

By Senator Gardiner

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

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30 deleting a provision that prohibits the Agency for  
31 Health Care Administration from authorizing emergency  
32 departments that are located off the premises of a  
33 licensed hospital; amending s. 395.0193, F.S.;

34 requiring the Division of Medical Quality Assurance  
35 within the Department of Health to conduct the reviews  
36 of the recordings of agendas and minutes of licensed  
37 facilities; requiring the Division of Medical Quality  
38 Assurance within the Department of Health to report  
39 disciplinary actions rather than the Division of  
40 Health Quality Assurance within the Agency for Health  
41 Care Administration; amending s. 395.1023, F.S.;

42 requiring a licensed facility to adopt a protocol to  
43 designate a physician in cases involving suspected  
44 child abuse at the request of the Department of  
45 Children and Family Services rather than the  
46 Department of Health; amending s. 395.1041, F.S.;

47 deleting provisions that require the Agency for Health  
48 Care Administration to request a hospital to identify  
49 its services, notify each hospital of the service  
50 capability to be included in the inventory, and  
51 publish a final inventory; deleting obsolete  
52 provisions; repealing s. 395.1046, F.S., relating to  
53 the investigation of complaints regarding hospitals;  
54 amending s. 395.1055, F.S.; requiring the agency to  
55 adopt rules that ensure that licensed facility beds  
56 conform to certain standards as specified by the  
57 agency, the Florida Building Code, and the Florida  
58 Fire Prevention Code; amending s. 395.10972, F.S.;

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

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

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117 Services Network"; deleting an obsolete provision;  
118 amending s. 400.275, F.S.; deleting a requirement that  
119 the agency ensure that a newly hired nursing home  
120 surveyor is assigned full time to a licensed nursing  
121 home to observe facility operations; amending s.  
122 400.462, F.S.; revising definitions with regard to the  
123 Home Health Services Act; defining the terms "primary  
124 home health agency" and "temporary" with regard to the  
125 Home Health Services Act; amending s. 400.476, F.S.;  
126 providing requirements for an alternative  
127 administrator of a home health agency; revising the  
128 duties of the administrator; revising the requirements  
129 for a director of nursing for a specified number of  
130 home health agencies; prohibiting a home health agency  
131 from using an individual as a home health aide unless  
132 the person has completed training and an evaluation  
133 program; requiring a home health aide to meet certain  
134 standards in order to be competent in performing  
135 certain tasks; requiring a home health agency and  
136 staff to comply with accepted professional standards;  
137 providing certain requirements for a written contract  
138 between certain personnel and the agency; requiring a  
139 home health agency to provide certain services through  
140 its employees; authorizing a home health agency to  
141 provide additional services with another organization;  
142 providing responsibilities of a home health agency  
143 when it provides home health aide services through  
144 another organization; requiring the home health agency  
145 to coordinate personnel that provide home health

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146 services; requiring personnel to communicate with the  
147 home health agency; amending s. 400.484, F.S.;

148 redefining class I, II, III, and IV deficiencies as  
149 class I, II, III, and IV violations; amending s.  
150 400.487, F.S.; requiring a home health agency to  
151 provide a copy of the agreement between the agency and  
152 a patient which specifies the home health services to  
153 be provided; providing the rights that are protected  
154 by the home health agency; requiring the home health  
155 agency to furnish nursing services by or under the  
156 supervision of a registered nurse; requiring the home  
157 health agency to provide therapy services through a  
158 qualified therapist or therapy assistant; providing  
159 the duties and qualifications of a therapist and  
160 therapy assistant; requiring supervision by a physical  
161 therapist or occupational therapist of a physical  
162 therapist assistant or occupational therapist  
163 assistant; providing duties of a physical therapist  
164 assistant or occupational therapist assistant;  
165 providing for speech therapy services to be provided  
166 by a qualified speech pathologist or audiologist;  
167 providing for a plan of care; providing that only the  
168 staff of a home health agency may administer drugs and  
169 treatments as ordered by certain health professionals;  
170 providing requirements for verbal orders; providing  
171 duties of a registered nurse, licensed practical  
172 nurse, home health aide, and certified nursing  
173 assistant who work for a home health agency; amending  
174 s. 400.606, F.S.; revising the requirements for the

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175 plan for the delivery of home, residential, and  
176 homelike inpatient hospice services for terminally ill  
177 patients and their families; amending s. 400.607,  
178 F.S.; revising the grounds under which the agency may  
179 take administrative action against a hospice; amending  
180 s. 400.925, F.S.; renaming the Joint Commission on the  
181 Accreditation of Healthcare Organizations as the  
182 "Joint Commission" within the definition of the term  
183 "accrediting organizations" as it relates to home  
184 medical equipment providers; amending s. 400.931,  
185 F.S.; deleting the requirement that an applicant for a  
186 license to be a home medical equipment provider submit  
187 a surety bond to the agency; amending s. 400.932,  
188 F.S.; revising the grounds under which the agency may  
189 take administrative action against a home medical  
190 equipment provider; amending s. 400.933, F.S.;

191 prohibiting a home medical equipment provider from  
192 submitting a survey or inspection of an accrediting  
193 organization if the home medical equipment provider's  
194 licensure is conditional or provisional; amending s.  
195 400.953, F.S.; deleting the requirement of a general  
196 manager of a home medical equipment provider to  
197 annually sign an affidavit regarding the background  
198 screening of personnel; providing requirements for  
199 submission of the affidavit; amending s. 400.967,  
200 F.S.; redefining class I, II, III, and IV deficiencies  
201 as class I, II, III, and IV violations as they relate  
202 to intermediate care facilities for developmentally  
203 disabled persons; amending s. 400.969, F.S.; revising

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204 the grounds for an administrative or civil penalty;  
205 amending s. 400.9905, F.S.; redefining the term  
206 "portable service or equipment provider" as it relates  
207 to the Health Care Clinic Act; amending s. 400.991,  
208 F.S.; conforming a provision to changes made by the  
209 act; revising application requirements to show proof  
210 of financial ability to operate a health care clinic;  
211 amending s. 400.9935, F.S.; renaming the Joint  
212 Commission on the Accreditation of Healthcare  
213 Organizations as the "Joint Commission" for purposes  
214 of the Health Care Clinic Act; amending s. 408.034,  
215 F.S.; prohibiting the agency from issuing a license to  
216 a health care facility that applies for a license to  
217 operate an intermediate care facility for  
218 developmentally disabled persons under certain  
219 conditions; amending s. 408.036, F.S., relating to  
220 certificates of need; conforming a provision to  
221 changes made by the act; amending s. 408.043, F.S.;  
222 requiring a freestanding facility or a part of the  
223 facility that is the inpatient hospice care component  
224 of a hospice to obtain a certificate of need; amending  
225 s. 408.05, F.S.; renaming the Joint Commission on the  
226 Accreditation of Healthcare Organizations as the  
227 "Joint Commission"; amending s. 408.061, F.S.;  
228 revising requirements for the reporting of certified  
229 data elements by health care facilities; amending s.  
230 408.10, F.S.; authorizing the agency to provide  
231 staffing for a toll-free phone number for the purpose  
232 of handling consumer complaints regarding a health



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233 care facility; repealing s. 408.802(11), F.S.,  
234 relating to the applicability of the Health Care  
235 Licensing Procedures Act to private review agents;  
236 amending s. 408.804, F.S.; providing a criminal  
237 penalty for altering, defacing, or falsifying a  
238 license certificate of certain health care providers;  
239 providing civil penalties for displaying an altered,  
240 defaced, or falsified license certificate; amending s.  
241 408.806, F.S.; requiring the agency to provide a  
242 courtesy notice to a licensee regarding the expiration  
243 of a licensee's license; providing that failure of the  
244 agency to provide the courtesy notice or failure of  
245 the licensee to receive the notice is not an excuse  
246 for the licensee to timely renew its license;  
247 providing that payment of the late fee is required for  
248 a later application; amending s. 408.810, F.S.;

249 revising the requirements for obtaining and  
250 maintaining a license for certain health care  
251 providers and those who own a controlling interest in  
252 a health care provider; amending s. 408.811, F.S.;

253 providing that a licensee's inspection report is not  
254 subject to administrative challenge; amending s.  
255 408.813, F.S.; authorizing the agency to impose  
256 administrative fines for unclassified violations;  
257 amending s. 408.815, F.S.; authorizing the agency to  
258 extend the expiration date of a license for the  
259 purpose of the safe and orderly discharge of clients;  
260 authorizing the agency to impose conditions on the  
261 extension; amending s. 409.906, F.S.; requiring the

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262 agency, in consultation with the Department of Elderly  
263 Affairs, to phase out the adult day health care waiver  
264 program; requiring adult day health care waiver  
265 providers, in consultation with resource centers for  
266 the aged to assist in the transition of enrollees from  
267 the waiver program; repealing s. 409.221(4)(k), F.S.,  
268 relating to the responsibility of the agency, the  
269 Department of Elderly Affairs, the Department of  
270 Health, the Department of Children and Family  
271 Services, and the Agency for Persons with Disabilities  
272 to review and assess the implementation of the  
273 consumer-directed care program and the agency's  
274 responsibility to submit a report to the Legislature;  
275 repealing s. 409.912(15)(e), (f), and (g), F.S.,  
276 relating to a requirement for the Agency for Health  
277 Care Administration to submit a report to the  
278 Legislature regarding the operations of the CARE  
279 program; amending s. 429.11, F.S.; deleting provisions  
280 relating to a provisional license to operate as an  
281 assisted living facility; repealing s. 429.12(2),  
282 F.S., relating to the sale or transfer of ownership of  
283 an assisted living facility; amending s. 429.14, F.S.;  
284 authorizing the agency to provide electronically or  
285 through the agency's Internet site information  
286 regarding the denial, suspension, or revocation of a  
287 license to the Division of Hotels and Restaurants of  
288 the Department of Business and Professional  
289 Regulation; amending s. 429.17, F.S.; revising the  
290 requirements for a conditional license to operate an

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291 assisted living facility; repealing s. 429.23(5),  
292 F.S., relating to each assisted living facility's  
293 requirement to submit a report to the agency regarding  
294 liability claims filed against it; amending s. 429.35,  
295 F.S.; authorizing the agency to provide electronically  
296 or through the agency's Internet website information  
297 regarding the results of an inspection to the local  
298 ombudsman council; amending s. 429.53, F.S.; requiring  
299 the agency, rather than the agency's area offices of  
300 licensure and certification, to provide consultation  
301 to certain persons and licensees regarding assisted  
302 living facilities; redefining the term "consultation"  
303 as it relates to assisted living facilities; amending  
304 s. 429.65, F.S.; redefining the term "adult family-  
305 care home" as it relates to the Adult Family-Care Home  
306 Act; amending s. 429.71, F.S.; redefining class I, II,  
307 III, and IV deficiencies as class I, II, III, and IV  
308 violations as they relate to adult family-care homes;  
309 repealing s. 429.911, F.S., relating to the denial,  
310 suspension, or revocation of a license to operate an  
311 adult day care center; amending s. 429.915, F.S.;  
312 revising requirements for a conditional license to  
313 operate an adult day care center; amending s. 430.80,  
314 F.S.; conforming a cross-reference; renaming the Joint  
315 Commission on the Accreditation of Healthcare  
316 Organizations to the Joint Commission; amending s.  
317 440.13, F.S.; renaming the Joint Commission on the  
318 Accreditation of Healthcare Organizations as the  
319 "Joint Commission"; amending s. 483.294, F.S.;

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320 requiring the agency to biennially inspect the  
321 premises and operations of multiphasic health testing  
322 centers; amending ss. 627.645, 627.668, and 627.669,  
323 F.S.; renaming the Joint Commission on the  
324 Accreditation of Hospitals to the Joint Commission;  
325 amending ss. 627.736 and 641.495 F.S.; renaming the  
326 Joint Commission on the Accreditation of Healthcare  
327 Organizations as the "Joint Commission"; amending s.  
328 651.118, F.S.; conforming a cross-reference; amending  
329 s. 766.1015, F.S.; renaming the Joint Commission on  
330 the Accreditation of Healthcare Organizations as the  
331 "Joint Commission"; providing effective dates.

332  
333 Be It Enacted by the Legislature of the State of Florida:

334  
335 Section 1. Subsection (16) is added to section 1.01,  
336 Florida Statutes, to read:

337 1.01 Definitions.—In construing these statutes and each and  
338 every word, phrase, or part hereof, where the context will  
339 permit:

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

347 Section 2. Paragraph (e) of subsection (10) of section  
348 112.0455, Florida Statutes, is repealed.

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349 Section 3. Paragraph (n) of subsection (1) of section  
350 154.11, Florida Statutes, is amended to read:

351 154.11 Powers of board of trustees.—

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

360 (n) To appoint originally the staff of physicians to  
361 practice in any designated facility owned or operated by the  
362 board and to approve the bylaws and rules to be adopted by the  
363 medical staff of any designated facility owned and operated by  
364 the board, such governing regulations to be in accordance with  
365 the standards of the Joint Commission ~~on the Accreditation of~~  
366 ~~Hospitals~~ which provide, among other things, for the method of  
367 appointing additional staff members and for the removal of staff  
368 members.

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

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

375 (15) Of the additional fine assessed under s. 318.18(3)(e)  
376 for a violation of s. 316.1893, 50 percent of the moneys  
377 received from the fines shall be remitted to the Department of

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

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

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

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

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

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

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

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

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

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

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

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

433 (c) Any network of providers from which the department or  
434 the agency purchases behavioral health care services accredited  
435 by the Joint Commission ~~on Accreditation of Healthcare~~

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436 ~~Organizations~~, CARF—the Rehabilitation Accreditation Commission,  
437 the Council on Accreditation ~~of Children and Family Services~~, or  
438 the National Committee for Quality Assurance. A provider  
439 organization, which is part of an accredited network, is  
440 afforded the same rights under this part.

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

443 395.002 Definitions.—As used in this chapter, the term:

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

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

453 (3) "Ambulatory surgical center" or "mobile surgical  
454 facility" means a facility the primary purpose of which is to  
455 provide elective surgical care, in which the patient is admitted  
456 to and discharged from such facility within the same working day  
457 and is not permitted to stay overnight, and which is not part of  
458 a hospital. However, a facility existing for the primary purpose  
459 of performing terminations of pregnancy, an office maintained by  
460 a physician for the practice of medicine, or an office  
461 maintained for the practice of dentistry shall not be construed  
462 to be an ambulatory surgical center, provided that any facility  
463 or office which is certified or seeks certification as a  
464 Medicare ambulatory surgical center shall be licensed as an



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465 ambulatory surgical center pursuant to s. 395.003. Any structure  
466 or vehicle in which a physician maintains an office and  
467 practices surgery, and which can appear to the public to be a  
468 mobile office because the structure or vehicle operates at more  
469 than one address, shall be construed to be a mobile surgical  
470 facility.

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

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

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

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

484 (8) "Emergency medical condition" means:

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

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

491 2. Serious impairment to bodily functions.

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

493 (b) With respect to a pregnant woman:

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

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

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

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

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

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

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

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

521 (b) Regularly makes available at least clinical laboratory  
522 services, diagnostic X-ray services, and treatment facilities

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523 for surgery or obstetrical care, or other definitive medical  
524 treatment of similar extent, except that a critical access  
525 hospital, as defined in s. 408.07, shall not be required to make  
526 available treatment facilities for surgery, obstetrical care, or  
527 similar services as long as it maintains its critical access  
528 hospital designation and shall be required to make such  
529 facilities available only if it ceases to be designated as a  
530 critical access hospital.

531  
532 However, the provisions of this chapter do not apply to any  
533 institution conducted by or for the adherents of any well-  
534 recognized church or religious denomination that depends  
535 exclusively upon prayer or spiritual means to heal, care for, or  
536 treat any person. For purposes of local zoning matters, the term  
537 "hospital" includes a medical office building located on the  
538 same premises as a hospital facility, provided the land on which  
539 the medical office building is constructed is zoned for use as a  
540 hospital; provided the premises were zoned for hospital purposes  
541 on January 1, 1992.

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

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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 in  
578 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

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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~~

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

618 (23)~~(25)~~ "Service capability" means all services offered by  
619 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

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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~~  
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 the  
652 premises of a licensed facility by the agency to assess whether  
653 a review by an accrediting organization has adequately evaluated  
654 the licensed facility according to minimum state standards.

655 Section 9. Subsection (1) of section 395.003, Florida  
656 Statutes, is amended to read:

657 395.003 Licensure; denial, suspension, and revocation.—

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

666 (b)1. It is unlawful for a person to use or advertise to  
667 the public, in any way or by any medium whatsoever, any facility

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668 as a "hospital," "ambulatory surgical center," or "mobile  
669 surgical facility" unless such facility has first secured a  
670 license under the provisions of this part.

671 2. This part does not apply to veterinary hospitals or to  
672 commercial business establishments using the word "hospital,"  
673 "ambulatory surgical center," or "mobile surgical facility" as a  
674 part of a trade name if no treatment of human beings is  
675 performed on the premises of such establishments.

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

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

681 395.0193 Licensed facilities; peer review; disciplinary  
682 powers; agency or partnership with physicians.-

683 (2) Each licensed facility, as a condition of licensure,  
684 shall provide for peer review of physicians who deliver health  
685 care services at the facility. Each licensed facility shall  
686 develop written, binding procedures by which such peer review  
687 shall be conducted. Such procedures shall include:

688 (e) Recording of agendas and minutes which do not contain  
689 confidential material, for review by the Division of Medical  
690 Quality Assurance of the department ~~Health Quality Assurance of~~  
691 ~~the agency.~~

692 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary  
693 actions taken under subsection (3) shall be reported in writing  
694 to the Division of Medical Quality Assurance of the department  
695 ~~Health Quality Assurance of the agency~~ within 30 working days  
696 after its initial occurrence, regardless of the pendency of



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697 appeals to the governing board of the hospital. The notification  
698 shall identify the disciplined practitioner, the action taken,  
699 and the reason for such action. All final disciplinary actions  
700 taken under subsection (3), if different from those which were  
701 reported to the department ~~agency~~ within 30 days after the  
702 initial occurrence, shall be reported within 10 working days to  
703 the Division of Medical Quality Assurance of the department  
704 ~~Health Quality Assurance of the agency~~ in writing and shall  
705 specify the disciplinary action taken and the specific grounds  
706 therefor. The division shall review each report and determine  
707 whether it potentially involved conduct by the licensee that is  
708 subject to disciplinary action, in which case s. 456.073 shall  
709 apply. The reports are not subject to inspection under s.  
710 119.07(1) even if the division's investigation results in a  
711 finding of probable cause.

712 Section 11. Section 395.1023, Florida Statutes, is amended  
713 to read:

714 395.1023 Child abuse and neglect cases; duties.—Each  
715 licensed facility shall adopt a protocol that, at a minimum,  
716 requires the facility to:

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

721 (2) In any case involving suspected child abuse,  
722 abandonment, or neglect, designate, at the request of the  
723 Department of Children and Family Services, a staff physician to  
724 act as a liaison between the hospital and the Department of  
725 Children and Family Services office which is investigating the

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726 suspected abuse, abandonment, or neglect, and the child  
727 protection team, as defined in s. 39.01, when the case is  
728 referred to such a team.

729  
730 Each general hospital and appropriate specialty hospital shall  
731 comply with the provisions of this section and shall notify the  
732 agency and the Department of Children and Family Services of its  
733 compliance by sending a copy of its policy to the agency and the  
734 Department of Children and Family Services as required by rule.  
735 The failure by a general hospital or appropriate specialty  
736 hospital to comply shall be punished by a fine not exceeding  
737 \$1,000, to be fixed, imposed, and collected by the agency. Each  
738 day in violation is considered a separate offense.

739 Section 12. Subsection (2) and paragraph (d) of subsection  
740 (3) of section 395.1041, Florida Statutes, are amended to read:  
741 395.1041 Access to emergency services and care.—

742 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency  
743 shall establish and maintain an inventory of hospitals with  
744 emergency services. The inventory shall list all services within  
745 the service capability of the hospital, and such services shall  
746 appear on the face of the hospital license. Each hospital having  
747 emergency services shall notify the agency of its service  
748 capability in the manner and form prescribed by the agency. The  
749 agency shall use the inventory to assist emergency medical  
750 services providers and others in locating appropriate emergency  
751 medical care. The inventory shall also be made available to the  
752 general public. ~~On or before August 1, 1992, the agency shall~~  
753 ~~request that each hospital identify the services which are~~  
754 ~~within its service capability. On or before November 1, 1992,~~

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755 ~~the agency shall notify each hospital of the service capability~~  
756 ~~to be included in the inventory. The hospital has 15 days from~~  
757 ~~the date of receipt to respond to the notice. By December 1,~~  
758 ~~1992, the agency shall publish a final inventory.~~ Each hospital  
759 shall reaffirm its service capability when its license is  
760 renewed and shall notify the agency of the addition of a new  
761 service or the termination of a service prior to a change in its  
762 service capability.

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

765 (d)1. Every hospital shall ensure the provision of services  
766 within the service capability of the hospital, at all times,  
767 either directly or indirectly through an arrangement with  
768 another hospital, through an arrangement with one or more  
769 physicians, or as otherwise made through prior arrangements. A  
770 hospital may enter into an agreement with another hospital for  
771 purposes of meeting its service capability requirement, and  
772 appropriate compensation or other reasonable conditions may be  
773 negotiated for these backup services.

774 2. If any arrangement requires the provision of emergency  
775 medical transportation, such arrangement must be made in  
776 consultation with the applicable provider and may not require  
777 the emergency medical service provider to provide transportation  
778 that is outside the routine service area of that provider or in  
779 a manner that impairs the ability of the emergency medical  
780 service provider to timely respond to prehospital emergency  
781 calls.

782 3. A hospital shall not be required to ensure service  
783 capability at all times as required in subparagraph 1. if, prior

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784 to the receiving of any patient needing such service capability,  
785 such hospital has demonstrated to the agency that it lacks the  
786 ability to ensure such capability and it has exhausted all  
787 reasonable efforts to ensure such capability through backup  
788 arrangements. In reviewing a hospital's demonstration of lack of  
789 ability to ensure service capability, the agency shall consider  
790 factors relevant to the particular case, including the  
791 following:

792 a. Number and proximity of hospitals with the same service  
793 capability.

794 b. Number, type, credentials, and privileges of  
795 specialists.

796 c. Frequency of procedures.

797 d. Size of hospital.

798 4. The agency shall publish ~~proposed~~ rules implementing a  
799 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~  
800 ~~1. shall become effective upon the effective date of said rules~~  
801 ~~or January 31, 1993, whichever is earlier. For a period not to~~  
802 ~~exceed 1 year from the effective date of subparagraph 1., a~~  
803 ~~hospital requesting an exemption shall be deemed to be exempt~~  
804 ~~from offering the service until the agency initially acts to~~  
805 ~~deny or grant the original request. The agency has 45 days from~~  
806 ~~the date of receipt of the request to approve or deny the~~  
807 ~~request. After the first year from the effective date of~~  
808 ~~subparagraph 1.,~~ If the agency fails to initially act within the  
809 time period, the hospital is deemed to be exempt from offering  
810 the service until the agency initially acts to deny the request.

811 Section 13. Section 395.1046, Florida Statutes, is  
812 repealed.

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813 Section 14. Paragraph (e) of subsection (1) of section  
814 395.1055, Florida Statutes, is amended to read:

815 395.1055 Rules and enforcement.—

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

819 (e) Licensed facility beds conform to minimum space,  
820 equipment, and furnishings standards as specified by the agency,  
821 the Florida Building Code, and the Florida Fire Prevention Code  
822 ~~department.~~

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

825 395.10972 Health Care Risk Manager Advisory Council.—The  
826 Secretary of Health Care Administration may appoint a seven-  
827 member advisory council to advise the agency on matters  
828 pertaining to health care risk managers. The members of the  
829 council shall serve at the pleasure of the secretary. The  
830 council shall designate a chair. The council shall meet at the  
831 call of the secretary or at those times as may be required by  
832 rule of the agency. The members of the advisory council shall  
833 receive no compensation for their services, but shall be  
834 reimbursed for travel expenses as provided in s. 112.061. The  
835 council shall consist of individuals representing the following  
836 areas:

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

841 Section 16. Subsection (3) of section 395.2050, Florida

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842 Statutes, is amended to read:

843 395.2050 Routine inquiry for organ and tissue donation;  
844 certification for procurement activities; death records review.—

845 (3) Each organ procurement organization designated by the  
846 federal Centers for Medicare and Medicaid Services ~~Health Care~~  
847 ~~Financing Administration~~ and licensed by the state shall conduct  
848 an annual death records review in the organ procurement  
849 organization's affiliated donor hospitals. The organ procurement  
850 organization shall enlist the services of every Florida licensed  
851 tissue bank and eye bank affiliated with or providing service to  
852 the donor hospital and operating in the same service area to  
853 participate in the death records review.

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

856 395.3036 Confidentiality of records and meetings of  
857 corporations that lease public hospitals or other public health  
858 care facilities.—The records of a private corporation that  
859 leases a public hospital or other public health care facility  
860 are confidential and exempt from the provisions of s. 119.07(1)  
861 and s. 24(a), Art. I of the State Constitution, and the meetings  
862 of the governing board of a private corporation are exempt from  
863 s. 286.011 and s. 24(b), Art. I of the State Constitution when  
864 the public lessor complies with the public finance  
865 accountability provisions of s. 155.40(5) with respect to the  
866 transfer of any public funds to the private lessee and when the  
867 private lessee meets at least three of the five following  
868 criteria:

869 (2) The public lessor and the private lessee do not  
870 commingle any of their funds in any account maintained by either

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871 of them, other than the payment of the rent and administrative  
872 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.

873 Section 18. Section 395.3037, Florida Statutes, is  
874 repealed.

875 Section 19. Subsections (1), (4), and (5) of section  
876 395.3038, Florida Statutes, are amended to read:

877 395.3038 State-listed primary stroke centers and  
878 comprehensive stroke centers; notification of hospitals.-

879 (1) The agency shall make available on its website and to  
880 the department a list of the name and address of each hospital  
881 that meets the criteria for a primary stroke center and the name  
882 and address of each hospital that meets the criteria for a  
883 comprehensive stroke center. The list of primary and  
884 comprehensive stroke centers shall include only those hospitals  
885 that attest in an affidavit submitted to the agency that the  
886 hospital meets the named criteria, or those hospitals that  
887 attest in an affidavit submitted to the agency that the hospital  
888 is certified as a primary or a comprehensive stroke center by  
889 the Joint Commission ~~on Accreditation of Healthcare~~  
890 ~~Organizations.~~

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

895 (5) The agency shall adopt by rule criteria for a  
896 comprehensive stroke center. However, if the Joint Commission ~~on~~  
897 ~~Accreditation of Healthcare Organizations~~ establishes criteria  
898 for a comprehensive stroke center, the agency shall establish  
899 criteria for a comprehensive stroke center which are

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900 substantially similar to those criteria established by the Joint  
901 Commission ~~on Accreditation of Healthcare Organizations~~.

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

904 395.602 Rural hospitals.—

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

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

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

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

916 3. A hospital supported by a tax district or subdistrict  
917 whose boundaries encompass a population of 100 persons or fewer  
918 per square mile;

919 ~~4. A hospital in a constitutional charter county with a~~  
920 ~~population of over 1 million persons that has imposed a local~~  
921 ~~option health service tax pursuant to law and in an area that~~  
922 ~~was directly impacted by a catastrophic event on August 24,~~  
923 ~~1992, for which the Governor of Florida declared a state of~~  
924 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~  
925 ~~serves an agricultural community with an emergency room~~  
926 ~~utilization of no less than 20,000 visits and a Medicaid~~  
927 ~~inpatient utilization rate greater than 15 percent;~~

928 4.5. A hospital with a service area that has a population



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929 of 100 persons or fewer per square mile. As used in this  
 930 subparagraph, the term "service area" means the fewest number of  
 931 zip codes that account for 75 percent of the hospital's  
 932 discharges for the most recent 5-year period, based on  
 933 information available from the hospital inpatient discharge  
 934 database in the Florida Center for Health Information and Policy  
 935 Analysis at the Agency for Health Care Administration; or  
 936 5.6. A hospital designated as a critical access hospital,  
 937 as defined in s. 408.07(15).

938  
 939 Population densities used in this paragraph must be based upon  
 940 the most recently completed United States census. A hospital  
 941 that received funds under s. 409.9116 for a quarter beginning no  
 942 later than July 1, 2002, is deemed to have been and shall  
 943 continue to be a rural hospital from that date through June 30,  
 944 2015, if the hospital continues to have 100 or fewer licensed  
 945 beds and an emergency room, ~~or meets the criteria of~~  
 946 ~~subparagraph 4~~. An acute care hospital that has not previously  
 947 been designated as a rural hospital and that meets the criteria  
 948 of this paragraph shall be granted such designation upon  
 949 application, including supporting documentation to the Agency  
 950 for Health Care Administration.

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

953 400.021 Definitions.—When used in this part, unless the  
 954 context otherwise requires, the term:

955 (8) "Geriatric outpatient clinic" means a site for  
 956 providing outpatient health care to persons 60 years of age or  
 957 older, which is staffed by a registered nurse, or ~~or~~ a physician

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958 assistant, a licensed practical nurse under the direct  
959 supervision of a registered nurse, or an advanced registered  
960 nurse practitioner.

961 Section 22. Paragraph (g) of subsection (2) of section  
962 400.0239, Florida Statutes, is amended to read:

963 400.0239 Quality of Long-Term Care Facility Improvement  
964 Trust Fund.—

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

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

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

974 400.063 Resident protection.—

975 (2) The agency is authorized to establish for each  
976 facility, subject to intervention by the agency, a separate bank  
977 account for the deposit to the credit of the agency of any  
978 moneys received from the Health Care Trust Fund or any other  
979 moneys received for the maintenance and care of residents in the  
980 facility, and the agency is authorized to disburse moneys from  
981 such account to pay obligations incurred for the purposes of  
982 this section. The agency is authorized to requisition moneys  
983 from the Health Care Trust Fund in advance of an actual need for  
984 cash on the basis of an estimate by the agency of moneys to be  
985 spent under the authority of this section. Any bank account  
986 established under this section need not be approved in advance

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987 of its creation as required by s. 17.58, but shall be secured by  
 988 depository insurance equal to or greater than the balance of  
 989 such account or by the pledge of collateral security ~~in~~  
 990 ~~conformance with criteria established in s. 18.11.~~ The agency  
 991 shall notify the Chief Financial Officer of any such account so  
 992 established and shall make a quarterly accounting to the Chief  
 993 Financial Officer for all moneys deposited in such account.

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

996 400.071 Application for license.—

997 (1) In addition to the requirements of part II of chapter  
 998 408, the application for a license shall be under oath and must  
 999 contain the following:

1000 (a) The location of the facility for which a license is  
 1001 sought and an indication, as in the original application, that  
 1002 such location conforms to the local zoning ordinances.

1003 ~~(b) A signed affidavit disclosing any financial or~~  
 1004 ~~ownership interest that a controlling interest as defined in~~  
 1005 ~~part II of chapter 408 has held in the last 5 years in any~~  
 1006 ~~entity licensed by this state or any other state to provide~~  
 1007 ~~health or residential care which has closed voluntarily or~~  
 1008 ~~involuntarily; has filed for bankruptcy; has had a receiver~~  
 1009 ~~appointed; has had a license denied, suspended, or revoked; or~~  
 1010 ~~has had an injunction issued against it which was initiated by a~~  
 1011 ~~regulatory agency. The affidavit must disclose the reason any~~  
 1012 ~~such entity was closed, whether voluntarily or involuntarily.~~

1013 ~~(c) The total number of beds and the total number of~~  
 1014 ~~Medicare and Medicaid certified beds.~~

1015 (b)-(d) Information relating to the applicant and employees

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1016 which the agency requires by rule. The applicant must  
1017 demonstrate that sufficient numbers of qualified staff, by  
1018 training or experience, will be employed to properly care for  
1019 the type and number of residents who will reside in the  
1020 facility.

1021 (c)~~(e)~~ Copies of any civil verdict or judgment involving  
1022 the applicant rendered within the 10 years preceding the  
1023 application, relating to medical negligence, violation of  
1024 residents' rights, or wrongful death. As a condition of  
1025 licensure, the licensee agrees to provide to the agency copies  
1026 of any new verdict or judgment involving the applicant, relating  
1027 to such matters, within 30 days after filing with the clerk of  
1028 the court. The information required in this paragraph shall be  
1029 maintained in the facility's licensure file and in an agency  
1030 database which is available as a public record.

1031 (5) As a condition of licensure, each facility must  
1032 establish ~~and submit with its application~~ a plan for quality  
1033 assurance and for conducting risk management.

1034 Section 25. Section 400.0712, Florida Statutes, is amended  
1035 to read:

1036 400.0712 Application for inactive license.-

1037 ~~(1) As specified in this section, the agency may issue an~~  
1038 ~~inactive license to a nursing home facility for all or a portion~~  
1039 ~~of its beds. Any request by a licensee that a nursing home or~~  
1040 ~~portion of a nursing home become inactive must be submitted to~~  
1041 ~~the agency in the approved format. The facility may not initiate~~  
1042 ~~any suspension of services, notify residents, or initiate~~  
1043 ~~inactivity before receiving approval from the agency; and a~~  
1044 ~~licensee that violates this provision may not be issued an~~

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1045 ~~inactive license.~~

1046 (1)~~(2)~~ In addition to the authority granted in part II of  
1047 chapter 408, the agency may issue an inactive license to a  
1048 nursing home that chooses to use an unoccupied contiguous  
1049 portion of the facility for an alternative use to meet the needs  
1050 of elderly persons through the use of less restrictive, less  
1051 institutional services.

1052 (a) An inactive license issued under this subsection may be  
1053 granted for a period not to exceed the current licensure  
1054 expiration date but may be renewed by the agency at the time of  
1055 licensure renewal.

1056 (b) A request to extend the inactive license must be  
1057 submitted to the agency in the approved format and approved by  
1058 the agency in writing.

1059 (c) Nursing homes that receive an inactive license to  
1060 provide alternative services shall not receive preference for  
1061 participation in the Assisted Living for the Elderly Medicaid  
1062 waiver.

1063 (2)~~(3)~~ The agency shall adopt rules pursuant to ss.  
1064 120.536(1) and 120.54 necessary to administer ~~implement~~ this  
1065 section.

1066 Section 26. Section 400.111, Florida Statutes, is amended  
1067 to read:

1068 400.111 Disclosure of controlling interest.—In addition to  
1069 the requirements of part II of chapter 408, when requested by  
1070 the agency, the licensee shall submit a signed affidavit  
1071 disclosing any financial or ownership interest that a  
1072 controlling interest has held within the last 5 years in any  
1073 entity licensed by the state or any other state to provide

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1074 health or residential care which entity has closed voluntarily  
1075 or involuntarily; has filed for bankruptcy; has had a receiver  
1076 appointed; has had a license denied, suspended, or revoked; or  
1077 has had an injunction issued against it which was initiated by a  
1078 regulatory agency. The affidavit must disclose the reason such  
1079 entity was closed, whether voluntarily or involuntarily.

1080 Section 27. Section 400.1183, Florida Statutes, is amended  
1081 to read:

1082 400.1183 Resident grievance procedures.—

1083 (1) Every nursing home must have a grievance procedure  
1084 available to its residents and their families. The grievance  
1085 procedure must include:

1086 (a) An explanation of how to pursue redress of a grievance.

1087 (b) The names, job titles, and telephone numbers of the  
1088 employees responsible for implementing the facility's grievance  
1089 procedure. The list must include the address and the toll-free  
1090 telephone numbers of the ombudsman and the agency.

1091 (c) A simple description of the process through which a  
1092 resident may, at any time, contact the toll-free telephone  
1093 hotline of the ombudsman or the agency to report the unresolved  
1094 grievance.

1095 (d) A procedure for providing assistance to residents who  
1096 cannot prepare a written grievance without help.

1097 (2) Each facility shall maintain records of all grievances  
1098 for agency inspection and ~~shall report to the agency at the time~~  
1099 ~~of relicensure the total number of grievances handled during the~~  
1100 ~~prior licensure period, a categorization of the cases underlying~~  
1101 ~~the grievances, and the final disposition of the grievances.~~

1102 (3) Each facility must respond to the grievance within a

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1103 reasonable time after its submission.

1104 (4) The agency may investigate any grievance at any time.

1105 Section 28. Subsection (1) of section 400.141, Florida  
1106 Statutes, is amended to read:

1107 400.141 Administration and management of nursing home  
1108 facilities.—

1109 (1) Every licensed facility shall comply with all  
1110 applicable standards and rules of the agency and shall:

1111 (a) Be under the administrative direction and charge of a  
1112 licensed administrator.

1113 (b) Appoint a medical director licensed pursuant to chapter  
1114 458 or chapter 459. The agency may establish by rule more  
1115 specific criteria for the appointment of a medical director.

1116 (c) Have available the regular, consultative, and emergency  
1117 services of physicians licensed by the state.

1118 (d) Provide for resident use of a community pharmacy as  
1119 specified in s. 400.022(1)(q). Any other law to the contrary  
1120 notwithstanding, a registered pharmacist licensed in Florida,  
1121 that is under contract with a facility licensed under this  
1122 chapter or chapter 429, shall repackage a nursing facility  
1123 resident's bulk prescription medication which has been packaged  
1124 by another pharmacist licensed in any state in the United States  
1125 into a unit dose system compatible with the system used by the  
1126 nursing facility, if the pharmacist is requested to offer such  
1127 service. In order to be eligible for the repackaging, a resident  
1128 or the resident's spouse must receive prescription medication  
1129 benefits provided through a former employer as part of his or  
1130 her retirement benefits, a qualified pension plan as specified  
1131 in s. 4972 of the Internal Revenue Code, a federal retirement

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1132 program as specified under 5 C.F.R. s. 831, or a long-term care  
1133 policy as defined in s. 627.9404(1). A pharmacist who correctly  
1134 repackages and relabels the medication and the nursing facility  
1135 which correctly administers such repackaged medication under  
1136 this paragraph may not be held liable in any civil or  
1137 administrative action arising from the repackaging. In order to  
1138 be eligible for the repackaging, a nursing facility resident for  
1139 whom the medication is to be repackaged shall sign an informed  
1140 consent form provided by the facility which includes an  
1141 explanation of the repackaging process and which notifies the  
1142 resident of the immunities from liability provided in this  
1143 paragraph. A pharmacist who repackages and relabels prescription  
1144 medications, as authorized under this paragraph, may charge a  
1145 reasonable fee for costs resulting from the implementation of  
1146 this provision.

1147 (e) Provide for the access of the facility residents to  
1148 dental and other health-related services, recreational services,  
1149 rehabilitative services, and social work services appropriate to  
1150 their needs and conditions and not directly furnished by the  
1151 licensee. When a geriatric outpatient nurse clinic is conducted  
1152 in accordance with rules adopted by the agency, outpatients  
1153 attending such clinic shall not be counted as part of the  
1154 general resident population of the nursing home facility, nor  
1155 shall the nursing staff of the geriatric outpatient clinic be  
1156 counted as part of the nursing staff of the facility, until the  
1157 outpatient clinic load exceeds 15 a day.

1158 (f) Be allowed and encouraged by the agency to provide  
1159 other needed services under certain conditions. If the facility  
1160 has a standard licensure status, and has had no class I or class



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1161 II deficiencies during the past 2 years or has been awarded a  
1162 Gold Seal under the program established in s. 400.235, it may be  
1163 encouraged by the agency to provide services, including, but not  
1164 limited to, respite and adult day services, which enable  
1165 individuals to move in and out of the facility. A facility is  
1166 not subject to any additional licensure requirements for  
1167 providing these services. Respite care may be offered to persons  
1168 in need of short-term or temporary nursing home services.  
1169 Respite care must be provided in accordance with this part and  
1170 rules adopted by the agency. However, the agency shall, by rule,  
1171 adopt modified requirements for resident assessment, resident  
1172 care plans, resident contracts, physician orders, and other  
1173 provisions, as appropriate, for short-term or temporary nursing  
1174 home services. The agency shall allow for shared programming and  
1175 staff in a facility which meets minimum standards and offers  
1176 services pursuant to this paragraph, but, if the facility is  
1177 cited for deficiencies in patient care, may require additional  
1178 staff and programs appropriate to the needs of service  
1179 recipients. A person who receives respite care may not be  
1180 counted as a resident of the facility for purposes of the  
1181 facility's licensed capacity unless that person receives 24-hour  
1182 respite care. A person receiving either respite care for 24  
1183 hours or longer or adult day services must be included when  
1184 calculating minimum staffing for the facility. Any costs and  
1185 revenues generated by a nursing home facility from  
1186 nonresidential programs or services shall be excluded from the  
1187 calculations of Medicaid per diems for nursing home  
1188 institutional care reimbursement.

1189 (g) If the facility has a standard license or is a Gold

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1190 Seal facility, exceeds the minimum required hours of licensed  
1191 nursing and certified nursing assistant direct care per resident  
1192 per day, and is part of a continuing care facility licensed  
1193 under chapter 651 or a retirement community that offers other  
1194 services pursuant to part III of this chapter or part I or part  
1195 III of chapter 429 on a single campus, be allowed to share  
1196 programming and staff. At the time of inspection and in the  
1197 semiannual report required pursuant to paragraph (n) ~~(e)~~, a  
1198 continuing care facility or retirement community that uses this  
1199 option must demonstrate through staffing records that minimum  
1200 staffing requirements for the facility were met. Licensed nurses  
1201 and certified nursing assistants who work in the nursing home  
1202 facility may be used to provide services elsewhere on campus if  
1203 the facility exceeds the minimum number of direct care hours  
1204 required per resident per day and the total number of residents  
1205 receiving direct care services from a licensed nurse or a  
1206 certified nursing assistant does not cause the facility to  
1207 violate the staffing ratios required under s. 400.23(3)(a).  
1208 Compliance with the minimum staffing ratios shall be based on  
1209 total number of residents receiving direct care services,  
1210 regardless of where they reside on campus. If the facility  
1211 receives a conditional license, it may not share staff until the  
1212 conditional license status ends. This paragraph does not  
1213 restrict the agency's authority under federal or state law to  
1214 require additional staff if a facility is cited for deficiencies  
1215 in care which are caused by an insufficient number of certified  
1216 nursing assistants or licensed nurses. The agency may adopt  
1217 rules for the documentation necessary to determine compliance  
1218 with this provision.

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1219 (h) Maintain the facility premises and equipment and  
1220 conduct its operations in a safe and sanitary manner.

1221 (i) If the licensee furnishes food service, provide a  
1222 wholesome and nourishing diet sufficient to meet generally  
1223 accepted standards of proper nutrition for its residents and  
1224 provide such therapeutic diets as may be prescribed by attending  
1225 physicians. In making rules to implement this paragraph, the  
1226 agency shall be guided by standards recommended by nationally  
1227 recognized professional groups and associations with knowledge  
1228 of dietetics.

1229 (j) Keep full records of resident admissions and  
1230 discharges; medical and general health status, including medical  
1231 records, personal and social history, and identity and address  
1232 of next of kin or other persons who may have responsibility for  
1233 the affairs of the residents; and individual resident care plans  
1234 including, but not limited to, prescribed services, service  
1235 frequency and duration, and service goals. The records shall be  
1236 open to inspection by the agency.

1237 (k) Keep such fiscal records of its operations and  
1238 conditions as may be necessary to provide information pursuant  
1239 to this part.

1240 (l) Furnish copies of personnel records for employees  
1241 affiliated with such facility, to any other facility licensed by  
1242 this state requesting this information pursuant to this part.  
1243 Such information contained in the records may include, but is  
1244 not limited to, disciplinary matters and any reason for  
1245 termination. Any facility releasing such records pursuant to  
1246 this part shall be considered to be acting in good faith and may  
1247 not be held liable for information contained in such records,

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1248 absent a showing that the facility maliciously falsified such  
1249 records.

1250 (m) Publicly display a poster provided by the agency  
1251 containing the names, addresses, and telephone numbers for the  
1252 state's abuse hotline, the State Long-Term Care Ombudsman, the  
1253 Agency for Health Care Administration consumer hotline, the  
1254 Advocacy Center for Persons with Disabilities, the Florida  
1255 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,  
1256 with a clear description of the assistance to be expected from  
1257 each.

1258 ~~(n) Submit to the agency the information specified in s.~~  
1259 ~~400.071(1)(b) for a management company within 30 days after the~~  
1260 ~~effective date of the management agreement.~~

1261 (n)~~(e)~~1. Submit semiannually to the agency, or more  
1262 frequently if requested by the agency, information regarding  
1263 facility staff-to-resident ratios, staff turnover, and staff  
1264 stability, including information regarding certified nursing  
1265 assistants, licensed nurses, the director of nursing, and the  
1266 facility administrator. For purposes of this reporting:

1267 a. Staff-to-resident ratios must be reported in the  
1268 categories specified in s. 400.23(3)(a) and applicable rules.  
1269 The ratio must be reported as an average for the most recent  
1270 calendar quarter.

1271 b. Staff turnover must be reported for the most recent 12-  
1272 month period ending on the last workday of the most recent  
1273 calendar quarter prior to the date the information is submitted.  
1274 The turnover rate must be computed quarterly, with the annual  
1275 rate being the cumulative sum of the quarterly rates. The  
1276 turnover rate is the total number of terminations or separations

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1277 experienced during the quarter, excluding any employee  
1278 terminated during a probationary period of 3 months or less,  
1279 divided by the total number of staff employed at the end of the  
1280 period for which the rate is computed, and expressed as a  
1281 percentage.

1282 c. The formula for determining staff stability is the total  
1283 number of employees that have been employed for more than 12  
1284 months, divided by the total number of employees employed at the  
1285 end of the most recent calendar quarter, and expressed as a  
1286 percentage.

1287 d. A nursing facility that has failed to comply with state  
1288 minimum-staffing requirements for 2 consecutive days is  
1289 prohibited from accepting new admissions until the facility has  
1290 achieved the minimum-staffing requirements for a period of 6  
1291 consecutive days. For the purposes of this sub-subparagraph, any  
1292 person who was a resident of the facility and was absent from  
1293 the facility for the purpose of receiving medical care at a  
1294 separate location or was on a leave of absence is not considered  
1295 a new admission. The agency shall fine the nursing facility  
1296 \$1,000 if it fails ~~Failure~~ to impose such an admissions  
1297 moratorium ~~constitutes a class II deficiency.~~

1298 e. A nursing facility which does not have a conditional  
1299 license may be cited for failure to comply with the standards in  
1300 s. 400.23(3)(a)1.a. only if it has failed to meet those  
1301 standards on 2 consecutive days or if it has failed to meet at  
1302 least 97 percent of those standards on any one day.

1303 f. A facility which has a conditional license must be in  
1304 compliance with the standards in s. 400.23(3)(a) at all times.

1305 2. This paragraph does not limit the agency's ability to

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1306 impose a deficiency or take other actions if a facility does not  
1307 have enough staff to meet the residents' needs.

1308 (o)~~(p)~~ Notify a licensed physician when a resident exhibits  
1309 signs of dementia or cognitive impairment or has a change of  
1310 condition in order to rule out the presence of an underlying  
1311 physiological condition that may be contributing to such  
1312 dementia or impairment. The notification must occur within 30  
1313 days after the acknowledgment of such signs by facility staff.  
1314 If an underlying condition is determined to exist, the facility  
1315 shall arrange, with the appropriate health care provider, the  
1316 necessary care and services to treat the condition.

1317 (p)~~(q)~~ If the facility implements a dining and hospitality  
1318 attendant program, ensure that the program is developed and  
1319 implemented under the supervision of the facility director of  
1320 nursing. A licensed nurse, licensed speech or occupational  
1321 therapist, or a registered dietitian must conduct training of  
1322 dining and hospitality attendants. A person employed by a  
1323 facility as a dining and hospitality attendant must perform  
1324 tasks under the direct supervision of a licensed nurse.

1325 ~~(r) Report to the agency any filing for bankruptcy~~  
1326 ~~protection by the facility or its parent corporation,~~  
1327 ~~divestiture or spin-off of its assets, or corporate~~  
1328 ~~reorganization within 30 days after the completion of such~~  
1329 ~~activity.~~

1330 (q)~~(s)~~ Maintain general and professional liability  
1331 insurance coverage that is in force at all times. In lieu of  
1332 general and professional liability insurance coverage, a state-  
1333 designated teaching nursing home and its affiliated assisted  
1334 living facilities created under s. 430.80 may demonstrate proof

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1335 of financial responsibility as provided in s. 430.80(3)(h).

1336 (r)~~(t)~~ Maintain in the medical record for each resident a  
1337 daily chart of certified nursing assistant services provided to  
1338 the resident. The certified nursing assistant who is caring for  
1339 the resident must complete this record by the end of his or her  
1340 shift. This record must indicate assistance with activities of  
1341 daily living, assistance with eating, and assistance with  
1342 drinking, and must record each offering of nutrition and  
1343 hydration for those residents whose plan of care or assessment  
1344 indicates a risk for malnutrition or dehydration.

1345 (s)~~(u)~~ Before November 30 of each year, subject to the  
1346 availability of an adequate supply of the necessary vaccine,  
1347 provide for immunizations against influenza viruses to all its  
1348 consenting residents in accordance with the recommendations of  
1349 the United States Centers for Disease Control and Prevention,  
1350 subject to exemptions for medical contraindications and  
1351 religious or personal beliefs. Subject to these exemptions, any  
1352 consenting person who becomes a resident of the facility after  
1353 November 30 but before March 31 of the following year must be  
1354 immunized within 5 working days after becoming a resident.  
1355 Immunization shall not be provided to any resident who provides  
1356 documentation that he or she has been immunized as required by  
1357 this paragraph. This paragraph does not prohibit a resident from  
1358 receiving the immunization from his or her personal physician if  
1359 he or she so chooses. A resident who chooses to receive the  
1360 immunization from his or her personal physician shall provide  
1361 proof of immunization to the facility. The agency may adopt and  
1362 enforce any rules necessary to comply with or administer  
1363 ~~implement~~ this paragraph ~~subsection~~.

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1364        (t)~~(v)~~ Assess all residents for eligibility for  
1365 pneumococcal polysaccharide vaccination (PPV) and vaccinate  
1366 residents when indicated within 60 days after the effective date  
1367 of this act in accordance with the recommendations of the United  
1368 States Centers for Disease Control and Prevention, subject to  
1369 exemptions for medical contraindications and religious or  
1370 personal beliefs. Residents admitted after the effective date of  
1371 this act shall be assessed within 5 working days of admission  
1372 and, when indicated, vaccinated within 60 days in accordance  
1373 with the recommendations of the United States Centers for  
1374 Disease Control and Prevention, subject to exemptions for  
1375 medical contraindications and religious or personal beliefs.  
1376 Immunization shall not be provided to any resident who provides  
1377 documentation that he or she has been immunized as required by  
1378 this paragraph. This paragraph does not prohibit a resident from  
1379 receiving the immunization from his or her personal physician if  
1380 he or she so chooses. A resident who chooses to receive the  
1381 immunization from his or her personal physician shall provide  
1382 proof of immunization to the facility. The agency may adopt and  
1383 enforce any rules necessary to comply with or administer  
1384 ~~implement~~ this paragraph.

1385        (u)~~(w)~~ Annually encourage and promote to its employees the  
1386 benefits associated with immunizations against influenza viruses  
1387 in accordance with the recommendations of the United States  
1388 Centers for Disease Control and Prevention. The agency may adopt  
1389 and enforce any rules necessary to comply with or administer  
1390 ~~implement~~ this paragraph.

1391        Section 29. Subsection (3) of section 400.142, Florida  
1392 Statutes, is amended to read:



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1393 400.142 Emergency medication kits; orders not to  
1394 resuscitate.—

1395 (3) Facility staff may withhold or withdraw cardiopulmonary  
1396 resuscitation if presented with an order not to resuscitate  
1397 executed pursuant to s. 401.45. ~~The agency shall adopt rules~~  
1398 ~~providing for the implementation of such orders.~~ Facility staff  
1399 and facilities shall not be subject to criminal prosecution or  
1400 civil liability, nor be considered to have engaged in negligent  
1401 or unprofessional conduct, for withholding or withdrawing  
1402 cardiopulmonary resuscitation pursuant to such an order and  
1403 rules adopted by the agency. The absence of an order not to  
1404 resuscitate executed pursuant to s. 401.45 does not preclude a  
1405 physician from withholding or withdrawing cardiopulmonary  
1406 resuscitation as otherwise permitted by law.

1407 Section 30. Subsection (10) of section 400.147, Florida  
1408 Statutes, is repealed.

1409 Section 31. Section 400.148, Florida Statutes, is repealed.

1410 Section 32. Subsection (3) of section 400.19, Florida  
1411 Statutes, is amended to read:

1412 400.19 Right of entry and inspection.—

1413 (3) The agency shall every 15 months conduct at least one  
1414 unannounced inspection to determine compliance by the licensee  
1415 with statutes, and with rules promulgated under the provisions  
1416 of those statutes, governing minimum standards of construction,  
1417 quality and adequacy of care, and rights of residents. The  
1418 survey shall be conducted every 6 months for the next 2-year  
1419 period if the facility has been cited for a class I deficiency,  
1420 has been cited for two or more class II deficiencies arising  
1421 from separate surveys or investigations within a 60-day period,

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1422 or has had three or more substantiated complaints within a 6-  
1423 month period, each resulting in at least one class I or class II  
1424 deficiency. In addition to any other fees or fines in this part,  
1425 the agency shall assess a fine for each facility that is subject  
1426 to the 6-month survey cycle. The fine for the 2-year period  
1427 shall be \$6,000, one-half to be paid at the completion of each  
1428 survey. The agency may adjust this fine by the change in the  
1429 Consumer Price Index, based on the 12 months immediately  
1430 preceding the increase, to cover the cost of the additional  
1431 surveys. The agency shall verify through subsequent inspection  
1432 that any deficiency identified during inspection is corrected.  
1433 However, the agency may verify the correction of a class III or  
1434 class IV deficiency ~~unrelated to resident rights or resident~~  
1435 ~~care~~ without reinspecting the facility if adequate written  
1436 documentation has been received from the facility, which  
1437 provides assurance that the deficiency has been corrected. The  
1438 giving or causing to be given of advance notice of such  
1439 unannounced inspections by an employee of the agency to any  
1440 unauthorized person shall constitute cause for suspension of not  
1441 fewer than 5 working days according to the provisions of chapter  
1442 110.

1443 Section 33. Section 400.195, Florida Statutes, is repealed.

1444 Section 34. Subsection (5) of section 400.23, Florida  
1445 Statutes, is amended to read:

1446 400.23 Rules; evaluation and deficiencies; licensure  
1447 status.—

1448 (5) The agency, in collaboration with the Division of  
1449 Children's Medical Services Network of the Department of Health,  
1450 ~~must, no later than December 31, 1993,~~ adopt rules for minimum

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1451 standards of care for persons under 21 years of age who reside  
1452 in nursing home facilities. The rules must include a methodology  
1453 for reviewing a nursing home facility under ss. 408.031-408.045  
1454 which serves only persons under 21 years of age. A facility may  
1455 be exempt from these standards for specific persons between 18  
1456 and 21 years of age, if the person's physician agrees that  
1457 minimum standards of care based on age are not necessary.

1458 Section 35. Subsection (1) of section 400.275, Florida  
1459 Statutes, is amended to read:

1460 400.275 Agency duties.—

1461 ~~(1) The agency shall ensure that each newly hired nursing~~  
1462 ~~home surveyor, as a part of basic training, is assigned full-~~  
1463 ~~time to a licensed nursing home for at least 2 days within a 7-~~  
1464 ~~day period to observe facility operations outside of the survey~~  
1465 ~~process before the surveyor begins survey responsibilities. Such~~  
1466 ~~observations may not be the sole basis of a deficiency citation~~  
1467 ~~against the facility. The agency may not assign an individual to~~  
1468 be a member of a survey team for purposes of a survey,  
1469 evaluation, or consultation visit at a nursing home facility in  
1470 which the surveyor was an employee within the preceding 5 years.

1471 Section 36. Subsections (2) and (14) of section 400.462,  
1472 Florida Statutes, are amended, present subsections (27), (28),  
1473 and (29) of that section are renumbered as subsections (28),  
1474 (29), and (30), respectively, and new subsections (27) and (31)  
1475 are added to that section, to read:

1476 400.462 Definitions.—As used in this part, the term:

1477 (2) "Admission" means a decision by the home health agency,  
1478 during or after an evaluation visit with the patient ~~to the~~  
1479 ~~patient's home~~, that there is reasonable expectation that the

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1480 patient's medical, nursing, and social needs for skilled care  
 1481 can be adequately met by the agency in the patient's place of  
 1482 residence. Admission includes completion of an agreement with  
 1483 the patient or the patient's legal representative to provide  
 1484 home health services as required in s. 400.487(1).

1485 (14) "Home health services" means health and medical  
 1486 services and medical supplies furnished by an organization to an  
 1487 individual in the individual's home or place of residence. The  
 1488 term includes organizations that provide one or more of the  
 1489 following:

1490 (a) Nursing care.

1491 (b) Physical, occupational, respiratory, or speech therapy.

1492 (c) Home health aide services.

1493 (d) Dietetics and nutrition practice and nutrition  
 1494 counseling.

1495 (e) Medical supplies and durable medical equipment,  
 1496 ~~restricted to drugs and biologicals~~ prescribed by a physician.

1497 (27) "Primary home health agency" means the agency that is  
 1498 responsible for the services furnished to patients and for  
 1499 implementation of the plan of care.

1500 (31) "Temporary" means short term, such as for employee  
 1501 absences, temporary skill shortages, seasonal workloads.

1502 Section 37. Section 400.476, Florida Statutes, is amended  
 1503 to read:

1504 400.476 Staffing requirements; notifications; limitations  
 1505 on staffing services.—

1506 (1) ADMINISTRATOR.—

1507 (a) An administrator may manage only one home health  
 1508 agency, except that an administrator may manage up to five home

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1509 health agencies if all five home health agencies have identical  
1510 controlling interests as defined in s. 408.803 and are located  
1511 within one agency geographic service area or within an  
1512 immediately contiguous county. If the home health agency is  
1513 licensed under this chapter and is part of a retirement  
1514 community that provides multiple levels of care, an employee of  
1515 the retirement community may administer the home health agency  
1516 and up to a maximum of four entities licensed under this chapter  
1517 or chapter 429 which all have identical controlling interests as  
1518 defined in s. 408.803. An administrator shall designate, in  
1519 writing, for each licensed entity, a qualified alternate  
1520 administrator to serve during the administrator's absence. An  
1521 alternate administrator must meet the requirements in this  
1522 paragraph and s. 400.462(1).

1523 (b) An administrator of a home health agency who is a  
1524 licensed physician, physician assistant, or registered nurse  
1525 licensed to practice in this state may also be the director of  
1526 nursing for a home health agency. An administrator may serve as  
1527 a director of nursing for up to the number of entities  
1528 authorized in subsection (2) only if there are 10 or fewer full-  
1529 time equivalent employees and contracted personnel in each home  
1530 health agency.

1531 (c) The administrator shall organize and direct the  
1532 agency's ongoing functions, maintain an ongoing liaison with the  
1533 board members and the staff, employ qualified personnel and  
1534 ensure adequate staff education and evaluations, ensures the  
1535 accuracy of public informational materials and activities,  
1536 implement an effective budgeting and accounting system, and  
1537 ensures that the home health agency operates in compliance with

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1538 this part and part II of chapter 408 and rules adopted for these  
1539 laws.

1540 (d) The administrator shall clearly set forth in writing  
1541 the organizational chart, services furnished, administrative  
1542 control, and lines of authority for the delegation of  
1543 responsibilities for patient care. These responsibilities must  
1544 be readily identifiable. Administrative and supervisory  
1545 functions may not be delegated to another agency or  
1546 organization, and the primary home health agency shall monitor  
1547 and control all services that are not furnished directly,  
1548 including services provided through contracts.

1549 (2) DIRECTOR OF NURSING.—

1550 (a) A director of nursing may be the director of nursing  
1551 for:

1552 1. Up to two licensed home health agencies if the agencies  
1553 have identical controlling interests as defined in s. 408.803  
1554 and are located within one agency geographic service area or  
1555 within an immediately contiguous county; or

1556 2. Up to five licensed home health agencies if:

1557 a. All of the home health agencies have identical  
1558 controlling interests as defined in s. 408.803;

1559 b. All of the home health agencies are located within one  
1560 agency geographic service area or within an immediately  
1561 contiguous county; ~~and~~

1562 c. Each home health agency has a registered nurse who meets  
1563 the qualifications of a director of nursing and who has a  
1564 written delegation from the director of nursing to serve as the  
1565 director of nursing for that home health agency when the  
1566 director of nursing is not present; ~~and.~~

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1567       d. This person, or similarly qualified alternate, is  
1568 available at all times during operating hours and participates  
1569 in all activities relevant to the professional services  
1570 furnished, including, but not limited to, the oversight of  
1571 nursing services, home health aides, and certified nursing  
1572 assistants, and assignment of personnel.

1573

1574 If a home health agency licensed under this chapter is part of a  
1575 retirement community that provides multiple levels of care, an  
1576 employee of the retirement community may serve as the director  
1577 of nursing of the home health agency and up to a maximum of four  
1578 entities, other than home health agencies, licensed under this  
1579 chapter or chapter 429 which all have identical controlling  
1580 interests as defined in s. 408.803.

1581       (b) A home health agency that provides skilled nursing care  
1582 may not operate for more than 30 calendar days without a  
1583 director of nursing. A home health agency that provides skilled  
1584 nursing care and the director of nursing of a home health agency  
1585 must notify the agency within 10 business days after termination  
1586 of the services of the director of nursing for the home health  
1587 agency. A home health agency that provides skilled nursing care  
1588 must notify the agency of the identity and qualifications of the  
1589 new director of nursing within 10 days after the new director is  
1590 hired. If a home health agency that provides skilled nursing  
1591 care operates for more than 30 calendar days without a director  
1592 of nursing, the home health agency commits a class II  
1593 deficiency. In addition to the fine for a class II deficiency,  
1594 the agency may issue a moratorium in accordance with s. 408.814  
1595 or revoke the license. The agency shall fine a home health

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1596 agency that fails to notify the agency as required in this  
1597 paragraph \$1,000 for the first violation and \$2,000 for a repeat  
1598 violation. The agency may not take administrative action against  
1599 a home health agency if the director of nursing fails to notify  
1600 the department upon termination of services as the director of  
1601 nursing for the home health agency.

1602 (c) A home health agency that is not Medicare or Medicaid  
1603 certified and does not provide skilled care or provides only  
1604 physical, occupational, or speech therapy is not required to  
1605 have a director of nursing and is exempt from paragraph (b).

1606 (3) TRAINING.—A home health agency shall ensure that each  
1607 certified nursing assistant employed by or under contract with  
1608 the home health agency and each home health aide employed by or  
1609 under contract with the home health agency is adequately trained  
1610 to perform the tasks of a home health aide in the home setting.

1611 (a) The home health agency may not use as a home health  
1612 aide on a full-time, temporary, per diem, or other basis, any  
1613 individual to provide services unless the individual has  
1614 completed a training and competency evaluation program, or a  
1615 competency evaluation program, as permitted in s. 400.497 which  
1616 meets the minimum standards established by the agency in state  
1617 rules.

1618 (b) A home health aide is not competent in any task for  
1619 which he or she is evaluated as "unsatisfactory." The aide must  
1620 perform any such task only under direct supervision by a  
1621 licensed nurse until he or she receives training in the task and  
1622 satisfactorily passes a subsequent evaluation in performing the  
1623 task. A home health aide has not successfully passed a  
1624 competency evaluation if the aide does not have a passing score



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1625 on the test as specified by agency rule.

1626 (4) STAFFING.—Staffing services may be provided anywhere  
1627 within the state.

1628 (5) PERSONNEL.—

1629 (a) The home health agency and its staff must comply with  
1630 accepted professional standards and principles that apply to  
1631 professionals, including, but not limited to, the state practice  
1632 acts and the home health agency's policies and procedures.

1633 (b) If personnel under hourly or per-visit contracts are  
1634 used by the home health agency, there must be a written contract  
1635 between those personnel and the agency which specifies the  
1636 following requirements:

1637 1. Acceptance for care only of patients by the primary home  
1638 health agency.

1639 2. The services to be furnished.

1640 3. The necessity to conform to all applicable agency  
1641 policies, including personnel qualifications.

1642 4. The responsibility for participating in developing plans  
1643 of care.

1644 5. The manner in which services are controlled,  
1645 coordinated, and evaluated by the primary home health agency.

1646 6. The procedures for submitting clinical and progress  
1647 notes, scheduling of visits, and periodic patient evaluation.

1648 7. The procedures for payment for services furnished under  
1649 the contract.

1650 (c) A home health agency shall directly provide at least  
1651 one of the types of services through home health agency  
1652 employees, but may provide additional services under  
1653 arrangements with another agency or organization. Services

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1654 furnished under such arrangements must have a written contract  
1655 conforming with the requirements specified in paragraph (b).

1656 (d) If home health aide services are provided by an  
1657 individual who is not employed directly by the home health  
1658 agency, the services of the home health aide must be provided  
1659 under arrangements as stated in paragraphs (b) and (c). If the  
1660 home health agency chooses to provide home health aide services  
1661 under arrangements with another organization, the  
1662 responsibilities of the home health agency include, but are not  
1663 limited to:

1664 1. Ensuring the overall quality of the care provided by the  
1665 aide;

1666 2. Supervising the aide's services as described in s.  
1667 400.487; and

1668 3. Ensuring that each home health aide providing services  
1669 under arrangements with another organization has met the  
1670 training requirements or competency evaluation requirements of  
1671 s. 400.497.

1672 (e) The home health agency shall coordinate the efforts of  
1673 all personnel furnishing services, and the personnel shall  
1674 maintain communication with the home health agency to ensure  
1675 that personnel efforts support the objectives outlined in the  
1676 plan of care. The clinical record or minutes of case conferences  
1677 shall ensure that effective interchange, reporting, and  
1678 coordination of patient care occurs.

1679 Section 38. Section 400.484, Florida Statutes, is amended  
1680 to read:

1681 400.484 Right of inspection; violations ~~deficiencies~~;  
1682 fines.-

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1683 (1) In addition to the requirements of s. 408.811, the  
1684 agency may make such inspections and investigations as are  
1685 necessary in order to determine the state of compliance with  
1686 this part, part II of chapter 408, and applicable rules.

1687 (2) The agency shall impose fines for various classes of  
1688 deficiencies in accordance with the following schedule:

1689 (a) Class I violations are defined in s. 408.813. ~~A class I~~  
1690 ~~deficiency is any act, omission, or practice that results in a~~  
1691 ~~patient's death, disablement, or permanent injury, or places a~~  
1692 ~~patient at imminent risk of death, disablement, or permanent~~  
1693 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency  
1694 shall impose an administrative fine in the amount of \$15,000 for  
1695 each occurrence and each day that the violation ~~deficiency~~  
1696 exists.

1697 (b) Class II violations are defined in s. 408.813. ~~A class~~  
1698 ~~II deficiency is any act, omission, or practice that has a~~  
1699 ~~direct adverse effect on the health, safety, or security of a~~  
1700 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the  
1701 agency shall impose an administrative fine in the amount of  
1702 \$5,000 for each occurrence and each day that the violation  
1703 ~~deficiency~~ exists.

1704 (c) Class III violations are defined in s. 408.813. ~~A class~~  
1705 ~~III deficiency is any act, omission, or practice that has an~~  
1706 ~~indirect, adverse effect on the health, safety, or security of a~~  
1707 ~~patient.~~ Upon finding an uncorrected or repeated class III  
1708 violation ~~deficiency~~, the agency shall impose an administrative  
1709 fine not to exceed \$1,000 for each occurrence and each day that  
1710 the uncorrected or repeated violation ~~deficiency~~ exists.

1711 (d) Class IV violations are defined in s. 408.813. ~~A class~~

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1712 ~~IV deficiency is any act, omission, or practice related to~~  
1713 ~~required reports, forms, or documents which does not have the~~  
1714 ~~potential of negatively affecting patients. These violations are~~  
1715 ~~of a type that the agency determines do not threaten the health,~~  
1716 ~~safety, or security of patients. Upon finding an uncorrected or~~  
1717 ~~repeated class IV violation deficiency, the agency shall impose~~  
1718 ~~an administrative fine not to exceed \$500 for each occurrence~~  
1719 ~~and each day that the uncorrected or repeated violation~~  
1720 ~~deficiency exists.~~

1721 (3) In addition to any other penalties imposed pursuant to  
1722 this section or part, the agency may assess costs related to an  
1723 investigation that results in a successful prosecution,  
1724 excluding costs associated with an attorney's time.

1725 Section 39. Section 400.487, Florida Statutes, is amended  
1726 to read:

1727 400.487 Home health service agreements; physician's,  
1728 physician assistant's, and advanced registered nurse  
1729 practitioner's treatment orders; patient assessment;  
1730 establishment and review of plan of care; provision of services;  
1731 orders not to resuscitate.-

1732 (1) Services provided by a home health agency must be  
1733 covered by an agreement between the home health agency and the  
1734 patient or the patient's legal representative specifying the  
1735 home health services to be provided, the rates or charges for  
1736 services paid with private funds, and the sources of payment,  
1737 which may include Medicare, Medicaid, private insurance,  
1738 personal funds, or a combination thereof. The home health agency  
1739 shall provide a copy of the agreement to the patient or the  
1740 patient's legal representative. A home health agency providing

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1741 skilled care must make an assessment of the patient's needs  
1742 within 48 hours after the start of services.

1743 (2) When required by the provisions of chapter 464; part I,  
1744 part III, or part V of chapter 468; or chapter 486, the  
1745 attending physician, physician assistant, or advanced registered  
1746 nurse practitioner, acting within his or her respective scope of  
1747 practice, shall establish treatment orders for a patient who is  
1748 to receive skilled care. The treatment orders must be signed by  
1749 the physician, physician assistant, or advanced registered nurse  
1750 practitioner before a claim for payment for the skilled services  
1751 is submitted by the home health agency. If the claim is  
1752 submitted to a managed care organization, the treatment orders  
1753 must be signed within the time allowed under the provider  
1754 agreement. The treatment orders shall be reviewed, as frequently  
1755 as the patient's illness requires, by the physician, physician  
1756 assistant, or advanced registered nurse practitioner in  
1757 consultation with the home health agency.

1758 (3) A home health agency shall arrange for supervisory  
1759 visits by a registered nurse to the home of a patient receiving  
1760 home health aide services as specified in subsection (9) ~~in~~  
1761 ~~accordance with the patient's direction, approval, and agreement~~  
1762 ~~to pay the charge for the visits.~~

1763 (4) The home health agency shall protect and promote the  
1764 rights of each individual under its care, including each of the  
1765 following rights:

1766 (a) Notice of rights.—The home health agency shall provide  
1767 the patient with a written notice of the patient's rights in  
1768 advance of furnishing care to the patient or during the initial  
1769 evaluation visit before the initiation of treatment. The home

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1770 health agency must maintain documentation showing that it has  
1771 complied with the requirements of this section.

1772 (b) Exercise of rights and respect for property and  
1773 person.—

1774 1. The patient has the right to exercise his or her rights  
1775 as a patient of the home health agency.

1776 2. The patient has the right to have his or her property  
1777 treated with respect.

1778 3. The patient has the right to voice grievances regarding  
1779 treatment or care that is or fails to be furnished, or regarding  
1780 the lack of respect for property by anyone who is furnishing  
1781 services on behalf of the home health agency, and not be  
1782 subjected to discrimination or reprisal for doing so.

1783 4. The home health agency must investigate complaints made  
1784 by a patient or the patient's family or guardian regarding  
1785 treatment or care that is or fails to be furnished, or regarding  
1786 the lack of respect for the patient's property by anyone  
1787 furnishing services on behalf of the home health agency. The  
1788 home health agency shall document the existence of the complaint  
1789 and its resolution.

1790 5. The patient and his or her immediate family or  
1791 representative must be informed of the right to report  
1792 complaints via the statewide toll-free telephone number to the  
1793 agency as required in s. 408.810.

1794 (c) Right to be informed and to participate in planning  
1795 care and treatment.—

1796 1. The patient has the right to be informed, in advance,  
1797 about the care to be furnished and of any changes in the care to  
1798 be furnished. The home health agency shall advise the patient in

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1799 advance of which disciplines will furnish care and the frequency  
1800 of visits proposed to be furnished. The home health agency must  
1801 advise the patient in advance of any change in the plan of care  
1802 before the change is made.

1803 2. The patient has the right to participate in the planning  
1804 of the care. The home health agency must advise the patient in  
1805 advance of the right to participate in planning the care or  
1806 treatment and in planning changes in the care or treatment. Each  
1807 ~~patient has the right to be informed of and to participate in~~  
1808 ~~the planning of his or her care.~~ Each patient must be provided,  
1809 upon request, a copy of the plan of care established and  
1810 maintained for that patient by the home health agency.

1811 (5) When nursing services are ordered, the home health  
1812 agency to which a patient has been admitted for care must  
1813 provide the initial admission visit, all service evaluation  
1814 visits, and the discharge visit by a direct employee. Services  
1815 provided by others under contractual arrangements to a home  
1816 health agency must be monitored and managed by the admitting  
1817 home health agency. The admitting home health agency is fully  
1818 responsible for ensuring that all care provided through its  
1819 employees or contract staff is delivered in accordance with this  
1820 part and applicable rules.

1821 (6) The skilled care services provided by a home health  
1822 agency, directly or under contract, must be supervised and  
1823 coordinated in accordance with the plan of care. The home health  
1824 agency shall furnish skilled nursing services by or under the  
1825 supervision of a registered nurse and in accordance with the  
1826 plan of care. Any therapy services offered directly or under  
1827 arrangement by the home health agency must be provided by a

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1828 qualified therapist or by a qualified therapy assistant under  
1829 the supervision of a qualified therapist and in accordance with  
1830 the plan of care.

1831 (a) Duties and qualifications.—A qualified therapist shall  
1832 assist the physician in evaluating the level of function, help  
1833 develop or revise the plan of care, prepare clinical and  
1834 progress notes, advise and consult with the family and other  
1835 agency personnel, and participate in in-service programs. The  
1836 therapist or therapy assistant must meet the qualifications in  
1837 the state practice acts and related applicable rules.

1838 (b) Physical therapy assistants and occupational therapy  
1839 assistants.—Services provided by a physical therapy assistant or  
1840 occupational therapy assistant must be under the supervision of  
1841 a qualified physical therapist or occupational therapist as  
1842 required in chapter 486 and part III of chapter 468,  
1843 respectively, and related applicable rules. A physical therapy  
1844 assistant or occupational therapy assistant shall perform  
1845 services planned, delegated, and supervised by the therapist,  
1846 assist in preparing clinical notes and progress reports,  
1847 participate in educating the patient and his or her family, and  
1848 participate in in-service programs.

1849 (c) Speech therapy services.—Speech therapy services shall  
1850 be furnished only by or under supervision of a qualified speech  
1851 pathologist or audiologist as required in part I of chapter 468  
1852 and related applicable rules.

1853 (d) Care follows a written plan of care.—The plan of care  
1854 shall be reviewed by the physician or health professional who  
1855 provided the treatment orders pursuant to subsection (2) and  
1856 home health agency personnel as often as the severity of the



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1857 patient's condition requires, but at least once every 60 days or  
1858 more when there is a beneficiary-elected transfer, a significant  
1859 change in condition resulting in a change in the case-mix  
1860 assignment, or a discharge and return to the same home health  
1861 agency during the 60-day episode. Professional staff of a home  
1862 health agency shall promptly alert the physician or other health  
1863 professional who provided the treatment orders of any change  
1864 that suggests a need to alter the plan of care.

1865 (e) Administration of drugs and treatment.—Only  
1866 professional staff of a home health agency may administer drugs  
1867 and treatments as ordered by the physician or health  
1868 professional pursuant to subsection (2), with the exception of  
1869 influenza and pneumococcal polysaccharide vaccines, which may be  
1870 administered according to the policy of the home health agency  
1871 developed in consultation with a physician and after an  
1872 assessment for contraindications. The physician or health  
1873 professional, as provided in subsection (2), shall put any  
1874 verbal order in writing and sign and date it with the date of  
1875 receipt by the registered nurse or qualified therapist who is  
1876 responsible for furnishing or supervising the ordered service. A  
1877 verbal order may be accepted only by personnel who are  
1878 authorized to do so by applicable state laws, rules, and  
1879 internal policies of the home health agency.

1880 (7) A registered nurse shall conduct the initial evaluation  
1881 visit, regularly reevaluate the patient's nursing needs,  
1882 initiate the plan of care and necessary revisions, furnish those  
1883 services requiring substantial and specialized nursing skill,  
1884 initiate appropriate preventive and rehabilitative nursing  
1885 procedures, prepare clinical and progress notes, coordinate

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1886 services, inform the physician and other personnel of changes in  
1887 the patient's condition and needs, counsel the patient and his  
1888 or her family in meeting nursing and related needs, participate  
1889 in in-service programs, and supervise and teach other nursing  
1890 personnel.

1891 (8) A licensed practical nurse shall furnish services in  
1892 accordance with agency policies, prepare clinical and progress  
1893 notes, assist the physician and registered nurse in performing  
1894 specialized procedures, prepare equipment and materials for  
1895 treatments observing aseptic technique as required, and assist  
1896 the patient in learning appropriate self-care techniques.

1897 (9) A home health aide and certified nursing assistant  
1898 shall provide services that are ordered by the physician in the  
1899 plan of care and that the aide or assistant is permitted to  
1900 perform under state law. The duties of a home health aide or  
1901 certified nursing assistant include the provision of hands-on  
1902 personal care, performance of simple procedures as an extension  
1903 of therapy or nursing services, assistance in ambulation or  
1904 exercises, and assistance in administering medications that are  
1905 ordinarily self-administered and are specified in agency rules.  
1906 Any services by a home health aide which are offered by a home  
1907 health agency must be provided by a qualified home health aide  
1908 or certified nursing assistant.

1909 (a) Assignment and duties.—A home health aide or certified  
1910 nursing assistant shall be assigned to a specific patient by a  
1911 registered nurse. Written patient care instructions for the home  
1912 health aide and certified nursing assistant must be prepared by  
1913 the registered nurse or other appropriate professional who is  
1914 responsible for the supervision of the home health aide and

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1915 certified nursing assistant as stated in this section.

1916 (b) Supervision.—If a patient receives skilled nursing  
1917 care, the registered nurse shall perform the supervisory visit.  
1918 If the patient is not receiving skilled nursing care but is  
1919 receiving physical therapy, occupational therapy, or speech-  
1920 language pathology services, the appropriate therapist may  
1921 provide the supervision. A registered nurse or other  
1922 professional must make an onsite visit to the patient's home at  
1923 least once every 2 weeks. The visit is not required while the  
1924 aide is providing care.

1925 (c) Supervising visits.—If home health aide services are  
1926 provided to a patient who is not receiving skilled nursing care,  
1927 physical or occupational therapy, or speech-language pathology  
1928 services, a registered nurse must make a supervisory visit to  
1929 the patient's home at least once every 60 days. The registered  
1930 nurse shall ensure that the aide is properly caring for the  
1931 patient and each supervisory visit must occur while the home  
1932 health aide is providing patient care.

1933 (10)(7) Home health agency personnel may withhold or  
1934 withdraw cardiopulmonary resuscitation if presented with an  
1935 order not to resuscitate executed pursuant to s. 401.45. The  
1936 agency shall adopt rules providing for the implementation of  
1937 such orders. Home health personnel and agencies shall not be  
1938 subject to criminal prosecution or civil liability, nor be  
1939 considered to have engaged in negligent or unprofessional  
1940 conduct, for withholding or withdrawing cardiopulmonary  
1941 resuscitation pursuant to such an order and rules adopted by the  
1942 agency.

1943 Section 40. Subsections (1) and (4) of section 400.606,

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1944 Florida Statutes, are amended to read:

1945 400.606 License; application; renewal; conditional license  
1946 or permit; certificate of need.-

1947 (1) In addition to the requirements of part II of chapter  
1948 408, the initial application and change of ownership application  
1949 must be accompanied by a plan for the delivery of home,  
1950 residential, and homelike inpatient hospice services to  
1951 terminally ill persons and their families. Such plan must  
1952 contain, but need not be limited to:

1953 (a) The estimated average number of terminally ill persons  
1954 to be served monthly.

1955 (b) The geographic area in which hospice services will be  
1956 available.

1957 (c) A listing of services which are or will be provided,  
1958 either directly by the applicant or through contractual  
1959 arrangements with existing providers.

1960 (d) Provisions for the implementation of hospice home care  
1961 within 3 months after licensure.

1962 (e) Provisions for the implementation of hospice homelike  
1963 inpatient care within 12 months after licensure.

1964 (f) The number and disciplines of professional staff to be  
1965 employed.

1966 (g) The name and qualifications of any existing or  
1967 potential contractee.

1968 (h) A plan for attracting and training volunteers.

1969 ~~(i) The projected annual operating cost of the hospice.~~

1970

1971 If the applicant is an existing licensed health care provider,  
1972 the application must be accompanied by a copy of the most recent

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1973 profit-loss statement and, if applicable, the most recent  
1974 licensure inspection report.

1975 (4) A freestanding hospice facility that is ~~primarily~~  
1976 engaged in providing inpatient and related services and that is  
1977 not otherwise licensed as a health care facility shall be  
1978 required to obtain a certificate of need. However, a  
1979 freestanding hospice facility with six or fewer beds shall not  
1980 be required to comply with institutional standards such as, but  
1981 not limited to, standards requiring sprinkler systems, emergency  
1982 electrical systems, or special lavatory devices.

1983 Section 41. Subsection (2) of section 400.607, Florida  
1984 Statutes, is amended to read:

1985 400.607 Denial, suspension, revocation of license;  
1986 emergency actions; imposition of administrative fine; grounds.-

1987 (2) A violation of the provisions of this part, part II of  
1988 chapter 408, or applicable rules ~~Any of the following actions~~ by  
1989 a licensed hospice or any of its employees shall be grounds for  
1990 administrative action by the agency against a hospice.÷

1991 ~~(a) A violation of the provisions of this part, part II of~~  
1992 ~~chapter 408, or applicable rules.~~

1993 ~~(b) An intentional or negligent act materially affecting~~  
1994 ~~the health or safety of a patient.~~

1995 Section 42. Subsection (1) of section 400.925, Florida  
1996 Statutes, is amended to read:

1997 400.925 Definitions.-As used in this part, the term:

1998 (1) "Accrediting organizations" means the Joint Commission  
1999 ~~on Accreditation of Healthcare Organizations~~ or other national  
2000 accreditation agencies whose standards for accreditation are  
2001 comparable to those required by this part for licensure.

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2002 Section 43. Section 400.931, Florida Statutes, is amended  
 2003 to read:

2004 400.931 Application for license; ~~fee; provisional license;~~  
 2005 ~~temporary permit.~~-

2006 (1) In addition to the requirements of part II of chapter  
 2007 408, the applicant must file with the application satisfactory  
 2008 proof that the home medical equipment provider is in compliance  
 2009 with this part and applicable rules, including:

2010 (a) A report, by category, of the equipment to be provided,  
 2011 indicating those offered either directly by the applicant or  
 2012 through contractual arrangements with existing providers.

2013 Categories of equipment include:

- 2014 1. Respiratory modalities.
- 2015 2. Ambulation aids.
- 2016 3. Mobility aids.
- 2017 4. Sickroom setup.
- 2018 5. Disposables.

2019 (b) A report, by category, of the services to be provided,  
 2020 indicating those offered either directly by the applicant or  
 2021 through contractual arrangements with existing providers.

2022 Categories of services include:

- 2023 1. Intake.
- 2024 2. Equipment selection.
- 2025 3. Delivery.
- 2026 4. Setup and installation.
- 2027 5. Patient training.
- 2028 6. Ongoing service and maintenance.
- 2029 7. Retrieval.

2030 (c) A listing of those with whom the applicant contracts,

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2031 both the providers the applicant uses to provide equipment or  
2032 services to its consumers and the providers for whom the  
2033 applicant provides services or equipment.

2034 ~~(2) As an alternative to submitting proof of financial~~  
2035 ~~ability to operate as required in s. 408.810(8), the applicant~~  
2036 ~~may submit a \$50,000 surety bond to the agency.~~

2037 (2)~~(3)~~ As specified in part II of chapter 408, the home  
2038 medical equipment provider must also obtain and maintain  
2039 professional and commercial liability insurance. Proof of  
2040 liability insurance, as defined in s. 624.605, must be submitted  
2041 with the application. The agency shall set the required amounts  
2042 of liability insurance by rule, but the required amount must not  
2043 be less than \$250,000 per claim. In the case of contracted  
2044 services, it is required that the contractor have liability  
2045 insurance not less than \$250,000 per claim.

2046 (3)~~(4)~~ When a change of the general manager of a home  
2047 medical equipment provider occurs, the licensee must notify the  
2048 agency of the change within 45 days.

2049 (4)~~(5)~~ In accordance with s. 408.805, an applicant or a  
2050 licensee shall pay a fee for each license application submitted  
2051 under this part, part II of chapter 408, and applicable rules.  
2052 The amount of the fee shall be established by rule and may not  
2053 exceed \$300 per biennium. The agency shall set the fees in an  
2054 amount that is sufficient to cover its costs in carrying out its  
2055 responsibilities under this part. However, state, county, or  
2056 municipal governments applying for licenses under this part are  
2057 exempt from the payment of license fees.

2058 (5)~~(6)~~ An applicant for initial licensure, renewal, or  
2059 change of ownership shall also pay an inspection fee not to

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2060 exceed \$400, which shall be paid by all applicants except those  
2061 not subject to licensure inspection by the agency as described  
2062 in s. 400.933.

2063 Section 44. Subsection (2) of section 400.932, Florida  
2064 Statutes, is amended to read:

2065 400.932 Administrative penalties.—

2066 (2) A violation of this part, part II of chapter 408, or  
2067 applicable rules ~~Any of the following actions~~ by an employee of  
2068 a home medical equipment provider are grounds for administrative  
2069 action or penalties by the agency.†

2070 ~~(a) Violation of this part, part II of chapter 408, or~~  
2071 ~~applicable rules.~~

2072 ~~(b) An intentional, reckless, or negligent act that~~  
2073 ~~materially affects the health or safety of a patient.~~

2074 Section 45. Subsection (2) of section 400.933, Florida  
2075 Statutes, is amended to read:

2076 400.933 Licensure inspections and investigations.—

2077 (2) The agency shall accept, in lieu of its own periodic  
2078 inspections for licensure, submission of the following:

2079 (a) The survey or inspection of an accrediting  
2080 organization, provided the accreditation of the licensed home  
2081 medical equipment provider is not conditional or provisional and  
2082 provided the licensed home medical equipment provider authorizes  
2083 release of, and the agency receives the report of, the  
2084 accrediting organization; or

2085 (b) A copy of a valid medical oxygen retail establishment  
2086 permit issued by the Department of Health, pursuant to chapter  
2087 499.

2088 Section 46. Subsection (2) of section 400.953, Florida



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2089 Statutes, is amended to read:

2090 400.953 Background screening of home medical equipment  
2091 provider personnel.—The agency shall require employment  
2092 screening as provided in chapter 435, using the level 1  
2093 standards for screening set forth in that chapter, for home  
2094 medical equipment provider personnel.

2095 (2) The general manager of each home medical equipment  
2096 provider must sign an affidavit ~~annually~~, under penalty of  
2097 perjury, stating that all home medical equipment provider  
2098 personnel hired on or after July 1, 1999, who enter the home of  
2099 a patient in the capacity of their employment have been screened  
2100 and that its remaining personnel have worked for the home  
2101 medical equipment provider continuously since before July 1,  
2102 1999. This attestation must be submitted in accordance with s.  
2103 408.809(6).

2104 Section 47. Section 400.967, Florida Statutes, is amended  
2105 to read:

2106 400.967 Rules and classification of violations  
2107 ~~deficiencies~~.—

2108 (1) It is the intent of the Legislature that rules adopted  
2109 and enforced under this part and part II of chapter 408 include  
2110 criteria by which a reasonable and consistent quality of  
2111 resident care may be ensured, the results of such resident care  
2112 can be demonstrated, and safe and sanitary facilities can be  
2113 provided.

2114 (2) Pursuant to the intention of the Legislature, the  
2115 agency, in consultation with the Agency for Persons with  
2116 Disabilities and the Department of Elderly Affairs, shall adopt  
2117 and enforce rules to administer this part and part II of chapter

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2118 408, which shall include reasonable and fair criteria governing:

2119 (a) The location and construction of the facility;  
2120 including fire and life safety, plumbing, heating, cooling,  
2121 lighting, ventilation, and other housing conditions that will  
2122 ensure the health, safety, and comfort of residents. The agency  
2123 shall establish standards for facilities and equipment to  
2124 increase the extent to which new facilities and a new wing or  
2125 floor added to an existing facility after July 1, 2000, are  
2126 structurally capable of serving as shelters only for residents,  
2127 staff, and families of residents and staff, and equipped to be  
2128 self-supporting during and immediately following disasters. The  
2129 Agency for Health Care Administration shall work with facilities  
2130 licensed under this part and report to the Governor and the  
2131 Legislature by April 1, 2000, its recommendations for cost-  
2132 effective renovation standards to be applied to existing  
2133 facilities. In making such rules, the agency shall be guided by  
2134 criteria recommended by nationally recognized, reputable  
2135 professional groups and associations having knowledge concerning  
2136 such subject matters. The agency shall update or revise such  
2137 criteria as the need arises. All facilities must comply with  
2138 those lifesafety code requirements and building code standards  
2139 applicable at the time of approval of their construction plans.  
2140 The agency may require alterations to a building if it  
2141 determines that an existing condition constitutes a distinct  
2142 hazard to life, health, or safety. The agency shall adopt fair  
2143 and reasonable rules setting forth conditions under which  
2144 existing facilities undergoing additions, alterations,  
2145 conversions, renovations, or repairs are required to comply with  
2146 the most recent updated or revised standards.

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2147 (b) The number and qualifications of all personnel,  
2148 including management, medical nursing, and other personnel,  
2149 having responsibility for any part of the care given to  
2150 residents.

2151 (c) All sanitary conditions within the facility and its  
2152 surroundings, including water supply, sewage disposal, food  
2153 handling, and general hygiene, which will ensure the health and  
2154 comfort of residents.

2155 (d) The equipment essential to the health and welfare of  
2156 the residents.

2157 (e) A uniform accounting system.

2158 (f) The care, treatment, and maintenance of residents and  
2159 measurement of the quality and adequacy thereof.

2160 (g) The preparation and annual update of a comprehensive  
2161 emergency management plan. The agency shall adopt rules  
2162 establishing minimum criteria for the plan after consultation  
2163 with the Department of Community Affairs. At a minimum, the  
2164 rules must provide for plan components that address emergency  
2165 evacuation transportation; adequate sheltering arrangements;  
2166 postdisaster activities, including emergency power, food, and  
2167 water; postdisaster transportation; supplies; staffing;  
2168 emergency equipment; individual identification of residents and  
2169 transfer of records; and responding to family inquiries. The  
2170 comprehensive emergency management plan is subject to review and  
2171 approval by the local emergency management agency. During its  
2172 review, the local emergency management agency shall ensure that  
2173 the following agencies, at a minimum, are given the opportunity  
2174 to review the plan: the Department of Elderly Affairs, the  
2175 Agency for Persons with Disabilities, the Agency for Health Care

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2176 Administration, and the Department of Community Affairs. Also,  
2177 appropriate volunteer organizations must be given the  
2178 opportunity to review the plan. The local emergency management  
2179 agency shall complete its review within 60 days and either  
2180 approve the plan or advise the facility of necessary revisions.

2181 (h) The use of restraint and seclusion. Such rules must be  
2182 consistent with recognized best practices; prohibit inherently  
2183 dangerous restraint or seclusion procedures; establish  
2184 limitations on the use and duration of restraint and seclusion;  
2185 establish measures to ensure the safety of clients and staff  
2186 during an incident of restraint or seclusion; establish  
2187 procedures for staff to follow before, during, and after  
2188 incidents of restraint or seclusion, including individualized  
2189 plans for the use of restraints or seclusion in emergency  
2190 situations; establish professional qualifications of and  
2191 training for staff who may order or be engaged in the use of  
2192 restraint or seclusion; establish requirements for facility data  
2193 collection and reporting relating to the use of restraint and  
2194 seclusion; and establish procedures relating to the  
2195 documentation of the use of restraint or seclusion in the  
2196 client's facility or program record.

2197 (3) The agency shall adopt rules to provide that, when the  
2198 criteria established under this part and part II of chapter 408  
2199 are not met, such violations ~~deficiencies~~ shall be classified  
2200 according to the nature of the violation ~~deficiency~~. The agency  
2201 shall indicate the classification on the face of the notice of  
2202 violations ~~deficiencies~~ as follows:

2203 (a) Class I violations ~~deficiencies~~ are defined in s.  
2204 408.813. ~~those which the agency determines present an imminent~~

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2205 ~~danger to the residents or guests of the facility or a~~  
2206 ~~substantial probability that death or serious physical harm~~  
2207 ~~would result therefrom. The condition or practice constituting a~~  
2208 ~~class I violation must be abated or eliminated immediately,~~  
2209 ~~unless a fixed period of time, as determined by the agency, is~~  
2210 ~~required for correction. A class I violation deficiency is~~  
2211 ~~subject to a civil penalty in an amount not less than \$5,000 and~~  
2212 ~~not exceeding \$10,000 for each violation deficiency. A fine may~~  
2213 ~~be levied notwithstanding the correction of the violation~~  
2214 ~~deficiency.~~

2215 (b) Class II violations deficiencies are defined in s.  
2216 408.813. ~~those which the agency determines have a direct or~~  
2217 ~~immediate relationship to the health, safety, or security of the~~  
2218 ~~facility residents, other than class I deficiencies. A class II~~  
2219 ~~violation deficiency is subject to a civil penalty in an amount~~  
2220 ~~not less than \$1,000 and not exceeding \$5,000 for each~~  
2221 ~~deficiency. A citation for a class II violation deficiency shall~~  
2222 ~~specify the time within which the violation deficiency must be~~  
2223 ~~corrected. If a class II violation deficiency is corrected~~  
2224 ~~within the time specified, no civil penalty shall be imposed,~~  
2225 ~~unless it is a repeated offense.~~

2226 (c) Class III violations deficiencies are defined in s.  
2227 408.813. ~~those which the agency determines to have an indirect~~  
2228 ~~or potential relationship to the health, safety, or security of~~  
2229 ~~the facility residents, other than class I or class II~~  
2230 ~~deficiencies. A class III violation deficiency is subject to a~~  
2231 ~~civil penalty of not less than \$500 and not exceeding \$1,000 for~~  
2232 ~~each violation deficiency. A citation for a class III violation~~  
2233 ~~deficiency shall specify the time within which the violation~~

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2234 ~~deficiency~~ must be corrected. If a class III violation  
2235 ~~deficiency~~ is corrected within the time specified, no civil  
2236 penalty shall be imposed, unless it is a repeated offense.

2237 (d) Class IV violations are defined in s. 408.813.

2238 (4) The agency shall approve or disapprove the plans and  
2239 specifications within 60 days after receipt of the final plans  
2240 and specifications. The agency may be granted one 15-day  
2241 extension for the review period, if the secretary of the agency  
2242 so approves. If the agency fails to act within the specified  
2243 time, it is deemed to have approved the plans and  
2244 specifications. When the agency disapproves plans and  
2245 specifications, it must set forth in writing the reasons for  
2246 disapproval. Conferences and consultations may be provided as  
2247 necessary.

2248 (5) The agency may charge an initial fee of \$2,000 for  
2249 review of plans and construction on all projects, no part of  
2250 which is refundable. The agency may also collect a fee, not to  
2251 exceed 1 percent of the estimated construction cost or the  
2252 actual cost of review, whichever is less, for the portion of the  
2253 review which encompasses initial review through the initial  
2254 revised construction document review. The agency may collect its  
2255 actual costs on all subsequent portions of the review and  
2256 construction inspections. Initial fee payment must accompany the  
2257 initial submission of plans and specifications. Any subsequent  
2258 payment that is due is payable upon receipt of the invoice from  
2259 the agency. Notwithstanding any other provision of law, all  
2260 money received by the agency under this section shall be deemed  
2261 to be trust funds, to be held and applied solely for the  
2262 operations required under this section.

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2263 Section 48. Subsection (1) of section 400.969, Florida  
2264 Statutes, is amended to read:

2265 400.969 Violation of part; penalties.—

2266 (1) In addition to the requirements of part II of chapter  
2267 408, and except as provided in s. 400.967(3), a violation of any  
2268 provision of federal certification required pursuant to  
2269 400.960(8), this part, part II of chapter 408, or applicable  
2270 rules is punishable by payment of an administrative or civil  
2271 penalty not to exceed \$5,000.

2272 Section 49. Subsection (7) of section 400.9905, Florida  
2273 Statutes, is amended to read:

2274 400.9905 Definitions.—

2275 (7) "Portable service or equipment provider" means an  
2276 entity that contracts with or employs persons to provide  
2277 portable service or equipment to multiple locations which  
2278 ~~performing treatment or diagnostic testing of individuals, that~~  
2279 bills third-party payors for those services, and that otherwise  
2280 meets the definition of a clinic in subsection (4).

2281 Section 50. Subsections (1) and (4) of section 400.991,  
2282 Florida Statutes, are amended to read:

2283 400.991 License requirements; background screenings;  
2284 prohibitions.—

2285 (1) (a) The requirements of part II of chapter 408 apply to  
2286 the provision of services that require licensure pursuant to  
2287 this part and part II of chapter 408 and to entities licensed by  
2288 or applying for such licensure from the agency pursuant to this  
2289 part. A license issued by the agency is required in order to  
2290 operate a clinic in this state. Each clinic location shall be  
2291 licensed separately regardless of whether the clinic is operated

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2292 under the same business name or management as another clinic.

2293 (b) Each mobile clinic must obtain a separate health care  
2294 clinic license and must provide to the agency, at least  
2295 quarterly, its projected street location to enable the agency to  
2296 locate and inspect such clinic. A portable equipment and health  
2297 services provider must obtain a health care clinic license for a  
2298 single administrative office and is not required to submit  
2299 quarterly projected street locations.

2300 (4) In addition to the requirements of part II of chapter  
2301 408, the applicant must file with the application satisfactory  
2302 proof that the clinic is in compliance with this part and  
2303 applicable rules, including:

2304 (a) A listing of services to be provided either directly by  
2305 the applicant or through contractual arrangements with existing  
2306 providers;

2307 (b) The number and discipline of each professional staff  
2308 member to be employed; and

2309 (c) Proof of financial ability to operate as required under  
2310 ss. 408.810(8) and 408.8065 ~~s. 408.810(8)~~. ~~As an alternative to~~  
2311 ~~submitting proof of financial ability to operate as required~~  
2312 ~~under s. 408.810(8), the applicant may file a surety bond of at~~  
2313 ~~least \$500,000 which guarantees that the clinic will act in full~~  
2314 ~~conformity with all legal requirements for operating a clinic,~~  
2315 ~~payable to the agency. The agency may adopt rules to specify~~  
2316 ~~related requirements for such surety bond.~~

2317 Section 51. Paragraph (g) of subsection (1) and paragraph  
2318 (a) of subsection (7) of section 400.9935, Florida Statutes, are  
2319 amended to read:

2320 400.9935 Clinic responsibilities.-



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2321 (1) Each clinic shall appoint a medical director or clinic  
2322 director who shall agree in writing to accept legal  
2323 responsibility for the following activities on behalf of the  
2324 clinic. The medical director or the clinic director shall:

2325 (g) Conduct systematic reviews of clinic billings to ensure  
2326 that the billings are not fraudulent or unlawful. Upon discovery  
2327 of an unlawful charge, the medical director or clinic director  
2328 shall take immediate corrective action. If the clinic performs  
2329 only the technical component of magnetic resonance imaging,  
2330 static radiographs, computed tomography, or positron emission  
2331 tomography, and provides the professional interpretation of such  
2332 services, in a fixed facility that is accredited by the Joint  
2333 Commission ~~on Accreditation of Healthcare Organizations~~ or the  
2334 Accreditation Association for Ambulatory Health Care, and the  
2335 American College of Radiology; and if, in the preceding quarter,  
2336 the percentage of scans performed by that clinic which was  
2337 billed to all personal injury protection insurance carriers was  
2338 less than 15 percent, the chief financial officer of the clinic  
2339 may, in a written acknowledgment provided to the agency, assume  
2340 the responsibility for the conduct of the systematic reviews of  
2341 clinic billings to ensure that the billings are not fraudulent  
2342 or unlawful.

2343 (7) (a) Each clinic engaged in magnetic resonance imaging  
2344 services must be accredited by the Joint Commission ~~on~~  
2345 ~~Accreditation of Healthcare Organizations~~, the American College  
2346 of Radiology, or the Accreditation Association for Ambulatory  
2347 Health Care, within 1 year after licensure. A clinic that is  
2348 accredited by the American College of Radiology or is within the  
2349 original 1-year period after licensure and replaces its core

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2350 magnetic resonance imaging equipment shall be given 1 year after  
2351 the date on which the equipment is replaced to attain  
2352 accreditation. However, a clinic may request a single, 6-month  
2353 extension if it provides evidence to the agency establishing  
2354 that, for good cause shown, such clinic cannot be accredited  
2355 within 1 year after licensure, and that such accreditation will  
2356 be completed within the 6-month extension. After obtaining  
2357 accreditation as required by this subsection, each such clinic  
2358 must maintain accreditation as a condition of renewal of its  
2359 license. A clinic that files a change of ownership application  
2360 must comply with the original accreditation timeframe  
2361 requirements of the transferor. The agency shall deny a change  
2362 of ownership application if the clinic is not in compliance with  
2363 the accreditation requirements. When a clinic adds, replaces, or  
2364 modifies magnetic resonance imaging equipment and the  
2365 accreditation agency requires new accreditation, the clinic must  
2366 be accredited within 1 year after the date of the addition,  
2367 replacement, or modification but may request a single, 6-month  
2368 extension if the clinic provides evidence of good cause to the  
2369 agency.

2370 Section 52. Subsection (2) of section 408.034, Florida  
2371 Statutes, is amended to read:

2372 408.034 Duties and responsibilities of agency; rules.—

2373 (2) In the exercise of its authority to issue licenses to  
2374 health care facilities and health service providers, as provided  
2375 under chapters 393 and 395 and parts II, ~~and~~ IV, and VIII of  
2376 chapter 400, the agency may not issue a license to any health  
2377 care facility or health service provider that fails to receive a  
2378 certificate of need or an exemption for the licensed facility or

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2379 service.

2380 Section 53. Paragraph (d) of subsection (1) of section  
2381 408.036, Florida Statutes, is amended to read:

2382 408.036 Projects subject to review; exemptions.—

2383 (1) APPLICABILITY.—Unless exempt under subsection (3), all  
2384 health-care-related projects, as described in paragraphs (a)–  
2385 (g), are subject to review and must file an application for a  
2386 certificate of need with the agency. The agency is exclusively  
2387 responsible for determining whether a health-care-related  
2388 project is subject to review under ss. 408.031–408.045.

2389 (d) The establishment of a hospice or hospice inpatient  
2390 facility, ~~except as provided in s. 408.043.~~

2391 Section 54. Subsection (2) of section 408.043, Florida  
2392 Statutes, is amended to read:

2393 408.043 Special provisions.—

2394 (2) HOSPICES.—When an application is made for a certificate  
2395 of need to establish or to expand a hospice, the need for such  
2396 hospice shall be determined on the basis of the need for and  
2397 availability of hospice services in the community. The formula  
2398 on which the certificate of need is based shall discourage  
2399 regional monopolies and promote competition. The inpatient  
2400 hospice care component of a hospice which is a freestanding  
2401 facility, or a part of a facility, ~~which is primarily engaged in  
2402 providing inpatient care and related services~~ and is not  
2403 licensed as a health care facility shall also be required to  
2404 obtain a certificate of need. Provision of hospice care by any  
2405 current provider of health care is a significant change in  
2406 service and therefore requires a certificate of need for such  
2407 services.

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2408 Section 55. Paragraph (k) of subsection (3) of section  
2409 408.05, Florida Statutes, is amended to read:

2410 408.05 Florida Center for Health Information and Policy  
2411 Analysis.—

2412 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to  
2413 produce comparable and uniform health information and statistics  
2414 for the development of policy recommendations, the agency shall  
2415 perform the following functions:

2416 (k) Develop, in conjunction with the State Consumer Health  
2417 Information and Policy Advisory Council, and implement a long-  
2418 range plan for making available health care quality measures and  
2419 financial data that will allow consumers to compare health care  
2420 services. The health care quality measures and financial data  
2421 the agency must make available shall include, but is not limited  
2422 to, pharmaceuticals, physicians, health care facilities, and  
2423 health plans and managed care entities. The agency shall submit  
2424 the initial plan to the Governor, the President of the Senate,  
2425 and the Speaker of the House of Representatives by January 1,  
2426 2006, and shall update the plan and report on the status of its  
2427 implementation annually thereafter. The agency shall also make  
2428 the plan and status report available to the public on its  
2429 Internet website. As part of the plan, the agency shall identify  
2430 the process and timeframes for implementation, any barriers to  
2431 implementation, and recommendations of changes in the law that  
2432 may be enacted by the Legislature to eliminate the barriers. As  
2433 preliminary elements of the plan, the agency shall:

2434 1. Make available patient-safety indicators, inpatient  
2435 quality indicators, and performance outcome and patient charge  
2436 data collected from health care facilities pursuant to s.

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2437 408.061(1)(a) and (2). The terms "patient-safety indicators" and  
2438 "inpatient quality indicators" shall be as defined by the  
2439 Centers for Medicare and Medicaid Services, the National Quality  
2440 Forum, the Joint Commission ~~on Accreditation of Healthcare~~  
2441 ~~Organizations~~, the Agency for Healthcare Research and Quality,  
2442 the Centers for Disease Control and Prevention, or a similar  
2443 national entity that establishes standards to measure the  
2444 performance of health care providers, or by other states. The  
2445 agency shall determine which conditions, procedures, health care  
2446 quality measures, and patient charge data to disclose based upon  
2447 input from the council. When determining which conditions and  
2448 procedures are to be disclosed, the council and the agency shall  
2449 consider variation in costs, variation in outcomes, and  
2450 magnitude of variations and other relevant information. When  
2451 determining which health care quality measures to disclose, the  
2452 agency:

2453 a. Shall consider such factors as volume of cases; average  
2454 patient charges; average length of stay; complication rates;  
2455 mortality rates; and infection rates, among others, which shall  
2456 be adjusted for case mix and severity, if applicable.

2457 b. May consider such additional measures that are adopted  
2458 by the Centers for Medicare and Medicaid Studies, National  
2459 Quality Forum, the Joint Commission ~~on Accreditation of~~  
2460 ~~Healthcare Organizations~~, the Agency for Healthcare Research and  
2461 Quality, Centers for Disease Control and Prevention, or a  
2462 similar national entity that establishes standards to measure  
2463 the performance of health care providers, or by other states.

2464  
2465 When determining which patient charge data to disclose, the

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2466 agency shall include such measures as the average of  
2467 undiscounted charges on frequently performed procedures and  
2468 preventive diagnostic procedures, the range of procedure charges  
2469 from highest to lowest, average net revenue per adjusted patient  
2470 day, average cost per adjusted patient day, and average cost per  
2471 admission, among others.

2472 2. Make available performance measures, benefit design, and  
2473 premium cost data from health plans licensed pursuant to chapter  
2474 627 or chapter 641. The agency shall determine which health care  
2475 quality measures and member and subscriber cost data to  
2476 disclose, based upon input from the council. When determining  
2477 which data to disclose, the agency shall consider information  
2478 that may be required by either individual or group purchasers to  
2479 assess the value of the product, which may include membership  
2480 satisfaction, quality of care, current enrollment or membership,  
2481 coverage areas, accreditation status, premium costs, plan costs,  
2482 premium increases, range of benefits, copayments and  
2483 deductibles, accuracy and speed of claims payment, credentials  
2484 of physicians, number of providers, names of network providers,  
2485 and hospitals in the network. Health plans shall make available  
2486 to the agency any such data or information that is not currently  
2487 reported to the agency or the office.

2488 3. Determine the method and format for public disclosure of  
2489 data reported pursuant to this paragraph. The agency shall make  
2490 its determination based upon input from the State Consumer  
2491 Health Information and Policy Advisory Council. At a minimum,  
2492 the data shall be made available on the agency's Internet  
2493 website in a manner that allows consumers to conduct an  
2494 interactive search that allows them to view and compare the

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2495 information for specific providers. The website must include  
2496 such additional information as is determined necessary to ensure  
2497 that the website enhances informed decisionmaking among  
2498 consumers and health care purchasers, which shall include, at a  
2499 minimum, appropriate guidance on how to use the data and an  
2500 explanation of why the data may vary from provider to provider.  
2501 The data specified in subparagraph 1. shall be released no later  
2502 than January 1, 2006, for the reporting of infection rates, and  
2503 no later than October 1, 2005, for mortality rates and  
2504 complication rates. The data specified in subparagraph 2. shall  
2505 be released no later than October 1, 2006.

2506 4. Publish on its website undiscounted charges for no fewer  
2507 than 150 of the most commonly performed adult and pediatric  
2508 procedures, including outpatient, inpatient, diagnostic, and  
2509 preventative procedures.

2510 Section 56. Paragraph (a) of subsection (1) of section  
2511 408.061, Florida Statutes, is amended to read:

2512 408.061 Data collection; uniform systems of financial  
2513 reporting; information relating to physician charges;  
2514 confidential information; immunity.—

2515 (1) The agency shall require the submission by health care  
2516 facilities, health care providers, and health insurers of data  
2517 necessary to carry out the agency's duties. Specifications for  
2518 data to be collected under this section shall be developed by  
2519 the agency with the assistance of technical advisory panels  
2520 including representatives of affected entities, consumers,  
2521 purchasers, and such other interested parties as may be  
2522 determined by the agency.

2523 (a) Data submitted by health care facilities, including the

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2524 facilities as defined in chapter 395, shall include, but are not  
2525 limited to: case-mix data, patient admission and discharge data,  
2526 hospital emergency department data which shall include the  
2527 number of patients treated in the emergency department of a  
2528 licensed hospital reported by patient acuity level, data on  
2529 hospital-acquired infections as specified by rule, data on  
2530 complications as specified by rule, data on readmissions as  
2531 specified by rule, with patient and provider-specific  
2532 identifiers included, actual charge data by diagnostic groups,  
2533 financial data, accounting data, operating expenses, expenses  
2534 incurred for rendering services to patients who cannot or do not  
2535 pay, interest charges, depreciation expenses based on the  
2536 expected useful life of the property and equipment involved, and  
2537 demographic data. The agency shall adopt nationally recognized  
2538 risk adjustment methodologies or software consistent with the  
2539 standards of the Agency for Healthcare Research and Quality and  
2540 as selected by the agency for all data submitted as required by  
2541 this section. Data may be obtained from documents such as, but  
2542 not limited to: leases, contracts, debt instruments, itemized  
2543 patient bills, medical record abstracts, and related diagnostic  
2544 information. Reported data elements shall be reported  
2545 electronically ~~and in accordance with rule 59E-7.012, Florida~~  
2546 ~~Administrative Code. Data submitted shall be~~ certified by the  
2547 chief executive officer or an appropriate and duly authorized  
2548 representative or employee of the licensed facility that the  
2549 information submitted is true and accurate.

2550 Section 57. Subsection (1) of section 408.10, Florida  
2551 Statutes, is amended to read:

2552 408.10 Consumer complaints.—The agency shall:



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2553 (1) Publish and make available to the public a toll-free  
2554 telephone number for the purpose of handling consumer complaints  
2555 and shall serve as a liaison between consumer entities and other  
2556 private entities and governmental entities for the disposition  
2557 of problems identified by consumers of health care. The agency  
2558 may provide staffing for this toll-free number through agency  
2559 staff or other arrangements.

2560 Section 58. Subsection (11) of section 408.802, Florida  
2561 Statutes, is repealed.

2562 Section 59. Effective October 1, 2010, subsection (3) is  
2563 added to section 408.804, Florida Statutes, to read:

2564 408.804 License required; display.—

2565 (3) Any person who knowingly alters, defaces, or falsifies  
2566 any license certificate issued by the agency, or causes or  
2567 procures any person to commit such an offense, commits a  
2568 misdemeanor of the second degree, punishable as provided in s.  
2569 775.082 or s. 775.083. Any licensee or provider who displays an  
2570 altered, defaced, or falsified license certificate is subject to  
2571 the penalties set forth in s. 408.815 and an administrative fine  
2572 of \$1,000 for each day of illegal display.

2573 Section 60. Paragraph (d) of subsection (2) of section  
2574 408.806, Florida Statutes, is amended to read:

2575 408.806 License application process.—

2576 (2) (d) ~~The agency shall notify the licensee by mail or~~  
2577 ~~electronically at least 90 days before the expiration of a~~  
2578 ~~license that a renewal license is necessary to continue~~  
2579 ~~operation.~~ The licensee's failure to timely file submit a  
2580 renewal application and license application fee with the agency  
2581 shall result in a \$50 per day late fee charged to the licensee

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2582 by the agency; however, the aggregate amount of the late fee may  
2583 not exceed 50 percent of the licensure fee or \$500, whichever is  
2584 less. The agency shall provide a courtesy notice to the licensee  
2585 by United States mail, electronically, or by any other manner at  
2586 its address of record at least 90 days before the expiration of  
2587 a license informing the licensee of the expiration of the  
2588 license. Any failure of the agency to provide the courtesy  
2589 notice or any failure of the licensee to receive the courtesy  
2590 notice does not excuse the licensee from the legal obligation to  
2591 timely file the renewal application and license application fee  
2592 with the agency and does not mitigate the late fee. Payment of  
2593 the late fee is required in order for any late application to be  
2594 complete, and failure to pay the late fee is an omission from  
2595 the application. If an application is received after the  
2596 required filing date and exhibits a hand-canceled postmark  
2597 obtained from a United States post office dated on or before the  
2598 required filing date, no fine will be levied.

2599 Section 61. Subsections (6) and (9) of section 408.810,  
2600 Florida Statutes, are amended to read:

2601 408.810 Minimum licensure requirements.—In addition to the  
2602 licensure requirements specified in this part, authorizing  
2603 statutes, and applicable rules, each applicant and licensee must  
2604 comply with the requirements of this section in order to obtain  
2605 and maintain a license.

2606 (6)(a) An applicant must provide the agency with proof of  
2607 the applicant's legal right to occupy the property before a  
2608 license may be issued. Proof may include, but need not be  
2609 limited to, copies of warranty deeds, lease or rental  
2610 agreements, contracts for deeds, quitclaim deeds, or other such

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2611 documentation.

2612 (b) If the property is encumbered by a mortgage or is  
2613 leased, an applicant must provide the agency with proof that the  
2614 mortgagor or landlord has received written notice of the  
2615 applicant's intent as mortgagee or tenant to provide services  
2616 that require licensure and instructions that the agency be  
2617 served by certified mail with copies of any actions initiated by  
2618 the mortgagor or landlord against applicant.

2619 (9) A controlling interest may not withhold from the agency  
2620 any evidence of financial instability, including, but not  
2621 limited to, checks returned due to insufficient funds,  
2622 delinquent accounts, nonpayment of withholding taxes, unpaid  
2623 utility expenses, nonpayment for essential services, or adverse  
2624 court action concerning the financial viability of the provider  
2625 or any other provider licensed under this part that is under the  
2626 control of the controlling interest. A controlling interest  
2627 shall notify the agency within 10 days after a court action,  
2628 including, but not limited to, the initiation of bankruptcy  
2629 proceedings, foreclosure, or eviction proceedings, in which the  
2630 controlling interest is a petitioner or defendant. Any person  
2631 who violates this subsection commits a misdemeanor of the second  
2632 degree, punishable as provided in s. 775.082 or s. 775.083. Each  
2633 day of continuing violation is a separate offense.

2634 Section 62. Paragraph (a) of subsection (6) of section  
2635 408.811, Florida Statutes, is amended to read:

2636 408.811 Right of inspection; copies; inspection reports;  
2637 plan for correction of deficiencies.-

2638 (6) (a) Each licensee shall maintain as public information,  
2639 available upon request, records of all inspection reports

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2640 pertaining to that provider that have been filed by the agency  
2641 unless those reports are exempt from or contain information that  
2642 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2643 Constitution or is otherwise made confidential by law. Effective  
2644 October 1, 2006, copies of such reports shall be retained in the  
2645 records of the provider for at least 3 years following the date  
2646 the reports are filed and issued, regardless of a change of  
2647 ownership. The inspection report is not subject to challenge  
2648 under s. 120.569 or s. 120.57.

2649 Section 63. Subsection (2) of section 408.813, Florida  
2650 Statutes, is amended to read:

2651 408.813 Administrative fines; violations.—As a penalty for  
2652 any violation of this part, authorizing statutes, or applicable  
2653 rules, the agency may impose an administrative fine.

2654 (2) (a) Violations of this part, authorizing statutes, or  
2655 applicable rules shall be classified according to the nature of  
2656 the violation and the gravity of its probable effect on clients.  
2657 The scope of a violation may be cited as an isolated, patterned,  
2658 or widespread deficiency. An isolated deficiency is a deficiency  
2659 affecting one or a very limited number of clients, or involving  
2660 one or a very limited number of staff, or a situation that  
2661 occurred only occasionally or in a very limited number of  
2662 locations. A patterned deficiency is a deficiency in which more  
2663 than a very limited number of clients are affected, or more than  
2664 a very limited number of staff are involved, or the situation  
2665 has occurred in several locations, or the same client or clients  
2666 have been affected by repeated occurrences of the same deficient  
2667 practice but the effect of the deficient practice is not found  
2668 to be pervasive throughout the provider. A widespread deficiency

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2669 is a deficiency in which the problems causing the deficiency are  
2670 pervasive in the provider or represent systemic failure that has  
2671 affected or has the potential to affect a large portion of the  
2672 provider's clients. This subsection does not affect the  
2673 legislative determination of the amount of a fine imposed under  
2674 authorizing statutes. Violations shall be classified on the  
2675 written notice as follows:

2676 1.~~(a)~~ Class "I" violations are those conditions or  
2677 occurrences related to the operation and maintenance of a  
2678 provider or to the care of clients which the agency determines  
2679 present an imminent danger to the clients of the provider or a  
2680 substantial probability that death or serious physical or  
2681 emotional harm would result therefrom. The condition or practice  
2682 constituting a class I violation shall be abated or eliminated  
2683 within 24 hours, unless a fixed period, as determined by the  
2684 agency, is required for correction. The agency shall impose an  
2685 administrative fine as provided by law for a cited class I  
2686 violation. A fine shall be levied notwithstanding the correction  
2687 of the violation.

2688 2.~~(b)~~ Class "II" violations are those conditions or  
2689 occurrences related to the operation and maintenance of a  
2690 provider or to the care of clients which the agency determines  
2691 directly threaten the physical or emotional health, safety, or  
2692 security of the clients, other than class I violations. The  
2693 agency shall impose an administrative fine as provided by law  
2694 for a cited class II violation. A fine shall be levied  
2695 notwithstanding the correction of the violation.

2696 3.~~(c)~~ Class "III" violations are those conditions or  
2697 occurrences related to the operation and maintenance of a

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2698 provider or to the care of clients which the agency determines  
2699 indirectly or potentially threaten the physical or emotional  
2700 health, safety, or security of clients, other than class I or  
2701 class II violations. The agency shall impose an administrative  
2702 fine as provided in this section for a cited class III  
2703 violation. A citation for a class III violation must specify the  
2704 time within which the violation is required to be corrected. If  
2705 a class III violation is corrected within the time specified, a  
2706 fine may not be imposed.

2707 4.~~(d)~~ Class "IV" violations are those conditions or  
2708 occurrences related to the operation and maintenance of a  
2709 provider or to required reports, forms, or documents that do not  
2710 have the potential of negatively affecting clients. These  
2711 violations are of a type that the agency determines do not  
2712 threaten the health, safety, or security of clients. The agency  
2713 shall impose an administrative fine as provided in this section  
2714 for a cited class IV violation. A citation for a class IV  
2715 violation must specify the time within which the violation is  
2716 required to be corrected. If a class IV violation is corrected  
2717 within the time specified, a fine may not be imposed.

2718 (b) The agency may impose an administrative fine for  
2719 violations that do not qualify as class I, class II, class III,  
2720 or class IV violations. The amount of the fine may not exceed  
2721 \$500 for each violation. Unclassified violations may include:

- 2722 1. Violating any term or condition of a license.  
2723 2. Violating any provision of this part, authorizing  
2724 statutes, or applicable rules.  
2725 3. Exceeding licensed capacity without authorization.  
2726 4. Providing services beyond the scope of the license.

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2727 5. Violating a moratorium.

2728 Section 64. Subsection (5) is added to section 408.815,  
2729 Florida Statutes, to read:

2730 408.815 License or application denial; revocation.—

2731 (5) In order to ensure the health, safety, and welfare of  
2732 clients where a license has been denied, revoked, or is set to  
2733 terminate, the agency may extend the license expiration date for  
2734 up to 60 days after denial, revocation, or termination the sole  
2735 purpose of allowing the safe and orderly discharge of clients.  
2736 The agency may impose conditions on the extension, including,  
2737 but not limited to, prohibiting or limiting admissions,  
2738 expediting discharge planning, submitting required status  
2739 reports, and mandatory monitoring by the agency or third  
2740 parties. The agency may terminate the extension or modify the  
2741 conditions at any time at its discretion. Upon the discharge of  
2742 the final client, the extension shall immediately terminate and  
2743 the provider shall cease operation and promptly surrender its  
2744 license certificate to the agency. During the extension, the  
2745 provider must continue to meet all other requirements of this  
2746 part, authorizing statutes, and applicable rules. This authority  
2747 is in addition to any other authority granted to the agency  
2748 under chapter 120, this part, and the authorizing statutes, but  
2749 does not create any right or entitlement to an extension of a  
2750 license expiration date.

2751 Section 65. Paragraph (d) is added to subsection (13) of  
2752 section 409.906, Florida Statutes, to read:

2753 409.906 Optional Medicaid services.—Subject to specific  
2754 appropriations, the agency may make payments for services which  
2755 are optional to the state under Title XIX of the Social Security

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2756 Act and are furnished by Medicaid providers to recipients who  
2757 are determined to be eligible on the dates on which the services  
2758 were provided. Any optional service that is provided shall be  
2759 provided only when medically necessary and in accordance with  
2760 state and federal law. Optional services rendered by providers  
2761 in mobile units to Medicaid recipients may be restricted or  
2762 prohibited by the agency. Nothing in this section shall be  
2763 construed to prevent or limit the agency from adjusting fees,  
2764 reimbursement rates, lengths of stay, number of visits, or  
2765 number of services, or making any other adjustments necessary to  
2766 comply with the availability of moneys and any limitations or  
2767 directions provided for in the General Appropriations Act or  
2768 chapter 216. If necessary to safeguard the state's systems of  
2769 providing services to elderly and disabled persons and subject  
2770 to the notice and review provisions of s. 216.177, the Governor  
2771 may direct the Agency for Health Care Administration to amend  
2772 the Medicaid state plan to delete the optional Medicaid service  
2773 known as "Intermediate Care Facilities for the Developmentally  
2774 Disabled." Optional services may include:

2775 (13) HOME AND COMMUNITY-BASED SERVICES.—

2776 (d) The agency, in consultation with the Department of  
2777 Elderly Affairs, shall phase out the adult day health care  
2778 waiver program and transfer existing waiver enrollees to other  
2779 appropriate home and community-based service programs. Effective  
2780 July 1, 2010, the adult day health care waiver program shall  
2781 cease to enroll new members. Existing enrollees in the adult day  
2782 health care program shall receive counseling regarding available  
2783 options and shall be offered an alternative home and community-  
2784 based services program based on eligibility and personal choice.



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2785 Each enrollee in the waiver program shall continue to receive  
2786 home and community-based services without interruption in the  
2787 enrollee's program of choice. The providers of the adult day  
2788 health care waiver program, in consultation with the resource  
2789 centers for the aged, shall assist in the transition of  
2790 enrollees and cease provision of adult day health care waiver  
2791 services by December 31, 2010. The agency may seek federal  
2792 waiver approval to administer this change.

2793 Section 66. Paragraph (k) of subsection (4) of section  
2794 409.221, Florida Statutes, is repealed.

2795 Section 67. Paragraphs (e), (f), and (g) of subsection (15)  
2796 of section 409.912, Florida Statutes, are repealed.

2797 Section 68. Section 429.11, Florida Statutes, is amended to  
2798 read:

2799 429.11 Initial application for license; ~~provisional~~  
2800 ~~license.~~

2801 (1) Each applicant for licensure must comply with all  
2802 provisions of part II of chapter 408 and must:

2803 (a) Identify all other homes or facilities, including the  
2804 addresses and the license or licenses under which they operate,  
2805 if applicable, which are currently operated by the applicant or  
2806 administrator and which provide housing, meals, and personal  
2807 services to residents.

2808 (b) Provide the location of the facility for which a  
2809 license is sought and documentation, signed by the appropriate  
2810 local government official, which states that the applicant has  
2811 met local zoning requirements.

2812 (c) Provide the name, address, date of birth, social  
2813 security number, education, and experience of the administrator,

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2814 if different from the applicant.

2815 (2) The applicant shall provide proof of liability  
2816 insurance as defined in s. 624.605.

2817 (3) If the applicant is a community residential home, the  
2818 applicant must provide proof that it has met the requirements  
2819 specified in chapter 419.

2820 (4) The applicant must furnish proof that the facility has  
2821 received a satisfactory firesafety inspection. The local  
2822 authority having jurisdiction or the State Fire Marshal must  
2823 conduct the inspection within 30 days after written request by  
2824 the applicant.

2825 (5) The applicant must furnish documentation of a  
2826 satisfactory sanitation inspection of the facility by the county  
2827 health department.

2828 ~~(6) In addition to the license categories available in s.~~  
2829 ~~408.808, a provisional license may be issued to an applicant~~  
2830 ~~making initial application for licensure or making application~~  
2831 ~~for a change of ownership. A provisional license shall be~~  
2832 ~~limited in duration to a specific period of time not to exceed 6~~  
2833 ~~months, as determined by the agency.~~

2834 (6) ~~(7)~~ A county or municipality may not issue an  
2835 occupational license that is being obtained for the purpose of  
2836 operating a facility regulated under this part without first  
2837 ascertaining that the applicant has been licensed to operate  
2838 such facility at the specified location or locations by the  
2839 agency. The agency shall furnish to local agencies responsible  
2840 for issuing occupational licenses sufficient instruction for  
2841 making such determinations.

2842 Section 69. Subsection (2) of section 429.12, Florida

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2843 Statutes, is repealed.

2844 Section 70. Subsections (5) and (6) of section 429.14,  
2845 Florida Statutes, are amended to read:

2846 429.14 Administrative penalties.—

2847 (5) An action taken by the agency to suspend, deny, or  
2848 revoke a facility's license under this part or part II of  
2849 chapter 408, in which the agency claims that the facility owner  
2850 or an employee of the facility has threatened the health,  
2851 safety, or welfare of a resident of the facility shall be heard  
2852 by the Division of Administrative Hearings of the Department of  
2853 Management Services within 120 days after receipt of the  
2854 facility's request for a hearing, unless that time limitation is  
2855 waived by both parties. The administrative law judge must render  
2856 a decision within 30 days after receipt of a proposed  
2857 recommended order.

2858 (6) The agency shall provide to the Division of Hotels and  
2859 Restaurants of the Department of Business and Professional  
2860 Regulation, on a monthly basis, a list of those assisted living  
2861 facilities that have had their licenses denied, suspended, or  
2862 revoked or that are involved in an appellate proceeding pursuant  
2863 to s. 120.60 related to the denial, suspension, or revocation of  
2864 a license. This information may be provided electronically or  
2865 through the agency's Internet website.

2866 Section 71. Subsection (4) of section 429.17, Florida  
2867 Statutes, is amended to read:

2868 429.17 Expiration of license; renewal; conditional  
2869 license.—

2870 (4) In addition to the license categories available in s.  
2871 408.808, a conditional license may be issued to an applicant for

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2872 license renewal if the applicant fails to meet all standards and  
2873 requirements for licensure. A conditional license issued under  
2874 this subsection shall be limited in duration to a specific  
2875 period of time not to exceed 6 months, as determined by the  
2876 agency, ~~and shall be accompanied by an agency-approved plan of~~  
2877 ~~correction.~~

2878 Section 72. Subsection (5) of section 429.23, Florida  
2879 Statutes, is repealed.

2880 Section 73. Subsection (2) of section 429.35, Florida  
2881 Statutes, is amended to read:

2882 429.35 Maintenance of records; reports.—

2883 (2) Within 60 days after the date of the biennial  
2884 inspection visit required under s. 408.811 or within 30 days  
2885 after the date of any interim visit, the agency shall forward  
2886 the results of the inspection to the local ombudsman council in  
2887 whose planning and service area, as defined in part II of  
2888 chapter 400, the facility is located; to at least one public  
2889 library or, in the absence of a public library, the county seat  
2890 in the county in which the inspected assisted living facility is  
2891 located; and, when appropriate, to the district Adult Services  
2892 and Mental Health Program Offices. This information may be  
2893 provided electronically or through the agency's Internet site.

2894 Section 74. Section 429.53, Florida Statutes, is amended to  
2895 read:

2896 429.53 Consultation by the agency.—

2897 (1) ~~The area offices of licensure and certification of the~~  
2898 ~~agency shall provide consultation to the following upon request:~~

2899 (a) A licensee of a facility.

2900 (b) A person interested in obtaining a license to operate a

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2901 facility under this part.

2902 (2) As used in this section, "consultation" includes:

2903 (a) An explanation of the requirements of this part and  
2904 rules adopted pursuant thereto;

2905 (b) An explanation of the license application and renewal  
2906 procedures; and

2907 ~~(c) The provision of a checklist of general local and state~~  
2908 ~~approvals required prior to constructing or developing a~~  
2909 ~~facility and a listing of the types of agencies responsible for~~  
2910 ~~such approvals;~~

2911 ~~(d) An explanation of benefits and financial assistance~~  
2912 ~~available to a recipient of supplemental security income~~  
2913 ~~residing in a facility;~~

2914 (c)-(e) Any other information that ~~which~~ the agency deems  
2915 necessary to promote compliance with the requirements of this  
2916 part. ~~;~~ and

2917 ~~(f) A preconstruction review of a facility to ensure~~  
2918 ~~compliance with agency rules and this part.~~

2919 (3) The agency may charge a fee commensurate with the cost  
2920 of providing consultation under this section.

2921 Section 75. Subsections (2) and (11) of section 429.65,  
2922 Florida Statutes, are amended to read:

2923 429.65 Definitions.—As used in this part, the term:

2924 (2) "Adult family-care home" means a full-time, family-type  
2925 living arrangement, in a private home, under which up to two  
2926 individuals ~~a person~~ who reside in the home and own or rent ~~owns~~  
2927 ~~or rents~~ the home provide ~~provides~~ room, board, and personal  
2928 care, on a 24-hour basis, for no more than five disabled adults  
2929 or frail elders who are not relatives. The following family-type

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2930 living arrangements are not required to be licensed as an adult  
2931 family-care home:

2932 (a) An arrangement whereby the person who resides in the  
2933 home and owns or rents the home provides room, board, and  
2934 personal services for not more than two adults who do not  
2935 receive optional state supplementation under s. 409.212. The  
2936 person who provides the housing, meals, and personal care must  
2937 own or rent the home and reside therein.

2938 (b) An arrangement whereby the person who owns or rents the  
2939 home provides room, board, and personal services only to his or  
2940 her relatives.

2941 (c) An establishment that is licensed as an assisted living  
2942 facility under this chapter.

2943 (11) "Provider" means one or two individuals ~~a person~~ who  
2944 are ~~is~~ licensed to operate an adult family-care home.

2945 Section 76. Section 429.71, Florida Statutes, is amended to  
2946 read:

2947 429.71 Classification of violations ~~deficiencies~~;  
2948 administrative fines.—

2949 (1) In addition to the requirements of part II of chapter  
2950 408 and in addition to any other liability or penalty provided  
2951 by law, the agency may impose an administrative fine on a  
2952 provider according to the following classification:

2953 (a) Class I violations are defined in s. 408.813. ~~those~~  
2954 ~~conditions or practices related to the operation and maintenance~~  
2955 ~~of an adult family-care home or to the care of residents which~~  
2956 ~~the agency determines present an imminent danger to the~~  
2957 ~~residents or guests of the facility or a substantial probability~~  
2958 ~~that death or serious physical or emotional harm would result~~

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2959 ~~therefrom. The condition or practice that constitutes a class I~~  
2960 ~~violation must be abated or eliminated within 24 hours, unless a~~  
2961 ~~fixed period, as determined by the agency, is required for~~  
2962 ~~correction.~~ A class I violation deficiency is subject to an  
2963 administrative fine in an amount not less than \$500 and not  
2964 exceeding \$1,000 for each violation. A fine may be levied  
2965 notwithstanding the correction of the violation deficiency.

2966 (b) Class II violations are defined in s. 408.813. ~~those~~  
2967 ~~conditions or practices related to the operation and maintenance~~  
2968 ~~of an adult family care home or to the care of residents which~~  
2969 ~~the agency determines directly threaten the physical or~~  
2970 ~~emotional health, safety, or security of the residents, other~~  
2971 ~~than class I violations.~~ A class II violation is subject to an  
2972 administrative fine in an amount not less than \$250 and not  
2973 exceeding \$500 for each violation. ~~A citation for a class II~~  
2974 ~~violation must specify the time within which the violation is~~  
2975 ~~required to be corrected. If a class II violation is corrected~~  
2976 ~~within the time specified, no civil penalty shall be imposed,~~  
2977 ~~unless it is a repeated offense.~~

2978 (c) Class III violations are defined in s. 408.813. ~~those~~  
2979 ~~conditions or practices related to the operation and maintenance~~  
2980 ~~of an adult family care home or to the care of residents which~~  
2981 ~~the agency determines indirectly or potentially threaten the~~  
2982 ~~physical or emotional health, safety, or security of residents,~~  
2983 ~~other than class I or class II violations.~~ A class III violation  
2984 is subject to an administrative fine in an amount not less than  
2985 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~  
2986 ~~class III violation shall specify the time within which the~~  
2987 ~~violation is required to be corrected. If a class III violation~~

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2988 ~~is corrected within the time specified, no civil penalty shall~~  
2989 ~~be imposed, unless it is a repeated offense.~~

2990 (d) Class IV violations are defined in s. 408.813. ~~those~~  
2991 ~~conditions or occurrences related to the operation and~~  
2992 ~~maintenance of an adult family-care home, or related to the~~  
2993 ~~required reports, forms, or documents, which do not have the~~  
2994 ~~potential of negatively affecting the residents. A provider that~~  
2995 ~~does not correct A class IV violation within the time limit~~  
2996 ~~specified by the agency is subject to an administrative fine in~~  
2997 ~~an amount not less than \$50 and not exceeding \$100 for each~~  
2998 ~~violation. Any class IV violation that is corrected during the~~  
2999 ~~time the agency survey is conducted will be identified as an~~  
3000 ~~agency finding and not as a violation.~~

3001 (2) The agency may impose an administrative fine for  
3002 violations which do not qualify as class I, class II, class III,  
3003 or class IV violations. The amount of the fine may ~~shall~~ not  
3004 exceed \$250 for each violation or \$2,000 in the aggregate.  
3005 Unclassified violations may include:

3006 (a) Violating any term or condition of a license.

3007 (b) Violating any provision of this part, part II of  
3008 chapter 408, or applicable rules.

3009 (c) Failure to follow the criteria and procedures provided  
3010 under part I of chapter 394 relating to the transportation,  
3011 voluntary admission, and involuntary examination of adult  
3012 family-care home residents.

3013 (d) Exceeding licensed capacity.

3014 (e) Providing services beyond the scope of the license.

3015 (f) Violating a moratorium.

3016 (3) Each day during which a violation occurs constitutes a



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3017 separate offense.

3018 (4) In determining whether a penalty is to be imposed, and  
3019 in fixing the amount of any penalty to be imposed, the agency  
3020 must consider:

3021 (a) The gravity of the violation.

3022 (b) Actions taken by the provider to correct a violation.

3023 (c) Any previous violation by the provider.

3024 (d) The financial benefit to the provider of committing or  
3025 continuing the violation.

3026 ~~(5) As an alternative to or in conjunction with an  
3027 administrative action against a provider, the agency may request  
3028 a plan of corrective action that demonstrates a good faith  
3029 effort to remedy each violation by a specific date, subject to  
3030 the approval of the agency.~~

3031 Section 77. Section 429.911, Florida Statutes, is repealed.

3032 Section 78. Section 429.915, Florida Statutes, is amended  
3033 to read:

3034 429.915 Conditional license.—In addition to the license  
3035 categories available in part II of chapter 408, the agency may  
3036 issue a conditional license to an applicant for license renewal  
3037 or change of ownership if the applicant fails to meet all  
3038 standards and requirements for licensure. A conditional license  
3039 issued under this subsection must be limited to a specific  
3040 period not exceeding 6 months, as determined by the agency, ~~and  
3041 must be accompanied by an approved plan of correction.~~

3042 Section 79. Subsection (3) of section 430.80, Florida  
3043 Statutes, is amended to read:

3044 430.80 Implementation of a teaching nursing home pilot  
3045 project.—

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3046 (3) To be designated as a teaching nursing home, a nursing  
3047 home licensee must, at a minimum:

3048 (a) Provide a comprehensive program of integrated senior  
3049 services that include institutional services and community-based  
3050 services;

3051 (b) Participate in a nationally recognized accreditation  
3052 program and hold a valid accreditation, such as the  
3053 accreditation awarded by the Joint Commission ~~on Accreditation~~  
3054 ~~of Healthcare Organizations~~;

3055 (c) Have been in business in this state for a minimum of 10  
3056 consecutive years;

3057 (d) Demonstrate an active program in multidisciplinary  
3058 education and research that relates to gerontology;

3059 (e) Have a formalized contractual relationship with at  
3060 least one accredited health profession education program located  
3061 in this state;

3062 (f) Have a formalized contractual relationship with an  
3063 accredited hospital that is designated by law as a teaching  
3064 hospital; and

3065 (g) Have senior staff members who hold formal faculty  
3066 appointments at universities, which must include at least one  
3067 accredited health profession education program.

3068 (h) Maintain insurance coverage pursuant to s.  
3069 400.141(1)(g) ~~s. 400.141(1)(s)~~ or proof of financial  
3070 responsibility in a minimum amount of \$750,000. Such proof of  
3071 financial responsibility may include:

3072 1. Maintaining an escrow account consisting of cash or  
3073 assets eligible for deposit in accordance with s. 625.52; or

3074 2. Obtaining and maintaining pursuant to chapter 675 an

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3075 unexpired, irrevocable, nontransferable and nonassignable letter  
3076 of credit issued by any bank or savings association organized  
3077 and existing under the laws of this state or any bank or savings  
3078 association organized under the laws of the United States that  
3079 has its principal place of business in this state or has a  
3080 branch office which is authorized to receive deposits in this  
3081 state. The letter of credit shall be used to satisfy the  
3082 obligation of the facility to the claimant upon presentment of a  
3083 final judgment indicating liability and awarding damages to be  
3084 paid by the facility or upon presentment of a settlement  
3085 agreement signed by all parties to the agreement when such final  
3086 judgment or settlement is a result of a liability claim against  
3087 the facility.

3088 Section 80. Paragraph (a) of subsection (2) of section  
3089 440.13, Florida Statutes, is amended to read:

3090 440.13 Medical services and supplies; penalty for  
3091 violations; limitations.—

3092 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

3093 (a) Subject to the limitations specified elsewhere in this  
3094 chapter, the employer shall furnish to the employee such  
3095 medically necessary remedial treatment, care, and attendance for  
3096 such period as the nature of the injury or the process of  
3097 recovery may require, which is in accordance with established  
3098 practice parameters and protocols of treatment as provided for  
3099 in this chapter, including medicines, medical supplies, durable  
3100 medical equipment, orthoses, prostheses, and other medically  
3101 necessary apparatus. Remedial treatment, care, and attendance,  
3102 including work-hardening programs or pain-management programs  
3103 accredited by the Commission on Accreditation of Rehabilitation

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3104 Facilities or the Joint Commission ~~on the Accreditation of~~  
3105 ~~Health Organizations~~ or pain-management programs affiliated with  
3106 medical schools, shall be considered as covered treatment only  
3107 when such care is given based on a referral by a physician as  
3108 defined in this chapter. Medically necessary treatment, care,  
3109 and attendance does not include chiropractic services in excess  
3110 of 24 treatments or rendered 12 weeks beyond the date of the  
3111 initial chiropractic treatment, whichever comes first, unless  
3112 the carrier authorizes additional treatment or the employee is  
3113 catastrophically injured.

3114  
3115 Failure of the carrier to timely comply with this subsection  
3116 shall be a violation of this chapter and the carrier shall be  
3117 subject to penalties as provided for in s. 440.525.

3118 Section 81. Section 483.294, Florida Statutes, is amended  
3119 to read:

3120 483.294 Inspection of centers.—In accordance with s.  
3121 408.811, the agency shall biennially, ~~at least once annually~~,  
3122 inspect the premises and operations of all centers subject to  
3123 licensure under this part.

3124 Section 82. Subsection (1) of section 627.645, Florida  
3125 Statutes, is amended to read:

3126 627.645 Denial of health insurance claims restricted.—

3127 (1) A ~~No~~ claim for payment under a health insurance policy  
3128 or self-insured program of health benefits for treatment, care,  
3129 or services in a licensed hospital which is accredited by the  
3130 Joint Commission ~~on the Accreditation of Hospitals~~, the American  
3131 Osteopathic Association, or the Commission on the Accreditation  
3132 of Rehabilitative Facilities may not ~~shall~~ be denied because

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3133 such hospital lacks major surgical facilities and is primarily  
3134 of a rehabilitative nature, if such rehabilitation is  
3135 specifically for treatment of physical disability.

3136 Section 83. Paragraph (c) of subsection (2) of section  
3137 627.668, Florida Statutes, is amended to read:

3138 627.668 Optional coverage for mental and nervous disorders  
3139 required; exception.—

3140 (2) Under group policies or contracts, inpatient hospital  
3141 benefits, partial hospitalization benefits, and outpatient  
3142 benefits consisting of durational limits, dollar amounts,  
3143 deductibles, and coinsurance factors shall not be less favorable  
3144 than for physical illness generally, except that:

3145 (c) Partial hospitalization benefits shall be provided  
3146 under the direction of a licensed physician. For purposes of  
3147 this part, the term "partial hospitalization services" is  
3148 defined as those services offered by a program accredited by the  
3149 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in  
3150 compliance with equivalent standards. Alcohol rehabilitation  
3151 programs accredited by the Joint Commission ~~on Accreditation of~~  
3152 ~~Hospitals~~ or approved by the state and licensed drug abuse  
3153 rehabilitation programs shall also be qualified providers under  
3154 this section. In any benefit year, if partial hospitalization  
3155 services or a combination of inpatient and partial  
3156 hospitalization are utilized, the total benefits paid for all  
3157 such services shall not exceed the cost of 30 days of inpatient  
3158 hospitalization for psychiatric services, including physician  
3159 fees, which prevail in the community in which the partial  
3160 hospitalization services are rendered. If partial  
3161 hospitalization services benefits are provided beyond the limits

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3162 set forth in this paragraph, the durational limits, dollar  
3163 amounts, and coinsurance factors thereof need not be the same as  
3164 those applicable to physical illness generally.

3165 Section 84. Subsection (3) of section 627.669, Florida  
3166 Statutes, is amended to read:

3167 627.669 Optional coverage required for substance abuse  
3168 impaired persons; exception.—

3169 (3) The benefits provided under this section shall be  
3170 applicable only if treatment is provided by, or under the  
3171 supervision of, or is prescribed by, a licensed physician or  
3172 licensed psychologist and if services are provided in a program  
3173 accredited by the Joint Commission ~~on Accreditation of Hospitals~~  
3174 or approved by the state.

3175 Section 85. Paragraph (a) of subsection (1) of section  
3176 627.736, Florida Statutes, is amended to read:

3177 627.736 Required personal injury protection benefits;  
3178 exclusions; priority; claims.—

3179 (1) REQUIRED BENEFITS.—Every insurance policy complying  
3180 with the security requirements of s. 627.733 shall provide  
3181 personal injury protection to the named insured, relatives  
3182 residing in the same household, persons operating the insured  
3183 motor vehicle, passengers in such motor vehicle, and other  
3184 persons struck by such motor vehicle and suffering bodily injury  
3185 while not an occupant of a self-propelled vehicle, subject to  
3186 the provisions of subsection (2) and paragraph (4) (e), to a  
3187 limit of \$10,000 for loss sustained by any such person as a  
3188 result of bodily injury, sickness, disease, or death arising out  
3189 of the ownership, maintenance, or use of a motor vehicle as  
3190 follows:

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3191 (a) *Medical benefits.*—Eighty percent of all reasonable  
3192 expenses for medically necessary medical, surgical, X-ray,  
3193 dental, and rehabilitative services, including prosthetic  
3194 devices, and medically necessary ambulance, hospital, and  
3195 nursing services. However, the medical benefits shall provide  
3196 reimbursement only for such services and care that are lawfully  
3197 provided, supervised, ordered, or prescribed by a physician  
3198 licensed under chapter 458 or chapter 459, a dentist licensed  
3199 under chapter 466, or a chiropractic physician licensed under  
3200 chapter 460 or that are provided by any of the following persons  
3201 or entities:

3202 1. A hospital or ambulatory surgical center licensed under  
3203 chapter 395.

3204 2. A person or entity licensed under ss. 401.2101-401.45  
3205 that provides emergency transportation and treatment.

3206 3. An entity wholly owned by one or more physicians  
3207 licensed under chapter 458 or chapter 459, chiropractic  
3208 physicians licensed under chapter 460, or dentists licensed  
3209 under chapter 466 or by such practitioner or practitioners and  
3210 the spouse, parent, child, or sibling of that practitioner or  
3211 those practitioners.

3212 4. An entity wholly owned, directly or indirectly, by a  
3213 hospital or hospitals.

3214 5. A health care clinic licensed under ss. 400.990-400.995  
3215 that is:

3216 a. Accredited by the Joint Commission ~~on Accreditation of~~  
3217 ~~Healthcare Organizations~~, the American Osteopathic Association,  
3218 the Commission on Accreditation of Rehabilitation Facilities, or  
3219 the Accreditation Association for Ambulatory Health Care, Inc.;

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3220 or

3221 b. A health care clinic that:

3222 (I) Has a medical director licensed under chapter 458,  
3223 chapter 459, or chapter 460;3224 (II) Has been continuously licensed for more than 3 years  
3225 or is a publicly traded corporation that issues securities  
3226 traded on an exchange registered with the United States  
3227 Securities and Exchange Commission as a national securities  
3228 exchange; and3229 (III) Provides at least four of the following medical  
3230 specialties:

3231 (A) General medicine.

3232 (B) Radiography.

3233 (C) Orthopedic medicine.

3234 (D) Physical medicine.

3235 (E) Physical therapy.

3236 (F) Physical rehabilitation.

3237 (G) Prescribing or dispensing outpatient prescription  
3238 medication.

3239 (H) Laboratory services.

3240

3241 The Financial Services Commission shall adopt by rule the form  
3242 that must be used by an insurer and a health care provider  
3243 specified in subparagraph 3., subparagraph 4., or subparagraph  
3244 5. to document that the health care provider meets the criteria  
3245 of this paragraph, which rule must include a requirement for a  
3246 sworn statement or affidavit.

3247

3248 Only insurers writing motor vehicle liability insurance in this



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3249 state may provide the required benefits of this section, and no  
3250 such insurer shall require the purchase of any other motor  
3251 vehicle coverage other than the purchase of property damage  
3252 liability coverage as required by s. 627.7275 as a condition for  
3253 providing such required benefits. Insurers may not require that  
3254 property damage liability insurance in an amount greater than  
3255 \$10,000 be purchased in conjunction with personal injury  
3256 protection. Such insurers shall make benefits and required  
3257 property damage liability insurance coverage available through  
3258 normal marketing channels. Any insurer writing motor vehicle  
3259 liability insurance in this state who fails to comply with such  
3260 availability requirement as a general business practice shall be  
3261 deemed to have violated part IX of chapter 626, and such  
3262 violation shall constitute an unfair method of competition or an  
3263 unfair or deceptive act or practice involving the business of  
3264 insurance; and any such insurer committing such violation shall  
3265 be subject to the penalties afforded in such part, as well as  
3266 those which may be afforded elsewhere in the insurance code.

3267 Section 86. Subsection (12) of section 641.495, Florida  
3268 Statutes, is amended to read:

3269 641.495 Requirements for issuance and maintenance of  
3270 certificate.—

3271 (12) The provisions of part I of chapter 395 do not apply  
3272 to a health maintenance organization that, on or before January  
3273 1, 1991, provides not more than 10 outpatient holding beds for  
3274 short-term and hospice-type patients in an ambulatory care  
3275 facility for its members, provided that such health maintenance  
3276 organization maintains current accreditation by the Joint  
3277 Commission ~~on Accreditation of Health Care Organizations~~, the

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3278 Accreditation Association for Ambulatory Health Care, or the  
3279 National Committee for Quality Assurance.

3280 Section 87. Subsection (13) of section 651.118, Florida  
3281 Statutes, is amended to read:

3282 651.118 Agency for Health Care Administration; certificates  
3283 of need; sheltered beds; community beds.—

3284 (13) Residents, as defined in this chapter, are not  
3285 considered new admissions for the purpose of s. 400.141(1)(n)1.d  
3286 ~~s. 400.141(1)(o)1.d.~~

3287 Section 88. Subsection (2) of section 766.1015, Florida  
3288 Statutes, is amended to read:

3289 766.1015 Civil immunity for members of or consultants to  
3290 certain boards, committees, or other entities.—

3291 (2) Such committee, board, group, commission, or other  
3292 entity must be established in accordance with state law or in  
3293 accordance with requirements of the Joint Commission ~~on~~  
3294 ~~Accreditation of Healthcare Organizations~~, established and duly  
3295 constituted by one or more public or licensed private hospitals  
3296 or behavioral health agencies, or established by a governmental  
3297 agency. To be protected by this section, the act, decision,  
3298 omission, or utterance may not be made or done in bad faith or  
3299 with malicious intent.

3300 Section 89. Except as otherwise expressly provided in this  
3301 act, this act shall take effect July 1, 2010.