, and IV violations as they relate to
188 intermediate care facilities for developmentally disabled
189 persons; amending s. 400.969, F.S.; revising the grounds
190 for an administrative or civil penalty; amending s.
191 400.9905, F.S.; redefining the term "portable service or
192 equipment provider" as it relates to the Health Care
193 Clinic Act; amending s. 400.991, F.S.; conforming a
194 provision to changes made by the act; revising application
195 requirements to show proof of financial ability to operate
196 a health care clinic; amending s. 400.9935, F.S.; renaming

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197 the Joint Commission on the Accreditation of Healthcare
198 Organizations as the "Joint Commission" for purposes of
199 the Health Care Clinic Act; amending s. 408.034, F.S.;
200 prohibiting the agency from issuing a license to a health
201 care facility that applies for a license to operate an
202 intermediate care facility for developmentally disabled
203 persons under certain conditions; amending s. 408.036,
204 F.S., relating to certificates of need; conforming a
205 provision to changes made by the act; amending s. 408.043,
206 F.S.; requiring a freestanding facility or a part of the
207 facility that is the inpatient hospice care component of a
208 hospice to obtain a certificate of need; amending s.
209 408.05, F.S.; renaming the Joint Commission on the
210 Accreditation of Healthcare Organizations as the "Joint
211 Commission"; amending s. 408.061, F.S.; revising
212 requirements for the reporting of certified data elements
213 by health care facilities; amending s. 408.10, F.S.;
214 authorizing the agency to provide staffing for a toll-free
215 phone number for the purpose of handling consumer
216 complaints regarding a health care facility; repealing s.
217 408.802(11), F.S., relating to the applicability of the
218 Health Care Licensing Procedures Act to private review
219 agents; amending s. 408.804, F.S.; providing a criminal
220 penalty for altering, defacing, or falsifying a license
221 certificate of certain health care providers; providing
222 civil penalties for displaying an altered, defaced, or
223 falsified license certificate; amending s. 408.806, F.S.;
224 requiring the agency to provide a courtesy notice to a

225 licensee regarding the expiration of a licensee's license;
226 providing that failure of the agency to provide the
227 courtesy notice or failure of the licensee to receive the
228 notice is not an excuse for the licensee to timely renew
229 its license; providing that payment of the late fee is
230 required for a later application; amending s. 408.810,
231 F.S.; revising the requirements for obtaining and
232 maintaining a license for certain health care providers
233 and those who own a controlling interest in a health care
234 provider; amending s. 408.811, F.S.; providing that a
235 licensee's inspection report is not subject to
236 administrative challenge; amending s. 408.813, F.S.;
237 authorizing the agency to impose administrative fines for
238 unclassified violations; amending s. 408.815, F.S.;
239 authorizing the agency to extend the expiration date of a
240 license for the purpose of the safe and orderly discharge
241 of clients; authorizing the agency to impose conditions on
242 the extension; amending s. 409.906, F.S.; requiring the
243 agency, in consultation with the Department of Elderly
244 Affairs, to phase out the adult day health care waiver
245 program; requiring adult day health care waiver providers,
246 in consultation with resource centers for the aged to
247 assist in the transition of enrollees from the waiver
248 program; repealing s. 409.221(4)(k), F.S., relating to the
249 responsibility of the agency, the Department of Elderly
250 Affairs, the Department of Health, the Department of
251 Children and Family Services, and the Agency for Persons
252 with Disabilities to review and assess the implementation

253 of the consumer-directed care program and the agency's
254 responsibility to submit a report to the Legislature;
255 repealing s. 409.912(15)(e), (f), and (g), F.S., relating
256 to a requirement for the Agency for Health Care
257 Administration to submit a report to the Legislature
258 regarding the operations of the CARE program; amending s.
259 429.11, F.S.; deleting provisions relating to a
260 provisional license to operate as an assisted living
261 facility; repealing s. 429.12(2), F.S., relating to the
262 sale or transfer of ownership of an assisted living
263 facility; amending s. 429.14, F.S.; authorizing the agency
264 to provide electronically or through the agency's Internet
265 site information regarding the denial, suspension, or
266 revocation of a license to the Division of Hotels and
267 Restaurants of the Department of Business and Professional
268 Regulation; amending s. 429.17, F.S.; revising the
269 requirements for a conditional license to operate an
270 assisted living facility; repealing s. 429.23(5), F.S.,
271 relating to each assisted living facility's requirement to
272 submit a report to the agency regarding liability claims
273 filed against it; amending s. 429.35, F.S.; authorizing
274 the agency to provide electronically or through the
275 agency's Internet website information regarding the
276 results of an inspection to the local ombudsman council;
277 amending s. 429.53, F.S.; requiring the agency, rather
278 than the agency's area offices of licensure and
279 certification, to provide consultation to certain persons
280 and licensees regarding assisted living facilities;

281 redefining the term "consultation" as it relates to
282 assisted living facilities; amending s. 429.65, F.S.;
283 redefining the term "adult family-care home" as it relates
284 to the Adult Family-Care Home Act; amending s. 429.71,
285 F.S.; redefining class I, II, III, and IV deficiencies as
286 class I, II, III, and IV violations as they relate to
287 adult family-care homes; repealing s. 429.911, F.S.,
288 relating to the denial, suspension, or revocation of a
289 license to operate an adult day care center; amending s.
290 429.915, F.S.; revising requirements for a conditional
291 license to operate an adult day care center; amending s.
292 430.80, F.S.; conforming a cross-reference; renaming the
293 Joint Commission on the Accreditation of Healthcare
294 Organizations to the Joint Commission; amending s. 440.13,
295 F.S.; renaming the Joint Commission on the Accreditation
296 of Healthcare Organizations as the "Joint Commission";
297 amending s. 483.294, F.S.; requiring the agency to
298 biennially inspect the premises and operations of
299 multiphasic health testing centers; amending ss. 627.645,
300 627.668, and 627.669, F.S.; renaming the Joint Commission
301 on the Accreditation of Hospitals to the Joint Commission;
302 amending ss. 627.736 and 641.495 F.S.; renaming the Joint
303 Commission on the Accreditation of Healthcare
304 Organizations as the "Joint Commission"; amending s.
305 651.118, F.S.; conforming a cross-reference; amending s.
306 766.1015, F.S.; renaming the Joint Commission on the
307 Accreditation of Healthcare Organizations as the "Joint
308 Commission"; providing effective dates.

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

Section 1. Subsection (16) is added to section 1.01, Florida Statutes, to read:

1.01 Definitions.—In construing these statutes and each and every word, phrase, or part hereof, where the context will permit:

(16) The term "Joint Commission" means the independent, not-for-profit organization that evaluates and accredits hospitals and health care organizations and programs in the United States. The Joint Commission was formerly known as the Joint Commission on Accreditation of Hospitals (JCAH) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

Section 2. Paragraphs (f) through (k) of subsection (10) of section 112.0455, Florida Statutes, are redesignated as paragraphs (e) through (j), present paragraph (e) of that subsection is amended, and paragraph (e) of subsection (14) of that section is amended to read:

112.0455 Drug-Free Workplace Act.—

(10) EMPLOYER PROTECTION.—

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

(14) DISCIPLINE REMEDIES.—

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

340 1. Rescind the disciplinary action, expunge related
 341 records from the personnel file of the employee or job applicant
 342 and reinstate the employee.

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

344 3. Award back pay and benefits.

345 4. Award the prevailing employee or job applicant the
 346 necessary costs of the appeal, reasonable attorney's fees, and
 347 expert witness fees.

348 Section 3. Paragraph (n) of subsection (1) of section
 349 154.11, Florida Statutes, is amended to read:

350 154.11 Powers of board of trustees.—

351 (1) The board of trustees of each public health trust
 352 shall be deemed to exercise a public and essential governmental
 353 function of both the state and the county and in furtherance
 354 thereof it shall, subject to limitation by the governing body of
 355 the county in which such board is located, have all of the
 356 powers necessary or convenient to carry out the operation and
 357 governance of designated health care facilities, including, but
 358 without limiting the generality of, the foregoing:

359 (n) To appoint originally the staff of physicians to
 360 practice in any designated facility owned or operated by the
 361 board and to approve the bylaws and rules to be adopted by the
 362 medical staff of any designated facility owned and operated by
 363 the board, such governing regulations to be in accordance with
 364 the standards of the Joint Commission ~~on the Accreditation of~~

365 ~~Hospitals~~ which provide, among other things, for the method of
 366 appointing additional staff members and for the removal of staff
 367 members.

368 Section 4. Subsection (15) of section 318.21, Florida
 369 Statutes, is amended to read:

370 318.21 Disposition of civil penalties by county courts.—
 371 All civil penalties received by a county court pursuant to the
 372 provisions of this chapter shall be distributed and paid monthly
 373 as follows:

374 (15) Of the additional fine assessed under s. 318.18(3)(e)
 375 for a violation of s. 316.1893, 50 percent of the moneys
 376 received from the fines shall be remitted to the Department of
 377 Revenue and deposited into Brain and Spinal Cord Injury
 378 Rehabilitation Trust Fund within Department of Health and shall
 379 be appropriated to the Department of Health Agency for Health
 380 Care Administration as general revenue to ~~provide an enhanced~~
 381 ~~Medicaid payment to nursing homes that~~ serve Medicaid recipients
 382 with ~~brain and~~ spinal cord injuries that are medically complex,
 383 technologically dependent, and respiratory dependent. The
 384 remaining 50 percent of the moneys received from the enhanced
 385 fine imposed under s. 318.18(3)(e) shall be remitted to the
 386 Department of Revenue and deposited into the Department of
 387 Health Administrative Trust Fund to provide financial support to
 388 certified trauma centers in the counties where enhanced penalty
 389 zones are established to ensure the availability and
 390 accessibility of trauma services. Funds deposited into the
 391 Administrative Trust Fund under this subsection shall be
 392 allocated as follows:

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

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

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

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

403 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
 404 and 394.4789.—As used in this section and ss. 394.4786,
 405 394.4788, and 394.4789:

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

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

411 394.741 Accreditation requirements for providers of
 412 behavioral health care services.—

413 (2) Notwithstanding any provision of law to the contrary,
 414 accreditation shall be accepted by the agency and department in
 415 lieu of the agency's and department's facility licensure onsite
 416 review requirements and shall be accepted as a substitute for
 417 the department's administrative and program monitoring
 418 requirements, except as required by subsections (3) and (4),
 419 for:

420 (a) Any organization from which the department purchases

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421 behavioral health care services that is accredited by the Joint
 422 Commission ~~on Accreditation of Healthcare Organizations~~ or the
 423 Council on Accreditation ~~for Children and Family Services~~, or
 424 has those services that are being purchased by the department
 425 accredited by CARF—the Rehabilitation Accreditation Commission.

426 (b) Any mental health facility licensed by the agency or
 427 any substance abuse component licensed by the department that is
 428 accredited by the Joint Commission ~~on Accreditation of~~
 429 ~~Healthcare Organizations~~, CARF—the Rehabilitation Accreditation
 430 Commission, or the Council on Accreditation ~~of Children and~~
 431 ~~Family Services~~.

432 (c) Any network of providers from which the department or
 433 the agency purchases behavioral health care services accredited
 434 by the Joint Commission ~~on Accreditation of Healthcare~~
 435 ~~Organizations~~, CARF—the Rehabilitation Accreditation Commission,
 436 the Council on Accreditation ~~of Children and Family Services~~, or
 437 the National Committee for Quality Assurance. A provider
 438 organization, which is part of an accredited network, is
 439 afforded the same rights under this part.

440 Section 8. Section 395.002, Florida Statutes, is amended
 441 to read:

442 395.002 Definitions.—As used in this chapter, the term:

443 (1) "Accrediting organizations" means nationally
 444 recognized or approved accrediting organizations whose standards
 445 incorporate comparable licensure requirements as determined by
 446 the agency. ~~the Joint Commission on Accreditation of Healthcare~~
 447 ~~Organizations, the American Osteopathic Association, the~~
 448 ~~Commission on Accreditation of Rehabilitation Facilities, and~~

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449 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

450 (2) "Agency" means the Agency for Health Care
451 Administration.

452 (3) "Ambulatory surgical center" or "mobile surgical
453 facility" means a facility the primary purpose of which is to
454 provide elective surgical care, in which the patient is admitted
455 to and discharged from such facility within the same working day
456 and is not permitted to stay overnight, and which is not part of
457 a hospital. However, a facility existing for the primary purpose
458 of performing terminations of pregnancy, an office maintained by
459 a physician for the practice of medicine, or an office
460 maintained for the practice of dentistry shall not be construed
461 to be an ambulatory surgical center, provided that any facility
462 or office which is certified or seeks certification as a
463 Medicare ambulatory surgical center shall be licensed as an
464 ambulatory surgical center pursuant to s. 395.003. Any structure
465 or vehicle in which a physician maintains an office and
466 practices surgery, and which can appear to the public to be a
467 mobile office because the structure or vehicle operates at more
468 than one address, shall be construed to be a mobile surgical
469 facility.

470 (4) "Biomedical waste" means any solid or liquid waste as
471 defined in s. 381.0098(2)(a).

472 (5) "Clinical privileges" means the privileges granted to
473 a physician or other licensed health care practitioner to render
474 patient care services in a hospital, but does not include the
475 privilege of admitting patients.

476 (6) "Department" means the Department of Health.

477 (7) "Director" means any member of the official board of
 478 directors as reported in the organization's annual corporate
 479 report to the Florida Department of State, or, if no such report
 480 is made, any member of the operating board of directors. The
 481 term excludes members of separate, restricted boards that serve
 482 only in an advisory capacity to the operating board.

483 (8) "Emergency medical condition" means:

484 (a) A medical condition manifesting itself by acute
 485 symptoms of sufficient severity, which may include severe pain,
 486 such that the absence of immediate medical attention could
 487 reasonably be expected to result in any of the following:

488 1. Serious jeopardy to patient health, including a
 489 pregnant woman or fetus.

490 2. Serious impairment to bodily functions.

491 3. Serious dysfunction of any bodily organ or part.

492 (b) With respect to a pregnant woman:

493 1. That there is inadequate time to effect safe transfer
 494 to another hospital prior to delivery;

495 2. That a transfer may pose a threat to the health and
 496 safety of the patient or fetus; or

497 3. That there is evidence of the onset and persistence of
 498 uterine contractions or rupture of the membranes.

499 (9) "Emergency services and care" means medical screening,
 500 examination, and evaluation by a physician, or, to the extent
 501 permitted by applicable law, by other appropriate personnel
 502 under the supervision of a physician, to determine if an
 503 emergency medical condition exists and, if it does, the care,
 504 treatment, or surgery by a physician necessary to relieve or

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505 eliminate the emergency medical condition, within the service
506 capability of the facility.

507 (10) "General hospital" means any facility which meets the
508 provisions of subsection (12) and which regularly makes its
509 facilities and services available to the general population.

510 (11) "Governmental unit" means the state or any county,
511 municipality, or other political subdivision, or any department,
512 division, board, or other agency of any of the foregoing.

513 (12) "Hospital" means any establishment that:

514 (a) Offers services more intensive than those required for
515 room, board, personal services, and general nursing care, and
516 offers facilities and beds for use beyond 24 hours by
517 individuals requiring diagnosis, treatment, or care for illness,
518 injury, deformity, infirmity, abnormality, disease, or
519 pregnancy; and

520 (b) Regularly makes available at least clinical laboratory
521 services, diagnostic X-ray services, and treatment facilities
522 for surgery or obstetrical care, or other definitive medical
523 treatment of similar extent, except that a critical access
524 hospital, as defined in s. 408.07, shall not be required to make
525 available treatment facilities for surgery, obstetrical care, or
526 similar services as long as it maintains its critical access
527 hospital designation and shall be required to make such
528 facilities available only if it ceases to be designated as a
529 critical access hospital.

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531 However, the provisions of this chapter do not apply to any
532 institution conducted by or for the adherents of any well-

533 recognized church or religious denomination that depends
 534 exclusively upon prayer or spiritual means to heal, care for, or
 535 treat any person. For purposes of local zoning matters, the term
 536 "hospital" includes a medical office building located on the
 537 same premises as a hospital facility, provided the land on which
 538 the medical office building is constructed is zoned for use as a
 539 hospital; provided the premises were zoned for hospital purposes
 540 on January 1, 1992.

541 (13) "Hospital bed" means a hospital accommodation which
 542 is ready for immediate occupancy, or is capable of being made
 543 ready for occupancy within 48 hours, excluding provision of
 544 staffing, and which conforms to minimum space, equipment, and
 545 furnishings standards as specified by rule of the agency for the
 546 provision of services specified in this section to a single
 547 patient.

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

552 (14) ~~(15)~~ "Intensive residential treatment programs for
 553 children and adolescents" means a specialty hospital accredited
 554 by an accrediting organization as defined in subsection (1)
 555 which provides 24-hour care and which has the primary functions
 556 of diagnosis and treatment of patients under the age of 18
 557 having psychiatric disorders in order to restore such patients
 558 to an optimal level of functioning.

559 (15) ~~(16)~~ "Licensed facility" means a hospital, ambulatory
 560 surgical center, or mobile surgical facility licensed in

561 accordance with this chapter.

562 (16)~~(17)~~ "Lifesafety" means the control and prevention of
 563 fire and other life-threatening conditions on a premises for the
 564 purpose of preserving human life.

565 (17)~~(18)~~ "Managing employee" means the administrator or
 566 other similarly titled individual who is responsible for the
 567 daily operation of the facility.

568 (18)~~(19)~~ "Medical staff" means physicians licensed under
 569 chapter 458 or chapter 459 with privileges in a licensed
 570 facility, as well as other licensed health care practitioners
 571 with clinical privileges as approved by a licensed facility's
 572 governing board.

573 (19)~~(20)~~ "Medically necessary transfer" means a transfer
 574 made necessary because the patient is in immediate need of
 575 treatment for an emergency medical condition for which the
 576 facility lacks service capability or is at service capacity.

577 (20)~~(21)~~ "Mobile surgical facility" is a mobile facility
 578 in which licensed health care professionals provide elective
 579 surgical care under contract with the Department of Corrections
 580 or a private correctional facility operating pursuant to chapter
 581 957 and in which inmate patients are admitted to and discharged
 582 from said facility within the same working day and are not
 583 permitted to stay overnight. However, mobile surgical facilities
 584 may only provide health care services to the inmate patients of
 585 the Department of Corrections, or inmate patients of a private
 586 correctional facility operating pursuant to chapter 957, and not
 587 to the general public.

588 (21)~~(22)~~ "Person" means any individual, partnership,

589 corporation, association, or governmental unit.

590 (22)~~(23)~~ "Premises" means those buildings, beds, and
 591 equipment located at the address of the licensed facility and
 592 all other buildings, beds, and equipment for the provision of
 593 hospital, ambulatory surgical, or mobile surgical care located
 594 in such reasonable proximity to the address of the licensed
 595 facility as to appear to the public to be under the dominion and
 596 control of the licensee. For any licensee that is a teaching
 597 hospital as defined in s. 408.07(45), reasonable proximity
 598 includes any buildings, beds, services, programs, and equipment
 599 under the dominion and control of the licensee that are located
 600 at a site with a main address that is within 1 mile of the main
 601 address of the licensed facility; and all such buildings, beds,
 602 and equipment may, at the request of a licensee or applicant, be
 603 included on the facility license as a single premises.

604 ~~(24) "Private review agent" means any person or entity
 605 which performs utilization review services for third-party
 606 payors on a contractual basis for outpatient or inpatient
 607 services. However, the term shall not include full-time
 608 employees, personnel, or staff of health insurers, health
 609 maintenance organizations, or hospitals, or wholly owned
 610 subsidiaries thereof or affiliates under common ownership, when
 611 performing utilization review for their respective hospitals,
 612 health maintenance organizations, or insureds of the same
 613 insurance group. For this purpose, health insurers, health
 614 maintenance organizations, and hospitals, or wholly owned
 615 subsidiaries thereof or affiliates under common ownership,
 616 include such entities engaged as administrators of self-~~

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617 ~~insurance as defined in s. 624.031.~~

618 (23)~~(25)~~ "Service capability" means all services offered
619 by the facility where identification of services offered is
620 evidenced by the appearance of the service in a patient's
621 medical record or itemized bill.

622 (24)~~(26)~~ "At service capacity" means the temporary
623 inability of a hospital to provide a service which is within the
624 service capability of the hospital, due to maximum use of the
625 service at the time of the request for the service.

626 (25)~~(27)~~ "Specialty bed" means a bed, other than a general
627 bed, designated on the face of the hospital license for a
628 dedicated use.

629 (26)~~(28)~~ "Specialty hospital" means any facility which
630 meets the provisions of subsection (12), and which regularly
631 makes available either:

632 (a) The range of medical services offered by general
633 hospitals, but restricted to a defined age or gender group of
634 the population;

635 (b) A restricted range of services appropriate to the
636 diagnosis, care, and treatment of patients with specific
637 categories of medical or psychiatric illnesses or disorders; or

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

640 (27)~~(29)~~ "Stabilized" means, with respect to an emergency
641 medical condition, that no material deterioration of the
642 condition is likely, within reasonable medical probability, to
643 result from the transfer of the patient from a hospital.

644 ~~(30) "Utilization review" means a system for reviewing the~~

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645 ~~medical necessity or appropriateness in the allocation of health~~
646 ~~care resources of hospital services given or proposed to be~~
647 ~~given to a patient or group of patients.~~

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

651 (28)~~(32)~~ "Validation inspection" means an inspection of
652 the premises of a licensed facility by the agency to assess
653 whether a review by an accrediting organization has adequately
654 evaluated the licensed facility according to minimum state
655 standards.

656 Section 9. Subsection (1) and paragraph (b) of subsection
657 (2) of section 395.003, Florida Statutes, are amended to read:

658 395.003 Licensure; denial, suspension, and revocation.—

659 (1) (a) The requirements of part II of chapter 408 apply to
660 the provision of services that require licensure pursuant to ss.
661 395.001-395.1065 and part II of chapter 408 and to entities
662 licensed by or applying for such licensure from the Agency for
663 Health Care Administration pursuant to ss. 395.001-395.1065. A
664 license issued by the agency is required in order to operate a
665 hospital, ambulatory surgical center, or mobile surgical
666 facility in this state.

667 (b)1. It is unlawful for a person to use or advertise to
668 the public, in any way or by any medium whatsoever, any facility
669 as a "hospital," "ambulatory surgical center," or "mobile
670 surgical facility" unless such facility has first secured a
671 license under the provisions of this part.

672 2. This part does not apply to veterinary hospitals or to

673 commercial business establishments using the word "hospital,"
 674 "ambulatory surgical center," or "mobile surgical facility" as a
 675 part of a trade name if no treatment of human beings is
 676 performed on the premises of such establishments.

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

680 (2)

681 (b) The agency shall, at the request of a licensee that is
 682 a teaching hospital as defined in s. 408.07(45), issue a single
 683 license to a licensee for facilities that have been previously
 684 licensed as separate premises, provided such separately licensed
 685 facilities, taken together, constitute the same premises as
 686 defined in s. 395.002 (22) ~~(23)~~. Such license for the single
 687 premises shall include all of the beds, services, and programs
 688 that were previously included on the licenses for the separate
 689 premises. The granting of a single license under this paragraph
 690 shall not in any manner reduce the number of beds, services, or
 691 programs operated by the licensee.

692 Section 10. Paragraph (e) of subsection (2) and subsection
 693 (4) of section 395.0193, Florida Statutes, are amended to read:

694 395.0193 Licensed facilities; peer review; disciplinary
 695 powers; agency or partnership with physicians.—

696 (2) Each licensed facility, as a condition of licensure,
 697 shall provide for peer review of physicians who deliver health
 698 care services at the facility. Each licensed facility shall
 699 develop written, binding procedures by which such peer review
 700 shall be conducted. Such procedures shall include:

701 (e) Recording of agendas and minutes which do not contain
 702 confidential material, for review by the Division of Medical
 703 Quality Assurance of the department ~~Health Quality Assurance of~~
 704 ~~the agency.~~

705 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
 706 actions taken under subsection (3) shall be reported in writing
 707 to the Division of Medical Quality Assurance of the department
 708 ~~Health Quality Assurance of the agency~~ within 30 working days
 709 after its initial occurrence, regardless of the pendency of
 710 appeals to the governing board of the hospital. The notification
 711 shall identify the disciplined practitioner, the action taken,
 712 and the reason for such action. All final disciplinary actions
 713 taken under subsection (3), if different from those which were
 714 reported to the department ~~agency~~ within 30 days after the
 715 initial occurrence, shall be reported within 10 working days to
 716 the Division of Medical Quality Assurance of the department
 717 ~~Health Quality Assurance of the agency~~ in writing and shall
 718 specify the disciplinary action taken and the specific grounds
 719 therefor. The division shall review each report and determine
 720 whether it potentially involved conduct by the licensee that is
 721 subject to disciplinary action, in which case s. 456.073 shall
 722 apply. The reports are not subject to inspection under s.
 723 119.07(1) even if the division's investigation results in a
 724 finding of probable cause.

725 Section 11. Section 395.1023, Florida Statutes, is amended
 726 to read:

727 395.1023 Child abuse and neglect cases; duties.—Each
 728 licensed facility shall adopt a protocol that, at a minimum,

729 requires the facility to:

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

734 (2) In any case involving suspected child abuse,
 735 abandonment, or neglect, designate, at the request of the
 736 Department of Children and Family Services, a staff physician to
 737 act as a liaison between the hospital and the Department of
 738 Children and Family Services office which is investigating the
 739 suspected abuse, abandonment, or neglect, and the child
 740 protection team, as defined in s. 39.01, when the case is
 741 referred to such a team.

742
 743 Each general hospital and appropriate specialty hospital shall
 744 comply with the provisions of this section and shall notify the
 745 agency and the Department of Children and Family Services of its
 746 compliance by sending a copy of its policy to the agency and the
 747 Department of Children and Family Services as required by rule.
 748 The failure by a general hospital or appropriate specialty
 749 hospital to comply shall be punished by a fine not exceeding
 750 \$1,000, to be fixed, imposed, and collected by the agency. Each
 751 day in violation is considered a separate offense.

752 Section 12. Subsection (2) and paragraph (d) of subsection
 753 (3) of section 395.1041, Florida Statutes, are amended to read:
 754 395.1041 Access to emergency services and care.—

755 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency
 756 shall establish and maintain an inventory of hospitals with

757 emergency services. The inventory shall list all services within
 758 the service capability of the hospital, and such services shall
 759 appear on the face of the hospital license. Each hospital having
 760 emergency services shall notify the agency of its service
 761 capability in the manner and form prescribed by the agency. The
 762 agency shall use the inventory to assist emergency medical
 763 services providers and others in locating appropriate emergency
 764 medical care. The inventory shall also be made available to the
 765 general public. ~~On or before August 1, 1992, the agency shall~~
 766 ~~request that each hospital identify the services which are~~
 767 ~~within its service capability. On or before November 1, 1992,~~
 768 ~~the agency shall notify each hospital of the service capability~~
 769 ~~to be included in the inventory. The hospital has 15 days from~~
 770 ~~the date of receipt to respond to the notice. By December 1,~~
 771 ~~1992, the agency shall publish a final inventory.~~ Each hospital
 772 shall reaffirm its service capability when its license is
 773 renewed and shall notify the agency of the addition of a new
 774 service or the termination of a service prior to a change in its
 775 service capability.

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

778 (d)1. Every hospital shall ensure the provision of
 779 services within the service capability of the hospital, at all
 780 times, either directly or indirectly through an arrangement with
 781 another hospital, through an arrangement with one or more
 782 physicians, or as otherwise made through prior arrangements. A
 783 hospital may enter into an agreement with another hospital for
 784 purposes of meeting its service capability requirement, and

785 appropriate compensation or other reasonable conditions may be
 786 negotiated for these backup services.

787 2. If any arrangement requires the provision of emergency
 788 medical transportation, such arrangement must be made in
 789 consultation with the applicable provider and may not require
 790 the emergency medical service provider to provide transportation
 791 that is outside the routine service area of that provider or in
 792 a manner that impairs the ability of the emergency medical
 793 service provider to timely respond to prehospital emergency
 794 calls.

795 3. A hospital shall not be required to ensure service
 796 capability at all times as required in subparagraph 1. if, prior
 797 to the receiving of any patient needing such service capability,
 798 such hospital has demonstrated to the agency that it lacks the
 799 ability to ensure such capability and it has exhausted all
 800 reasonable efforts to ensure such capability through backup
 801 arrangements. In reviewing a hospital's demonstration of lack of
 802 ability to ensure service capability, the agency shall consider
 803 factors relevant to the particular case, including the
 804 following:

805 a. Number and proximity of hospitals with the same service
 806 capability.

807 b. Number, type, credentials, and privileges of
 808 specialists.

809 c. Frequency of procedures.

810 d. Size of hospital.

811 4. The agency shall publish ~~proposed~~ rules implementing a
 812 reasonable exemption procedure ~~by November 1, 1992~~. ~~Subparagraph~~

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813 ~~1. shall become effective upon the effective date of said rules~~
 814 ~~or January 31, 1993, whichever is earlier. For a period not to~~
 815 ~~exceed 1 year from the effective date of subparagraph 1., a~~
 816 ~~hospital requesting an exemption shall be deemed to be exempt~~
 817 ~~from offering the service until the agency initially acts to~~
 818 ~~deny or grant the original request. The agency has 45 days from~~
 819 ~~the date of receipt of the request to approve or deny the~~
 820 ~~request. After the first year from the effective date of~~
 821 ~~subparagraph 1.,~~ If the agency fails to initially act within the
 822 time period, the hospital is deemed to be exempt from offering
 823 the service until the agency initially acts to deny the request.

824 Section 13. Section 395.1046, Florida Statutes, is
 825 repealed.

826 Section 14. Paragraph (e) of subsection (1) of section
 827 395.1055, Florida Statutes, is amended to read:

828 395.1055 Rules and enforcement.—

829 (1) The agency shall adopt rules pursuant to ss.
 830 120.536(1) and 120.54 to implement the provisions of this part,
 831 which shall include reasonable and fair minimum standards for
 832 ensuring that:

833 (e) Licensed facility beds conform to minimum space,
 834 equipment, and furnishings standards as specified by the agency,
 835 the Florida Building Code, and the Florida Fire Prevention Code
 836 department.

837 Section 15. Subsection (1) of section 395.10972, Florida
 838 Statutes, is amended to read:

839 395.10972 Health Care Risk Manager Advisory Council.—The
 840 Secretary of Health Care Administration may appoint a seven-

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841 member advisory council to advise the agency on matters
 842 pertaining to health care risk managers. The members of the
 843 council shall serve at the pleasure of the secretary. The
 844 council shall designate a chair. The council shall meet at the
 845 call of the secretary or at those times as may be required by
 846 rule of the agency. The members of the advisory council shall
 847 receive no compensation for their services, but shall be
 848 reimbursed for travel expenses as provided in s. 112.061. The
 849 council shall consist of individuals representing the following
 850 areas:

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

855 Section 16. Subsection (3) of section 395.2050, Florida
 856 Statutes, is amended to read:

857 395.2050 Routine inquiry for organ and tissue donation;
 858 certification for procurement activities; death records review.-

859 (3) Each organ procurement organization designated by the
 860 federal Centers for Medicare and Medicaid Services Health-Care
 861 ~~Financing Administration~~ and licensed by the state shall conduct
 862 an annual death records review in the organ procurement
 863 organization's affiliated donor hospitals. The organ procurement
 864 organization shall enlist the services of every Florida licensed
 865 tissue bank and eye bank affiliated with or providing service to
 866 the donor hospital and operating in the same service area to
 867 participate in the death records review.

868 Section 17. Subsection (2) of section 395.3036, Florida

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869 Statutes, is amended to read:

870 395.3036 Confidentiality of records and meetings of
 871 corporations that lease public hospitals or other public health
 872 care facilities.—The records of a private corporation that
 873 leases a public hospital or other public health care facility
 874 are confidential and exempt from the provisions of s. 119.07(1)
 875 and s. 24(a), Art. I of the State Constitution, and the meetings
 876 of the governing board of a private corporation are exempt from
 877 s. 286.011 and s. 24(b), Art. I of the State Constitution when
 878 the public lessor complies with the public finance
 879 accountability provisions of s. 155.40(5) with respect to the
 880 transfer of any public funds to the private lessee and when the
 881 private lessee meets at least three of the five following
 882 criteria:

883 (2) The public lessor and the private lessee do not
 884 commingle any of their funds in any account maintained by either
 885 of them, other than the payment of the rent and administrative
 886 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.

887 Section 18. Section 395.3037, Florida Statutes, is
 888 repealed.

889 Section 19. Subsections (1), (4), and (5) of section
 890 395.3038, Florida Statutes, are amended to read:

891 395.3038 State-listed primary stroke centers and
 892 comprehensive stroke centers; notification of hospitals.—

893 (1) The agency shall make available on its website and to
 894 the department a list of the name and address of each hospital
 895 that meets the criteria for a primary stroke center and the name
 896 and address of each hospital that meets the criteria for a

897 comprehensive stroke center. The list of primary and
 898 comprehensive stroke centers shall include only those hospitals
 899 that attest in an affidavit submitted to the agency that the
 900 hospital meets the named criteria, or those hospitals that
 901 attest in an affidavit submitted to the agency that the hospital
 902 is certified as a primary or a comprehensive stroke center by
 903 the Joint Commission ~~on Accreditation of Healthcare~~
 904 ~~Organizations~~.

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

909 (5) The agency shall adopt by rule criteria for a
 910 comprehensive stroke center. However, if the Joint Commission ~~on~~
 911 ~~Accreditation of Healthcare Organizations~~ establishes criteria
 912 for a comprehensive stroke center, the agency shall establish
 913 criteria for a comprehensive stroke center which are
 914 substantially similar to those criteria established by the Joint
 915 Commission ~~on Accreditation of Healthcare Organizations~~.

916 Section 20. Subsection (2) of section 395.602, Florida
 917 Statutes, is amended to read:

918 395.602 Rural hospitals.—

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

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

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

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

930 3. A hospital supported by a tax district or subdistrict
 931 whose boundaries encompass a population of 100 persons or fewer
 932 per square mile;

933 ~~4. A hospital in a constitutional charter county with a~~
 934 ~~population of over 1 million persons that has imposed a local~~
 935 ~~option health service tax pursuant to law and in an area that~~
 936 ~~was directly impacted by a catastrophic event on August 24,~~
 937 ~~1992, for which the Governor of Florida declared a state of~~
 938 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
 939 ~~serves an agricultural community with an emergency room~~
 940 ~~utilization of no less than 20,000 visits and a Medicaid~~
 941 ~~inpatient utilization rate greater than 15 percent;~~

942 4.5. A hospital with a service area that has a population
 943 of 100 persons or fewer per square mile. As used in this
 944 subparagraph, the term "service area" means the fewest number of
 945 zip codes that account for 75 percent of the hospital's
 946 discharges for the most recent 5-year period, based on
 947 information available from the hospital inpatient discharge
 948 database in the Florida Center for Health Information and Policy
 949 Analysis at the Agency for Health Care Administration; or

950 5.6. A hospital designated as a critical access hospital,
 951 as defined in s. 408.07(15).
 952

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953 Population densities used in this paragraph must be based upon
 954 the most recently completed United States census. A hospital
 955 that received funds under s. 409.9116 for a quarter beginning no
 956 later than July 1, 2002, is deemed to have been and shall
 957 continue to be a rural hospital from that date through June 30,
 958 2015, if the hospital continues to have 100 or fewer licensed
 959 beds and an emergency room, ~~or meets the criteria of~~
 960 ~~subparagraph 4~~. An acute care hospital that has not previously
 961 been designated as a rural hospital and that meets the criteria
 962 of this paragraph shall be granted such designation upon
 963 application, including supporting documentation to the Agency
 964 for Health Care Administration.

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

967 400.021 Definitions.—When used in this part, unless the
 968 context otherwise requires, the term:

969 (8) "Geriatric outpatient clinic" means a site for
 970 providing outpatient health care to persons 60 years of age or
 971 older, which is staffed by a registered nurse, ~~or~~ a physician
 972 assistant, a licensed practical nurse under the direct
 973 supervision of a registered nurse, or an advanced registered
 974 nurse practitioner.

975 Section 22. Paragraph (g) of subsection (2) of section
 976 400.0239, Florida Statutes, is amended to read:

977 400.0239 Quality of Long-Term Care Facility Improvement
 978 Trust Fund.—

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

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

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

988 400.063 Resident protection.—

989 (2) The agency is authorized to establish for each
 990 facility, subject to intervention by the agency, a separate bank
 991 account for the deposit to the credit of the agency of any
 992 moneys received from the Health Care Trust Fund or any other
 993 moneys received for the maintenance and care of residents in the
 994 facility, and the agency is authorized to disburse moneys from
 995 such account to pay obligations incurred for the purposes of
 996 this section. The agency is authorized to requisition moneys
 997 from the Health Care Trust Fund in advance of an actual need for
 998 cash on the basis of an estimate by the agency of moneys to be
 999 spent under the authority of this section. Any bank account
 1000 established under this section need not be approved in advance
 1001 of its creation as required by s. 17.58, but shall be secured by
 1002 depository insurance equal to or greater than the balance of
 1003 such account or by the pledge of collateral security ~~in~~
 1004 ~~conformance with criteria established in s. 18.11.~~ The agency
 1005 shall notify the Chief Financial Officer of any such account so
 1006 established and shall make a quarterly accounting to the Chief
 1007 Financial Officer for all moneys deposited in such account.

1008 Section 24. Subsections (1) and (5) of section 400.071,

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1009 Florida Statutes, are amended to read:

1010 400.071 Application for license.—

1011 (1) In addition to the requirements of part II of chapter
 1012 408, the application for a license shall be under oath and must
 1013 contain the following:

1014 (a) The location of the facility for which a license is
 1015 sought and an indication, as in the original application, that
 1016 such location conforms to the local zoning ordinances.

1017 ~~(b) A signed affidavit disclosing any financial or~~
 1018 ~~ownership interest that a controlling interest as defined in~~
 1019 ~~part II of chapter 408 has held in the last 5 years in any~~
 1020 ~~entity licensed by this state or any other state to provide~~
 1021 ~~health or residential care which has closed voluntarily or~~
 1022 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
 1023 ~~appointed; has had a license denied, suspended, or revoked; or~~
 1024 ~~has had an injunction issued against it which was initiated by a~~
 1025 ~~regulatory agency. The affidavit must disclose the reason any~~
 1026 ~~such entity was closed, whether voluntarily or involuntarily.~~

1027 ~~(c) The total number of beds and the total number of~~
 1028 ~~Medicare and Medicaid certified beds.~~

1029 (b) ~~(d)~~ Information relating to the applicant and employees
 1030 which the agency requires by rule. The applicant must
 1031 demonstrate that sufficient numbers of qualified staff, by
 1032 training or experience, will be employed to properly care for
 1033 the type and number of residents who will reside in the
 1034 facility.

1035 (c) ~~(e)~~ Copies of any civil verdict or judgment involving
 1036 the applicant rendered within the 10 years preceding the

1037 application, relating to medical negligence, violation of
 1038 residents' rights, or wrongful death. As a condition of
 1039 licensure, the licensee agrees to provide to the agency copies
 1040 of any new verdict or judgment involving the applicant, relating
 1041 to such matters, within 30 days after filing with the clerk of
 1042 the court. The information required in this paragraph shall be
 1043 maintained in the facility's licensure file and in an agency
 1044 database which is available as a public record.

1045 (5) As a condition of licensure, each facility must
 1046 establish and ~~submit with its application~~ a plan for quality
 1047 assurance and for conducting risk management.

1048 Section 25. Section 400.0712, Florida Statutes, is amended
 1049 to read:

1050 400.0712 Application for inactive license.—

1051 ~~(1) As specified in this section, the agency may issue an~~
 1052 ~~inactive license to a nursing home facility for all or a portion~~
 1053 ~~of its beds. Any request by a licensee that a nursing home or~~
 1054 ~~portion of a nursing home become inactive must be submitted to~~
 1055 ~~the agency in the approved format. The facility may not initiate~~
 1056 ~~any suspension of services, notify residents, or initiate~~
 1057 ~~inactivity before receiving approval from the agency; and a~~
 1058 ~~licensee that violates this provision may not be issued an~~
 1059 ~~inactive license.~~

1060 (1)(2) In addition to the authority granted in part II of
 1061 chapter 408, the agency may issue an inactive license to a
 1062 nursing home that chooses to use an unoccupied contiguous
 1063 portion of the facility for an alternative use to meet the needs
 1064 of elderly persons through the use of less restrictive, less

1065 institutional services.

1066 (a) An inactive license issued under this subsection may
 1067 be granted for a period not to exceed the current licensure
 1068 expiration date but may be renewed by the agency at the time of
 1069 licensure renewal.

1070 (b) A request to extend the inactive license must be
 1071 submitted to the agency in the approved format and approved by
 1072 the agency in writing.

1073 (c) Nursing homes that receive an inactive license to
 1074 provide alternative services shall not receive preference for
 1075 participation in the Assisted Living for the Elderly Medicaid
 1076 waiver.

1077 ~~(2)(3)~~ The agency shall adopt rules pursuant to ss.
 1078 120.536(1) and 120.54 necessary to administer ~~implement~~ this
 1079 section.

1080 Section 26. Section 400.111, Florida Statutes, is amended
 1081 to read:

1082 400.111 Disclosure of controlling interest.—In addition to
 1083 the requirements of part II of chapter 408, when requested by
 1084 the agency, the licensee shall submit a signed affidavit
 1085 disclosing any financial or ownership interest that a
 1086 controlling interest has held within the last 5 years in any
 1087 entity licensed by the state or any other state to provide
 1088 health or residential care which entity has closed voluntarily
 1089 or involuntarily; has filed for bankruptcy; has had a receiver
 1090 appointed; has had a license denied, suspended, or revoked; or
 1091 has had an injunction issued against it which was initiated by a
 1092 regulatory agency. The affidavit must disclose the reason such

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1093 entity was closed, whether voluntarily or involuntarily.

1094 Section 27. Section 400.1183, Florida Statutes, is amended
1095 to read:

1096 400.1183 Resident grievance procedures.—

1097 (1) Every nursing home must have a grievance procedure
1098 available to its residents and their families. The grievance
1099 procedure must include:

1100 (a) An explanation of how to pursue redress of a
1101 grievance.

1102 (b) The names, job titles, and telephone numbers of the
1103 employees responsible for implementing the facility's grievance
1104 procedure. The list must include the address and the toll-free
1105 telephone numbers of the ombudsman and the agency.

1106 (c) A simple description of the process through which a
1107 resident may, at any time, contact the toll-free telephone
1108 hotline of the ombudsman or the agency to report the unresolved
1109 grievance.

1110 (d) A procedure for providing assistance to residents who
1111 cannot prepare a written grievance without help.

1112 (2) Each facility shall maintain records of all grievances
1113 for agency inspection and shall report to the agency at the time
1114 of relicensure the total number of grievances handled during the
1115 prior licensure period, a categorization of the cases underlying
1116 the grievances, and the final disposition of the grievances.

1117 (3) Each facility must respond to the grievance within a
1118 reasonable time after its submission.

1119 (4) The agency may investigate any grievance at any time.

1120 Section 28. Subsection (1) of section 400.141, Florida

1121 Statutes, is amended to read:

1122 400.141 Administration and management of nursing home
1123 facilities.—

1124 (1) Every licensed facility shall comply with all
1125 applicable standards and rules of the agency and shall:

1126 (a) Be under the administrative direction and charge of a
1127 licensed administrator.

1128 (b) Appoint a medical director licensed pursuant to
1129 chapter 458 or chapter 459. The agency may establish by rule
1130 more specific criteria for the appointment of a medical
1131 director.

1132 (c) Have available the regular, consultative, and
1133 emergency services of physicians licensed by the state.

1134 (d) Provide for resident use of a community pharmacy as
1135 specified in s. 400.022(1)(q). Any other law to the contrary
1136 notwithstanding, a registered pharmacist licensed in Florida,
1137 that is under contract with a facility licensed under this
1138 chapter or chapter 429, shall repackage a nursing facility
1139 resident's bulk prescription medication which has been packaged
1140 by another pharmacist licensed in any state in the United States
1141 into a unit dose system compatible with the system used by the
1142 nursing facility, if the pharmacist is requested to offer such
1143 service. In order to be eligible for the repackaging, a resident
1144 or the resident's spouse must receive prescription medication
1145 benefits provided through a former employer as part of his or
1146 her retirement benefits, a qualified pension plan as specified
1147 in s. 4972 of the Internal Revenue Code, a federal retirement
1148 program as specified under 5 C.F.R. s. 831, or a long-term care

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1149 policy as defined in s. 627.9404(1). A pharmacist who correctly
 1150 repackages and relabels the medication and the nursing facility
 1151 which correctly administers such repackaged medication under
 1152 this paragraph may not be held liable in any civil or
 1153 administrative action arising from the repackaging. In order to
 1154 be eligible for the repackaging, a nursing facility resident for
 1155 whom the medication is to be repackaged shall sign an informed
 1156 consent form provided by the facility which includes an
 1157 explanation of the repackaging process and which notifies the
 1158 resident of the immunities from liability provided in this
 1159 paragraph. A pharmacist who repackages and relabels prescription
 1160 medications, as authorized under this paragraph, may charge a
 1161 reasonable fee for costs resulting from the implementation of
 1162 this provision.

1163 (e) Provide for the access of the facility residents to
 1164 dental and other health-related services, recreational services,
 1165 rehabilitative services, and social work services appropriate to
 1166 their needs and conditions and not directly furnished by the
 1167 licensee. When a geriatric outpatient nurse clinic is conducted
 1168 in accordance with rules adopted by the agency, outpatients
 1169 attending such clinic shall not be counted as part of the
 1170 general resident population of the nursing home facility, nor
 1171 shall the nursing staff of the geriatric outpatient clinic be
 1172 counted as part of the nursing staff of the facility, until the
 1173 outpatient clinic load exceeds 15 a day.

1174 (f) Be allowed and encouraged by the agency to provide
 1175 other needed services under certain conditions. If the facility
 1176 has a standard licensure status, and has had no class I or class

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1177 II deficiencies during the past 2 years or has been awarded a
1178 Gold Seal under the program established in s. 400.235, it may be
1179 encouraged by the agency to provide services, including, but not
1180 limited to, respite and adult day services, which enable
1181 individuals to move in and out of the facility. A facility is
1182 not subject to any additional licensure requirements for
1183 providing these services. Respite care may be offered to persons
1184 in need of short-term or temporary nursing home services.
1185 Respite care must be provided in accordance with this part and
1186 rules adopted by the agency. However, the agency shall, by rule,
1187 adopt modified requirements for resident assessment, resident
1188 care plans, resident contracts, physician orders, and other
1189 provisions, as appropriate, for short-term or temporary nursing
1190 home services. The agency shall allow for shared programming and
1191 staff in a facility which meets minimum standards and offers
1192 services pursuant to this paragraph, but, if the facility is
1193 cited for deficiencies in patient care, may require additional
1194 staff and programs appropriate to the needs of service
1195 recipients. A person who receives respite care may not be
1196 counted as a resident of the facility for purposes of the
1197 facility's licensed capacity unless that person receives 24-hour
1198 respite care. A person receiving either respite care for 24
1199 hours or longer or adult day services must be included when
1200 calculating minimum staffing for the facility. Any costs and
1201 revenues generated by a nursing home facility from
1202 nonresidential programs or services shall be excluded from the
1203 calculations of Medicaid per diems for nursing home
1204 institutional care reimbursement.

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1205 (g) If the facility has a standard license or is a Gold
1206 Seal facility, exceeds the minimum required hours of licensed
1207 nursing and certified nursing assistant direct care per resident
1208 per day, and is part of a continuing care facility licensed
1209 under chapter 651 or a retirement community that offers other
1210 services pursuant to part III of this chapter or part I or part
1211 III of chapter 429 on a single campus, be allowed to share
1212 programming and staff. At the time of inspection and in the
1213 semiannual report required pursuant to paragraph (n) ~~(o)~~, a
1214 continuing care facility or retirement community that uses this
1215 option must demonstrate through staffing records that minimum
1216 staffing requirements for the facility were met. Licensed nurses
1217 and certified nursing assistants who work in the nursing home
1218 facility may be used to provide services elsewhere on campus if
1219 the facility exceeds the minimum number of direct care hours
1220 required per resident per day and the total number of residents
1221 receiving direct care services from a licensed nurse or a
1222 certified nursing assistant does not cause the facility to
1223 violate the staffing ratios required under s. 400.23(3)(a).
1224 Compliance with the minimum staffing ratios shall be based on
1225 total number of residents receiving direct care services,
1226 regardless of where they reside on campus. If the facility
1227 receives a conditional license, it may not share staff until the
1228 conditional license status ends. This paragraph does not
1229 restrict the agency's authority under federal or state law to
1230 require additional staff if a facility is cited for deficiencies
1231 in care which are caused by an insufficient number of certified
1232 nursing assistants or licensed nurses. The agency may adopt

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1233 rules for the documentation necessary to determine compliance
1234 with this provision.

1235 (h) Maintain the facility premises and equipment and
1236 conduct its operations in a safe and sanitary manner.

1237 (i) If the licensee furnishes food service, provide a
1238 wholesome and nourishing diet sufficient to meet generally
1239 accepted standards of proper nutrition for its residents and
1240 provide such therapeutic diets as may be prescribed by attending
1241 physicians. In making rules to implement this paragraph, the
1242 agency shall be guided by standards recommended by nationally
1243 recognized professional groups and associations with knowledge
1244 of dietetics.

1245 (j) Keep full records of resident admissions and
1246 discharges; medical and general health status, including medical
1247 records, personal and social history, and identity and address
1248 of next of kin or other persons who may have responsibility for
1249 the affairs of the residents; and individual resident care plans
1250 including, but not limited to, prescribed services, service
1251 frequency and duration, and service goals. The records shall be
1252 open to inspection by the agency.

1253 (k) Keep such fiscal records of its operations and
1254 conditions as may be necessary to provide information pursuant
1255 to this part.

1256 (l) Furnish copies of personnel records for employees
1257 affiliated with such facility, to any other facility licensed by
1258 this state requesting this information pursuant to this part.
1259 Such information contained in the records may include, but is
1260 not limited to, disciplinary matters and any reason for

1261 termination. Any facility releasing such records pursuant to
 1262 this part shall be considered to be acting in good faith and may
 1263 not be held liable for information contained in such records,
 1264 absent a showing that the facility maliciously falsified such
 1265 records.

1266 (m) Publicly display a poster provided by the agency
 1267 containing the names, addresses, and telephone numbers for the
 1268 state's abuse hotline, the State Long-Term Care Ombudsman, the
 1269 Agency for Health Care Administration consumer hotline, the
 1270 Advocacy Center for Persons with Disabilities, the Florida
 1271 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
 1272 with a clear description of the assistance to be expected from
 1273 each.

1274 ~~(n) Submit to the agency the information specified in s.~~
 1275 ~~400.071(1)(b) for a management company within 30 days after the~~
 1276 ~~effective date of the management agreement.~~

1277 (n) ~~(e)~~1. Submit semiannually to the agency, or more
 1278 frequently if requested by the agency, information regarding
 1279 facility staff-to-resident ratios, staff turnover, and staff
 1280 stability, including information regarding certified nursing
 1281 assistants, licensed nurses, the director of nursing, and the
 1282 facility administrator. For purposes of this reporting:

1283 a. Staff-to-resident ratios must be reported in the
 1284 categories specified in s. 400.23(3)(a) and applicable rules.
 1285 The ratio must be reported as an average for the most recent
 1286 calendar quarter.

1287 b. Staff turnover must be reported for the most recent 12-
 1288 month period ending on the last workday of the most recent

1289 | calendar quarter prior to the date the information is submitted.
 1290 | The turnover rate must be computed quarterly, with the annual
 1291 | rate being the cumulative sum of the quarterly rates. The
 1292 | turnover rate is the total number of terminations or separations
 1293 | experienced during the quarter, excluding any employee
 1294 | terminated during a probationary period of 3 months or less,
 1295 | divided by the total number of staff employed at the end of the
 1296 | period for which the rate is computed, and expressed as a
 1297 | percentage.

1298 | c. The formula for determining staff stability is the
 1299 | total number of employees that have been employed for more than
 1300 | 12 months, divided by the total number of employees employed at
 1301 | the end of the most recent calendar quarter, and expressed as a
 1302 | percentage.

1303 | d. A nursing facility that has failed to comply with state
 1304 | minimum-staffing requirements for 2 consecutive days is
 1305 | prohibited from accepting new admissions until the facility has
 1306 | achieved the minimum-staffing requirements for a period of 6
 1307 | consecutive days. For the purposes of this sub-subparagraph, any
 1308 | person who was a resident of the facility and was absent from
 1309 | the facility for the purpose of receiving medical care at a
 1310 | separate location or was on a leave of absence is not considered
 1311 | a new admission. The agency shall fine the nursing facility
 1312 | \$1,000 if it fails ~~Failure~~ to impose such an admissions
 1313 | moratorium ~~constitutes a class II deficiency.~~

1314 | e. A nursing facility which does not have a conditional
 1315 | license may be cited for failure to comply with the standards in
 1316 | s. 400.23(3)(a)1.a. only if it has failed to meet those

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1317 standards on 2 consecutive days or if it has failed to meet at
 1318 least 97 percent of those standards on any one day.

1319 f. A facility which has a conditional license must be in
 1320 compliance with the standards in s. 400.23(3)(a) at all times.

1321 2. This paragraph does not limit the agency's ability to
 1322 impose a deficiency or take other actions if a facility does not
 1323 have enough staff to meet the residents' needs.

1324 (o)~~(p)~~ Notify a licensed physician when a resident
 1325 exhibits signs of dementia or cognitive impairment or has a
 1326 change of condition in order to rule out the presence of an
 1327 underlying physiological condition that may be contributing to
 1328 such dementia or impairment. The notification must occur within
 1329 30 days after the acknowledgment of such signs by facility
 1330 staff. If an underlying condition is determined to exist, the
 1331 facility shall arrange, with the appropriate health care
 1332 provider, the necessary care and services to treat the
 1333 condition.

1334 (p)~~(q)~~ If the facility implements a dining and hospitality
 1335 attendant program, ensure that the program is developed and
 1336 implemented under the supervision of the facility director of
 1337 nursing. A licensed nurse, licensed speech or occupational
 1338 therapist, or a registered dietitian must conduct training of
 1339 dining and hospitality attendants. A person employed by a
 1340 facility as a dining and hospitality attendant must perform
 1341 tasks under the direct supervision of a licensed nurse.

1342 ~~(r) Report to the agency any filing for bankruptcy~~
 1343 ~~protection by the facility or its parent corporation,~~
 1344 ~~divestiture or spin-off of its assets, or corporate~~

1345 ~~reorganization within 30 days after the completion of such~~
 1346 ~~activity.~~

1347 (q)~~(s)~~ Maintain general and professional liability
 1348 insurance coverage that is in force at all times. In lieu of
 1349 general and professional liability insurance coverage, a state-
 1350 designated teaching nursing home and its affiliated assisted
 1351 living facilities created under s. 430.80 may demonstrate proof
 1352 of financial responsibility as provided in s. 430.80(3)(h).

1353 (r)~~(t)~~ Maintain in the medical record for each resident a
 1354 daily chart of certified nursing assistant services provided to
 1355 the resident. The certified nursing assistant who is caring for
 1356 the resident must complete this record by the end of his or her
 1357 shift. This record must indicate assistance with activities of
 1358 daily living, assistance with eating, and assistance with
 1359 drinking, and must record each offering of nutrition and
 1360 hydration for those residents whose plan of care or assessment
 1361 indicates a risk for malnutrition or dehydration.

1362 (s)~~(u)~~ Before November 30 of each year, subject to the
 1363 availability of an adequate supply of the necessary vaccine,
 1364 provide for immunizations against influenza viruses to all its
 1365 consenting residents in accordance with the recommendations of
 1366 the United States Centers for Disease Control and Prevention,
 1367 subject to exemptions for medical contraindications and
 1368 religious or personal beliefs. Subject to these exemptions, any
 1369 consenting person who becomes a resident of the facility after
 1370 November 30 but before March 31 of the following year must be
 1371 immunized within 5 working days after becoming a resident.
 1372 Immunization shall not be provided to any resident who provides

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1373 documentation that he or she has been immunized as required by
 1374 this paragraph. This paragraph does not prohibit a resident from
 1375 receiving the immunization from his or her personal physician if
 1376 he or she so chooses. A resident who chooses to receive the
 1377 immunization from his or her personal physician shall provide
 1378 proof of immunization to the facility. The agency may adopt and
 1379 enforce any rules necessary to comply with or administer
 1380 ~~implement~~ this paragraph ~~subsection~~.

1381 (t) ~~(v)~~ Assess all residents for eligibility for
 1382 pneumococcal polysaccharide vaccination (PPV) and vaccinate
 1383 residents when indicated within 60 days after the effective date
 1384 of this act in accordance with the recommendations of the United
 1385 States Centers for Disease Control and Prevention, subject to
 1386 exemptions for medical contraindications and religious or
 1387 personal beliefs. Residents admitted after the effective date of
 1388 this act shall be assessed within 5 working days of admission
 1389 and, when indicated, vaccinated within 60 days in accordance
 1390 with the recommendations of the United States Centers for
 1391 Disease Control and Prevention, subject to exemptions for
 1392 medical contraindications and religious or personal beliefs.
 1393 Immunization shall not be provided to any resident who provides
 1394 documentation that he or she has been immunized as required by
 1395 this paragraph. This paragraph does not prohibit a resident from
 1396 receiving the immunization from his or her personal physician if
 1397 he or she so chooses. A resident who chooses to receive the
 1398 immunization from his or her personal physician shall provide
 1399 proof of immunization to the facility. The agency may adopt and
 1400 enforce any rules necessary to comply with or administer

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1401 ~~implement~~ this paragraph.

1402 (u)~~(w)~~ Annually encourage and promote to its employees the
 1403 benefits associated with immunizations against influenza viruses
 1404 in accordance with the recommendations of the United States
 1405 Centers for Disease Control and Prevention. The agency may adopt
 1406 and enforce any rules necessary to comply with or administer
 1407 ~~implement~~ this paragraph.

1408 Section 29. Subsection (3) of section 400.142, Florida
 1409 Statutes, is amended to read:

1410 400.142 Emergency medication kits; orders not to
 1411 resuscitate.—

1412 (3) Facility staff may withhold or withdraw
 1413 cardiopulmonary resuscitation if presented with an order not to
 1414 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
 1415 ~~adopt rules providing for the implementation of such orders.~~
 1416 Facility staff and facilities shall not be subject to criminal
 1417 prosecution or civil liability, nor be considered to have
 1418 engaged in negligent or unprofessional conduct, for withholding
 1419 or withdrawing cardiopulmonary resuscitation pursuant to such an
 1420 order and rules adopted by the agency. The absence of an order
 1421 not to resuscitate executed pursuant to s. 401.45 does not
 1422 preclude a physician from withholding or withdrawing
 1423 cardiopulmonary resuscitation as otherwise permitted by law.

1424 Section 30. Subsection (10) of section 400.147, Florida
 1425 Statutes, is repealed.

1426 Section 31. Section 400.148, Florida Statutes, is
 1427 repealed.

1428 Section 32. Subsection (3) of section 400.19, Florida

1429 Statutes, is amended to read:
 1430 400.19 Right of entry and inspection.—
 1431 (3) The agency shall every 15 months conduct at least one
 1432 unannounced inspection to determine compliance by the licensee
 1433 with statutes, and with rules promulgated under the provisions
 1434 of those statutes, governing minimum standards of construction,
 1435 quality and adequacy of care, and rights of residents. The
 1436 survey shall be conducted every 6 months for the next 2-year
 1437 period if the facility has been cited for a class I deficiency,
 1438 has been cited for two or more class II deficiencies arising
 1439 from separate surveys or investigations within a 60-day period,
 1440 or has had three or more substantiated complaints within a 6-
 1441 month period, each resulting in at least one class I or class II
 1442 deficiency. In addition to any other fees or fines in this part,
 1443 the agency shall assess a fine for each facility that is subject
 1444 to the 6-month survey cycle. The fine for the 2-year period
 1445 shall be \$6,000, one-half to be paid at the completion of each
 1446 survey. The agency may adjust this fine by the change in the
 1447 Consumer Price Index, based on the 12 months immediately
 1448 preceding the increase, to cover the cost of the additional
 1449 surveys. The agency shall verify through subsequent inspection
 1450 that any deficiency identified during inspection is corrected.
 1451 However, the agency may verify the correction of a class III or
 1452 class IV deficiency ~~unrelated to resident rights or resident~~
 1453 ~~care~~ without reinspecting the facility if adequate written
 1454 documentation has been received from the facility, which
 1455 provides assurance that the deficiency has been corrected. The
 1456 giving or causing to be given of advance notice of such

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1457 unannounced inspections by an employee of the agency to any
 1458 unauthorized person shall constitute cause for suspension of not
 1459 fewer than 5 working days according to the provisions of chapter
 1460 110.

1461 Section 33. Section 400.195, Florida Statutes, is
 1462 repealed.

1463 Section 34. Subsection (5) of section 400.23, Florida
 1464 Statutes, is amended to read:

1465 400.23 Rules; evaluation and deficiencies; licensure
 1466 status.—

1467 (5) The agency, in collaboration with the Division of
 1468 Children's Medical Services Network of the Department of Health,
 1469 ~~must, no later than December 31, 1993,~~ adopt rules for minimum
 1470 standards of care for persons under 21 years of age who reside
 1471 in nursing home facilities. The rules must include a methodology
 1472 for reviewing a nursing home facility under ss. 408.031-408.045
 1473 which serves only persons under 21 years of age. A facility may
 1474 be exempt from these standards for specific persons between 18
 1475 and 21 years of age, if the person's physician agrees that
 1476 minimum standards of care based on age are not necessary.

1477 Section 35. Subsection (1) of section 400.275, Florida
 1478 Statutes, is amended to read:

1479 400.275 Agency duties.—

1480 (1) ~~The agency shall ensure that each newly hired nursing~~
 1481 ~~home surveyor, as a part of basic training, is assigned full-~~
 1482 ~~time to a licensed nursing home for at least 2 days within a 7-~~
 1483 ~~day period to observe facility operations outside of the survey~~
 1484 ~~process before the surveyor begins survey responsibilities. Such~~

1485 ~~observations may not be the sole basis of a deficiency citation~~
 1486 ~~against the facility.~~ The agency may not assign an individual to
 1487 be a member of a survey team for purposes of a survey,
 1488 evaluation, or consultation visit at a nursing home facility in
 1489 which the surveyor was an employee within the preceding 5 years.

1490 Section 36. Subsections (2) and (14) of section 400.462,
 1491 Florida Statutes, are amended, present subsections (27), (28),
 1492 and (29) of that section are renumbered as subsections (28),
 1493 (29), and (30), respectively, and new subsections (27) and (31)
 1494 are added to that section, to read:

1495 400.462 Definitions.—As used in this part, the term:

1496 (2) "Admission" means a decision by the home health
 1497 agency, during or after an evaluation visit with the patient ~~to~~
 1498 ~~the patient's home~~, that there is reasonable expectation that
 1499 the patient's medical, nursing, and social needs for skilled
 1500 care can be adequately met by the agency in the patient's place
 1501 of residence. Admission includes completion of an agreement with
 1502 the patient or the patient's legal representative to provide
 1503 home health services as required in s. 400.487(1).

1504 (14) "Home health services" means health and medical
 1505 services and medical supplies furnished by an organization to an
 1506 individual in the individual's home or place of residence. The
 1507 term includes organizations that provide one or more of the
 1508 following:

- 1509 (a) Nursing care.
- 1510 (b) Physical, occupational, respiratory, or speech
 1511 therapy.
- 1512 (c) Home health aide services.

1513 (d) Dietetics and nutrition practice and nutrition
 1514 counseling.

1515 (e) Medical supplies and durable medical equipment,
 1516 ~~restricted to drugs and biologicals~~ prescribed by a physician.

1517 (27) "Primary home health agency" means the agency that is
 1518 responsible for the services furnished to patients and for
 1519 implementation of the plan of care.

1520 (31) "Temporary" means short term, such as for employee
 1521 absences, temporary skill shortages, seasonal workloads.

1522 Section 37. Section 400.476, Florida Statutes, is amended
 1523 to read:

1524 400.476 Staffing requirements; notifications; limitations
 1525 on staffing services.—

1526 (1) ADMINISTRATOR.—

1527 (a) An administrator may manage only one home health
 1528 agency, except that an administrator may manage up to five home
 1529 health agencies if all five home health agencies have identical
 1530 controlling interests as defined in s. 408.803 and are located
 1531 within one agency geographic service area or within an
 1532 immediately contiguous county. If the home health agency is
 1533 licensed under this chapter and is part of a retirement
 1534 community that provides multiple levels of care, an employee of
 1535 the retirement community may administer the home health agency
 1536 and up to a maximum of four entities licensed under this chapter
 1537 or chapter 429 which all have identical controlling interests as
 1538 defined in s. 408.803. An administrator shall designate, in
 1539 writing, for each licensed entity, a qualified alternate
 1540 administrator to serve during the administrator's absence. An

1541 alternate administrator must meet the requirements in this
 1542 paragraph and s. 400.462(1).

1543 (b) An administrator of a home health agency who is a
 1544 licensed physician, physician assistant, or registered nurse
 1545 licensed to practice in this state may also be the director of
 1546 nursing for a home health agency. An administrator may serve as
 1547 a director of nursing for up to the number of entities
 1548 authorized in subsection (2) only if there are 10 or fewer full-
 1549 time equivalent employees and contracted personnel in each home
 1550 health agency.

1551 (c) The administrator shall organize and direct the
 1552 agency's ongoing functions, maintain an ongoing liaison with the
 1553 board members and the staff, employ qualified personnel and
 1554 ensure adequate staff education and evaluations, ensures the
 1555 accuracy of public informational materials and activities,
 1556 implement an effective budgeting and accounting system, and
 1557 ensures that the home health agency operates in compliance with
 1558 this part and part II of chapter 408 and rules adopted for these
 1559 laws.

1560 (d) The administrator shall clearly set forth in writing
 1561 the organizational chart, services furnished, administrative
 1562 control, and lines of authority for the delegation of
 1563 responsibilities for patient care. These responsibilities must
 1564 be readily identifiable. Administrative and supervisory
 1565 functions may not be delegated to another agency or
 1566 organization, and the primary home health agency shall monitor
 1567 and control all services that are not furnished directly,
 1568 including services provided through contracts.

1569 (2) DIRECTOR OF NURSING.—
 1570 (a) A director of nursing may be the director of nursing
 1571 for:
 1572 1. Up to two licensed home health agencies if the agencies
 1573 have identical controlling interests as defined in s. 408.803
 1574 and are located within one agency geographic service area or
 1575 within an immediately contiguous county; or
 1576 2. Up to five licensed home health agencies if:
 1577 a. All of the home health agencies have identical
 1578 controlling interests as defined in s. 408.803;
 1579 b. All of the home health agencies are located within one
 1580 agency geographic service area or within an immediately
 1581 contiguous county; ~~and~~
 1582 c. Each home health agency has a registered nurse who
 1583 meets the qualifications of a director of nursing and who has a
 1584 written delegation from the director of nursing to serve as the
 1585 director of nursing for that home health agency when the
 1586 director of nursing is not present; and-
 1587 d. This person, or similarly qualified alternate, is
 1588 available at all times during operating hours and participates
 1589 in all activities relevant to the professional services
 1590 furnished, including, but not limited to, the oversight of
 1591 nursing services, home health aides, and certified nursing
 1592 assistants, and assignment of personnel.
 1593
 1594 If a home health agency licensed under this chapter is part of a
 1595 retirement community that provides multiple levels of care, an
 1596 employee of the retirement community may serve as the director

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1597 of nursing of the home health agency and up to a maximum of four
1598 entities, other than home health agencies, licensed under this
1599 chapter or chapter 429 which all have identical controlling
1600 interests as defined in s. 408.803.

1601 (b) A home health agency that provides skilled nursing
1602 care may not operate for more than 30 calendar days without a
1603 director of nursing. A home health agency that provides skilled
1604 nursing care and the director of nursing of a home health agency
1605 must notify the agency within 10 business days after termination
1606 of the services of the director of nursing for the home health
1607 agency. A home health agency that provides skilled nursing care
1608 must notify the agency of the identity and qualifications of the
1609 new director of nursing within 10 days after the new director is
1610 hired. If a home health agency that provides skilled nursing
1611 care operates for more than 30 calendar days without a director
1612 of nursing, the home health agency commits a class II
1613 deficiency. In addition to the fine for a class II deficiency,
1614 the agency may issue a moratorium in accordance with s. 408.814
1615 or revoke the license. The agency shall fine a home health
1616 agency that fails to notify the agency as required in this
1617 paragraph \$1,000 for the first violation and \$2,000 for a repeat
1618 violation. The agency may not take administrative action against
1619 a home health agency if the director of nursing fails to notify
1620 the department upon termination of services as the director of
1621 nursing for the home health agency.

1622 (c) A home health agency that is not Medicare or Medicaid
1623 certified and does not provide skilled care or provides only
1624 physical, occupational, or speech therapy is not required to

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1625 have a director of nursing and is exempt from paragraph (b).

1626 (3) TRAINING.—A home health agency shall ensure that each
1627 certified nursing assistant employed by or under contract with
1628 the home health agency and each home health aide employed by or
1629 under contract with the home health agency is adequately trained
1630 to perform the tasks of a home health aide in the home setting.

1631 (a) The home health agency may not use as a home health
1632 aide on a full-time, temporary, per diem, or other basis, any
1633 individual to provide services unless the individual has
1634 completed a training and competency evaluation program, or a
1635 competency evaluation program, as permitted in s. 400.497 which
1636 meets the minimum standards established by the agency in state
1637 rules.

1638 (b) A home health aide is not competent in any task for
1639 which he or she is evaluated as "unsatisfactory." The aide must
1640 perform any such task only under direct supervision by a
1641 licensed nurse until he or she receives training in the task and
1642 satisfactorily passes a subsequent evaluation in performing the
1643 task. A home health aide has not successfully passed a
1644 competency evaluation if the aide does not have a passing score
1645 on the test as specified by agency rule.

1646 (4) STAFFING.—Staffing services may be provided anywhere
1647 within the state.

1648 (5) PERSONNEL.—

1649 (a) The home health agency and its staff must comply with
1650 accepted professional standards and principles that apply to
1651 professionals, including, but not limited to, the state practice
1652 acts and the home health agency's policies and procedures.

1653 (b) If personnel under hourly or per-visit contracts are
 1654 used by the home health agency, there must be a written contract
 1655 between those personnel and the agency which specifies the
 1656 following requirements:

1657 1. Acceptance for care only of patients by the primary
 1658 home health agency.

1659 2. The services to be furnished.

1660 3. The necessity to conform to all applicable agency
 1661 policies, including personnel qualifications.

1662 4. The responsibility for participating in developing
 1663 plans of care.

1664 5. The manner in which services are controlled,
 1665 coordinated, and evaluated by the primary home health agency.

1666 6. The procedures for submitting clinical and progress
 1667 notes, scheduling of visits, and periodic patient evaluation.

1668 7. The procedures for payment for services furnished under
 1669 the contract.

1670 (c) A home health agency shall directly provide at least
 1671 one of the types of services through home health agency
 1672 employees, but may provide additional services under
 1673 arrangements with another agency or organization. Services
 1674 furnished under such arrangements must have a written contract
 1675 conforming with the requirements specified in paragraph (b).

1676 (d) If home health aide services are provided by an
 1677 individual who is not employed directly by the home health
 1678 agency, the services of the home health aide must be provided
 1679 under arrangements as stated in paragraphs (b) and (c). If the
 1680 home health agency chooses to provide home health aide services

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1681 under arrangements with another organization, the
 1682 responsibilities of the home health agency include, but are not
 1683 limited to:

1684 1. Ensuring the overall quality of the care provided by
 1685 the aide;

1686 2. Supervising the aide's services as described in s.
 1687 400.487; and

1688 3. Ensuring that each home health aide providing services
 1689 under arrangements with another organization has met the
 1690 training requirements or competency evaluation requirements of
 1691 s. 400.497.

1692 (e) The home health agency shall coordinate the efforts of
 1693 all personnel furnishing services, and the personnel shall
 1694 maintain communication with the home health agency to ensure
 1695 that personnel efforts support the objectives outlined in the
 1696 plan of care. The clinical record or minutes of case conferences
 1697 shall ensure that effective interchange, reporting, and
 1698 coordination of patient care occurs.

1699 Section 38. Section 400.484, Florida Statutes, is amended
 1700 to read:

1701 400.484 Right of inspection; violations ~~deficiencies~~;
 1702 fines.—

1703 (1) In addition to the requirements of s. 408.811, the
 1704 agency may make such inspections and investigations as are
 1705 necessary in order to determine the state of compliance with
 1706 this part, part II of chapter 408, and applicable rules.

1707 (2) The agency shall impose fines for various classes of
 1708 deficiencies in accordance with the following schedule:

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1709 (a) Class I violations are defined in s. 408.813. ~~A class~~
1710 ~~I deficiency is any act, omission, or practice that results in a~~
1711 ~~patient's death, disablement, or permanent injury, or places a~~
1712 ~~patient at imminent risk of death, disablement, or permanent~~
1713 ~~injury.~~ Upon finding a class I violation deficiency, the agency
1714 shall impose an administrative fine in the amount of \$15,000 for
1715 each occurrence and each day that the violation deficiency
1716 exists.

1717 (b) Class II violations are defined in s. 408.813. ~~A class~~
1718 ~~II deficiency is any act, omission, or practice that has a~~
1719 ~~direct adverse effect on the health, safety, or security of a~~
1720 ~~patient.~~ Upon finding a class II violation deficiency, the
1721 agency shall impose an administrative fine in the amount of
1722 \$5,000 for each occurrence and each day that the violation
1723 deficiency exists.

1724 (c) Class III violations are defined in s. 408.813. ~~A~~
1725 ~~class III deficiency is any act, omission, or practice that has~~
1726 ~~an indirect, adverse effect on the health, safety, or security~~
1727 ~~of a patient.~~ Upon finding an uncorrected or repeated class III
1728 violation deficiency, the agency shall impose an administrative
1729 fine not to exceed \$1,000 for each occurrence and each day that
1730 the uncorrected or repeated violation deficiency exists.

1731 (d) Class IV violations are defined in s. 408.813. ~~A class~~
1732 ~~IV deficiency is any act, omission, or practice related to~~
1733 ~~required reports, forms, or documents which does not have the~~
1734 ~~potential of negatively affecting patients. These violations are~~
1735 ~~of a type that the agency determines do not threaten the health,~~
1736 ~~safety, or security of patients.~~ Upon finding an uncorrected or

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1737 repeated class IV violation ~~deficiency~~, the agency shall impose
 1738 an administrative fine not to exceed \$500 for each occurrence
 1739 and each day that the uncorrected or repeated violation
 1740 ~~deficiency~~ exists.

1741 (3) In addition to any other penalties imposed pursuant to
 1742 this section or part, the agency may assess costs related to an
 1743 investigation that results in a successful prosecution,
 1744 excluding costs associated with an attorney's time.

1745 Section 39. Section 400.487, Florida Statutes, is amended
 1746 to read:

1747 400.487 Home health service agreements; physician's,
 1748 physician assistant's, and advanced registered nurse
 1749 practitioner's treatment orders; patient assessment;
 1750 establishment and review of plan of care; provision of services;
 1751 orders not to resuscitate.—

1752 (1) Services provided by a home health agency must be
 1753 covered by an agreement between the home health agency and the
 1754 patient or the patient's legal representative specifying the
 1755 home health services to be provided, the rates or charges for
 1756 services paid with private funds, and the sources of payment,
 1757 which may include Medicare, Medicaid, private insurance,
 1758 personal funds, or a combination thereof. The home health agency
 1759 shall provide a copy of the agreement to the patient or the
 1760 patient's legal representative. A home health agency providing
 1761 skilled care must make an assessment of the patient's needs
 1762 within 48 hours after the start of services.

1763 (2) When required by the provisions of chapter 464; part
 1764 I, part III, or part V of chapter 468; or chapter 486, the

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1765 attending physician, physician assistant, or advanced registered
 1766 nurse practitioner, acting within his or her respective scope of
 1767 practice, shall establish treatment orders for a patient who is
 1768 to receive skilled care. The treatment orders must be signed by
 1769 the physician, physician assistant, or advanced registered nurse
 1770 practitioner before a claim for payment for the skilled services
 1771 is submitted by the home health agency. If the claim is
 1772 submitted to a managed care organization, the treatment orders
 1773 must be signed within the time allowed under the provider
 1774 agreement. The treatment orders shall be reviewed, as frequently
 1775 as the patient's illness requires, by the physician, physician
 1776 assistant, or advanced registered nurse practitioner in
 1777 consultation with the home health agency.

1778 (3) A home health agency shall arrange for supervisory
 1779 visits by a registered nurse to the home of a patient receiving
 1780 home health aide services as specified in subsection (9) ~~in~~
 1781 ~~accordance with the patient's direction, approval, and agreement~~
 1782 ~~to pay the charge for the visits.~~

1783 (4) The home health agency shall protect and promote the
 1784 rights of each individual under its care, including each of the
 1785 following rights:

1786 (a) Notice of rights.—The home health agency shall provide
 1787 the patient with a written notice of the patient's rights in
 1788 advance of furnishing care to the patient or during the initial
 1789 evaluation visit before the initiation of treatment. The home
 1790 health agency must maintain documentation showing that it has
 1791 complied with the requirements of this section.

1792 (b) Exercise of rights and respect for property and

1793 person.—

1794 1. The patient has the right to exercise his or her rights
 1795 as a patient of the home health agency.

1796 2. The patient has the right to have his or her property
 1797 treated with respect.

1798 3. The patient has the right to voice grievances regarding
 1799 treatment or care that is or fails to be furnished, or regarding
 1800 the lack of respect for property by anyone who is furnishing
 1801 services on behalf of the home health agency, and not be
 1802 subjected to discrimination or reprisal for doing so.

1803 4. The home health agency must investigate complaints made
 1804 by a patient or the patient's family or guardian regarding
 1805 treatment or care that is or fails to be furnished, or regarding
 1806 the lack of respect for the patient's property by anyone
 1807 furnishing services on behalf of the home health agency. The
 1808 home health agency shall document the existence of the complaint
 1809 and its resolution.

1810 5. The patient and his or her immediate family or
 1811 representative must be informed of the right to report
 1812 complaints via the statewide toll-free telephone number to the
 1813 agency as required in s. 408.810.

1814 (c) Right to be informed and to participate in planning
 1815 care and treatment.—

1816 1. The patient has the right to be informed, in advance,
 1817 about the care to be furnished and of any changes in the care to
 1818 be furnished. The home health agency shall advise the patient in
 1819 advance of which disciplines will furnish care and the frequency
 1820 of visits proposed to be furnished. The home health agency must

1821 advise the patient in advance of any change in the plan of care
 1822 before the change is made.

1823 2. The patient has the right to participate in the
 1824 planning of the care. The home health agency must advise the
 1825 patient in advance of the right to participate in planning the
 1826 care or treatment and in planning changes in the care or
 1827 treatment. Each patient has the right to be informed of and to
 1828 ~~participate in the planning of his or her care.~~ Each patient
 1829 must be provided, upon request, a copy of the plan of care
 1830 established and maintained for that patient by the home health
 1831 agency.

1832 (5) When nursing services are ordered, the home health
 1833 agency to which a patient has been admitted for care must
 1834 provide the initial admission visit, all service evaluation
 1835 visits, and the discharge visit by a direct employee. Services
 1836 provided by others under contractual arrangements to a home
 1837 health agency must be monitored and managed by the admitting
 1838 home health agency. The admitting home health agency is fully
 1839 responsible for ensuring that all care provided through its
 1840 employees or contract staff is delivered in accordance with this
 1841 part and applicable rules.

1842 (6) The skilled care services provided by a home health
 1843 agency, directly or under contract, must be supervised and
 1844 coordinated in accordance with the plan of care. The home health
 1845 agency shall furnish skilled nursing services by or under the
 1846 supervision of a registered nurse and in accordance with the
 1847 plan of care. Any therapy services offered directly or under
 1848 arrangement by the home health agency must be provided by a

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1849 qualified therapist or by a qualified therapy assistant under
1850 the supervision of a qualified therapist and in accordance with
1851 the plan of care.

1852 (a) Duties and qualifications.—A qualified therapist shall
1853 assist the physician in evaluating the level of function, help
1854 develop or revise the plan of care, prepare clinical and
1855 progress notes, advise and consult with the family and other
1856 agency personnel, and participate in in-service programs. The
1857 therapist or therapy assistant must meet the qualifications in
1858 the state practice acts and related applicable rules.

1859 (b) Physical therapy assistants and occupational therapy
1860 assistants.—Services provided by a physical therapy assistant or
1861 occupational therapy assistant must be under the supervision of
1862 a qualified physical therapist or occupational therapist as
1863 required in chapter 486 and part III of chapter 468,
1864 respectively, and related applicable rules. A physical therapy
1865 assistant or occupational therapy assistant shall perform
1866 services planned, delegated, and supervised by the therapist,
1867 assist in preparing clinical notes and progress reports,
1868 participate in educating the patient and his or her family, and
1869 participate in in-service programs.

1870 (c) Speech therapy services.—Speech therapy services shall
1871 be furnished only by or under supervision of a qualified speech
1872 pathologist or audiologist as required in part I of chapter 468
1873 and related applicable rules.

1874 (d) Care follows a written plan of care.—The plan of care
1875 shall be reviewed by the physician or health professional who
1876 provided the treatment orders pursuant to subsection (2) and

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1877 home health agency personnel as often as the severity of the
1878 patient's condition requires, but at least once every 60 days or
1879 more when there is a beneficiary-elected transfer, a significant
1880 change in condition resulting in a change in the case-mix
1881 assignment, or a discharge and return to the same home health
1882 agency during the 60-day episode. Professional staff of a home
1883 health agency shall promptly alert the physician or other health
1884 professional who provided the treatment orders of any change
1885 that suggests a need to alter the plan of care.

1886 (e) Administration of drugs and treatment.—Only
1887 professional staff of a home health agency may administer drugs
1888 and treatments as ordered by the physician or health
1889 professional pursuant to subsection (2), with the exception of
1890 influenza and pneumococcal polysaccharide vaccines, which may be
1891 administered according to the policy of the home health agency
1892 developed in consultation with a physician and after an
1893 assessment for contraindications. The physician or health
1894 professional, as provided in subsection (2), shall put any
1895 verbal order in writing and sign and date it with the date of
1896 receipt by the registered nurse or qualified therapist who is
1897 responsible for furnishing or supervising the ordered service. A
1898 verbal order may be accepted only by personnel who are
1899 authorized to do so by applicable state laws, rules, and
1900 internal policies of the home health agency.

1901 (7) A registered nurse shall conduct the initial
1902 evaluation visit, regularly reevaluate the patient's nursing
1903 needs, initiate the plan of care and necessary revisions,
1904 furnish those services requiring substantial and specialized

1905 nursing skill, initiate appropriate preventive and
 1906 rehabilitative nursing procedures, prepare clinical and progress
 1907 notes, coordinate services, inform the physician and other
 1908 personnel of changes in the patient's condition and needs,
 1909 counsel the patient and his or her family in meeting nursing and
 1910 related needs, participate in in-service programs, and supervise
 1911 and teach other nursing personnel.

1912 (8) A licensed practical nurse shall furnish services in
 1913 accordance with agency policies, prepare clinical and progress
 1914 notes, assist the physician and registered nurse in performing
 1915 specialized procedures, prepare equipment and materials for
 1916 treatments observing aseptic technique as required, and assist
 1917 the patient in learning appropriate self-care techniques.

1918 (9) A home health aide and certified nursing assistant
 1919 shall provide services that are ordered by the physician in the
 1920 plan of care and that the aide or assistant is permitted to
 1921 perform under state law. The duties of a home health aide or
 1922 certified nursing assistant include the provision of hands-on
 1923 personal care, performance of simple procedures as an extension
 1924 of therapy or nursing services, assistance in ambulation or
 1925 exercises, and assistance in administering medications that are
 1926 ordinarily self-administered and are specified in agency rules.
 1927 Any services by a home health aide which are offered by a home
 1928 health agency must be provided by a qualified home health aide
 1929 or certified nursing assistant.

1930 (a) Assignment and duties.—A home health aide or certified
 1931 nursing assistant shall be assigned to a specific patient by a
 1932 registered nurse. Written patient care instructions for the home

1933 health aide and certified nursing assistant must be prepared by
 1934 the registered nurse or other appropriate professional who is
 1935 responsible for the supervision of the home health aide and
 1936 certified nursing assistant as stated in this section.

1937 (b) Supervision.—If a patient receives skilled nursing
 1938 care, the registered nurse shall perform the supervisory visit.
 1939 If the patient is not receiving skilled nursing care but is
 1940 receiving physical therapy, occupational therapy, or speech-
 1941 language pathology services, the appropriate therapist may
 1942 provide the supervision. A registered nurse or other
 1943 professional must make an onsite visit to the patient's home at
 1944 least once every 2 weeks. The visit is not required while the
 1945 aide is providing care.

1946 (c) Supervising visits.—If home health aide services are
 1947 provided to a patient who is not receiving skilled nursing care,
 1948 physical or occupational therapy, or speech-language pathology
 1949 services, a registered nurse must make a supervisory visit to
 1950 the patient's home at least once every 60 days. The registered
 1951 nurse shall ensure that the aide is properly caring for the
 1952 patient and each supervisory visit must occur while the home
 1953 health aide is providing patient care.

1954 (10)-(7) Home health agency personnel may withhold or
 1955 withdraw cardiopulmonary resuscitation if presented with an
 1956 order not to resuscitate executed pursuant to s. 401.45. The
 1957 agency shall adopt rules providing for the implementation of
 1958 such orders. Home health personnel and agencies shall not be
 1959 subject to criminal prosecution or civil liability, nor be
 1960 considered to have engaged in negligent or unprofessional

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1961 | conduct, for withholding or withdrawing cardiopulmonary
 1962 | resuscitation pursuant to such an order and rules adopted by the
 1963 | agency.

1964 | Section 40. Subsections (1) and (4) of section 400.606,
 1965 | Florida Statutes, are amended to read:

1966 | 400.606 License; application; renewal; conditional license
 1967 | or permit; certificate of need.—

1968 | (1) In addition to the requirements of part II of chapter
 1969 | 408, the initial application and change of ownership application
 1970 | must be accompanied by a plan for the delivery of home,
 1971 | residential, and homelike inpatient hospice services to
 1972 | terminally ill persons and their families. Such plan must
 1973 | contain, but need not be limited to:

1974 | (a) The estimated average number of terminally ill persons
 1975 | to be served monthly.

1976 | (b) The geographic area in which hospice services will be
 1977 | available.

1978 | (c) A listing of services which are or will be provided,
 1979 | either directly by the applicant or through contractual
 1980 | arrangements with existing providers.

1981 | (d) Provisions for the implementation of hospice home care
 1982 | within 3 months after licensure.

1983 | (e) Provisions for the implementation of hospice homelike
 1984 | inpatient care within 12 months after licensure.

1985 | (f) The number and disciplines of professional staff to be
 1986 | employed.

1987 | (g) The name and qualifications of any existing or
 1988 | potential contractee.

1989 (h) A plan for attracting and training volunteers.
 1990 ~~(i) The projected annual operating cost of the hospice.~~
 1991
 1992 If the applicant is an existing licensed health care provider,
 1993 the application must be accompanied by a copy of the most recent
 1994 profit-loss statement and, if applicable, the most recent
 1995 licensure inspection report.

1996 (4) A freestanding hospice facility that is ~~primarily~~
 1997 engaged in providing inpatient and related services and that is
 1998 not otherwise licensed as a health care facility shall be
 1999 required to obtain a certificate of need. However, a
 2000 freestanding hospice facility with six or fewer beds shall not
 2001 be required to comply with institutional standards such as, but
 2002 not limited to, standards requiring sprinkler systems, emergency
 2003 electrical systems, or special lavatory devices.

2004 Section 41. Subsection (2) of section 400.607, Florida
 2005 Statutes, is amended to read:

2006 400.607 Denial, suspension, revocation of license;
 2007 emergency actions; imposition of administrative fine; grounds.—

2008 (2) A violation of the provisions of this part, part II of
 2009 chapter 408, or applicable rules ~~Any of the following actions~~ by
 2010 a licensed hospice or any of its employees shall be grounds for
 2011 administrative action by the agency against a hospice. ~~÷~~

2012 ~~(a) A violation of the provisions of this part, part II of~~
 2013 ~~chapter 408, or applicable rules.~~

2014 ~~(b) An intentional or negligent act materially affecting~~
 2015 ~~the health or safety of a patient.~~

2016 Section 42. Subsection (1) of section 400.925, Florida

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2017 Statutes, is amended to read:

2018 400.925 Definitions.—As used in this part, the term:

2019 (1) "Accrediting organizations" means the Joint Commission
 2020 ~~on Accreditation of Healthcare Organizations~~ or other national
 2021 accreditation agencies whose standards for accreditation are
 2022 comparable to those required by this part for licensure.

2023 Section 43. Section 400.931, Florida Statutes, is amended
 2024 to read:

2025 400.931 Application for license; ~~fee; provisional license;~~
 2026 ~~temporary permit.~~—

2027 (1) In addition to the requirements of part II of chapter
 2028 408, the applicant must file with the application satisfactory
 2029 proof that the home medical equipment provider is in compliance
 2030 with this part and applicable rules, including:

2031 (a) A report, by category, of the equipment to be
 2032 provided, indicating those offered either directly by the
 2033 applicant or through contractual arrangements with existing
 2034 providers. Categories of equipment include:

- 2035 1. Respiratory modalities.
- 2036 2. Ambulation aids.
- 2037 3. Mobility aids.
- 2038 4. Sickroom setup.
- 2039 5. Disposables.

2040 (b) A report, by category, of the services to be provided,
 2041 indicating those offered either directly by the applicant or
 2042 through contractual arrangements with existing providers.

2043 Categories of services include:

- 2044 1. Intake.

2045 2. Equipment selection.

2046 3. Delivery.

2047 4. Setup and installation.

2048 5. Patient training.

2049 6. Ongoing service and maintenance.

2050 7. Retrieval.

2051 (c) A listing of those with whom the applicant contracts,
 2052 both the providers the applicant uses to provide equipment or
 2053 services to its consumers and the providers for whom the
 2054 applicant provides services or equipment.

2055 ~~(2) As an alternative to submitting proof of financial~~
 2056 ~~ability to operate as required in s. 408.810(8), the applicant~~
 2057 ~~may submit a \$50,000 surety bond to the agency.~~

2058 (2)~~(3)~~ As specified in part II of chapter 408, the home
 2059 medical equipment provider must also obtain and maintain
 2060 professional and commercial liability insurance. Proof of
 2061 liability insurance, as defined in s. 624.605, must be submitted
 2062 with the application. The agency shall set the required amounts
 2063 of liability insurance by rule, but the required amount must not
 2064 be less than \$250,000 per claim. In the case of contracted
 2065 services, it is required that the contractor have liability
 2066 insurance not less than \$250,000 per claim.

2067 (3)~~(4)~~ When a change of the general manager of a home
 2068 medical equipment provider occurs, the licensee must notify the
 2069 agency of the change within 45 days.

2070 (4)~~(5)~~ In accordance with s. 408.805, an applicant or a
 2071 licensee shall pay a fee for each license application submitted
 2072 under this part, part II of chapter 408, and applicable rules.

2073 The amount of the fee shall be established by rule and may not
 2074 exceed \$300 per biennium. The agency shall set the fees in an
 2075 amount that is sufficient to cover its costs in carrying out its
 2076 responsibilities under this part. However, state, county, or
 2077 municipal governments applying for licenses under this part are
 2078 exempt from the payment of license fees.

2079 (5)~~(6)~~ An applicant for initial licensure, renewal, or
 2080 change of ownership shall also pay an inspection fee not to
 2081 exceed \$400, which shall be paid by all applicants except those
 2082 not subject to licensure inspection by the agency as described
 2083 in s. 400.933.

2084 Section 44. Subsection (2) of section 400.932, Florida
 2085 Statutes, is amended to read:

2086 400.932 Administrative penalties.—

2087 (2) A violation of this part, part II of chapter 408, or
 2088 applicable rules ~~Any of the following actions~~ by an employee of
 2089 a home medical equipment provider are grounds for administrative
 2090 action or penalties by the agency.÷

2091 ~~(a) Violation of this part, part II of chapter 408, or~~
 2092 ~~applicable rules.~~

2093 ~~(b) An intentional, reckless, or negligent act that~~
 2094 ~~materially affects the health or safety of a patient.~~

2095 Section 45. Subsection (2) of section 400.933, Florida
 2096 Statutes, is amended to read:

2097 400.933 Licensure inspections and investigations.—

2098 (2) The agency shall accept, in lieu of its own periodic
 2099 inspections for licensure, submission of the following:

2100 (a) The survey or inspection of an accrediting

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2101 organization, provided the accreditation of the licensed home
 2102 medical equipment provider is not conditional or provisional and
 2103 provided the licensed home medical equipment provider authorizes
 2104 release of, and the agency receives the report of, the
 2105 accrediting organization; or

2106 (b) A copy of a valid medical oxygen retail establishment
 2107 permit issued by the Department of Health, pursuant to chapter
 2108 499.

2109 Section 46. Subsection (2) of section 400.953, Florida
 2110 Statutes, is amended to read:

2111 400.953 Background screening of home medical equipment
 2112 provider personnel.—The agency shall require employment
 2113 screening as provided in chapter 435, using the level 1
 2114 standards for screening set forth in that chapter, for home
 2115 medical equipment provider personnel.

2116 (2) The general manager of each home medical equipment
 2117 provider must sign an affidavit ~~annually~~, under penalty of
 2118 perjury, stating that all home medical equipment provider
 2119 personnel hired on or after July 1, 1999, who enter the home of
 2120 a patient in the capacity of their employment have been screened
 2121 and that its remaining personnel have worked for the home
 2122 medical equipment provider continuously since before July 1,
 2123 1999. This attestation must be submitted in accordance with s.
 2124 408.809(6).

2125 Section 47. Section 400.967, Florida Statutes, is amended
 2126 to read:

2127 400.967 Rules and classification of violations
 2128 ~~deficiencies~~.—

2129 (1) It is the intent of the Legislature that rules adopted
 2130 and enforced under this part and part II of chapter 408 include
 2131 criteria by which a reasonable and consistent quality of
 2132 resident care may be ensured, the results of such resident care
 2133 can be demonstrated, and safe and sanitary facilities can be
 2134 provided.

2135 (2) Pursuant to the intention of the Legislature, the
 2136 agency, in consultation with the Agency for Persons with
 2137 Disabilities and the Department of Elderly Affairs, shall adopt
 2138 and enforce rules to administer this part and part II of chapter
 2139 408, which shall include reasonable and fair criteria governing:

2140 (a) The location and construction of the facility;
 2141 including fire and life safety, plumbing, heating, cooling,
 2142 lighting, ventilation, and other housing conditions that will
 2143 ensure the health, safety, and comfort of residents. The agency
 2144 shall establish standards for facilities and equipment to
 2145 increase the extent to which new facilities and a new wing or
 2146 floor added to an existing facility after July 1, 2000, are
 2147 structurally capable of serving as shelters only for residents,
 2148 staff, and families of residents and staff, and equipped to be
 2149 self-supporting during and immediately following disasters. The
 2150 Agency for Health Care Administration shall work with facilities
 2151 licensed under this part and report to the Governor and the
 2152 Legislature by April 1, 2000, its recommendations for cost-
 2153 effective renovation standards to be applied to existing
 2154 facilities. In making such rules, the agency shall be guided by
 2155 criteria recommended by nationally recognized, reputable
 2156 professional groups and associations having knowledge concerning

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2157 | such subject matters. The agency shall update or revise such
2158 | criteria as the need arises. All facilities must comply with
2159 | those lifesafety code requirements and building code standards
2160 | applicable at the time of approval of their construction plans.
2161 | The agency may require alterations to a building if it
2162 | determines that an existing condition constitutes a distinct
2163 | hazard to life, health, or safety. The agency shall adopt fair
2164 | and reasonable rules setting forth conditions under which
2165 | existing facilities undergoing additions, alterations,
2166 | conversions, renovations, or repairs are required to comply with
2167 | the most recent updated or revised standards.

2168 | (b) The number and qualifications of all personnel,
2169 | including management, medical nursing, and other personnel,
2170 | having responsibility for any part of the care given to
2171 | residents.

2172 | (c) All sanitary conditions within the facility and its
2173 | surroundings, including water supply, sewage disposal, food
2174 | handling, and general hygiene, which will ensure the health and
2175 | comfort of residents.

2176 | (d) The equipment essential to the health and welfare of
2177 | the residents.

2178 | (e) A uniform accounting system.

2179 | (f) The care, treatment, and maintenance of residents and
2180 | measurement of the quality and adequacy thereof.

2181 | (g) The preparation and annual update of a comprehensive
2182 | emergency management plan. The agency shall adopt rules
2183 | establishing minimum criteria for the plan after consultation
2184 | with the Department of Community Affairs. At a minimum, the

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2185 rules must provide for plan components that address emergency
2186 evacuation transportation; adequate sheltering arrangements;
2187 postdisaster activities, including emergency power, food, and
2188 water; postdisaster transportation; supplies; staffing;
2189 emergency equipment; individual identification of residents and
2190 transfer of records; and responding to family inquiries. The
2191 comprehensive emergency management plan is subject to review and
2192 approval by the local emergency management agency. During its
2193 review, the local emergency management agency shall ensure that
2194 the following agencies, at a minimum, are given the opportunity
2195 to review the plan: the Department of Elderly Affairs, the
2196 Agency for Persons with Disabilities, the Agency for Health Care
2197 Administration, and the Department of Community Affairs. Also,
2198 appropriate volunteer organizations must be given the
2199 opportunity to review the plan. The local emergency management
2200 agency shall complete its review within 60 days and either
2201 approve the plan or advise the facility of necessary revisions.

2202 (h) The use of restraint and seclusion. Such rules must be
2203 consistent with recognized best practices; prohibit inherently
2204 dangerous restraint or seclusion procedures; establish
2205 limitations on the use and duration of restraint and seclusion;
2206 establish measures to ensure the safety of clients and staff
2207 during an incident of restraint or seclusion; establish
2208 procedures for staff to follow before, during, and after
2209 incidents of restraint or seclusion, including individualized
2210 plans for the use of restraints or seclusion in emergency
2211 situations; establish professional qualifications of and
2212 training for staff who may order or be engaged in the use of

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2213 restraint or seclusion; establish requirements for facility data
 2214 collection and reporting relating to the use of restraint and
 2215 seclusion; and establish procedures relating to the
 2216 documentation of the use of restraint or seclusion in the
 2217 client's facility or program record.

2218 (3) The agency shall adopt rules to provide that, when the
 2219 criteria established under this part and part II of chapter 408
 2220 are not met, such violations ~~deficiencies~~ shall be classified
 2221 according to the nature of the violation ~~deficiency~~. The agency
 2222 shall indicate the classification on the face of the notice of
 2223 violations ~~deficiencies~~ as follows:

2224 (a) Class I violations ~~deficiencies~~ are defined in s.
 2225 408.813. ~~those which the agency determines present an imminent~~
 2226 ~~danger to the residents or guests of the facility or a~~
 2227 ~~substantial probability that death or serious physical harm~~
 2228 ~~would result therefrom. The condition or practice constituting a~~
 2229 ~~class I violation must be abated or eliminated immediately,~~
 2230 ~~unless a fixed period of time, as determined by the agency, is~~
 2231 ~~required for correction.~~ A class I violation ~~deficiency~~ is
 2232 subject to a civil penalty in an amount not less than \$5,000 and
 2233 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may
 2234 be levied notwithstanding the correction of the violation
 2235 ~~deficiency~~.

2236 (b) Class II violations ~~deficiencies~~ are defined in s.
 2237 408.813. ~~those which the agency determines have a direct or~~
 2238 ~~immediate relationship to the health, safety, or security of the~~
 2239 ~~facility residents, other than class I deficiencies.~~ A class II
 2240 violation ~~deficiency~~ is subject to a civil penalty in an amount

2241 not less than \$1,000 and not exceeding \$5,000 for each
 2242 deficiency. A citation for a class II violation ~~deficiency~~ shall
 2243 specify the time within which the violation ~~deficiency~~ must be
 2244 corrected. If a class II violation ~~deficiency~~ is corrected
 2245 within the time specified, no civil penalty shall be imposed,
 2246 unless it is a repeated offense.

2247 (c) Class III violations ~~deficiencies~~ are defined in s.
 2248 408.813. ~~those which the agency determines to have an indirect~~
 2249 ~~or potential relationship to the health, safety, or security of~~
 2250 ~~the facility residents, other than class I or class II~~
 2251 ~~deficiencies.~~ A class III violation ~~deficiency~~ is subject to a
 2252 civil penalty of not less than \$500 and not exceeding \$1,000 for
 2253 each violation ~~deficiency~~. A citation for a class III violation
 2254 ~~deficiency~~ shall specify the time within which the violation
 2255 ~~deficiency~~ must be corrected. If a class III violation
 2256 ~~deficiency~~ is corrected within the time specified, no civil
 2257 penalty shall be imposed, unless it is a repeated offense.

2258 (d) Class IV violations are defined in s. 408.813.

2259 (4) The agency shall approve or disapprove the plans and
 2260 specifications within 60 days after receipt of the final plans
 2261 and specifications. The agency may be granted one 15-day
 2262 extension for the review period, if the secretary of the agency
 2263 so approves. If the agency fails to act within the specified
 2264 time, it is deemed to have approved the plans and
 2265 specifications. When the agency disapproves plans and
 2266 specifications, it must set forth in writing the reasons for
 2267 disapproval. Conferences and consultations may be provided as
 2268 necessary.

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2269 (5) The agency may charge an initial fee of \$2,000 for
 2270 review of plans and construction on all projects, no part of
 2271 which is refundable. The agency may also collect a fee, not to
 2272 exceed 1 percent of the estimated construction cost or the
 2273 actual cost of review, whichever is less, for the portion of the
 2274 review which encompasses initial review through the initial
 2275 revised construction document review. The agency may collect its
 2276 actual costs on all subsequent portions of the review and
 2277 construction inspections. Initial fee payment must accompany the
 2278 initial submission of plans and specifications. Any subsequent
 2279 payment that is due is payable upon receipt of the invoice from
 2280 the agency. Notwithstanding any other provision of law, all
 2281 money received by the agency under this section shall be deemed
 2282 to be trust funds, to be held and applied solely for the
 2283 operations required under this section.

2284 Section 48. Subsection (1) of section 400.969, Florida
 2285 Statutes, is amended to read:

2286 400.969 Violation of part; penalties.—

2287 (1) In addition to the requirements of part II of chapter
 2288 408, and except as provided in s. 400.967(3), a violation of any
 2289 provision of federal certification required pursuant to
 2290 400.960(8), this part, part II of chapter 408, or applicable
 2291 rules is punishable by payment of an administrative or civil
 2292 penalty not to exceed \$5,000.

2293 Section 49. Subsection (7) of section 400.9905, Florida
 2294 Statutes, is amended to read:

2295 400.9905 Definitions.—

2296 (7) "Portable service or equipment provider" means an

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2297 entity that contracts with or employs persons to provide
 2298 portable service or equipment to multiple locations which
 2299 ~~performing treatment or diagnostic testing of individuals, that~~
 2300 bills third-party payors for those services, and that otherwise
 2301 meets the definition of a clinic in subsection (4).

2302 Section 50. Subsections (1) and (4) of section 400.991,
 2303 Florida Statutes, are amended to read:

2304 400.991 License requirements; background screenings;
 2305 prohibitions.—

2306 (1) (a) The requirements of part II of chapter 408 apply to
 2307 the provision of services that require licensure pursuant to
 2308 this part and part II of chapter 408 and to entities licensed by
 2309 or applying for such licensure from the agency pursuant to this
 2310 part. A license issued by the agency is required in order to
 2311 operate a clinic in this state. Each clinic location shall be
 2312 licensed separately regardless of whether the clinic is operated
 2313 under the same business name or management as another clinic.

2314 (b) Each mobile clinic must obtain a separate health care
 2315 clinic license and must provide to the agency, at least
 2316 quarterly, its projected street location to enable the agency to
 2317 locate and inspect such clinic. A portable equipment and health
 2318 services provider must obtain a health care clinic license for a
 2319 single administrative office and is not required to submit
 2320 quarterly projected street locations.

2321 (4) In addition to the requirements of part II of chapter
 2322 408, the applicant must file with the application satisfactory
 2323 proof that the clinic is in compliance with this part and
 2324 applicable rules, including:

2325 (a) A listing of services to be provided either directly
 2326 by the applicant or through contractual arrangements with
 2327 existing providers;

2328 (b) The number and discipline of each professional staff
 2329 member to be employed; and

2330 (c) Proof of financial ability to operate as required
 2331 under ss. 408.810(8) and 408.8065 ~~s. 408.810(8)~~. As an
 2332 ~~alternative to submitting proof of financial ability to operate~~
 2333 ~~as required under s. 408.810(8), the applicant may file a surety~~
 2334 ~~bond of at least \$500,000 which guarantees that the clinic will~~
 2335 ~~act in full conformity with all legal requirements for operating~~
 2336 ~~a clinic, payable to the agency. The agency may adopt rules to~~
 2337 ~~specify related requirements for such surety bond.~~

2338 Section 51. Paragraph (g) of subsection (1) and paragraph
 2339 (a) of subsection (7) of section 400.9935, Florida Statutes, are
 2340 amended to read:

2341 400.9935 Clinic responsibilities.—

2342 (1) Each clinic shall appoint a medical director or clinic
 2343 director who shall agree in writing to accept legal
 2344 responsibility for the following activities on behalf of the
 2345 clinic. The medical director or the clinic director shall:

2346 (g) Conduct systematic reviews of clinic billings to
 2347 ensure that the billings are not fraudulent or unlawful. Upon
 2348 discovery of an unlawful charge, the medical director or clinic
 2349 director shall take immediate corrective action. If the clinic
 2350 performs only the technical component of magnetic resonance
 2351 imaging, static radiographs, computed tomography, or positron
 2352 emission tomography, and provides the professional

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2353 interpretation of such services, in a fixed facility that is
2354 accredited by the Joint Commission ~~on Accreditation of~~
2355 ~~Healthcare Organizations~~ or the Accreditation Association for
2356 Ambulatory Health Care, and the American College of Radiology;
2357 and if, in the preceding quarter, the percentage of scans
2358 performed by that clinic which was billed to all personal injury
2359 protection insurance carriers was less than 15 percent, the
2360 chief financial officer of the clinic may, in a written
2361 acknowledgment provided to the agency, assume the responsibility
2362 for the conduct of the systematic reviews of clinic billings to
2363 ensure that the billings are not fraudulent or unlawful.

2364 (7) (a) Each clinic engaged in magnetic resonance imaging
2365 services must be accredited by the Joint Commission ~~on~~
2366 ~~Accreditation of Healthcare Organizations~~, the American College
2367 of Radiology, or the Accreditation Association for Ambulatory
2368 Health Care, within 1 year after licensure. A clinic that is
2369 accredited by the American College of Radiology or is within the
2370 original 1-year period after licensure and replaces its core
2371 magnetic resonance imaging equipment shall be given 1 year after
2372 the date on which the equipment is replaced to attain
2373 accreditation. However, a clinic may request a single, 6-month
2374 extension if it provides evidence to the agency establishing
2375 that, for good cause shown, such clinic cannot be accredited
2376 within 1 year after licensure, and that such accreditation will
2377 be completed within the 6-month extension. After obtaining
2378 accreditation as required by this subsection, each such clinic
2379 must maintain accreditation as a condition of renewal of its
2380 license. A clinic that files a change of ownership application

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2381 must comply with the original accreditation timeframe
 2382 requirements of the transferor. The agency shall deny a change
 2383 of ownership application if the clinic is not in compliance with
 2384 the accreditation requirements. When a clinic adds, replaces, or
 2385 modifies magnetic resonance imaging equipment and the
 2386 accreditation agency requires new accreditation, the clinic must
 2387 be accredited within 1 year after the date of the addition,
 2388 replacement, or modification but may request a single, 6-month
 2389 extension if the clinic provides evidence of good cause to the
 2390 agency.

2391 Section 52. Subsection (2) of section 408.034, Florida
 2392 Statutes, is amended to read:

2393 408.034 Duties and responsibilities of agency; rules.—

2394 (2) In the exercise of its authority to issue licenses to
 2395 health care facilities and health service providers, as provided
 2396 under chapters 393 and 395 and parts II, ~~and~~ IV, and VIII of
 2397 chapter 400, the agency may not issue a license to any health
 2398 care facility or health service provider that fails to receive a
 2399 certificate of need or an exemption for the licensed facility or
 2400 service.

2401 Section 53. Paragraph (d) of subsection (1) of section
 2402 408.036, Florida Statutes, is amended to read:

2403 408.036 Projects subject to review; exemptions.—

2404 (1) APPLICABILITY.—Unless exempt under subsection (3), all
 2405 health-care-related projects, as described in paragraphs (a)-
 2406 (g), are subject to review and must file an application for a
 2407 certificate of need with the agency. The agency is exclusively
 2408 responsible for determining whether a health-care-related

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2409 project is subject to review under ss. 408.031-408.045.

2410 (d) The establishment of a hospice or hospice inpatient
 2411 facility, ~~except as provided in s. 408.043.~~

2412 Section 54. Subsection (2) of section 408.043, Florida
 2413 Statutes, is amended to read:

2414 408.043 Special provisions.—

2415 (2) HOSPICES.—When an application is made for a
 2416 certificate of need to establish or to expand a hospice, the
 2417 need for such hospice shall be determined on the basis of the
 2418 need for and availability of hospice services in the community.
 2419 The formula on which the certificate of need is based shall
 2420 discourage regional monopolies and promote competition. The
 2421 inpatient hospice care component of a hospice which is a
 2422 freestanding facility, or a part of a facility, ~~which is~~
 2423 ~~primarily engaged in providing inpatient care and related~~
 2424 ~~services~~ and is not licensed as a health care facility shall
 2425 also be required to obtain a certificate of need. Provision of
 2426 hospice care by any current provider of health care is a
 2427 significant change in service and therefore requires a
 2428 certificate of need for such services.

2429 Section 55. Paragraph (k) of subsection (3) of section
 2430 408.05, Florida Statutes, is amended to read:

2431 408.05 Florida Center for Health Information and Policy
 2432 Analysis.—

2433 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
 2434 produce comparable and uniform health information and statistics
 2435 for the development of policy recommendations, the agency shall
 2436 perform the following functions:

2437 (k) Develop, in conjunction with the State Consumer Health
 2438 Information and Policy Advisory Council, and implement a long-
 2439 range plan for making available health care quality measures and
 2440 financial data that will allow consumers to compare health care
 2441 services. The health care quality measures and financial data
 2442 the agency must make available shall include, but is not limited
 2443 to, pharmaceuticals, physicians, health care facilities, and
 2444 health plans and managed care entities. The agency shall submit
 2445 the initial plan to the Governor, the President of the Senate,
 2446 and the Speaker of the House of Representatives by January 1,
 2447 2006, and shall update the plan and report on the status of its
 2448 implementation annually thereafter. The agency shall also make
 2449 the plan and status report available to the public on its
 2450 Internet website. As part of the plan, the agency shall identify
 2451 the process and timeframes for implementation, any barriers to
 2452 implementation, and recommendations of changes in the law that
 2453 may be enacted by the Legislature to eliminate the barriers. As
 2454 preliminary elements of the plan, the agency shall:

- 2455 1. Make available patient-safety indicators, inpatient
 2456 quality indicators, and performance outcome and patient charge
 2457 data collected from health care facilities pursuant to s.
 2458 408.061(1)(a) and (2). The terms "patient-safety indicators" and
 2459 "inpatient quality indicators" shall be as defined by the
 2460 Centers for Medicare and Medicaid Services, the National Quality
 2461 Forum, the Joint Commission ~~on Accreditation of Healthcare~~
 2462 ~~Organizations~~, the Agency for Healthcare Research and Quality,
 2463 the Centers for Disease Control and Prevention, or a similar
 2464 national entity that establishes standards to measure the

2465 performance of health care providers, or by other states. The
 2466 agency shall determine which conditions, procedures, health care
 2467 quality measures, and patient charge data to disclose based upon
 2468 input from the council. When determining which conditions and
 2469 procedures are to be disclosed, the council and the agency shall
 2470 consider variation in costs, variation in outcomes, and
 2471 magnitude of variations and other relevant information. When
 2472 determining which health care quality measures to disclose, the
 2473 agency:

2474 a. Shall consider such factors as volume of cases; average
 2475 patient charges; average length of stay; complication rates;
 2476 mortality rates; and infection rates, among others, which shall
 2477 be adjusted for case mix and severity, if applicable.

2478 b. May consider such additional measures that are adopted
 2479 by the Centers for Medicare and Medicaid Studies, National
 2480 Quality Forum, the Joint Commission ~~on Accreditation of~~
 2481 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
 2482 Quality, Centers for Disease Control and Prevention, or a
 2483 similar national entity that establishes standards to measure
 2484 the performance of health care providers, or by other states.

2485
 2486 When determining which patient charge data to disclose, the
 2487 agency shall include such measures as the average of
 2488 undiscounted charges on frequently performed procedures and
 2489 preventive diagnostic procedures, the range of procedure charges
 2490 from highest to lowest, average net revenue per adjusted patient
 2491 day, average cost per adjusted patient day, and average cost per
 2492 admission, among others.

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2493 2. Make available performance measures, benefit design,
2494 and premium cost data from health plans licensed pursuant to
2495 chapter 627 or chapter 641. The agency shall determine which
2496 health care quality measures and member and subscriber cost data
2497 to disclose, based upon input from the council. When determining
2498 which data to disclose, the agency shall consider information
2499 that may be required by either individual or group purchasers to
2500 assess the value of the product, which may include membership
2501 satisfaction, quality of care, current enrollment or membership,
2502 coverage areas, accreditation status, premium costs, plan costs,
2503 premium increases, range of benefits, copayments and
2504 deductibles, accuracy and speed of claims payment, credentials
2505 of physicians, number of providers, names of network providers,
2506 and hospitals in the network. Health plans shall make available
2507 to the agency any such data or information that is not currently
2508 reported to the agency or the office.

2509 3. Determine the method and format for public disclosure
2510 of data reported pursuant to this paragraph. The agency shall
2511 make its determination based upon input from the State Consumer
2512 Health Information and Policy Advisory Council. At a minimum,
2513 the data shall be made available on the agency's Internet
2514 website in a manner that allows consumers to conduct an
2515 interactive search that allows them to view and compare the
2516 information for specific providers. The website must include
2517 such additional information as is determined necessary to ensure
2518 that the website enhances informed decisionmaking among
2519 consumers and health care purchasers, which shall include, at a
2520 minimum, appropriate guidance on how to use the data and an

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2521 explanation of why the data may vary from provider to provider.
2522 The data specified in subparagraph 1. shall be released no later
2523 than January 1, 2006, for the reporting of infection rates, and
2524 no later than October 1, 2005, for mortality rates and
2525 complication rates. The data specified in subparagraph 2. shall
2526 be released no later than October 1, 2006.

2527 4. Publish on its website undiscounted charges for no
2528 fewer than 150 of the most commonly performed adult and
2529 pediatric procedures, including outpatient, inpatient,
2530 diagnostic, and preventative procedures.

2531 Section 56. Paragraph (a) of subsection (1) of section
2532 408.061, Florida Statutes, is amended to read:

2533 408.061 Data collection; uniform systems of financial
2534 reporting; information relating to physician charges;
2535 confidential information; immunity.—

2536 (1) The agency shall require the submission by health care
2537 facilities, health care providers, and health insurers of data
2538 necessary to carry out the agency's duties. Specifications for
2539 data to be collected under this section shall be developed by
2540 the agency with the assistance of technical advisory panels
2541 including representatives of affected entities, consumers,
2542 purchasers, and such other interested parties as may be
2543 determined by the agency.

2544 (a) Data submitted by health care facilities, including
2545 the facilities as defined in chapter 395, shall include, but are
2546 not limited to: case-mix data, patient admission and discharge
2547 data, hospital emergency department data which shall include the
2548 number of patients treated in the emergency department of a

2549 licensed hospital reported by patient acuity level, data on
 2550 hospital-acquired infections as specified by rule, data on
 2551 complications as specified by rule, data on readmissions as
 2552 specified by rule, with patient and provider-specific
 2553 identifiers included, actual charge data by diagnostic groups,
 2554 financial data, accounting data, operating expenses, expenses
 2555 incurred for rendering services to patients who cannot or do not
 2556 pay, interest charges, depreciation expenses based on the
 2557 expected useful life of the property and equipment involved, and
 2558 demographic data. The agency shall adopt nationally recognized
 2559 risk adjustment methodologies or software consistent with the
 2560 standards of the Agency for Healthcare Research and Quality and
 2561 as selected by the agency for all data submitted as required by
 2562 this section. Data may be obtained from documents such as, but
 2563 not limited to: leases, contracts, debt instruments, itemized
 2564 patient bills, medical record abstracts, and related diagnostic
 2565 information. Reported data elements shall be reported
 2566 electronically and ~~in accordance with rule 59E-7.012, Florida~~
 2567 ~~Administrative Code. Data submitted shall be~~ certified by the
 2568 chief executive officer or an appropriate and duly authorized
 2569 representative or employee of the licensed facility that the
 2570 information submitted is true and accurate.

2571 Section 57. Subsection (1) of section 408.10, Florida
 2572 Statutes, is amended to read:

2573 408.10 Consumer complaints.—The agency shall:

2574 (1) Publish and make available to the public a toll-free
 2575 telephone number for the purpose of handling consumer complaints
 2576 and shall serve as a liaison between consumer entities and other

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2577 private entities and governmental entities for the disposition
 2578 of problems identified by consumers of health care. The agency
 2579 may provide staffing for this toll-free number through agency
 2580 staff or other arrangements.

2581 Section 58. Subsection (11) of section 408.802, Florida
 2582 Statutes, is repealed.

2583 Section 59. Effective October 1, 2010, subsection (3) is
 2584 added to section 408.804, Florida Statutes, to read:

2585 408.804 License required; display.-

2586 (3) Any person who knowingly alters, defaces, or falsifies
 2587 any license certificate issued by the agency, or causes or
 2588 procures any person to commit such an offense, commits a
 2589 misdemeanor of the second degree, punishable as provided in s.
 2590 775.082 or s. 775.083. Any licensee or provider who displays an
 2591 altered, defaced, or falsified license certificate is subject to
 2592 the penalties set forth in s. 408.815 and an administrative fine
 2593 of \$1,000 for each day of illegal display.

2594 Section 60. Paragraph (d) of subsection (2) of section
 2595 408.806, Florida Statutes, is amended to read:

2596 408.806 License application process.-

2597 ~~(2) (d) The agency shall notify the licensee by mail or~~
 2598 ~~electronically at least 90 days before the expiration of a~~
 2599 ~~license that a renewal license is necessary to continue~~
 2600 ~~operation.~~ The licensee's failure to timely file ~~submit~~ a
 2601 renewal application and license application fee with the agency
 2602 shall result in a \$50 per day late fee charged to the licensee
 2603 by the agency; however, the aggregate amount of the late fee may
 2604 not exceed 50 percent of the licensure fee or \$500, whichever is

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2605 less. The agency shall provide a courtesy notice to the licensee
2606 by United States mail, electronically, or by any other manner at
2607 its address of record at least 90 days before the expiration of
2608 a license informing the licensee of the expiration of the
2609 license. Any failure of the agency to provide the courtesy
2610 notice or any failure of the licensee to receive the courtesy
2611 notice does not excuse the licensee from the legal obligation to
2612 timely file the renewal application and license application fee
2613 with the agency and does not mitigate the late fee. Payment of
2614 the late fee is required in order for any late application to be
2615 complete, and failure to pay the late fee is an omission from
2616 the application. If an application is received after the
2617 ~~required filing date and exhibits a hand-canceled postmark~~
2618 ~~obtained from a United States post office dated on or before the~~
2619 ~~required filing date, no fine will be levied.~~

2620 Section 61. Subsections (6) and (9) of section 408.810,
2621 Florida Statutes, are amended to read:

2622 408.810 Minimum licensure requirements.—In addition to the
2623 licensure requirements specified in this part, authorizing
2624 statutes, and applicable rules, each applicant and licensee must
2625 comply with the requirements of this section in order to obtain
2626 and maintain a license.

2627 (6)(a) An applicant must provide the agency with proof of
2628 the applicant's legal right to occupy the property before a
2629 license may be issued. Proof may include, but need not be
2630 limited to, copies of warranty deeds, lease or rental
2631 agreements, contracts for deeds, quitclaim deeds, or other such
2632 documentation.

2633 (b) If the property is encumbered by a mortgage or is
 2634 leased, an applicant must provide the agency with proof that the
 2635 mortgagor or landlord has received written notice of the
 2636 applicant's intent as mortgagee or tenant to provide services
 2637 that require licensure and instructions that the agency be
 2638 served by certified mail with copies of any actions initiated by
 2639 the mortgagor or landlord against applicant.

2640 (9) A controlling interest may not withhold from the
 2641 agency any evidence of financial instability, including, but not
 2642 limited to, checks returned due to insufficient funds,
 2643 delinquent accounts, nonpayment of withholding taxes, unpaid
 2644 utility expenses, nonpayment for essential services, or adverse
 2645 court action concerning the financial viability of the provider
 2646 or any other provider licensed under this part that is under the
 2647 control of the controlling interest. A controlling interest
 2648 shall notify the agency within 10 days after a court action,
 2649 including, but not limited to, the initiation of bankruptcy
 2650 proceedings, foreclosure, or eviction proceedings, in which the
 2651 controlling interest is a petitioner or defendant. Any person
 2652 who violates this subsection commits a misdemeanor of the second
 2653 degree, punishable as provided in s. 775.082 or s. 775.083. Each
 2654 day of continuing violation is a separate offense.

2655 Section 62. Paragraph (a) of subsection (6) of section
 2656 408.811, Florida Statutes, is amended to read:

2657 408.811 Right of inspection; copies; inspection reports;
 2658 plan for correction of deficiencies.-

2659 (6) (a) Each licensee shall maintain as public information,
 2660 available upon request, records of all inspection reports

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2661 | pertaining to that provider that have been filed by the agency
2662 | unless those reports are exempt from or contain information that
2663 | is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
2664 | Constitution or is otherwise made confidential by law. Effective
2665 | October 1, 2006, copies of such reports shall be retained in the
2666 | records of the provider for at least 3 years following the date
2667 | the reports are filed and issued, regardless of a change of
2668 | ownership. The inspection report is not subject to challenge
2669 | under s. 120.569 or s. 120.57.

2670 | Section 63. Subsection (2) of section 408.813, Florida
2671 | Statutes, is amended to read:

2672 | 408.813 Administrative fines; violations.—As a penalty for
2673 | any violation of this part, authorizing statutes, or applicable
2674 | rules, the agency may impose an administrative fine.

2675 | (2) (a) Violations of this part, authorizing statutes, or
2676 | applicable rules shall be classified according to the nature of
2677 | the violation and the gravity of its probable effect on clients.
2678 | The scope of a violation may be cited as an isolated, patterned,
2679 | or widespread deficiency. An isolated deficiency is a deficiency
2680 | affecting one or a very limited number of clients, or involving
2681 | one or a very limited number of staff, or a situation that
2682 | occurred only occasionally or in a very limited number of
2683 | locations. A patterned deficiency is a deficiency in which more
2684 | than a very limited number of clients are affected, or more than
2685 | a very limited number of staff are involved, or the situation
2686 | has occurred in several locations, or the same client or clients
2687 | have been affected by repeated occurrences of the same deficient
2688 | practice but the effect of the deficient practice is not found

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2689 to be pervasive throughout the provider. A widespread deficiency
2690 is a deficiency in which the problems causing the deficiency are
2691 pervasive in the provider or represent systemic failure that has
2692 affected or has the potential to affect a large portion of the
2693 provider's clients. This subsection does not affect the
2694 legislative determination of the amount of a fine imposed under
2695 authorizing statutes. Violations shall be classified on the
2696 written notice as follows:

2697 1.~~(a)~~ Class "I" violations are those conditions or
2698 occurrences related to the operation and maintenance of a
2699 provider or to the care of clients which the agency determines
2700 present an imminent danger to the clients of the provider or a
2701 substantial probability that death or serious physical or
2702 emotional harm would result therefrom. The condition or practice
2703 constituting a class I violation shall be abated or eliminated
2704 within 24 hours, unless a fixed period, as determined by the
2705 agency, is required for correction. The agency shall impose an
2706 administrative fine as provided by law for a cited class I
2707 violation. A fine shall be levied notwithstanding the correction
2708 of the violation.

2709 2.~~(b)~~ Class "II" violations are those conditions or
2710 occurrences related to the operation and maintenance of a
2711 provider or to the care of clients which the agency determines
2712 directly threaten the physical or emotional health, safety, or
2713 security of the clients, other than class I violations. The
2714 agency shall impose an administrative fine as provided by law
2715 for a cited class II violation. A fine shall be levied
2716 notwithstanding the correction of the violation.

2717 3.~~(e)~~ Class "III" violations are those conditions or
 2718 occurrences related to the operation and maintenance of a
 2719 provider or to the care of clients which the agency determines
 2720 indirectly or potentially threaten the physical or emotional
 2721 health, safety, or security of clients, other than class I or
 2722 class II violations. The agency shall impose an administrative
 2723 fine as provided in this section for a cited class III
 2724 violation. A citation for a class III violation must specify the
 2725 time within which the violation is required to be corrected. If
 2726 a class III violation is corrected within the time specified, a
 2727 fine may not be imposed.

2728 4.~~(d)~~ Class "IV" violations are those conditions or
 2729 occurrences related to the operation and maintenance of a
 2730 provider or to required reports, forms, or documents that do not
 2731 have the potential of negatively affecting clients. These
 2732 violations are of a type that the agency determines do not
 2733 threaten the health, safety, or security of clients. The agency
 2734 shall impose an administrative fine as provided in this section
 2735 for a cited class IV violation. A citation for a class IV
 2736 violation must specify the time within which the violation is
 2737 required to be corrected. If a class IV violation is corrected
 2738 within the time specified, a fine may not be imposed.

2739 (b) The agency may impose an administrative fine for
 2740 violations that do not qualify as class I, class II, class III,
 2741 or class IV violations. The amount of the fine may not exceed
 2742 \$500 for each violation. Unclassified violations may include:

- 2743 1. Violating any term or condition of a license.
- 2744 2. Violating any provision of this part, authorizing

2745 statutes, or applicable rules.

2746 3. Exceeding licensed capacity without authorization.

2747 4. Providing services beyond the scope of the license.

2748 5. Violating a moratorium.

2749 Section 64. Subsection (5) is added to section 408.815,
2750 Florida Statutes, to read:

2751 408.815 License or application denial; revocation.—

2752 (5) In order to ensure the health, safety, and welfare of
2753 clients where a license has been denied, revoked, or is set to
2754 terminate, the agency may extend the license expiration date for
2755 up to 60 days after denial, revocation, or termination the sole
2756 purpose of allowing the safe and orderly discharge of clients.
2757 The agency may impose conditions on the extension, including,
2758 but not limited to, prohibiting or limiting admissions,
2759 expediting discharge planning, submitting required status
2760 reports, and mandatory monitoring by the agency or third
2761 parties. The agency may terminate the extension or modify the
2762 conditions at any time at its discretion. Upon the discharge of
2763 the final client, the extension shall immediately terminate and
2764 the provider shall cease operation and promptly surrender its
2765 license certificate to the agency. During the extension, the
2766 provider must continue to meet all other requirements of this
2767 part, authorizing statutes, and applicable rules. This authority
2768 is in addition to any other authority granted to the agency
2769 under chapter 120, this part, and the authorizing statutes, but
2770 does not create any right or entitlement to an extension of a
2771 license expiration date.

2772 Section 65. Paragraph (d) is added to subsection (13) of

2773 section 409.906, Florida Statutes, to read:

2774 409.906 Optional Medicaid services.—Subject to specific

2775 appropriations, the agency may make payments for services which

2776 are optional to the state under Title XIX of the Social Security

2777 Act and are furnished by Medicaid providers to recipients who

2778 are determined to be eligible on the dates on which the services

2779 were provided. Any optional service that is provided shall be

2780 provided only when medically necessary and in accordance with

2781 state and federal law. Optional services rendered by providers

2782 in mobile units to Medicaid recipients may be restricted or

2783 prohibited by the agency. Nothing in this section shall be

2784 construed to prevent or limit the agency from adjusting fees,

2785 reimbursement rates, lengths of stay, number of visits, or

2786 number of services, or making any other adjustments necessary to

2787 comply with the availability of moneys and any limitations or

2788 directions provided for in the General Appropriations Act or

2789 chapter 216. If necessary to safeguard the state's systems of

2790 providing services to elderly and disabled persons and subject

2791 to the notice and review provisions of s. 216.177, the Governor

2792 may direct the Agency for Health Care Administration to amend

2793 the Medicaid state plan to delete the optional Medicaid service

2794 known as "Intermediate Care Facilities for the Developmentally

2795 Disabled." Optional services may include:

2796 (13) HOME AND COMMUNITY-BASED SERVICES.—

2797 (d) The agency, in consultation with the Department of

2798 Elderly Affairs, shall phase out the adult day health care

2799 waiver program and transfer existing waiver enrollees to other

2800 appropriate home and community-based service programs. Effective

2801 July 1, 2010, the adult day health care waiver program shall
 2802 cease to enroll new members. Existing enrollees in the adult day
 2803 health care program shall receive counseling regarding available
 2804 options and shall be offered an alternative home and community-
 2805 based services program based on eligibility and personal choice.
 2806 Each enrollee in the waiver program shall continue to receive
 2807 home and community-based services without interruption in the
 2808 enrollee's program of choice. The providers of the adult day
 2809 health care waiver program, in consultation with the resource
 2810 centers for the aged, shall assist in the transition of
 2811 enrollees and cease provision of adult day health care waiver
 2812 services by December 31, 2010. The agency may seek federal
 2813 waiver approval to administer this change.

2814 Section 66. Paragraph (k) of subsection (4) of section
 2815 409.221, Florida Statutes, is repealed.

2816 Section 67. Paragraphs (e), (f), and (g) of subsection
 2817 (15) of section 409.912, Florida Statutes, are repealed.

2818 Section 68. Section 429.11, Florida Statutes, is amended
 2819 to read:

2820 429.11 Initial application for license; ~~provisional~~
 2821 ~~license.~~—

2822 (1) Each applicant for licensure must comply with all
 2823 provisions of part II of chapter 408 and must:

2824 (a) Identify all other homes or facilities, including the
 2825 addresses and the license or licenses under which they operate,
 2826 if applicable, which are currently operated by the applicant or
 2827 administrator and which provide housing, meals, and personal
 2828 services to residents.

2829 (b) Provide the location of the facility for which a
 2830 license is sought and documentation, signed by the appropriate
 2831 local government official, which states that the applicant has
 2832 met local zoning requirements.

2833 (c) Provide the name, address, date of birth, social
 2834 security number, education, and experience of the administrator,
 2835 if different from the applicant.

2836 (2) The applicant shall provide proof of liability
 2837 insurance as defined in s. 624.605.

2838 (3) If the applicant is a community residential home, the
 2839 applicant must provide proof that it has met the requirements
 2840 specified in chapter 419.

2841 (4) The applicant must furnish proof that the facility has
 2842 received a satisfactory firesafety inspection. The local
 2843 authority having jurisdiction or the State Fire Marshal must
 2844 conduct the inspection within 30 days after written request by
 2845 the applicant.

2846 (5) The applicant must furnish documentation of a
 2847 satisfactory sanitation inspection of the facility by the county
 2848 health department.

2849 ~~(6) In addition to the license categories available in s.~~
 2850 ~~408.808, a provisional license may be issued to an applicant~~
 2851 ~~making initial application for licensure or making application~~
 2852 ~~for a change of ownership. A provisional license shall be~~
 2853 ~~limited in duration to a specific period of time not to exceed 6~~
 2854 ~~months, as determined by the agency.~~

2855 (6) ~~(7)~~ A county or municipality may not issue an
 2856 occupational license that is being obtained for the purpose of

2857 | operating a facility regulated under this part without first
 2858 | ascertaining that the applicant has been licensed to operate
 2859 | such facility at the specified location or locations by the
 2860 | agency. The agency shall furnish to local agencies responsible
 2861 | for issuing occupational licenses sufficient instruction for
 2862 | making such determinations.

2863 | Section 69. Subsection (2) of section 429.12, Florida
 2864 | Statutes, is repealed.

2865 | Section 70. Subsections (5) and (6) of section 429.14,
 2866 | Florida Statutes, are amended to read:

2867 | 429.14 Administrative penalties.—

2868 | (5) An action taken by the agency to suspend, deny, or
 2869 | revoke a facility's license under this part or part II of
 2870 | chapter 408, in which the agency claims that the facility owner
 2871 | or an employee of the facility has threatened the health,
 2872 | safety, or welfare of a resident of the facility shall be heard
 2873 | by the Division of Administrative Hearings of the Department of
 2874 | Management Services within 120 days after receipt of the
 2875 | facility's request for a hearing, unless that time limitation is
 2876 | waived by both parties. The administrative law judge must render
 2877 | a decision within 30 days after receipt of a proposed
 2878 | recommended order.

2879 | (6) The agency shall provide to the Division of Hotels and
 2880 | Restaurants of the Department of Business and Professional
 2881 | Regulation, on a monthly basis, a list of those assisted living
 2882 | facilities that have had their licenses denied, suspended, or
 2883 | revoked or that are involved in an appellate proceeding pursuant
 2884 | to s. 120.60 related to the denial, suspension, or revocation of

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2885 a license. This information may be provided electronically or
 2886 through the agency's Internet website.

2887 Section 71. Subsection (4) of section 429.17, Florida
 2888 Statutes, is amended to read:

2889 429.17 Expiration of license; renewal; conditional
 2890 license.—

2891 (4) In addition to the license categories available in s.
 2892 408.808, a conditional license may be issued to an applicant for
 2893 license renewal if the applicant fails to meet all standards and
 2894 requirements for licensure. A conditional license issued under
 2895 this subsection shall be limited in duration to a specific
 2896 period of time not to exceed 6 months, as determined by the
 2897 agency, ~~and shall be accompanied by an agency-approved plan of~~
 2898 ~~correction.~~

2899 Section 72. Subsection (5) of section 429.23, Florida
 2900 Statutes, is repealed.

2901 Section 73. Subsection (2) of section 429.35, Florida
 2902 Statutes, is amended to read:

2903 429.35 Maintenance of records; reports.—

2904 (2) Within 60 days after the date of the biennial
 2905 inspection visit required under s. 408.811 or within 30 days
 2906 after the date of any interim visit, the agency shall forward
 2907 the results of the inspection to the local ombudsman council in
 2908 whose planning and service area, as defined in part II of
 2909 chapter 400, the facility is located; to at least one public
 2910 library or, in the absence of a public library, the county seat
 2911 in the county in which the inspected assisted living facility is
 2912 located; and, when appropriate, to the district Adult Services

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2913 and Mental Health Program Offices. This information may be
 2914 provided electronically or through the agency's Internet site.

2915 Section 74. Section 429.53, Florida Statutes, is amended
 2916 to read:

2917 429.53 Consultation by the agency.—

2918 (1) ~~The area offices of licensure and certification of the~~
 2919 ~~agency shall provide consultation to the following upon request:~~

2920 (a) A licensee of a facility.

2921 (b) A person interested in obtaining a license to operate
 2922 a facility under this part.

2923 (2) As used in this section, "consultation" includes:

2924 (a) An explanation of the requirements of this part and
 2925 rules adopted pursuant thereto;

2926 (b) An explanation of the license application and renewal
 2927 procedures; and

2928 ~~(c) The provision of a checklist of general local and~~
 2929 ~~state approvals required prior to constructing or developing a~~
 2930 ~~facility and a listing of the types of agencies responsible for~~
 2931 ~~such approvals;~~

2932 ~~(d) An explanation of benefits and financial assistance~~
 2933 ~~available to a recipient of supplemental security income~~
 2934 ~~residing in a facility;~~

2935 (c)-(e) Any other information that ~~which~~ the agency deems
 2936 necessary to promote compliance with the requirements of this
 2937 part. ; ~~and~~

2938 ~~(f) A preconstruction review of a facility to ensure~~
 2939 ~~compliance with agency rules and this part.~~

2940 (3) The agency may charge a fee commensurate with the cost

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2941 of providing consultation under this section.

2942 Section 75. Subsections (2) and (11) of section 429.65,
2943 Florida Statutes, are amended to read:

2944 429.65 Definitions.—As used in this part, the term:

2945 (2) "Adult family-care home" means a full-time, family-
2946 type living arrangement, in a private home, under which up to
2947 two individuals ~~a person~~ who reside in the home and own or rent
2948 ~~owns or rents~~ the home provide ~~provides~~ room, board, and
2949 personal care, on a 24-hour basis, for no more than five
2950 disabled adults or frail elders who are not relatives. The
2951 following family-type living arrangements are not required to be
2952 licensed as an adult family-care home:

2953 (a) An arrangement whereby the person who resides in the
2954 home and owns or rents the home provides room, board, and
2955 personal services for not more than two adults who do not
2956 receive optional state supplementation under s. 409.212. The
2957 person who provides the housing, meals, and personal care must
2958 own or rent the home and reside therein.

2959 (b) An arrangement whereby the person who owns or rents
2960 the home provides room, board, and personal services only to his
2961 or her relatives.

2962 (c) An establishment that is licensed as an assisted
2963 living facility under this chapter.

2964 (11) "Provider" means one or two individuals ~~a person~~ who
2965 are ~~is~~ licensed to operate an adult family-care home.

2966 Section 76. Section 429.71, Florida Statutes, is amended
2967 to read:

2968 429.71 Classification of violations ~~deficiencies~~;

2969 administrative fines.—

2970 (1) In addition to the requirements of part II of chapter
 2971 408 and in addition to any other liability or penalty provided
 2972 by law, the agency may impose an administrative fine on a
 2973 provider according to the following classification:

2974 (a) Class I violations are defined in s. 408.813. ~~those~~
 2975 ~~conditions or practices related to the operation and maintenance~~
 2976 ~~of an adult family-care home or to the care of residents which~~
 2977 ~~the agency determines present an imminent danger to the~~
 2978 ~~residents or guests of the facility or a substantial probability~~
 2979 ~~that death or serious physical or emotional harm would result~~
 2980 ~~therefrom. The condition or practice that constitutes a class I~~
 2981 ~~violation must be abated or eliminated within 24 hours, unless a~~
 2982 ~~fixed period, as determined by the agency, is required for~~
 2983 ~~correction.~~ A class I violation ~~deficiency~~ is subject to an
 2984 administrative fine in an amount not less than \$500 and not
 2985 exceeding \$1,000 for each violation. A fine may be levied
 2986 notwithstanding the correction of the violation ~~deficiency~~.

2987 (b) Class II violations are defined in s. 408.813. ~~those~~
 2988 ~~conditions or practices related to the operation and maintenance~~
 2989 ~~of an adult family-care home or to the care of residents which~~
 2990 ~~the agency determines directly threaten the physical or~~
 2991 ~~emotional health, safety, or security of the residents, other~~
 2992 ~~than class I violations.~~ A class II violation is subject to an
 2993 administrative fine in an amount not less than \$250 and not
 2994 exceeding \$500 for each violation. A ~~citation for a class II~~
 2995 ~~violation must specify the time within which the violation is~~
 2996 ~~required to be corrected. If a class II violation is corrected~~

2997 ~~within the time specified, no civil penalty shall be imposed,~~
 2998 ~~unless it is a repeated offense.~~

2999 (c) Class III violations are defined in s. 408.813. ~~those~~
 3000 ~~conditions or practices related to the operation and maintenance~~
 3001 ~~of an adult family-care home or to the care of residents which~~
 3002 ~~the agency determines indirectly or potentially threaten the~~
 3003 ~~physical or emotional health, safety, or security of residents,~~
 3004 ~~other than class I or class II violations.~~ A class III violation
 3005 is subject to an administrative fine in an amount not less than
 3006 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~
 3007 ~~class III violation shall specify the time within which the~~
 3008 ~~violation is required to be corrected. If a class III violation~~
 3009 ~~is corrected within the time specified, no civil penalty shall~~
 3010 ~~be imposed, unless it is a repeated offense.~~

3011 (d) Class IV violations are defined in s. 408.813. ~~those~~
 3012 ~~conditions or occurrences related to the operation and~~
 3013 ~~maintenance of an adult family-care home, or related to the~~
 3014 ~~required reports, forms, or documents, which do not have the~~
 3015 ~~potential of negatively affecting the residents. A provider that~~
 3016 ~~does not correct A class IV violation within the time limit~~
 3017 ~~specified by the agency is subject to an administrative fine in~~
 3018 ~~an amount not less than \$50 and not exceeding \$100 for each~~
 3019 ~~violation. Any class IV violation that is corrected during the~~
 3020 ~~time the agency survey is conducted will be identified as an~~
 3021 ~~agency finding and not as a violation.~~

3022 (2) The agency may impose an administrative fine for
 3023 violations which do not qualify as class I, class II, class III,
 3024 or class IV violations. The amount of the fine may ~~shall~~ not

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3025 exceed \$250 for each violation or \$2,000 in the aggregate.
 3026 Unclassified violations may include:
 3027 (a) Violating any term or condition of a license.
 3028 (b) Violating any provision of this part, part II of
 3029 chapter 408, or applicable rules.
 3030 (c) Failure to follow the criteria and procedures provided
 3031 under part I of chapter 394 relating to the transportation,
 3032 voluntary admission, and involuntary examination of adult
 3033 family-care home residents.
 3034 (d) Exceeding licensed capacity.
 3035 (e) Providing services beyond the scope of the license.
 3036 (f) Violating a moratorium.
 3037 (3) Each day during which a violation occurs constitutes a
 3038 separate offense.
 3039 (4) In determining whether a penalty is to be imposed, and
 3040 in fixing the amount of any penalty to be imposed, the agency
 3041 must consider:
 3042 (a) The gravity of the violation.
 3043 (b) Actions taken by the provider to correct a violation.
 3044 (c) Any previous violation by the provider.
 3045 (d) The financial benefit to the provider of committing or
 3046 continuing the violation.
 3047 ~~(5) As an alternative to or in conjunction with an~~
 3048 ~~administrative action against a provider, the agency may request~~
 3049 ~~a plan of corrective action that demonstrates a good faith~~
 3050 ~~effort to remedy each violation by a specific date, subject to~~
 3051 ~~the approval of the agency.~~
 3052 Section 77. Section 429.911, Florida Statutes, is

3053 repealed.

3054 Section 78. Section 429.915, Florida Statutes, is amended
3055 to read:

3056 429.915 Conditional license.—In addition to the license
3057 categories available in part II of chapter 408, the agency may
3058 issue a conditional license to an applicant for license renewal
3059 or change of ownership if the applicant fails to meet all
3060 standards and requirements for licensure. A conditional license
3061 issued under this subsection must be limited to a specific
3062 period not exceeding 6 months, as determined by the agency, ~~and~~
3063 ~~must be accompanied by an approved plan of correction.~~

3064 Section 79. Subsection (3) of section 430.80, Florida
3065 Statutes, is amended to read:

3066 430.80 Implementation of a teaching nursing home pilot
3067 project.—

3068 (3) To be designated as a teaching nursing home, a nursing
3069 home licensee must, at a minimum:

3070 (a) Provide a comprehensive program of integrated senior
3071 services that include institutional services and community-based
3072 services;

3073 (b) Participate in a nationally recognized accreditation
3074 program and hold a valid accreditation, such as the
3075 accreditation awarded by the Joint Commission ~~on Accreditation~~
3076 ~~of Healthcare Organizations;~~

3077 (c) Have been in business in this state for a minimum of
3078 10 consecutive years;

3079 (d) Demonstrate an active program in multidisciplinary
3080 education and research that relates to gerontology;

3081 (e) Have a formalized contractual relationship with at
 3082 least one accredited health profession education program located
 3083 in this state;

3084 (f) Have a formalized contractual relationship with an
 3085 accredited hospital that is designated by law as a teaching
 3086 hospital; and

3087 (g) Have senior staff members who hold formal faculty
 3088 appointments at universities, which must include at least one
 3089 accredited health profession education program.

3090 (h) Maintain insurance coverage pursuant to s.
 3091 400.141(1)(g) ~~s. 400.141(1)(s)~~ or proof of financial
 3092 responsibility in a minimum amount of \$750,000. Such proof of
 3093 financial responsibility may include:

- 3094 1. Maintaining an escrow account consisting of cash or
 3095 assets eligible for deposit in accordance with s. 625.52; or
- 3096 2. Obtaining and maintaining pursuant to chapter 675 an
 3097 unexpired, irrevocable, nontransferable and nonassignable letter
 3098 of credit issued by any bank or savings association organized
 3099 and existing under the laws of this state or any bank or savings
 3100 association organized under the laws of the United States that
 3101 has its principal place of business in this state or has a
 3102 branch office which is authorized to receive deposits in this
 3103 state. The letter of credit shall be used to satisfy the
 3104 obligation of the facility to the claimant upon presentment of a
 3105 final judgment indicating liability and awarding damages to be
 3106 paid by the facility or upon presentment of a settlement
 3107 agreement signed by all parties to the agreement when such final
 3108 judgment or settlement is a result of a liability claim against

3109 the facility.

3110 Section 80. Paragraph (a) of subsection (2) of section
3111 440.13, Florida Statutes, is amended to read:

3112 440.13 Medical services and supplies; penalty for
3113 violations; limitations.—

3114 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

3115 (a) Subject to the limitations specified elsewhere in this
3116 chapter, the employer shall furnish to the employee such
3117 medically necessary remedial treatment, care, and attendance for
3118 such period as the nature of the injury or the process of
3119 recovery may require, which is in accordance with established
3120 practice parameters and protocols of treatment as provided for
3121 in this chapter, including medicines, medical supplies, durable
3122 medical equipment, orthoses, prostheses, and other medically
3123 necessary apparatus. Remedial treatment, care, and attendance,
3124 including work-hardening programs or pain-management programs
3125 accredited by the Commission on Accreditation of Rehabilitation
3126 Facilities or the Joint Commission ~~on the Accreditation of~~
3127 ~~Health Organizations~~ or pain-management programs affiliated with
3128 medical schools, shall be considered as covered treatment only
3129 when such care is given based on a referral by a physician as
3130 defined in this chapter. Medically necessary treatment, care,
3131 and attendance does not include chiropractic services in excess
3132 of 24 treatments or rendered 12 weeks beyond the date of the
3133 initial chiropractic treatment, whichever comes first, unless
3134 the carrier authorizes additional treatment or the employee is
3135 catastrophically injured.

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3137 Failure of the carrier to timely comply with this subsection
 3138 shall be a violation of this chapter and the carrier shall be
 3139 subject to penalties as provided for in s. 440.525.

3140 Section 81. Section 483.294, Florida Statutes, is amended
 3141 to read:

3142 483.294 Inspection of centers.—In accordance with s.
 3143 408.811, the agency shall biennially, ~~at least once annually~~,
 3144 inspect the premises and operations of all centers subject to
 3145 licensure under this part.

3146 Section 82. Subsection (1) of section 627.645, Florida
 3147 Statutes, is amended to read:

3148 627.645 Denial of health insurance claims restricted.—

3149 (1) A ~~No~~ claim for payment under a health insurance policy
 3150 or self-insured program of health benefits for treatment, care,
 3151 or services in a licensed hospital which is accredited by the
 3152 Joint Commission ~~on the Accreditation of Hospitals~~, the American
 3153 Osteopathic Association, or the Commission on the Accreditation
 3154 of Rehabilitative Facilities may not ~~shall~~ be denied because
 3155 such hospital lacks major surgical facilities and is primarily
 3156 of a rehabilitative nature, if such rehabilitation is
 3157 specifically for treatment of physical disability.

3158 Section 83. Paragraph (c) of subsection (2) of section
 3159 627.668, Florida Statutes, is amended to read:

3160 627.668 Optional coverage for mental and nervous disorders
 3161 required; exception.—

3162 (2) Under group policies or contracts, inpatient hospital
 3163 benefits, partial hospitalization benefits, and outpatient
 3164 benefits consisting of durational limits, dollar amounts,

3165 deductibles, and coinsurance factors shall not be less favorable
 3166 than for physical illness generally, except that:

3167 (c) Partial hospitalization benefits shall be provided
 3168 under the direction of a licensed physician. For purposes of
 3169 this part, the term "partial hospitalization services" is
 3170 defined as those services offered by a program accredited by the
 3171 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
 3172 compliance with equivalent standards. Alcohol rehabilitation
 3173 programs accredited by the Joint Commission ~~on Accreditation of~~
 3174 ~~Hospitals~~ or approved by the state and licensed drug abuse
 3175 rehabilitation programs shall also be qualified providers under
 3176 this section. In any benefit year, if partial hospitalization
 3177 services or a combination of inpatient and partial
 3178 hospitalization are utilized, the total benefits paid for all
 3179 such services shall not exceed the cost of 30 days of inpatient
 3180 hospitalization for psychiatric services, including physician
 3181 fees, which prevail in the community in which the partial
 3182 hospitalization services are rendered. If partial
 3183 hospitalization services benefits are provided beyond the limits
 3184 set forth in this paragraph, the durational limits, dollar
 3185 amounts, and coinsurance factors thereof need not be the same as
 3186 those applicable to physical illness generally.

3187 Section 84. Subsection (3) of section 627.669, Florida
 3188 Statutes, is amended to read:

3189 627.669 Optional coverage required for substance abuse
 3190 impaired persons; exception.—

3191 (3) The benefits provided under this section shall be
 3192 applicable only if treatment is provided by, or under the

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3193 supervision of, or is prescribed by, a licensed physician or
 3194 licensed psychologist and if services are provided in a program
 3195 accredited by the Joint Commission ~~on Accreditation of Hospitals~~
 3196 or approved by the state.

3197 Section 85. Paragraph (a) of subsection (1) of section
 3198 627.736, Florida Statutes, is amended to read:

3199 627.736 Required personal injury protection benefits;
 3200 exclusions; priority; claims.—

3201 (1) REQUIRED BENEFITS.—Every insurance policy complying
 3202 with the security requirements of s. 627.733 shall provide
 3203 personal injury protection to the named insured, relatives
 3204 residing in the same household, persons operating the insured
 3205 motor vehicle, passengers in such motor vehicle, and other
 3206 persons struck by such motor vehicle and suffering bodily injury
 3207 while not an occupant of a self-propelled vehicle, subject to
 3208 the provisions of subsection (2) and paragraph (4) (e), to a
 3209 limit of \$10,000 for loss sustained by any such person as a
 3210 result of bodily injury, sickness, disease, or death arising out
 3211 of the ownership, maintenance, or use of a motor vehicle as
 3212 follows:

3213 (a) Medical benefits.—Eighty percent of all reasonable
 3214 expenses for medically necessary medical, surgical, X-ray,
 3215 dental, and rehabilitative services, including prosthetic
 3216 devices, and medically necessary ambulance, hospital, and
 3217 nursing services. However, the medical benefits shall provide
 3218 reimbursement only for such services and care that are lawfully
 3219 provided, supervised, ordered, or prescribed by a physician
 3220 licensed under chapter 458 or chapter 459, a dentist licensed

3221 | under chapter 466, or a chiropractic physician licensed under
 3222 | chapter 460 or that are provided by any of the following persons
 3223 | or entities:

3224 | 1. A hospital or ambulatory surgical center licensed under
 3225 | chapter 395.

3226 | 2. A person or entity licensed under ss. 401.2101-401.45
 3227 | that provides emergency transportation and treatment.

3228 | 3. An entity wholly owned by one or more physicians
 3229 | licensed under chapter 458 or chapter 459, chiropractic
 3230 | physicians licensed under chapter 460, or dentists licensed
 3231 | under chapter 466 or by such practitioner or practitioners and
 3232 | the spouse, parent, child, or sibling of that practitioner or
 3233 | those practitioners.

3234 | 4. An entity wholly owned, directly or indirectly, by a
 3235 | hospital or hospitals.

3236 | 5. A health care clinic licensed under ss. 400.990-400.995
 3237 | that is:

3238 | a. Accredited by the Joint Commission ~~on Accreditation of~~
 3239 | ~~Healthcare Organizations~~, the American Osteopathic Association,
 3240 | the Commission on Accreditation of Rehabilitation Facilities, or
 3241 | the Accreditation Association for Ambulatory Health Care, Inc. ;
 3242 | or

3243 | b. A health care clinic that:

3244 | (I) Has a medical director licensed under chapter 458,
 3245 | chapter 459, or chapter 460;

3246 | (II) Has been continuously licensed for more than 3 years
 3247 | or is a publicly traded corporation that issues securities
 3248 | traded on an exchange registered with the United States

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3249 Securities and Exchange Commission as a national securities
 3250 exchange; and

3251 (III) Provides at least four of the following medical
 3252 specialties:

3253 (A) General medicine.

3254 (B) Radiography.

3255 (C) Orthopedic medicine.

3256 (D) Physical medicine.

3257 (E) Physical therapy.

3258 (F) Physical rehabilitation.

3259 (G) Prescribing or dispensing outpatient prescription
 3260 medication.

3261 (H) Laboratory services.

3262

3263 The Financial Services Commission shall adopt by rule the form
 3264 that must be used by an insurer and a health care provider
 3265 specified in subparagraph 3., subparagraph 4., or subparagraph
 3266 5. to document that the health care provider meets the criteria
 3267 of this paragraph, which rule must include a requirement for a
 3268 sworn statement or affidavit.

3269

3270 Only insurers writing motor vehicle liability insurance in this
 3271 state may provide the required benefits of this section, and no
 3272 such insurer shall require the purchase of any other motor
 3273 vehicle coverage other than the purchase of property damage
 3274 liability coverage as required by s. 627.7275 as a condition for
 3275 providing such required benefits. Insurers may not require that
 3276 property damage liability insurance in an amount greater than

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3277 \$10,000 be purchased in conjunction with personal injury
 3278 protection. Such insurers shall make benefits and required
 3279 property damage liability insurance coverage available through
 3280 normal marketing channels. Any insurer writing motor vehicle
 3281 liability insurance in this state who fails to comply with such
 3282 availability requirement as a general business practice shall be
 3283 deemed to have violated part IX of chapter 626, and such
 3284 violation shall constitute an unfair method of competition or an
 3285 unfair or deceptive act or practice involving the business of
 3286 insurance; and any such insurer committing such violation shall
 3287 be subject to the penalties afforded in such part, as well as
 3288 those which may be afforded elsewhere in the insurance code.

3289 Section 86. Subsection (12) of section 641.495, Florida
 3290 Statutes, is amended to read:

3291 641.495 Requirements for issuance and maintenance of
 3292 certificate.-

3293 (12) The provisions of part I of chapter 395 do not apply
 3294 to a health maintenance organization that, on or before January
 3295 1, 1991, provides not more than 10 outpatient holding beds for
 3296 short-term and hospice-type patients in an ambulatory care
 3297 facility for its members, provided that such health maintenance
 3298 organization maintains current accreditation by the Joint
 3299 Commission ~~on Accreditation of Health Care Organizations~~, the
 3300 Accreditation Association for Ambulatory Health Care, or the
 3301 National Committee for Quality Assurance.

3302 Section 87. Subsection (13) of section 651.118, Florida
 3303 Statutes, is amended to read:

3304 651.118 Agency for Health Care Administration;

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3305 certificates of need; sheltered beds; community beds.-
 3306 (13) Residents, as defined in this chapter, are not
 3307 considered new admissions for the purpose of s. 400.141(1)(n)1.d
 3308 ~~s. 400.141(1)(o)1.d.~~

3309 Section 88. Subsection (2) of section 766.1015, Florida
 3310 Statutes, is amended to read:

3311 766.1015 Civil immunity for members of or consultants to
 3312 certain boards, committees, or other entities.-

3313 (2) Such committee, board, group, commission, or other
 3314 entity must be established in accordance with state law or in
 3315 accordance with requirements of the Joint Commission ~~on~~
 3316 ~~Accreditation of Healthcare Organizations~~, established and duly
 3317 constituted by one or more public or licensed private hospitals
 3318 or behavioral health agencies, or established by a governmental
 3319 agency. To be protected by this section, the act, decision,
 3320 omission, or utterance may not be made or done in bad faith or
 3321 with malicious intent.

3322 Section 89. Except as otherwise expressly provided in this
 3323 act, this act shall take effect July 1, 2010.