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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 04/13/2010 | . | |
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The Committee on Health Regulation (Gardiner) recommended the following:

1 **Senate Amendment (with title amendment)**

2

3 Delete everything after the enacting clause

4 and insert:

5 Section 1. Present paragraph (e) of subsection (10) and

6 paragraph (e) of subsection (14) of section 112.0455, Florida

7 Statutes, are amended, and paragraphs (f) through (k) of

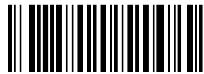
8 subsection (10) of that section are redesignated as paragraphs

9 (e) through (j), respectively, to read:

10 112.0455 Drug-Free Workplace Act.—

11 (10) EMPLOYER PROTECTION.—

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

(14) DISCIPLINE REMEDIES.—

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

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

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

3. Award back pay and benefits.

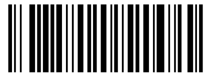
4. Award the prevailing employee or job applicant the necessary costs of the appeal, reasonable attorney’s fees, and expert witness fees.

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

154.11 Powers of board of trustees.—

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

(n) To appoint originally the staff of physicians to practice in any designated facility owned or operated by the

 751242

42 board and to approve the bylaws and rules to be adopted by the
43 medical staff of any designated facility owned and operated by
44 the board, such governing regulations to be in accordance with
45 the standards of The Joint Commission ~~on the Accreditation of~~
46 ~~Hospitals~~ which provide, among other things, for the method of
47 appointing additional staff members and for the removal of staff
48 members.
49 Section 3. Subsection (15) of section 318.21, Florida
50 Statutes, is amended to read:
51 318.21 Disposition of civil penalties by county courts.—All
52 civil penalties received by a county court pursuant to the
53 provisions of this chapter shall be distributed and paid monthly
54 as follows:
55 (15) Of the additional fine assessed under s. 318.18(3)(e)
56 for a violation of s. 316.1893, 50 percent of the moneys
57 received from the fines shall be remitted to the Department of
58 Revenue and deposited into the Brain and Spinal Cord Injury
59 Trust Fund of Department of Health and shall be appropriated to
60 the Department of Health ~~Agency for Health Care Administration~~
61 as general revenue to ~~provide an enhanced Medicaid payment to~~
62 ~~nursing homes that~~ serve Medicaid recipients with spinal cord
63 injuries that are medically complex and who are technologically
64 and respiratory dependent ~~with brain and spinal cord injuries~~.
65 The remaining 50 percent of the moneys received from the
66 enhanced fine imposed under s. 318.18(3)(e) shall be remitted to
67 the Department of Revenue and deposited into the Department of
68 Health Administrative Trust Fund to provide financial support to
69 certified trauma centers in the counties where enhanced penalty
70 zones are established to ensure the availability and

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71 accessibility of trauma services. Funds deposited into the
72 Administrative Trust Fund under this subsection shall be
73 allocated as follows:
74 (a) Fifty percent shall be allocated equally among all
75 Level I, Level II, and pediatric trauma centers in recognition
76 of readiness costs for maintaining trauma services.
77 (b) Fifty percent shall be allocated among Level I, Level
78 II, and pediatric trauma centers based on each center's relative
79 volume of trauma cases as reported in the Department of Health
80 Trauma Registry.
81 Section 4. Subsection (3) is added to section 381.00315,
82 Florida Statutes, to read:
83 381.00315 Public health advisories; public health
84 emergencies.—The State Health Officer is responsible for
85 declaring public health emergencies and issuing public health
86 advisories.
87 (3) To facilitate effective emergency management, when the
88 United States Department of Health and Human Services contracts
89 for the manufacture and delivery of licensable products in
90 response to a public health emergency and the terms of those
91 contracts are made available to the states, the department shall
92 accept funds provided by counties, municipalities, and other
93 entities designated in the state emergency management plan
94 required under s. 252.35(2)(a) for the purpose of participation
95 in such contracts. The department shall deposit the funds into
96 the Grants and Donations Trust Fund and expend the funds on
97 behalf of the donor county, municipality, or other entity for
98 the purchase the licensable products made available under the
99 contract.

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100 Section 5. Paragraph (e) is added to subsection (2) of
101 section 381.0072, Florida Statutes, to read:
102 381.0072 Food service protection.—It shall be the duty of
103 the Department of Health to adopt and enforce sanitation rules
104 consistent with law to ensure the protection of the public from
105 food-borne illness. These rules shall provide the standards and
106 requirements for the storage, preparation, serving, or display
107 of food in food service establishments as defined in this
108 section and which are not permitted or licensed under chapter
109 500 or chapter 509.
110 (2) DUTIES.—
111 (e) The department shall inspect food service
112 establishments in nursing homes licensed under part II of
113 chapter 400 twice each year. The department may make additional
114 inspections only in response to complaints. The department shall
115 coordinate inspections with the Agency for Health Care
116 Administration, such that the department's inspection is at
117 least 60 days after a recertification visit by the Agency for
118 Health Care Administration.
119 Section 6. Section 383.325, Florida Statutes, is repealed.
120 Section 7. Subsection (7) of section 394.4787, Florida
121 Statutes, is amended to read:
122 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
123 394.4789.—As used in this section and ss. 394.4786, 394.4788,
124 and 394.4789:
125 (7) "Specialty psychiatric hospital" means a hospital
126 licensed by the agency pursuant to s. 395.002(26) ~~(28)~~ and part
127 II of chapter 408 as a specialty psychiatric hospital.
128 Section 8. Subsection (2) of section 394.741, Florida

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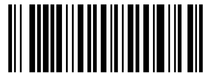
129 Statutes, is amended to read:
130 394.741 Accreditation requirements for providers of
131 behavioral health care services.—
132 (2) Notwithstanding any provision of law to the contrary,
133 accreditation shall be accepted by the agency and department in
134 lieu of the agency's and department's facility licensure onsite
135 review requirements and shall be accepted as a substitute for
136 the department's administrative and program monitoring
137 requirements, except as required by subsections (3) and (4),
138 for:
139 (a) Any organization from which the department purchases
140 behavioral health care services that is accredited by The Joint
141 Commission ~~on Accreditation of Healthcare Organizations~~ or the
142 Council on Accreditation ~~for Children and Family Services~~, or
143 has those services that are being purchased by the department
144 accredited by the Commission on Accreditation of Rehabilitation
145 Facilities ~~CARF—the Rehabilitation Accreditation Commission~~.
146 (b) Any mental health facility licensed by the agency or
147 any substance abuse component licensed by the department that is
148 accredited by The Joint Commission ~~on Accreditation of~~
149 ~~Healthcare Organizations~~, the Commission on Accreditation of
150 Rehabilitation Facilities ~~CARF—the Rehabilitation Accreditation~~
151 ~~Commission~~, or the Council on Accreditation ~~of Children and~~
152 ~~Family Services~~.
153 (c) Any network of providers from which the department or
154 the agency purchases behavioral health care services accredited
155 by The Joint Commission ~~on Accreditation of Healthcare~~
156 ~~Organizations~~, the Commission on Accreditation of Rehabilitation
157 Facilities ~~CARF—the Rehabilitation Accreditation Commission~~, the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158 Council on Accreditation ~~of Children and Family Services~~, or the
159 National Committee for Quality Assurance. A provider
160 organization, which is part of an accredited network, is
161 afforded the same rights under this part.
162 Section 9. Present subsections (15) through (32) of section
163 395.002, Florida Statutes, are renumbered as subsections (14)
164 through (28), respectively, and present subsections (1), (14),
165 (24), (30), and (31), and paragraph (c) of present subsection
166 (28) of that section are amended to read:
167 395.002 Definitions.—As used in this chapter:
168 (1) "Accrediting organizations" means nationally recognized
169 or approved accrediting organizations whose standards
170 incorporate comparable licensure requirements as determined by
171 the agency ~~the Joint Commission on Accreditation of Healthcare~~
172 ~~Organizations, the American Osteopathic Association, the~~
173 ~~Commission on Accreditation of Rehabilitation Facilities, and~~
174 ~~the Accreditation Association for Ambulatory Health Care, Inc~~.
175 ~~(14) "Initial denial determination" means a determination~~
176 ~~by a private review agent that the health care services~~
177 ~~furnished or proposed to be furnished to a patient are~~
178 ~~inappropriate, not medically necessary, or not reasonable.~~
179 ~~(24) "Private review agent" means any person or entity~~
180 ~~which performs utilization review services for third-party~~
181 ~~payors on a contractual basis for outpatient or inpatient~~
182 ~~services. However, the term shall not include full-time~~
183 ~~employees, personnel, or staff of health insurers, health~~
184 ~~maintenance organizations, or hospitals, or wholly owned~~
185 ~~subsidiaries thereof or affiliates under common ownership, when~~
186 ~~performing utilization review for their respective hospitals,~~

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187 ~~health maintenance organizations, or insureds of the same~~
188 ~~insurance group. For this purpose, health insurers, health~~
189 ~~maintenance organizations, and hospitals, or wholly owned~~
190 ~~subsidiaries thereof or affiliates under common ownership,~~
191 ~~include such entities engaged as administrators of self-~~
192 ~~insurance as defined in s. 624.031.~~
193 (26) ~~(28)~~ "Specialty hospital" means any facility which
194 meets the provisions of subsection (12), and which regularly
195 makes available either:
196 (c) Intensive residential treatment programs for children
197 and adolescents as defined in subsection (14) ~~(15)~~.
198 ~~(30) "Utilization review" means a system for reviewing the~~
199 ~~medical necessity or appropriateness in the allocation of health~~
200 ~~care resources of hospital services given or proposed to be~~
201 ~~given to a patient or group of patients.~~
202 ~~(31) "Utilization review plan" means a description of the~~
203 ~~policies and procedures governing utilization review activities~~
204 ~~performed by a private review agent.~~
205 Section 10. Paragraph (c) of subsection (1) and paragraph
206 (b) of subsection (2) of section 395.003, Florida Statutes, are
207 amended to read:
208 395.003 Licensure; denial, suspension, and revocation.—
209 (1)
210 ~~(c) Until July 1, 2006, additional emergency departments~~
211 ~~located off the premises of licensed hospitals may not be~~
212 ~~authorized by the agency.~~
213 (2)
214 (b) The agency shall, at the request of a licensee that is
215 a teaching hospital as defined in s. 408.07(45), issue a single

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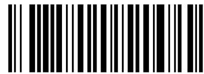
216 license to a licensee for facilities that have been previously
217 licensed as separate premises, provided such separately licensed
218 facilities, taken together, constitute the same premises as
219 defined in s. 395.002(22) ~~(23)~~. Such license for the single
220 premises shall include all of the beds, services, and programs
221 that were previously included on the licenses for the separate
222 premises. The granting of a single license under this paragraph
223 shall not in any manner reduce the number of beds, services, or
224 programs operated by the licensee.
225 Section 11. Paragraph (e) of subsection (2) and subsection
226 (4) of section 395.0193, Florida Statutes, are amended to read:
227 395.0193 Licensed facilities; peer review; disciplinary
228 powers; agency or partnership with physicians.—
229 (2) Each licensed facility, as a condition of licensure,
230 shall provide for peer review of physicians who deliver health
231 care services at the facility. Each licensed facility shall
232 develop written, binding procedures by which such peer review
233 shall be conducted. Such procedures shall include:
234 (e) Recording of agendas and minutes which do not contain
235 confidential material, for review by the Division of Medical
236 Quality Assurance of the department ~~Health Quality Assurance of~~
237 ~~the agency~~.
238 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
239 actions taken under subsection (3) shall be reported in writing
240 to the Division of Medical Quality Assurance of the department
241 ~~Health Quality Assurance of the agency~~ within 30 working days
242 after its initial occurrence, regardless of the pendency of
243 appeals to the governing board of the hospital. The notification
244 shall identify the disciplined practitioner, the action taken,

245 and the reason for such action. All final disciplinary actions
246 taken under subsection (3), if different from those which were
247 reported to the department ~~agency~~ within 30 days after the
248 initial occurrence, shall be reported within 10 working days to
249 the Division of Medical Quality Assurance of the department
250 ~~Health Quality Assurance of the agency~~ in writing and shall
251 specify the disciplinary action taken and the specific grounds
252 therefor. The division shall review each report and determine
253 whether it potentially involved conduct by the licensee that is
254 subject to disciplinary action, in which case s. 456.073 shall
255 apply. The reports are not subject to inspection under s.
256 119.07(1) even if the division's investigation results in a
257 finding of probable cause.
258 Section 12. Section 395.1023, Florida Statutes, is amended
259 to read:
260 395.1023 Child abuse and neglect cases; duties.—Each
261 licensed facility shall adopt a protocol that, at a minimum,
262 requires the facility to:
263 (1) Incorporate a facility policy that every staff member
264 has an affirmative duty to report, pursuant to chapter 39, any
265 actual or suspected case of child abuse, abandonment, or
266 neglect; and
267 (2) In any case involving suspected child abuse,
268 abandonment, or neglect, designate, at the request of the
269 Department of Children and Family Services, a staff physician to
270 act as a liaison between the hospital and the Department of
271 Children and Family Services office which is investigating the
272 suspected abuse, abandonment, or neglect, and the child
273 protection team, as defined in s. 39.01, when the case is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referred to such a team.

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

Section 13. Subsection (2) and paragraph (d) of subsection (3) of section 395.1041, Florida Statutes, are amended to read:

395.1041 Access to emergency services and care.—

(2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency shall establish and maintain an inventory of hospitals with emergency services. The inventory shall list all services within the service capability of the hospital, and such services shall appear on the face of the hospital license. Each hospital having emergency services shall notify the agency of its service capability in the manner and form prescribed by the agency. The agency shall use the inventory to assist emergency medical services providers and others in locating appropriate emergency medical care. The inventory shall also be made available to the general public. ~~On or before August 1, 1992, the agency shall request that each hospital identify the services which are within its service capability. On or before November 1, 1992, the agency shall notify each hospital of the service capability to be included in the inventory. The hospital has 15 days from~~

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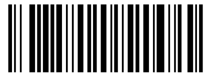
303 ~~the date of receipt to respond to the notice. By December 1,~~
304 ~~1992, the agency shall publish a final inventory.~~ Each hospital
305 shall reaffirm its service capability when its license is
306 renewed and shall notify the agency of the addition of a new
307 service or the termination of a service prior to a change in its
308 service capability.
309 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
310 FACILITY OR HEALTH CARE PERSONNEL.—
311 (d)1. Every hospital shall ensure the provision of services
312 within the service capability of the hospital, at all times,
313 either directly or indirectly through an arrangement with
314 another hospital, through an arrangement with one or more
315 physicians, or as otherwise made through prior arrangements. A
316 hospital may enter into an agreement with another hospital for
317 purposes of meeting its service capability requirement, and
318 appropriate compensation or other reasonable conditions may be
319 negotiated for these backup services.
320 2. If any arrangement requires the provision of emergency
321 medical transportation, such arrangement must be made in
322 consultation with the applicable provider and may not require
323 the emergency medical service provider to provide transportation
324 that is outside the routine service area of that provider or in
325 a manner that impairs the ability of the emergency medical
326 service provider to timely respond to prehospital emergency
327 calls.
328 3. A hospital shall not be required to ensure service
329 capability at all times as required in subparagraph 1. if, prior
330 to the receiving of any patient needing such service capability,
331 such hospital has demonstrated to the agency that it lacks the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332 ability to ensure such capability and it has exhausted all
333 reasonable efforts to ensure such capability through backup
334 arrangements. In reviewing a hospital's demonstration of lack of
335 ability to ensure service capability, the agency shall consider
336 factors relevant to the particular case, including the
337 following:
338 a. Number and proximity of hospitals with the same service
339 capability.
340 b. Number, type, credentials, and privileges of
341 specialists.
342 c. Frequency of procedures.
343 d. Size of hospital.
344 4. The agency shall publish ~~proposed~~ rules implementing a
345 reasonable exemption procedure ~~by November 1, 1992~~. ~~Subparagraph~~
346 ~~1. shall become effective upon the effective date of said rules~~
347 ~~or January 31, 1993, whichever is earlier. For a period not to~~
348 ~~exceed 1 year from the effective date of subparagraph 1., a~~
349 ~~hospital requesting an exemption shall be deemed to be exempt~~
350 ~~from offering the service until the agency initially acts to~~
351 ~~deny or grant the original request.~~ The agency has 45 days from
352 the date of receipt of the request to approve or deny the
353 request. ~~After the first year from the effective date of~~
354 ~~subparagraph 1.,~~ If the agency fails to initially act within the
355 time period, the hospital is deemed to be exempt from offering
356 the service until the agency initially acts to deny the request.
357 Section 14. <u>Section 395.1046, Florida Statutes, is</u>
358 <u>repealed.</u>
359 Section 15. Paragraph (e) of subsection (1) of section
360 395.1055, Florida Statutes, is amended to read:

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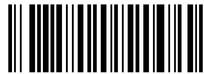
361 395.1055 Rules and enforcement.—
362 (1) The agency shall adopt rules pursuant to ss. 120.536(1)
363 and 120.54 to implement the provisions of this part, which shall
364 include reasonable and fair minimum standards for ensuring that:
365 (e) Licensed facility beds conform to minimum space,
366 equipment, and furnishings standards as specified by the agency,
367 the Florida Building Code, and the Florida Fire Prevention Code
368 ~~department~~.
369 Section 16. Subsection (1) of section 395.10972, Florida
370 Statutes, is amended to read:
371 395.10972 Health Care Risk Manager Advisory Council.—The
372 Secretary of Health Care Administration may appoint a seven-
373 member advisory council to advise the agency on matters
374 pertaining to health care risk managers. The members of the
375 council shall serve at the pleasure of the secretary. The
376 council shall designate a chair. The council shall meet at the
377 call of the secretary or at those times as may be required by
378 rule of the agency. The members of the advisory council shall
379 receive no compensation for their services, but shall be
380 reimbursed for travel expenses as provided in s. 112.061. The
381 council shall consist of individuals representing the following
382 areas:
383 (1) Two shall be active health care risk managers,
384 including one risk manager who is recommended by and a member of
385 the Florida Society for ~~of~~ Healthcare Risk Management and
386 Patient Safety.
387 Section 17. Subsection (3) of section 395.2050, Florida
388 Statutes, is amended to read:
389 395.2050 Routine inquiry for organ and tissue donation;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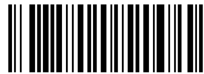
390 certification for procurement activities; death records review.—
391 (3) Each organ procurement organization designated by the
392 federal Centers for Medicare and Medicaid Services ~~Health Care~~
393 ~~Financing Administration~~ and licensed by the state shall conduct
394 an annual death records review in the organ procurement
395 organization’s affiliated donor hospitals. The organ procurement
396 organization shall enlist the services of every Florida licensed
397 tissue bank and eye bank affiliated with or providing service to
398 the donor hospital and operating in the same service area to
399 participate in the death records review.
400 Section 18. Subsection (2) of section 395.3036, Florida
401 Statutes, is amended to read:
402 395.3036 Confidentiality of records and meetings of
403 corporations that lease public hospitals or other public health
404 care facilities.—The records of a private corporation that
405 leases a public hospital or other public health care facility
406 are confidential and exempt from the provisions of s. 119.07(1)
407 and s. 24(a), Art. I of the State Constitution, and the meetings
408 of the governing board of a private corporation are exempt from
409 s. 286.011 and s. 24(b), Art. I of the State Constitution when
410 the public lessor complies with the public finance
411 accountability provisions of s. 155.40(5) with respect to the
412 transfer of any public funds to the private lessee and when the
413 private lessee meets at least three of the five following
414 criteria:
415 (2) The public lessor and the private lessee do not
416 commingle any of their funds in any account maintained by either
417 of them, other than the payment of the rent and administrative
418 fees or the transfer of funds pursuant to s. 155.40(2)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419 ~~subsection (2)~~.
420 Section 19. <u>Section 395.3037, Florida Statutes, is</u>
421 <u>repealed.</u>
422 Section 20. Subsections (1), (4), and (5) of section
423 395.3038, Florida Statutes, are amended to read:
424 395.3038 State-listed primary stroke centers and
425 comprehensive stroke centers; notification of hospitals.—
426 (1) The agency shall make available on its website and to
427 the department a list of the name and address of each hospital
428 that meets the criteria for a primary stroke center and the name
429 and address of each hospital that meets the criteria for a
430 comprehensive stroke center. The list of primary and
431 comprehensive stroke centers shall include only those hospitals
432 that attest in an affidavit submitted to the agency that the
433 hospital meets the named criteria, or those hospitals that
434 attest in an affidavit submitted to the agency that the hospital
435 is certified as a primary or a comprehensive stroke center by
436 The Joint Commission ~~on Accreditation of Healthcare~~
437 ~~Organizations~~.
438 (4) The agency shall adopt by rule criteria for a primary
439 stroke center which are substantially similar to the
440 certification standards for primary stroke centers of The Joint
441 Commission ~~on Accreditation of Healthcare Organizations~~.
442 (5) The agency shall adopt by rule criteria for a
443 comprehensive stroke center. However, if The Joint Commission ~~on~~
444 ~~Accreditation of Healthcare Organizations~~ establishes criteria
445 for a comprehensive stroke center, the agency shall establish
446 criteria for a comprehensive stroke center which are
447 substantially similar to those criteria established by The Joint

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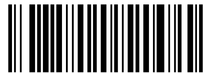
448 Commission ~~on Accreditation of Healthcare Organizations~~.
449 Section 21. Paragraph (e) of subsection (2) of section
450 395.602, Florida Statutes, is amended to read:
451 395.602 Rural hospitals.—
452 (2) DEFINITIONS.—As used in this part:
453 (e) “Rural hospital” means an acute care hospital licensed
454 under this chapter, having 100 or fewer licensed beds and an
455 emergency room, which is:
456 1. The sole provider within a county with a population
457 density of no greater than 100 persons per square mile;
458 2. An acute care hospital, in a county with a population
459 density of no greater than 100 persons per square mile, which is
460 at least 30 minutes of travel time, on normally traveled roads
461 under normal traffic conditions, from any other acute care
462 hospital within the same county;
463 3. A hospital supported by a tax district or subdistrict
464 whose boundaries encompass a population of 100 persons or fewer
465 per square mile;
466 ~~4. A hospital in a constitutional charter county with a~~
467 ~~population of over 1 million persons that has imposed a local~~
468 ~~option health service tax pursuant to law and in an area that~~
469 ~~was directly impacted by a catastrophic event on August 24,~~
470 ~~1992, for which the Governor of Florida declared a state of~~
471 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
472 ~~serves an agricultural community with an emergency room~~
473 ~~utilization of no less than 20,000 visits and a Medicaid~~
474 ~~inpatient utilization rate greater than 15 percent;~~
475 4.~~5.~~ A hospital with a service area that has a population
476 of 100 persons or fewer per square mile. As used in this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477 subparagraph, the term "service area" means the fewest number of
478 zip codes that account for 75 percent of the hospital's
479 discharges for the most recent 5-year period, based on
480 information available from the hospital inpatient discharge
481 database in the Florida Center for Health Information and Policy
482 Analysis at the Agency for Health Care Administration; or
483 5.~~6.~~ A hospital designated as a critical access hospital,
484 as defined in s. 408.07(15).
485
486 Population densities used in this paragraph must be based upon
487 the most recently completed United States census. A hospital
488 that received funds under s. 409.9116 for a quarter beginning no
489 later than July 1, 2002, is deemed to have been and shall
490 continue to be a rural hospital from that date through June 30,
491 2015, if the hospital continues to have 100 or fewer licensed
492 beds and an emergency room~~, or meets the criteria of~~
493 ~~subparagraph 4~~. An acute care hospital that has not previously
494 been designated as a rural hospital and that meets the criteria
495 of this paragraph shall be granted such designation upon
496 application, including supporting documentation to the Agency
497 for Health Care Administration.
498 Section 22. Subsection (8) of section 400.021, Florida
499 Statutes, is amended to read:
500 400.021 Definitions.—When used in this part, unless the
501 context otherwise requires, the term:
502 (8) "Geriatric outpatient clinic" means a site for
503 providing outpatient health care to persons 60 years of age or
504 older, which is staffed by a registered nurse or a physician
505 assistant, or a licensed practical nurse under the direct

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506 supervision of a registered nurse, advanced registered nurse
507 practitioner, or physician.
508 Section 23. Paragraph (g) of subsection (2) of section
509 400.0239, Florida Statutes, is amended to read:
510 400.0239 Quality of Long-Term Care Facility Improvement
511 Trust Fund.—
512 (2) Expenditures from the trust fund shall be allowable for
513 direct support of the following:
514 (g) Other initiatives authorized by the Centers for
515 Medicare and Medicaid Services for the use of federal civil
516 monetary penalties~~, including projects recommended through the~~
517 ~~Medicaid "Up-or-Out" Quality of Care Contract Management Program~~
518 ~~pursuant to s. 400.148~~.
519 Section 24. Subsection (2) of section 400.063, Florida
520 Statutes, is amended to read:
521 400.063 Resident protection.—
522 (2) The agency is authorized to establish for each
523 facility, subject to intervention by the agency, a separate bank
524 account for the deposit to the credit of the agency of any
525 moneys received from the Health Care Trust Fund or any other
526 moneys received for the maintenance and care of residents in the
527 facility, and the agency is authorized to disburse moneys from
528 such account to pay obligations incurred for the purposes of
529 this section. The agency is authorized to requisition moneys
530 from the Health Care Trust Fund in advance of an actual need for
531 cash on the basis of an estimate by the agency of moneys to be
532 spent under the authority of this section. Any bank account
533 established under this section need not be approved in advance
534 of its creation as required by s. 17.58, but shall be secured by

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535 depository insurance equal to or greater than the balance of
536 such account or by the pledge of collateral security ~~in~~
537 ~~conformance with criteria established in s. 18.11~~. The agency
538 shall notify the Chief Financial Officer of any such account so
539 established and shall make a quarterly accounting to the Chief
540 Financial Officer for all moneys deposited in such account.
541 Section 25. Subsections (1) and (5) of section 400.071,
542 Florida Statutes, are amended to read:
543 400.071 Application for license.—
544 (1) In addition to the requirements of part II of chapter
545 408, the application for a license shall be under oath and must
546 contain the following:
547 (a) The location of the facility for which a license is
548 sought and an indication, as in the original application, that
549 such location conforms to the local zoning ordinances.
550 ~~(b) A signed affidavit disclosing any financial or~~
551 ~~ownership interest that a controlling interest as defined in~~
552 ~~part II of chapter 408 has held in the last 5 years in any~~
553 ~~entity licensed by this state or any other state to provide~~
554 ~~health or residential care which has closed voluntarily or~~
555 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
556 ~~appointed; has had a license denied, suspended, or revoked; or~~
557 ~~has had an injunction issued against it which was initiated by a~~
558 ~~regulatory agency. The affidavit must disclose the reason any~~
559 ~~such entity was closed, whether voluntarily or involuntarily.~~
560 ~~(c) The total number of beds and the total number of~~
561 ~~Medicare and Medicaid certified beds.~~
562 (b) ~~(d)~~ Information relating to the applicant and employees
563 which the agency requires by rule. The applicant must

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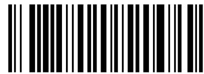
564 demonstrate that sufficient numbers of qualified staff, by
565 training or experience, will be employed to properly care for
566 the type and number of residents who will reside in the
567 facility.
568 (c)~~(e)~~ Copies of any civil verdict or judgment involving
569 the applicant rendered within the 10 years preceding the
570 application, relating to medical negligence, violation of
571 residents' rights, or wrongful death. As a condition of
572 licensure, the licensee agrees to provide to the agency copies
573 of any new verdict or judgment involving the applicant, relating
574 to such matters, within 30 days after filing with the clerk of
575 the court. The information required in this paragraph shall be
576 maintained in the facility's licensure file and in an agency
577 database which is available as a public record.
578 (5) As a condition of licensure, each facility must
579 establish ~~and submit with its application~~ a plan for quality
580 assurance and for conducting risk management.
581 Section 26. Section 400.0712, Florida Statutes, is amended
582 to read:
583 400.0712 Application for inactive license.—
584 ~~(1) As specified in this section, the agency may issue an~~
585 ~~inactive license to a nursing home facility for all or a portion~~
586 ~~of its beds. Any request by a licensee that a nursing home or~~
587 ~~portion of a nursing home become inactive must be submitted to~~
588 ~~the agency in the approved format. The facility may not initiate~~
589 ~~any suspension of services, notify residents, or initiate~~
590 ~~inactivity before receiving approval from the agency; and a~~
591 ~~licensee that violates this provision may not be issued an~~
592 ~~inactive license.~~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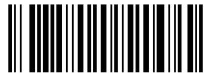
593 (1)~~(2)~~ In addition to the powers granted under part II of
594 chapter 408, the agency may issue an inactive license to a
595 nursing home that chooses to use an unoccupied contiguous
596 portion of the facility for an alternative use to meet the needs
597 of elderly persons through the use of less restrictive, less
598 institutional services.
599 (a) An inactive license issued under this subsection may be
600 granted for a period not to exceed the current licensure
601 expiration date but may be renewed by the agency at the time of
602 licensure renewal.
603 (b) A request to extend the inactive license must be
604 submitted to the agency in the approved format and approved by
605 the agency in writing.
606 (c) Nursing homes that receive an inactive license to
607 provide alternative services shall not receive preference for
608 participation in the Assisted Living for the Elderly Medicaid
609 waiver.
610 (2)~~(3)~~ The agency shall adopt rules pursuant to ss.
611 120.536(1) and 120.54 necessary to implement this section.
612 Section 27. Section 400.111, Florida Statutes, is amended
613 to read:
614 400.111 Disclosure of controlling interest.—In addition to
615 the requirements of part II of chapter 408, when requested by
616 the agency, the licensee shall submit a signed affidavit
617 disclosing any financial or ownership interest that a
618 controlling interest has held within the last 5 years in any
619 entity licensed by the state or any other state to provide
620 health or residential care which entity has closed voluntarily
621 or involuntarily; has filed for bankruptcy; has had a receiver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appointed; has had a license denied, suspended, or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason such entity was closed, whether voluntarily or involuntarily.

Section 28. Subsection (2) of section 400.1183, Florida Statutes, is amended to read:

400.1183 Resident grievance procedures.—

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

Section 29. Paragraphs (o) through (w) of subsection (1) of section 400.141, Florida Statutes, are redesignated as paragraphs (n) through (u), respectively, and present paragraphs (f), (g), (j), (n), (o), and (r) of that subsection are amended, to read:

400.141 Administration and management of nursing home facilities.—

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

(f) Be allowed and encouraged by the agency to provide other needed services under certain conditions. If the facility has a standard licensure status~~, and has had no class I or class II deficiencies during the past 2 years~~ or has been awarded a Gold Seal under the program established in s. 400.235, it may ~~be encouraged by the agency to~~ provide services, including, but not limited to, respite and adult day services, which enable individuals to move in and out of the facility. A facility is

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651 not subject to any additional licensure requirements for
652 providing these services.
653 1. Respite care may be offered to persons in need of short-
654 term or temporary nursing home services. For each person
655 admitted under the respite care program, the facility licensee
656 must:
657 a. Have a written abbreviated plan of care that, at a
658 minimum, includes nutritional requirements, medication orders,
659 physician orders, nursing assessments, and dietary preferences.
660 The nursing or physician assessments may take the place of all
661 other assessments required for full-time residents.
662 b. Have a contract that, at a minimum, specifies the
663 services to be provided to the respite resident, including
664 charges for services, activities, equipment, emergency medical
665 services, and the administration of medications. If multiple
666 respite admissions for a single person are anticipated, the
667 original contract is valid for 1 year after the date of
668 execution.
669 c. Ensure that each resident is released to his or her
670 caregiver or an individual designated in writing by the
671 caregiver.
672 2. A person admitted under the respite care program is:
673 a. Exempt from requirements in rule related to discharge
674 planning.
675 b. Covered by the resident's rights set forth in s.
676 400.022(1)(a)-(o) and (r)-(t). Funds or property of the resident
677 shall not be considered trust funds subject to the requirements
678 of s. 400.022(1)(h) until the resident has been in the facility
679 for more than 14 consecutive days.

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680 c. Allowed to use his or her personal medications for the
681 respite stay if permitted by facility policy. The facility must
682 obtain a physician’s orders for the medications. The caregiver
683 may provide information regarding the medications as part of the
684 nursing assessment, which must agree with the physician’s
685 orders. Medications shall be released with the resident upon
686 discharge in accordance with current orders.
687 3. A person receiving respite care is entitled to a total
688 of 60 days in the facility within a contract year or a calendar
689 year if the contract is for less than 12 months. However, each
690 single stay may not exceed 14 days. If a stay exceeds 14
691 consecutive days, the facility must comply with all assessment
692 and care planning requirements applicable to nursing home
693 residents.
694 4. A person receiving respite care must reside in a
695 licensed nursing home bed.
696 5. A prospective respite resident must provide medical
697 information from a physician, a physician assistant, or a nurse
698 practitioner and other information from the primary caregiver as
699 may be required by the facility prior to or at the time of
700 admission to receive respite care. The medical information must
701 include a physician’s order for respite care and proof of a
702 physical examination by a licensed physician, physician
703 assistant, or nurse practitioner. The physician’s order and
704 physical examination may be used to provide intermittent respite
705 care for up to 12 months after the date the order is written.
706 6. The facility must assume the duties of the primary
707 caregiver. To ensure continuity of care and services, the
708 resident is entitled to retain his or her personal physician and

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709 must have access to medically necessary services such as
710 physical therapy, occupational therapy, or speech therapy, as
711 needed. The facility must arrange for transportation to these
712 services if necessary. ~~Respite care must be provided in~~
713 ~~accordance with this part and rules adopted by the agency.~~
714 ~~However, the agency shall, by rule, adopt modified requirements~~
715 ~~for resident assessment, resident care plans, resident~~
716 ~~contracts, physician orders, and other provisions, as~~
717 ~~appropriate, for short-term or temporary nursing home services.~~
718 7. The agency shall allow for shared programming and staff
719 in a facility which meets minimum standards and offers services
720 pursuant to this paragraph, but, if the facility is cited for
721 deficiencies in patient care, may require additional staff and
722 programs appropriate to the needs of service recipients. A
723 person who receives respite care may not be counted as a
724 resident of the facility for purposes of the facility's licensed
725 capacity unless that person receives 24-hour respite care. A
726 person receiving either respite care for 24 hours or longer or
727 adult day services must be included when calculating minimum
728 staffing for the facility. Any costs and revenues generated by a
729 nursing home facility from nonresidential programs or services
730 shall be excluded from the calculations of Medicaid per diems
731 for nursing home institutional care reimbursement.
732 (g) If the facility has a standard license or is a Gold
733 Seal facility, exceeds the minimum required hours of licensed
734 nursing and certified nursing assistant direct care per resident
735 per day, and is part of a continuing care facility licensed
736 under chapter 651 or a retirement community that offers other
737 services pursuant to part III of this chapter or part I or part

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738 III of chapter 429 on a single campus, be allowed to share
739 programming and staff. At the time of inspection and in the
740 semiannual report required pursuant to paragraph (n) ~~(o)~~, a
741 continuing care facility or retirement community that uses this
742 option must demonstrate through staffing records that minimum
743 staffing requirements for the facility were met. Licensed nurses
744 and certified nursing assistants who work in the nursing home
745 facility may be used to provide services elsewhere on campus if
746 the facility exceeds the minimum number of direct care hours
747 required per resident per day and the total number of residents
748 receiving direct care services from a licensed nurse or a
749 certified nursing assistant does not cause the facility to
750 violate the staffing ratios required under s. 400.23(3)(a).
751 Compliance with the minimum staffing ratios shall be based on
752 total number of residents receiving direct care services,
753 regardless of where they reside on campus. If the facility
754 receives a conditional license, it may not share staff until the
755 conditional license status ends. This paragraph does not
756 restrict the agency’s authority under federal or state law to
757 require additional staff if a facility is cited for deficiencies
758 in care which are caused by an insufficient number of certified
759 nursing assistants or licensed nurses. The agency may adopt
760 rules for the documentation necessary to determine compliance
761 with this provision.
762 (j) Keep full records of resident admissions and
763 discharges; medical and general health status, including medical
764 records, personal and social history, and identity and address
765 of next of kin or other persons who may have responsibility for
766 the affairs of the residents; and individual resident care plans

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767 including, but not limited to, prescribed services, service
768 frequency and duration, and service goals. The records shall be
769 open to inspection by the agency. The facility must maintain
770 clinical records on each resident in accordance with accepted
771 professional standards and practices that are complete,
772 accurately documented, readily accessible, and systematically
773 organized.
774 ~~(n) Submit to the agency the information specified in s.~~
775 ~~400.071(1)(b) for a management company within 30 days after the~~
776 ~~effective date of the management agreement.~~
777 (n)~~(o)~~1. Submit semiannually to the agency, or more
778 frequently if requested by the agency, information regarding
779 facility staff-to-resident ratios, staff turnover, and staff
780 stability, including information regarding certified nursing
781 assistants, licensed nurses, the director of nursing, and the
782 facility administrator. For purposes of this reporting:
783 a. Staff-to-resident ratios must be reported in the
784 categories specified in s. 400.23(3)(a) and applicable rules.
785 The ratio must be reported as an average for the most recent
786 calendar quarter.
787 b. Staff turnover must be reported for the most recent 12-
788 month period ending on the last workday of the most recent
789 calendar quarter prior to the date the information is submitted.
790 The turnover rate must be computed quarterly, with the annual
791 rate being the cumulative sum of the quarterly rates. The
792 turnover rate is the total number of terminations or separations
793 experienced during the quarter, excluding any employee
794 terminated during a probationary period of 3 months or less,
795 divided by the total number of staff employed at the end of the

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796 period for which the rate is computed, and expressed as a
797 percentage.
798 c. The formula for determining staff stability is the total
799 number of employees that have been employed for more than 12
800 months, divided by the total number of employees employed at the
801 end of the most recent calendar quarter, and expressed as a
802 percentage.
803 d. A nursing facility that has failed to comply with state
804 minimum-staffing requirements for 2 consecutive days is
805 prohibited from accepting new admissions until the facility has
806 achieved the minimum-staffing requirements for a period of 6
807 consecutive days. For the purposes of this sub-subparagraph, any
808 person who was a resident of the facility and was absent from
809 the facility for the purpose of receiving medical care at a
810 separate location or was on a leave of absence is not considered
811 a new admission. Failure to impose such an admissions moratorium
812 is subject to a $1,000 fine ~~constitutes a class II deficiency~~.
813 e. A nursing facility which does not have a conditional
814 license may be cited for failure to comply with the standards in
815 s. 400.23(3)(a)1.a. only if it has failed to meet those
816 standards on 2 consecutive days or if it has failed to meet at
817 least 97 percent of those standards on any one day.
818 f. A facility which has a conditional license must be in
819 compliance with the standards in s. 400.23(3)(a) at all times.
820 2. This paragraph does not limit the agency's ability to
821 impose a deficiency or take other actions if a facility does not
822 have enough staff to meet the residents' needs.
823 ~~(r) Report to the agency any filing for bankruptcy~~
824 ~~protection by the facility or its parent corporation,~~

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825 ~~divestiture or spin-off of its assets, or corporate~~
826 ~~reorganization within 30 days after the completion of such~~
827 ~~activity.~~
828 Section 30. Subsection (3) of section 400.142, Florida
829 Statutes, is amended to read:
830 400.142 Emergency medication kits; orders not to
831 resuscitate.—
832 (3) Facility staff may withhold or withdraw cardiopulmonary
833 resuscitation if presented with an order not to resuscitate
834 executed pursuant to s. 401.45. ~~The agency shall adopt rules~~
835 ~~providing for the implementation of such orders.~~ Facility staff
836 and facilities shall not be subject to criminal prosecution or
837 civil liability, nor be considered to have engaged in negligent
838 or unprofessional conduct, for withholding or withdrawing
839 cardiopulmonary resuscitation pursuant to such an order and
840 rules adopted by the agency. The absence of an order not to
841 resuscitate executed pursuant to s. 401.45 does not preclude a
842 physician from withholding or withdrawing cardiopulmonary
843 resuscitation as otherwise permitted by law.
844 Section 31. Subsections (11) through (15) of section
845 400.147, Florida Statutes, are renumbered as subsections (10)
846 through (14), respectively, and present subsection (10) is
847 amended to read:
848 400.147 Internal risk management and quality assurance
849 program.—
850 ~~(10) By the 10th of each month, each facility subject to~~
851 ~~this section shall report any notice received pursuant to s.~~
852 ~~400.0233(2) and each initial complaint that was filed with the~~
853 ~~clerk of the court and served on the facility during the~~

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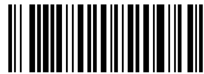
854 ~~previous month by a resident or a resident's family member,~~
855 ~~guardian, conservator, or personal legal representative. The~~
856 ~~report must include the name of the resident, the resident's~~
857 ~~date of birth and social security number, the Medicaid~~
858 ~~identification number for Medicaid-eligible persons, the date or~~
859 ~~dates of the incident leading to the claim or dates of~~
860 ~~residency, if applicable, and the type of injury or violation of~~
861 ~~rights alleged to have occurred. Each facility shall also submit~~
862 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~
863 ~~complaints filed with the clerk of the court. This report is~~
864 ~~confidential as provided by law and is not discoverable or~~
865 ~~admissible in any civil or administrative action, except in such~~
866 ~~actions brought by the agency to enforce the provisions of this~~
867 ~~part.~~
868 Section 32. Section 400.148, Florida Statutes, is repealed.
869 Section 33. Paragraph (f) of subsection (5) of section
870 400.162, Florida Statutes, is amended to read:
871 400.162 Property and personal affairs of residents.—
872 (5)
873 (f) At least every 3 months, the licensee shall furnish the
874 resident and the guardian, trustee, or conservator, if any, for
875 the resident a complete and verified statement of all funds ~~and~~
876 ~~other property~~ to which this subsection applies, detailing the
877 amounts ~~and items~~ received, together with their sources and
878 disposition. For resident property, the licensee shall furnish
879 such a statement annually and within 7 calendar days after a
880 request for a statement. In any event, the licensee shall
881 furnish such statements ~~a statement~~ annually and upon the
882 discharge or transfer of a resident. Any governmental agency or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883 private charitable agency contributing funds or other property
884 on account of a resident also shall be entitled to receive such
885 statements ~~statement~~ annually and upon discharge or transfer and
886 such other report as it may require pursuant to law.
887 Section 34. Paragraphs (d) and (e) of subsection (2) of
888 section 400.179, Florida Statutes, are amended to read:
889 400.179 Liability for Medicaid underpayments and
890 overpayments.—
891 (2) Because any transfer of a nursing facility may expose
892 the fact that Medicaid may have underpaid or overpaid the
893 transferor, and because in most instances, any such underpayment
894 or overpayment can only be determined following a formal field
895 audit, the liabilities for any such underpayments or
896 overpayments shall be as follows:
897 (d) Where the transfer involves a facility that has been
898 leased by the transferor:
899 1. The transferee shall, as a condition to being issued a
900 license by the agency, acquire, maintain, and provide proof to
901 the agency of a bond with a term of 30 months, renewable
902 annually, in an amount not less than the total of 3 months'
903 Medicaid payments to the facility computed on the basis of the
904 preceding 12-month average Medicaid payments to the facility.
905 2. A leasehold licensee may meet the requirements of
906 subparagraph 1. by payment of a nonrefundable fee, paid at
907 initial licensure, paid at the time of any subsequent change of
908 ownership, and paid annually thereafter, in the amount of 1
909 percent of the total of 3 months' Medicaid payments to the
910 facility computed on the basis of the preceding 12-month average
911 Medicaid payments to the facility. If a preceding 12-month

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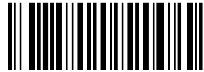
912 average is not available, projected Medicaid payments may be
913 used. The fee shall be deposited into the Grants and Donations
914 Trust Fund and shall be accounted for separately as a Medicaid
915 nursing home overpayment account. These fees shall be used at
916 the sole discretion of the agency to repay nursing home Medicaid
917 overpayments. Payment of this fee shall not release the licensee
918 from any liability for any Medicaid overpayments, nor shall
919 payment bar the agency from seeking to recoup overpayments from
920 the licensee and any other liable party. As a condition of
921 exercising this lease bond alternative, licensees paying this
922 fee must maintain an existing lease bond through the end of the
923 30-month term period of that bond. The agency is herein granted
924 specific authority to promulgate all rules pertaining to the
925 administration and management of this account, including
926 withdrawals from the account, subject to federal review and
927 approval. This provision shall take effect upon becoming law and
928 shall apply to any leasehold license application. The financial
929 viability of the Medicaid nursing home overpayment account shall
930 be determined by the agency through annual review of the account
931 balance and the amount of total outstanding, unpaid Medicaid
932 overpayments owing from leasehold licensees to the agency as
933 determined by final agency audits. By March 31 of each year, the
934 agency shall assess the cumulative fees collected under this
935 subparagraph, minus any amounts used to repay nursing home
936 Medicaid overpayments and amounts transferred to contribute to
937 the General Revenue Fund pursuant to s. 215.20. If the net
938 cumulative collections, minus amounts utilized to repay nursing
939 home Medicaid overpayments, exceed $25 million, the provisions
940 of this paragraph shall not apply for the subsequent fiscal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941 year.
942 3. The leasehold licensee may meet the bond requirement
943 through other arrangements acceptable to the agency. The agency
944 is herein granted specific authority to promulgate rules
945 pertaining to lease bond arrangements.
946 4. All existing nursing facility licensees, operating the
947 facility as a leasehold, shall acquire, maintain, and provide
948 proof to the agency of the 30-month bond required in
949 subparagraph 1., above, on and after July 1, 1993, for each
950 license renewal.
951 5. It shall be the responsibility of all nursing facility
952 operators, operating the facility as a leasehold, to renew the
953 30-month bond and to provide proof of such renewal to the agency
954 annually.
955 6. Any failure of the nursing facility operator to acquire,
956 maintain, renew annually, or provide proof to the agency shall
957 be grounds for the agency to deny, revoke, and suspend the
958 facility license to operate such facility and to take any
959 further action, including, but not limited to, enjoining the
960 facility, asserting a moratorium pursuant to part II of chapter
961 408, or applying for a receiver, deemed necessary to ensure
962 compliance with this section and to safeguard and protect the
963 health, safety, and welfare of the facility's residents. A lease
964 agreement required as a condition of bond financing or
965 refinancing under s. 154.213 by a health facilities authority or
966 required under s. 159.30 by a county or municipality is not a
967 leasehold for purposes of this paragraph and is not subject to
968 the bond requirement of this paragraph.
969 ~~(c) For the 2009-2010 fiscal year only, the provisions of~~

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970 ~~paragraph (d) shall not apply. This paragraph expires July 1,~~
971 ~~2010.~~
972 Section 35. Subsection (3) of section 400.19, Florida
973 Statutes, is amended to read:
974 400.19 Right of entry and inspection.—
975 (3) The agency shall every 15 months conduct at least one
976 unannounced inspection to determine compliance by the licensee
977 with statutes, and with rules promulgated under the provisions
978 of those statutes, governing minimum standards of construction,
979 quality and adequacy of care, and rights of residents. The
980 survey shall be conducted every 6 months for the next 2-year
981 period if the facility has been cited for a class I deficiency,
982 has been cited for two or more class II deficiencies arising
983 from separate surveys or investigations within a 60-day period,
984 or has had three or more substantiated complaints within a 6-
985 month period, each resulting in at least one class I or class II
986 deficiency. In addition to any other fees or fines in this part,
987 the agency shall assess a fine for each facility that is subject
988 to the 6-month survey cycle. The fine for the 2-year period
989 shall be $6,000, one-half to be paid at the completion of each
990 survey. The agency may adjust this fine by the change in the
991 Consumer Price Index, based on the 12 months immediately
992 preceding the increase, to cover the cost of the additional
993 surveys. The agency shall verify through subsequent inspection
994 that any deficiency identified during inspection is corrected.
995 However, the agency may verify the correction of a class III or
996 class IV deficiency ~~unrelated to resident rights or resident~~
997 ~~care~~ without reinspecting the facility if adequate written
998 documentation has been received from the facility, which

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999 provides assurance that the deficiency has been corrected. The
1000 giving or causing to be given of advance notice of such
1001 unannounced inspections by an employee of the agency to any
1002 unauthorized person shall constitute cause for suspension of not
1003 fewer than 5 working days according to the provisions of chapter
1004 110.
1005 Section 36. Section 400.195, Florida Statutes, is repealed.
1006 Section 37. Subsection (5) of section 400.23, Florida
1007 Statutes, is amended to read:
1008 400.23 Rules; evaluation and deficiencies; licensure
1009 status.—
1010 (5)(a) The agency, in collaboration with the Division of
1011 Children's Medical Services Network of the Department of Health,
1012 must~~, no later than December 31, 1993,~~ adopt rules for minimum
1013 standards of care for persons under 21 years of age who reside
1014 in nursing home facilities. The rules must include a methodology
1015 for reviewing a nursing home facility under ss. 408.031-408.045
1016 which serves only persons under 21 years of age. A facility may
1017 be exempt from these standards for specific persons between 18
1018 and 21 years of age, if the person's physician agrees that
1019 minimum standards of care based on age are not necessary.
1020 (b) The agency, in collaboration with the Division of
1021 Children's Medical Services Network, shall adopt rules for
1022 minimum staffing requirements for nursing home facilities that
1023 serve persons under 21 years of age, which shall apply in lieu
1024 of the standards contained in subsection (3).
1025 1. For persons under 21 years of age who require skilled
1026 care, the requirements shall include a minimum combined average
1027 of licensed nurses, respiratory therapists, and certified

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1028 nursing assistants of 3.9 hours of direct care per resident per
1029 day for each nursing home facility.
1030 2. For persons under 21 years of age who are fragile, the
1031 requirements shall include a minimum combined average of
1032 licensed nurses, respiratory therapists, respiratory care
1033 practitioners, and certified nursing assistants of 5 hours of
1034 direct care per resident per day for each nursing home facility.
1035 Section 38. Subsection (1) of section 400.275, Florida
1036 Statutes, is amended to read:
1037 400.275 Agency duties.—
1038 (1) ~~The agency shall ensure that each newly hired nursing~~
1039 ~~home surveyor, as a part of basic training, is assigned full-~~
1040 ~~time to a licensed nursing home for at least 2 days within a 7-~~
1041 ~~day period to observe facility operations outside of the survey~~
1042 ~~process before the surveyor begins survey responsibilities. Such~~
1043 ~~observations may not be the sole basis of a deficiency citation~~
1044 ~~against the facility.~~ The agency may not assign an individual to
1045 be a member of a survey team for purposes of a survey,
1046 evaluation, or consultation visit at a nursing home facility in
1047 which the surveyor was an employee within the preceding 2 ~~5~~
1048 years.
1049 Section 39. Subsection (2) of section 400.484, Florida
1050 Statutes, is amended to read:
1051 400.484 Right of inspection; violations ~~deficiencies~~;
1052 fines.—
1053 (2) The agency shall impose fines for various classes of
1054 violations ~~deficiencies~~ in accordance with the following
1055 schedule:
1056 (a) Class I violations are defined in s. 408.813. ~~A class I~~

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1057 ~~deficiency is any act, omission, or practice that results in a~~
1058 ~~patient’s death, disablement, or permanent injury, or places a~~
1059 ~~patient at imminent risk of death, disablement, or permanent~~
1060 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
1061 shall impose an administrative fine in the amount of $15,000 for
1062 each occurrence and each day that the violation ~~deficiency~~
1063 exists.
1064 (b) Class II violations are defined in s. 408.813. ~~A class~~
1065 ~~II deficiency is any act, omission, or practice that has a~~
1066 ~~direct adverse effect on the health, safety, or security of a~~
1067 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1068 agency shall impose an administrative fine in the amount of
1069 $5,000 for each occurrence and each day that the violation
1070 ~~deficiency~~ exists.
1071 (c) Class III violations are defined in s. 408.813. ~~A class~~
1072 ~~III deficiency is any act, omission, or practice that has an~~
1073 ~~indirect, adverse effect on the health, safety, or security of a~~
1074 ~~patient.~~ Upon finding an uncorrected or repeated class III
1075 violation ~~deficiency~~, the agency shall impose an administrative
1076 fine not to exceed $1,000 for each occurrence and each day that
1077 the uncorrected or repeated violation ~~deficiency~~ exists.
1078 (d) Class IV violations are defined in s. 408.813. ~~A class~~
1079 ~~IV deficiency is any act, omission, or practice related to~~
1080 ~~required reports, forms, or documents which does not have the~~
1081 ~~potential of negatively affecting patients. These violations are~~
1082 ~~of a type that the agency determines do not threaten the health,~~
1083 ~~safety, or security of patients.~~ Upon finding an uncorrected or
1084 repeated class IV violation ~~deficiency~~, the agency shall impose
1085 an administrative fine not to exceed $500 for each occurrence

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1086 and each day that the uncorrected or repeated violation
1087 ~~deficiency~~ exists.
1088 Section 40. Paragraph (i) of subsection (1) and subsection
1089 (4) of section 400.606, Florida Statutes, are amended to read:
1090 400.606 License; application; renewal; conditional license
1091 or permit; certificate of need.—
1092 (1) In addition to the requirements of part II of chapter
1093 408, the initial application and change of ownership application
1094 must be accompanied by a plan for the delivery of home,
1095 residential, and homelike inpatient hospice services to
1096 terminally ill persons and their families. Such plan must
1097 contain, but need not be limited to:
1098 ~~(i) The projected annual operating cost of the hospice.~~
1099
1100 If the applicant is an existing licensed health care provider,
1101 the application must be accompanied by a copy of the most recent
1102 profit-loss statement and, if applicable, the most recent
1103 licensure inspection report.
1104 (4) A freestanding hospice facility that is ~~primarily~~
1105 engaged in providing inpatient and related services and that is
1106 not otherwise licensed as a health care facility shall be
1107 required to obtain a certificate of need. However, a
1108 freestanding hospice facility with six or fewer beds shall not
1109 be required to comply with institutional standards such as, but
1110 not limited to, standards requiring sprinkler systems, emergency
1111 electrical systems, or special lavatory devices.
1112 Section 41. Subsection (2) of section 400.607, Florida
1113 Statutes, is amended to read:
1114 400.607 Denial, suspension, revocation of license;

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1115 emergency actions; imposition of administrative fine; grounds.—
1116 (2) A violation of this part, part II of chapter 408, or
1117 applicable rules ~~Any of the following actions~~ by a licensed
1118 hospice or any of its employees shall be grounds for
1119 administrative action by the agency against a hospice.~~:~~
1120 ~~(a) A violation of the provisions of this part, part II of~~
1121 ~~chapter 408, or applicable rules.~~
1122 ~~(b) An intentional or negligent act materially affecting~~
1123 ~~the health or safety of a patient.~~
1124 Section 42. Subsection (1) of section 400.925, Florida
1125 Statutes, is amended to read:
1126 400.925 Definitions.—As used in this part, the term:
1127 (1) "Accrediting organizations" means The Joint Commission
1128 ~~on Accreditation of Healthcare Organizations~~ or other national
1129 accreditation agencies whose standards for accreditation are
1130 comparable to those required by this part for licensure.
1131 Section 43. Subsections (3) through (6) of section 400.931,
1132 Florida Statutes, are renumbered as subsections (2) through (5),
1133 respectively, and present subsection (2) of that section is
1134 amended to read:
1135 400.931 Application for license; fee~~; provisional license;~~
1136 ~~temporary permit~~.—
1137 ~~(2) As an alternative to submitting proof of financial~~
1138 ~~ability to operate as required in s. 408.810(8), the applicant~~
1139 ~~may submit a $50,000 surety bond to the agency.~~
1140 Section 44. Subsection (2) of section 400.932, Florida
1141 Statutes, is amended to read:
1142 400.932 Administrative penalties.—
1143 (2) A violation of this part, part II of chapter 408, or

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1144 applicable rules ~~Any of the following actions~~ by an employee of
1145 a home medical equipment provider shall be ~~are~~ grounds for
1146 administrative action or penalties by the agency.~~:~~
1147 ~~(a) Violation of this part, part II of chapter 408, or~~
1148 ~~applicable rules.~~
1149 ~~(b) An intentional, reckless, or negligent act that~~
1150 ~~materially affects the health or safety of a patient.~~
1151 Section 45. Subsection (3) of section 400.967, Florida
1152 Statutes, is amended to read:
1153 400.967 Rules and classification of violations
1154 ~~deficiencies~~.—
1155 (3) The agency shall adopt rules to provide that, when the
1156 criteria established under this part and part II of chapter 408
1157 are not met, such violations ~~deficiencies~~ shall be classified
1158 according to the nature of the violation ~~deficiency~~. The agency
1159 shall indicate the classification on the face of the notice of
1160 deficiencies as follows:
1161 (a) Class I violations ~~deficiencies~~ are defined in s.
1162 408.813 ~~those which the agency determines present an imminent~~
1163 ~~danger to the residents or guests of the facility or a~~
1164 ~~substantial probability that death or serious physical harm~~
1165 ~~would result therefrom~~. ~~The condition or practice constituting a~~
1166 ~~class I violation must be abated or eliminated immediately,~~
1167 ~~unless a fixed period of time, as determined by the agency, is~~
1168 ~~required for correction.~~ A class I violation ~~deficiency~~ is
1169 subject to a civil penalty in an amount not less than $5,000 and
1170 not exceeding $10,000 for each violation ~~deficiency~~. A fine may
1171 be levied notwithstanding the correction of the violation
1172 ~~deficiency~~.

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1173 (b) Class II violations ~~deficiencies~~ are defined in s.
1174 408.813 ~~those which the agency determines have a direct or~~
1175 ~~immediate relationship to the health, safety, or security of the~~
1176 ~~facility residents, other than class I deficiencies~~. A class II
1177 violation ~~deficiency~~ is subject to a civil penalty in an amount
1178 not less than $1,000 and not exceeding $5,000 for each violation
1179 ~~deficiency~~. A citation for a class II violation ~~deficiency~~ shall
1180 specify the time within which the violation ~~deficiency~~ must be
1181 corrected. If a class II violation ~~deficiency~~ is corrected
1182 within the time specified, no civil penalty shall be imposed,
1183 unless it is a repeated offense.
1184 (c) Class III violations ~~deficiencies~~ are defined in s.
1185 408.813 ~~those which the agency determines to have an indirect or~~
1186 ~~potential relationship to the health, safety, or security of the~~
1187 ~~facility residents, other than class I or class II deficiencies~~.
1188 A class III violation ~~deficiency~~ is subject to a civil penalty
1189 of not less than $500 and not exceeding $1,000 for each
1190 deficiency. A citation for a class III violation ~~deficiency~~
1191 shall specify the time within which the violation ~~deficiency~~
1192 must be corrected. If a class III violation ~~deficiency~~ is
1193 corrected within the time specified, no civil penalty shall be
1194 imposed, unless it is a repeated offense.
1195 (d) Class IV violations are defined in s. 408.813. Upon
1196 finding an uncorrected or repeated class IV violation, the
1197 agency shall impose an administrative fine not to exceed $500
1198 for each occurrence and each day that the uncorrected or
1199 repeated violation exists.
1200 Section 46. Subsections (4) and (7) of section 400.9905,
1201 Florida Statutes, are amended to read:

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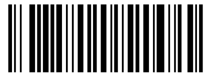
1202 400.9905 Definitions.—
1203 (4) “Clinic” means an entity at which health care services
1204 are provided to individuals and which tenders charges for
1205 reimbursement for such services, including a mobile clinic and a
1206 portable health service or equipment provider. For purposes of
1207 this part, the term does not include and the licensure
1208 requirements of this part do not apply to:
1209 (a) Entities licensed or registered by the state under
1210 chapter 395; or entities licensed or registered by the state and
1211 providing only health care services within the scope of services
1212 authorized under their respective licenses granted under ss.
1213 383.30-383.335, chapter 390, chapter 394, chapter 397, this
1214 chapter except part X, chapter 429, chapter 463, chapter 465,
1215 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
1216 chapter 651; end-stage renal disease providers authorized under
1217 42 C.F.R. part 405, subpart U; or providers certified under 42
1218 C.F.R. part 485, subpart B or subpart H; or any entity that
1219 provides neonatal or pediatric hospital-based health care
1220 services or other health care services by licensed practitioners
1221 solely within a hospital licensed under chapter 395.
1222 (b) Entities that own, directly or indirectly, entities
1223 licensed or registered by the state pursuant to chapter 395; or
1224 entities that own, directly or indirectly, entities licensed or
1225 registered by the state and providing only health care services
1226 within the scope of services authorized pursuant to their
1227 respective licenses granted under ss. 383.30-383.335, chapter
1228 390, chapter 394, chapter 397, this chapter except part X,
1229 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1230 part I of chapter 483, chapter 484, chapter 651; end-stage renal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1231 disease providers authorized under 42 C.F.R. part 405, subpart
1232 U; or providers certified under 42 C.F.R. part 485, subpart B or
1233 subpart H; or any entity that provides neonatal or pediatric
1234 hospital-based health care services by licensed practitioners
1235 solely within a hospital licensed under chapter 395.
1236 (c) Entities that are owned, directly or indirectly, by an
1237 entity licensed or registered by the state pursuant to chapter
1238 395; or entities that are owned, directly or indirectly, by an
1239 entity licensed or registered by the state and providing only
1240 health care services within the scope of services authorized
1241 pursuant to their respective licenses granted under ss. 383.30-
1242 383.335, chapter 390, chapter 394, chapter 397, this chapter
1243 except part X, chapter 429, chapter 463, chapter 465, chapter
1244 466, chapter 478, part I of chapter 483, chapter 484, or chapter
1245 651; end-stage renal disease providers authorized under 42
1246 C.F.R. part 405, subpart U; or providers certified under 42
1247 C.F.R. part 485, subpart B or subpart H; or any entity that
1248 provides neonatal or pediatric hospital-based health care
1249 services by licensed practitioners solely within a hospital
1250 under chapter 395.
1251 (d) Entities that are under common ownership, directly or
1252 indirectly, with an entity licensed or registered by the state
1253 pursuant to chapter 395; or entities that are under common
1254 ownership, directly or indirectly, with an entity licensed or
1255 registered by the state and providing only health care services
1256 within the scope of services authorized pursuant to their
1257 respective licenses granted under ss. 383.30-383.335, chapter
1258 390, chapter 394, chapter 397, this chapter except part X,
1259 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,

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1260 part I of chapter 483, chapter 484, or chapter 651; end-stage
1261 renal disease providers authorized under 42 C.F.R. part 405,
1262 subpart U; or providers certified under 42 C.F.R. part 485,
1263 subpart B or subpart H; or any entity that provides neonatal or
1264 pediatric hospital-based health care services by licensed
1265 practitioners solely within a hospital licensed under chapter
1266 395.
1267 (e) An entity that is exempt from federal taxation under 26
1268 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
1269 under 26 U.S.C. s. 409 that has a board of trustees not less
1270 than two-thirds of which are Florida-licensed health care
1271 practitioners and provides only physical therapy services under
1272 physician orders, any community college or university clinic,
1273 and any entity owned or operated by the federal or state
1274 government, including agencies, subdivisions, or municipalities
1275 thereof.
1276 (f) A sole proprietorship, group practice, partnership, or
1277 corporation that provides health care services by physicians
1278 covered by s. 627.419, that is directly supervised by one or
1279 more of such physicians, and that is wholly owned by one or more
1280 of those physicians or by a physician and the spouse, parent,
1281 child, or sibling of that physician.
1282 (g) A sole proprietorship, group practice, partnership, or
1283 corporation that provides health care services by licensed
1284 health care practitioners under chapter 457, chapter 458,
1285 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
1286 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
1287 chapter 490, chapter 491, or part I, part III, part X, part
1288 XIII, or part XIV of chapter 468, or s. 464.012, which are

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1289 wholly owned by one or more licensed health care practitioners,
1290 or the licensed health care practitioners set forth in this
1291 paragraph and the spouse, parent, child, or sibling of a
1292 licensed health care practitioner, so long as one of the owners
1293 who is a licensed health care practitioner is supervising the
1294 business activities and is legally responsible for the entity's
1295 compliance with all federal and state laws. However, a health
1296 care practitioner may not supervise services beyond the scope of
1297 the practitioner's license, except that, for the purposes of
1298 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
1299 provides only services authorized pursuant to s. 456.053(3)(b)
1300 may be supervised by a licensee specified in s. 456.053(3)(b).
1301 (h) Clinical facilities affiliated with an accredited
1302 medical school at which training is provided for medical
1303 students, residents, or fellows.
1304 (i) Entities that provide only oncology or radiation
1305 therapy services by physicians licensed under chapter 458 or
1306 chapter 459 or entities that provide oncology or radiation
1307 therapy services by physicians licensed under chapter 458 or
1308 chapter 459 which are owned by a corporation whose shares are
1309 publicly traded on a recognized stock exchange.
1310 (j) Clinical facilities affiliated with a college of
1311 chiropractic accredited by the Council on Chiropractic Education
1312 at which training is provided for chiropractic students.
1313 (k) Entities that provide licensed practitioners to staff
1314 emergency departments or to deliver anesthesia services in
1315 facilities licensed under chapter 395 and that derive at least
1316 90 percent of their gross annual revenues from the provision of
1317 such services. Entities claiming an exemption from licensure

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1318 under this paragraph must provide documentation demonstrating
1319 compliance.
1320 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or
1321 perinatology clinical facilities that are a publicly traded
1322 corporation or that are wholly owned, directly or indirectly, by
1323 a publicly traded corporation. As used in this paragraph, a
1324 publicly traded corporation is a corporation that issues
1325 securities traded on an exchange registered with the United
1326 States Securities and Exchange Commission as a national
1327 securities exchange.
1328 (m) Entities that are owned by a corporation that has $250
1329 million or more in total annual sales of health care services
1330 provided by licensed health care practitioners if one or more of
1331 the owners of the entity is a health care practitioner who is
1332 licensed in this state, is responsible for supervising the
1333 business activities of the entity, and is legally responsible
1334 for the entity’s compliance with state law for purposes of this
1335 section.
1336 (n) Entities that are owned or controlled, directly or
1337 indirectly, by a publicly traded entity with $100 million or
1338 more, in the aggregate, in total annual revenues derived from
1339 providing health care services by licensed health care
1340 practitioners that are employed or contracted by an entity
1341 described in this paragraph.
1342 (7) “Portable health service or equipment provider” means
1343 an entity that contracts with or employs persons to provide
1344 portable health care services or equipment to multiple locations
1345 ~~performing treatment or diagnostic testing of individuals~~, that
1346 bills third-party payors for those services, and that otherwise

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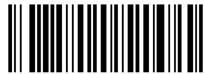
1347 meets the definition of a clinic in subsection (4).
1348 Section 47. Paragraph (b) of subsection (1) and paragraph
1349 (c) of subsection (4) of section 400.991, Florida Statutes, are
1350 amended to read:
1351 400.991 License requirements; background screenings;
1352 prohibitions.—
1353 (1)
1354 (b) Each mobile clinic must obtain a separate health care
1355 clinic license and must provide to the agency, at least
1356 quarterly, its projected street location to enable the agency to
1357 locate and inspect such clinic. A portable health service or
1358 equipment provider must obtain a health care clinic license for
1359 a single administrative office and is not required to submit
1360 quarterly projected street locations.
1361 (4) In addition to the requirements of part II of chapter
1362 408, the applicant must file with the application satisfactory
1363 proof that the clinic is in compliance with this part and
1364 applicable rules, including:
1365 (c) Proof of financial ability to operate as required under
1366 ss. ~~s.~~ 408.810(8) and 408.8065. ~~As an alternative to submitting~~
1367 ~~proof of financial ability to operate as required under s.~~
1368 ~~408.810(8), the applicant may file a surety bond of at least~~
1369 ~~$500,000 which guarantees that the clinic will act in full~~
1370 ~~conformity with all legal requirements for operating a clinic,~~
1371 ~~payable to the agency. The agency may adopt rules to specify~~
1372 ~~related requirements for such surety bond.~~
1373 Section 48. Paragraph (g) of subsection (1) and paragraph
1374 (a) of subsection (7) of section 400.9935, Florida Statutes, are
1375 amended to read: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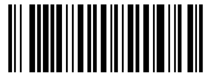
1376 400.9935 Clinic responsibilities.—
1377 (1) Each clinic shall appoint a medical director or clinic
1378 director who shall agree in writing to accept legal
1379 responsibility for the following activities on behalf of the
1380 clinic. The medical director or the clinic director shall:
1381 (g) Conduct systematic reviews of clinic billings to ensure
1382 that the billings are not fraudulent or unlawful. Upon discovery
1383 of an unlawful charge, the medical director or clinic director
1384 shall take immediate corrective action. If the clinic performs
1385 only the technical component of magnetic resonance imaging,
1386 static radiographs, computed tomography, or positron emission
1387 tomography, and provides the professional interpretation of such
1388 services, in a fixed facility that is accredited by The Joint
1389 Commission ~~on Accreditation of Healthcare Organizations~~ or the
1390 Accreditation Association for Ambulatory Health Care, and the
1391 American College of Radiology; and if, in the preceding quarter,
1392 the percentage of scans performed by that clinic which was
1393 billed to all personal injury protection insurance carriers was
1394 less than 15 percent, the chief financial officer of the clinic
1395 may, in a written acknowledgment provided to the agency, assume
1396 the responsibility for the conduct of the systematic reviews of
1397 clinic billings to ensure that the billings are not fraudulent
1398 or unlawful.
1399 (7)(a) Each clinic engaged in magnetic resonance imaging
1400 services must be accredited by The Joint Commission ~~on~~
1401 ~~Accreditation of Healthcare Organizations~~, the American College
1402 of Radiology, or the Accreditation Association for Ambulatory
1403 Health Care, within 1 year after licensure. A clinic that is
1404 accredited by the American College of Radiology or is within the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1405 original 1-year period after licensure and replaces its core
1406 magnetic resonance imaging equipment shall be given 1 year after
1407 the date on which the equipment is replaced to attain
1408 accreditation. However, a clinic may request a single, 6-month
1409 extension if it provides evidence to the agency establishing
1410 that, for good cause shown, such clinic cannot be accredited
1411 within 1 year after licensure, and that such accreditation will
1412 be completed within the 6-month extension. After obtaining
1413 accreditation as required by this subsection, each such clinic
1414 must maintain accreditation as a condition of renewal of its
1415 license. A clinic that files a change of ownership application
1416 must comply with the original accreditation timeframe
1417 requirements of the transferor. The agency shall deny a change
1418 of ownership application if the clinic is not in compliance with
1419 the accreditation requirements. When a clinic adds, replaces, or
1420 modifies magnetic resonance imaging equipment and the
1421 accreditation agency requires new accreditation, the clinic must
1422 be accredited within 1 year after the date of the addition,
1423 replacement, or modification but may request a single, 6-month
1424 extension if the clinic provides evidence of good cause to the
1425 agency.
1426 Section 49. Subsection (2) of section 408.034, Florida
1427 Statutes, is amended to read:
1428 408.034 Duties and responsibilities of agency; rules.—
1429 (2) In the exercise of its authority to issue licenses to
1430 health care facilities and health service providers, as provided
1431 under chapters 393 and 395 and parts II, ~~and~~ IV, and VIII of
1432 chapter 400, the agency may not issue a license to any health
1433 care facility or health service provider that fails to receive a

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1434 certificate of need or an exemption for the licensed facility or
1435 service.
1436 Section 50. Paragraph (d) of subsection (1) of section
1437 408.036, Florida Statutes, is amended to read:
1438 408.036 Projects subject to review; exemptions.—
1439 (1) APPLICABILITY.—Unless exempt under subsection (3), all
1440 health-care-related projects, as described in paragraphs (a)-
1441 (g), are subject to review and must file an application for a
1442 certificate of need with the agency. The agency is exclusively
1443 responsible for determining whether a health-care-related
1444 project is subject to review under ss. 408.031-408.045.
1445 (d) The establishment of a hospice or hospice inpatient
1446 facility~~, except as provided in s. 408.043~~.
1447 Section 51. Subsection (2) of section 408.043, Florida
1448 Statutes, is amended to read:
1449 408.043 Special provisions.—
1450 (2) HOSPICES.—When an application is made for a certificate
1451 of need to establish or to expand a hospice, the need for such
1452 hospice shall be determined on the basis of the need for and
1453 availability of hospice services in the community. The formula
1454 on which the certificate of need is based shall discourage
1455 regional monopolies and promote competition. The inpatient
1456 hospice care component of a hospice which is a freestanding
1457 facility, or a part of a facility, ~~which is primarily engaged in~~
1458 ~~providing inpatient care and related services~~ and is not
1459 licensed as a health care facility shall also be required to
1460 obtain a certificate of need. Provision of hospice care by any
1461 current provider of health care is a significant change in
1462 service and therefore requires a certificate of need for such

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1463 services.
1464 Section 52. Paragraph (k) of subsection (3) of section
1465 408.05, Florida Statutes, is amended to read:
1466 408.05 Florida Center for Health Information and Policy
1467 Analysis.—
1468 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
1469 produce comparable and uniform health information and statistics
1470 for the development of policy recommendations, the agency shall
1471 perform the following functions:
1472 (k) Develop, in conjunction with the State Consumer Health
1473 Information and Policy Advisory Council, and implement a long-
1474 range plan for making available health care quality measures and
1475 financial data that will allow consumers to compare health care
1476 services. The health care quality measures and financial data
1477 the agency must make available shall include, but is not limited
1478 to, pharmaceuticals, physicians, health care facilities, and
1479 health plans and managed care entities. The agency shall submit
1480 the initial plan to the Governor, the President of the Senate,
1481 and the Speaker of the House of Representatives by January 1,
1482 2006, and shall update the plan and report on the status of its
1483 implementation annually thereafter. The agency shall also make
1484 the plan and status report available to the public on its
1485 Internet website. As part of the plan, the agency shall identify
1486 the process and timeframes for implementation, any barriers to
1487 implementation, and recommendations of changes in the law that
1488 may be enacted by the Legislature to eliminate the barriers. As
1489 preliminary elements of the plan, the agency shall:
1490 1. Make available patient-safety indicators, inpatient
1491 quality indicators, and performance outcome and patient charge

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1492 data collected from health care facilities pursuant to s.
1493 408.061(1)(a) and (2). The terms “patient-safety indicators” and
1494 “inpatient quality indicators” shall be as defined by the
1495 Centers for Medicare and Medicaid Services, the National Quality
1496 Forum, The Joint Commission ~~on Accreditation of Healthcare~~
1497 ~~Organizations~~, the Agency for Healthcare Research and Quality,
1498 the Centers for Disease Control and Prevention, or a similar
1499 national entity that establishes standards to measure the
1500 performance of health care providers, or by other states. The
1501 agency shall determine which conditions, procedures, health care
1502 quality measures, and patient charge data to disclose based upon
1503 input from the council. When determining which conditions and
1504 procedures are to be disclosed, the council and the agency shall
1505 consider variation in costs, variation in outcomes, and
1506 magnitude of variations and other relevant information. When
1507 determining which health care quality measures to disclose, the
1508 agency:
1509 a. Shall consider such factors as volume of cases; average
1510 patient charges; average length of stay; complication rates;
1511 mortality rates; and infection rates, among others, which shall
1512 be adjusted for case mix and severity, if applicable.
1513 b. May consider such additional measures that are adopted
1514 by the Centers for Medicare and Medicaid Studies, National
1515 Quality Forum, The Joint Commission ~~on Accreditation of~~
1516 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
1517 Quality, Centers for Disease Control and Prevention, or a
1518 similar national entity that establishes standards to measure
1519 the performance of health care providers, or by other states.
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1521 When determining which patient charge data to disclose, the
1522 agency shall include such measures as the average of
1523 undiscounted charges on frequently performed procedures and
1524 preventive diagnostic procedures, the range of procedure charges
1525 from highest to lowest, average net revenue per adjusted patient
1526 day, average cost per adjusted patient day, and average cost per
1527 admission, among others.
1528 2. Make available performance measures, benefit design, and
1529 premium cost data from health plans licensed pursuant to chapter
1530 627 or chapter 641. The agency shall determine which health care
1531 quality measures and member and subscriber cost data to
1532 disclose, based upon input from the council. When determining
1533 which data to disclose, the agency shall consider information
1534 that may be required by either individual or group purchasers to
1535 assess the value of the product, which may include membership
1536 satisfaction, quality of care, current enrollment or membership,
1537 coverage areas, accreditation status, premium costs, plan costs,
1538 premium increases, range of benefits, copayments and
1539 deductibles, accuracy and speed of claims payment, credentials
1540 of physicians, number of providers, names of network providers,
1541 and hospitals in the network. Health plans shall make available
1542 to the agency any such data or information that is not currently
1543 reported to the agency or the office.
1544 3. Determine the method and format for public disclosure of
1545 data reported pursuant to this paragraph. The agency shall make
1546 its determination based upon input from the State Consumer
1547 Health Information and Policy Advisory Council. At a minimum,
1548 the data shall be made available on the agency's Internet
1549 website in a manner that allows consumers to conduct an

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1550 interactive search that allows them to view and compare the
1551 information for specific providers. The website must include
1552 such additional information as is determined necessary to ensure
1553 that the website enhances informed decisionmaking among
1554 consumers and health care purchasers, which shall include, at a
1555 minimum, appropriate guidance on how to use the data and an
1556 explanation of why the data may vary from provider to provider.
1557 The data specified in subparagraph 1. shall be released no later
1558 than January 1, 2006, for the reporting of infection rates, and
1559 no later than October 1, 2005, for mortality rates and
1560 complication rates. The data specified in subparagraph 2. shall
1561 be released no later than October 1, 2006.
1562 4. Publish on its website undiscounted charges for no fewer
1563 than 150 of the most commonly performed adult and pediatric
1564 procedures, including outpatient, inpatient, diagnostic, and
1565 preventative procedures.
1566 Section 53. Paragraph (a) of subsection (1) of section
1567 408.061, Florida Statutes, is amended to read:
1568 408.061 Data collection; uniform systems of financial
1569 reporting; information relating to physician charges;
1570 confidential information; immunity.—
1571 (1) The agency shall require the submission by health care
1572 facilities, health care providers, and health insurers of data
1573 necessary to carry out the agency’s duties. Specifications for
1574 data to be collected under this section shall be developed by
1575 the agency with the assistance of technical advisory panels
1576 including representatives of affected entities, consumers,
1577 purchasers, and such other interested parties as may be
1578 determined by the agency.

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1579 (a) Data submitted by health care facilities, including the
1580 facilities as defined in chapter 395, shall include, but are not
1581 limited to: case-mix data, patient admission and discharge data,
1582 hospital emergency department data which shall include the
1583 number of patients treated in the emergency department of a
1584 licensed hospital reported by patient acuity level, data on
1585 hospital-acquired infections as specified by rule, data on
1586 complications as specified by rule, data on readmissions as
1587 specified by rule, with patient and provider-specific
1588 identifiers included, actual charge data by diagnostic groups,
1589 financial data, accounting data, operating expenses, expenses
1590 incurred for rendering services to patients who cannot or do not
1591 pay, interest charges, depreciation expenses based on the
1592 expected useful life of the property and equipment involved, and
1593 demographic data. The agency shall adopt nationally recognized
1594 risk adjustment methodologies or software consistent with the
1595 standards of the Agency for Healthcare Research and Quality and
1596 as selected by the agency for all data submitted as required by
1597 this section. Data may be obtained from documents such as, but
1598 not limited to: leases, contracts, debt instruments, itemized
1599 patient bills, medical record abstracts, and related diagnostic
1600 information. Reported data elements shall be reported
1601 electronically and ~~in accordance with rule 59E-7.012, Florida~~
1602 ~~Administrative Code. Data submitted shall be~~ certified by the
1603 chief executive officer or an appropriate and duly authorized
1604 representative or employee of the licensed facility that the
1605 information submitted is true and accurate.
1606 Section 54. Subsection (43) of section 408.07, Florida
1607 Statutes, is amended to read:

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1608 408.07 Definitions.—As used in this chapter, with the
1609 exception of ss. 408.031-408.045, the term:
1610 (43) "Rural hospital" means an acute care hospital licensed
1611 under chapter 395, having 100 or fewer licensed beds and an
1612 emergency room, and which is:
1613 (a) The sole provider within a county with a population
1614 density of no greater than 100 persons per square mile;
1615 (b) An acute care hospital, in a county with a population
1616 density of no greater than 100 persons per square mile, which is
1617 at least 30 minutes of travel time, on normally traveled roads
1618 under normal traffic conditions, from another acute care
1619 hospital within the same county;
1620 (c) A hospital supported by a tax district or subdistrict
1621 whose boundaries encompass a population of 100 persons or fewer
1622 per square mile;
1623 (d) A hospital with a service area that has a population of
1624 100 persons or fewer per square mile. As used in this paragraph,
1625 the term "service area" means the fewest number of zip codes
1626 that account for 75 percent of the hospital's discharges for the
1627 most recent 5-year period, based on information available from
1628 the hospital inpatient discharge database in the Florida Center
1629 for Health Information and Policy Analysis at the Agency for
1630 Health Care Administration; or
1631 (e) A critical access hospital.
1632
1633 Population densities used in this subsection must be based upon
1634 the most recently completed United States census. A hospital
1635 that received funds under s. 409.9116 for a quarter beginning no
1636 later than July 1, 2002, is deemed to have been and shall

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1637 continue to be a rural hospital from that date through June 30,
1638 2015, if the hospital continues to have 100 or fewer licensed
1639 beds and an emergency room~~, or meets the criteria of s.~~
1640 ~~395.602(2)(e)4~~. An acute care hospital that has not previously
1641 been designated as a rural hospital and that meets the criteria
1642 of this subsection shall be granted such designation upon
1643 application, including supporting documentation, to the Agency
1644 for Health Care Administration.
1645 Section 55. Section 408.10, Florida Statutes, is amended to
1646 read:
1647 408.10 Consumer complaints.—The agency shall~~:~~
1648 ~~(1)~~ publish and make available to the public a toll-free
1649 telephone number for the purpose of handling consumer complaints
1650 and shall serve as a liaison between consumer entities and other
1651 private entities and governmental entities for the disposition
1652 of problems identified by consumers of health care.
1653 ~~(2) Be empowered to investigate consumer complaints~~
1654 ~~relating to problems with health care facilities' billing~~
1655 ~~practices and issue reports to be made public in any cases where~~
1656 ~~the agency determines the health care facility has engaged in~~
1657 ~~billing practices which are unreasonable and unfair to the~~
1658 ~~consumer.~~
1659 Section 56. Subsections (12) through (30) of section
1660 408.802, Florida Statutes, are renumbered as subsections (11)
1661 through (29), respectively, and present subsection (11) of that
1662 section is amended to read:
1663 408.802 Applicability.—The provisions of this part apply to
1664 the provision of services that require licensure as defined in
1665 this part and to the following entities licensed, registered, or

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1666 certified by the agency, as described in chapters 112, 383, 390,
1667 394, 395, 400, 429, 440, 483, and 765:
1668 ~~(11) Private review agents, as provided under part I of~~
1669 ~~chapter 395.~~
1670 Section 57. Subsection (3) is added to section 408.804,
1671 Florida Statutes, to read:
1672 408.804 License required; display.—
1673 (3) Any person who knowingly alters, defaces, or falsifies
1674 a license certificate issued by the agency, or causes or
1675 procures any person to commit such an offense, commits a
1676 misdemeanor of the second degree, punishable as provided in s.
1677 775.082 or s 775.083. Any licensee or provider who displays an
1678 altered, defaced, or falsified license certificate is subject to
1679 the penalties set forth in s. 408.815 and an administrative fine
1680 of $1,000 for each day of illegal display.
1681 Section 58. Paragraph (d) of subsection (2) of section
1682 408.806, Florida Statutes, is amended, present subsections (3)
1683 through (8) are renumbered as subsections (4) through (9),
1684 respectively, and a new subsection (3) is added to that section,
1685 to read:
1686 408.806 License application process.—
1687 (2)
1688 (d) ~~The agency shall notify the licensee by mail or~~
1689 ~~electronically at least 90 days before the expiration of a~~
1690 ~~license that a renewal license is necessary to continue~~
1691 ~~operation.~~ The licensee's failure to timely file ~~submit~~ a
1692 renewal application and license application fee with the agency
1693 shall result in a $50 per day late fee charged to the licensee
1694 by the agency; however, the aggregate amount of the late fee may

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1695 not exceed 50 percent of the licensure fee or $500, whichever is
1696 less. The agency shall provide a courtesy notice to the licensee
1697 by United States mail, electronically, or by any other manner at
1698 its address of record or mailing address, if provided, at least
1699 90 days prior to the expiration of a license informing the
1700 licensee of the expiration of the license. If the agency does
1701 not provide the courtesy notice or the licensee does not receive
1702 the courtesy notice, the licensee continues to be legally
1703 obligated to timely file the renewal application and license
1704 application fee with the agency and is not excused from the
1705 payment of a late fee. If an application is received after the
1706 required filing date and exhibits a hand-canceled postmark
1707 obtained from a United States post office dated on or before the
1708 required filing date, no fine will be levied.
1709 (3) Payment of the late fee is required to consider any
1710 late application complete, and failure to pay the late fee is
1711 considered an omission from the application.
1712 Section 59. Subsections (6) and (9) of section 408.810,
1713 Florida Statutes, are amended to read:
1714 408.810 Minimum licensure requirements.—In addition to the
1715 licensure requirements specified in this part, authorizing
1716 statutes, and applicable rules, each applicant and licensee must
1717 comply with the requirements of this section in order to obtain
1718 and maintain a license.
1719 (6)(a) An applicant must provide the agency with proof of
1720 the applicant's legal right to occupy the property before a
1721 license may be issued. Proof may include, but need not be
1722 limited to, copies of warranty deeds, lease or rental
1723 agreements, contracts for deeds, quitclaim deeds, or other such

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1724 documentation.
1725 (b) In the event the property is encumbered by a mortgage
1726 or is leased, an applicant must provide the agency with proof
1727 that the mortgagor or landlord has been provided written notice
1728 of the applicant’s intent as mortgagee or tenant to provide
1729 services that require licensure and instruct the mortgagor or
1730 landlord to serve the agency by certified mail with copies of
1731 any foreclosure or eviction actions initiated by the mortgagor
1732 or landlord against the applicant.
1733 (9) A controlling interest may not withhold from the agency
1734 any evidence of financial instability, including, but not
1735 limited to, checks returned due to insufficient funds,
1736 delinquent accounts, nonpayment of withholding taxes, unpaid
1737 utility expenses, nonpayment for essential services, or adverse
1738 court action concerning the financial viability of the provider
1739 or any other provider licensed under this part that is under the
1740 control of the controlling interest. A controlling interest
1741 shall notify the agency within 10 days after a court action to
1742 initiate bankruptcy, foreclosure, or eviction proceedings
1743 concerning the provider, in which the controlling interest is a
1744 petitioner or defendant. Any person who violates this subsection
1745 commits a misdemeanor of the second degree, punishable as
1746 provided in s. 775.082 or s. 775.083. Each day of continuing
1747 violation is a separate offense.
1748 Section 60. Subsection (3) is added to section 408.813,
1749 Florida Statutes, to read:
1750 408.813 Administrative fines; violations.—As a penalty for
1751 any violation of this part, authorizing statutes, or applicable
1752 rules, the agency may impose an administrative fine.

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1753 (3) The agency may impose an administrative fine for a
1754 violation that does not qualify as a class I, class II, class
1755 III, or class IV violation. Unless otherwise specified by law,
1756 the amount of the fine shall not exceed $500 for each violation.
1757 Unclassified violations may include:
1758 (a) Violating any term or condition of a license.
1759 (b) Violating any provision of this part, authorizing
1760 statutes, or applicable rules.
1761 (c) Exceeding licensed capacity.
1762 (d) Providing services beyond the scope of the license.
1763 (e) Violating a moratorium imposed pursuant to s. 408.814.
1764 Section 61. Subsection (5) is added to section 408.815,
1765 Florida Statutes, to read:
1766 408.815 License or application denial; revocation.—
1767 (5) In order to ensure the health, safety, and welfare of
1768 clients when a license has been denied, revoked, or is set to
1769 terminate, the agency may extend the license expiration date for
1770 a period of up to 30 days for the sole purpose of allowing the
1771 safe and orderly discharge of clients. The agency may impose
1772 conditions on the extension, including, but not limited to,
1773 prohibiting or limiting admissions, expedited discharge
1774 planning, required status reports, and mandatory monitoring by
1775 the agency or third parties. In imposing these conditions, the
1776 agency shall take into consideration the nature and number of
1777 clients, the availability and location of acceptable alternative
1778 placements, and the ability of the licensee to continue
1779 providing care to the clients. The agency may terminate the
1780 extension or modify the conditions at any time. This authority
1781 is in addition to any other authority granted to the agency

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1782 under chapter 120, this part, and authorizing statutes but
1783 creates no right or entitlement to an extension of a license
1784 expiration date.
1785 Section 62. Paragraph (k) of subsection (4) of section
1786 409.221, Florida Statutes, is amended to read:
1787 409.221 Consumer-directed care program.—
1788 (4) CONSUMER-DIRECTED CARE.—
1789 ~~(k) *Reviews and reports.*—The agency and the Departments of~~
1790 ~~Elderly Affairs, Health, and Children and Family Services and~~
1791 ~~the Agency for Persons with Disabilities shall each, on an~~
1792 ~~ongoing basis, review and assess the implementation of the~~
1793 ~~consumer-directed care program. By January 15 of each year, the~~
1794 ~~agency shall submit a written report to the Legislature that~~
1795 ~~includes each department's review of the program and contains~~
1796 ~~recommendations for improvements to the program.~~
1797 Section 63. Subsection (1) of section 409.91196, Florida
1798 Statutes, is amended to read:
1799 409.91196 Supplemental rebate agreements; public records
1800 and public meetings exemption.—
1801 (1) The rebate amount, percent of rebate, manufacturer's
1802 pricing, and supplemental rebate, and other trade secrets as
1803 defined in s. 688.002 that the agency has identified for use in
1804 negotiations, held by the Agency for Health Care Administration
1805 under s. 409.912(39)(a)8.~~7.~~ are confidential and exempt from s.
1806 119.07(1) and s. 24(a), Art. I of the State Constitution.
1807 Section 64. Paragraph (a) of subsection (39) of section
1808 409.912, Florida Statutes, is amended to read:
1809 409.912 Cost-effective purchasing of health care.—The
1810 agency shall purchase goods and services for Medicaid recipients

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1811 in the most cost-effective manner consistent with the delivery
1812 of quality medical care. To ensure that medical services are
1813 effectively utilized, the agency may, in any case, require a
1814 confirmation or second physician's opinion of the correct
1815 diagnosis for purposes of authorizing future services under the
1816 Medicaid program. This section does not restrict access to
1817 emergency services or poststabilization care services as defined
1818 in 42 C.F.R. part 438.114. Such confirmation or second opinion
1819 shall be rendered in a manner approved by the agency. The agency
1820 shall maximize the use of prepaid per capita and prepaid
1821 aggregate fixed-sum basis services when appropriate and other
1822 alternative service delivery and reimbursement methodologies,
1823 including competitive bidding pursuant to s. 287.057, designed
1824 to facilitate the cost-effective purchase of a case-managed
1825 continuum of care. The agency shall also require providers to
1826 minimize the exposure of recipients to the need for acute
1827 inpatient, custodial, and other institutional care and the
1828 inappropriate or unnecessary use of high-cost services. The
1829 agency shall contract with a vendor to monitor and evaluate the
1830 clinical practice patterns of providers in order to identify
1831 trends that are outside the normal practice patterns of a
1832 provider's professional peers or the national guidelines of a
1833 provider's professional association. The vendor must be able to
1834 provide information and counseling to a provider whose practice
1835 patterns are outside the norms, in consultation with the agency,
1836 to improve patient care and reduce inappropriate utilization.
1837 The agency may mandate prior authorization, drug therapy
1838 management, or disease management participation for certain
1839 populations of Medicaid beneficiaries, certain drug classes, or

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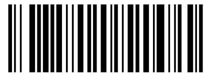
1840 particular drugs to prevent fraud, abuse, overuse, and possible
1841 dangerous drug interactions. The Pharmaceutical and Therapeutics
1842 Committee shall make recommendations to the agency on drugs for
1843 which prior authorization is required. The agency shall inform
1844 the Pharmaceutical and Therapeutics Committee of its decisions
1845 regarding drugs subject to prior authorization. The agency is
1846 authorized to limit the entities it contracts with or enrolls as
1847 Medicaid providers by developing a provider network through
1848 provider credentialing. The agency may competitively bid single-
1849 source-provider contracts if procurement of goods or services
1850 results in demonstrated cost savings to the state without
1851 limiting access to care. The agency may limit its network based
1852 on the assessment of beneficiary access to care, provider
1853 availability, provider quality standards, time and distance
1854 standards for access to care, the cultural competence of the
1855 provider network, demographic characteristics of Medicaid
1856 beneficiaries, practice and provider-to-beneficiary standards,
1857 appointment wait times, beneficiary use of services, provider
1858 turnover, provider profiling, provider licensure history,
1859 previous program integrity investigations and findings, peer
1860 review, provider Medicaid policy and billing compliance records,
1861 clinical and medical record audits, and other factors. Providers
1862 shall not be entitled to enrollment in the Medicaid provider
1863 network. The agency shall determine instances in which allowing
1864 Medicaid beneficiaries to purchase durable medical equipment and
1865 other goods is less expensive to the Medicaid program than long-
1866 term rental of the equipment or goods. The agency may establish
1867 rules to facilitate purchases in lieu of long-term rentals in
1868 order to protect against fraud and abuse in the Medicaid program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1869 as defined in s. 409.913. The agency may seek federal waivers
1870 necessary to administer these policies.
1871 (39)(a) The agency shall implement a Medicaid prescribed-
1872 drug spending-control program that includes the following
1873 components:
1874 1. A Medicaid preferred drug list, which shall be a listing
1875 of cost-effective therapeutic options recommended by the
1876 Medicaid Pharmacy and Therapeutics Committee established
1877 pursuant to s. 409.91195 and adopted by the agency for each
1878 therapeutic class on the preferred drug list. At the discretion
1879 of the committee, and when feasible, the preferred drug list
1880 should include at least two products in a therapeutic class. The
1881 agency may post the preferred drug list and updates to the
1882 preferred drug list on an Internet website without following the
1883 rulemaking procedures of chapter 120. Antiretroviral agents are
1884 excluded from the preferred drug list. The agency shall also
1885 limit the amount of a prescribed drug dispensed to no more than
1886 a 34-day supply unless the drug products' smallest marketed
1887 package is greater than a 34-day supply, or the drug is
1888 determined by the agency to be a maintenance drug in which case
1889 a 100-day maximum supply may be authorized. The agency is
1890 authorized to seek any federal waivers necessary to implement
1891 these cost-control programs and to continue participation in the
1892 federal Medicaid rebate program, or alternatively to negotiate
1893 state-only manufacturer rebates. The agency may adopt rules to
1894 implement this subparagraph. The agency shall continue to
1895 provide unlimited contraceptive drugs and items. The agency must
1896 establish procedures to ensure that:
1897 a. There is a response to a request for prior consultation

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1898 by telephone or other telecommunication device within 24 hours
1899 after receipt of a request for prior consultation; and
1900 b. A 72-hour supply of the drug prescribed is provided in
1901 an emergency or when the agency does not provide a response
1902 within 24 hours as required by sub-subparagraph a.
1903 2. Reimbursement to pharmacies for Medicaid prescribed
1904 drugs shall be set at the lesser of: the average wholesale price
1905 (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC)
1906 plus 4.75 percent, the federal upper limit (FUL), the state
1907 maximum allowable cost (SMAC), or the usual and customary (UAC)
1908 charge billed by the provider.
1909 3. For a prescribed drug billed as a 340B prescribed
1910 medication, the claim must meet the requirements of the Deficit
1911 Reduction Act of 2005 and the federal 340B program, contain a
1912 national drug code, and be billed at the actual acquisition cost
1913 or payment shall be denied.
1914 4.~~3.~~ The agency shall develop and implement a process for
1915 managing the drug therapies of Medicaid recipients who are using
1916 significant numbers of prescribed drugs each month. The
1917 management process may include, but is not limited to,
1918 comprehensive, physician-directed medical-record reviews, claims
1919 analyses, and case evaluations to determine the medical
1920 necessity and appropriateness of a patient’s treatment plan and
1921 drug therapies. The agency may contract with a private
1922 organization to provide drug-program-management services. The
1923 Medicaid drug benefit management program shall include
1924 initiatives to manage drug therapies for HIV/AIDS patients,
1925 patients using 20 or more unique prescriptions in a 180-day
1926 period, and the top 1,000 patients in annual spending. The

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1927 agency shall enroll any Medicaid recipient in the drug benefit
1928 management program if he or she meets the specifications of this
1929 provision and is not enrolled in a Medicaid health maintenance
1930 organization.
1931 5.~~4.~~ The agency may limit the size of its pharmacy network
1932 based on need, competitive bidding, price negotiations,
1933 credentialing, or similar criteria. The agency shall give
1934 special consideration to rural areas in determining the size and
1935 location of pharmacies included in the Medicaid pharmacy
1936 network. A pharmacy credentialing process may include criteria
1937 such as a pharmacy's full-service status, location, size,
1938 patient educational programs, patient consultation, disease
1939 management services, and other characteristics. The agency may
1940 impose a moratorium on Medicaid pharmacy enrollment when it is
1941 determined that it has a sufficient number of Medicaid-
1942 participating providers. The agency must allow dispensing
1943 practitioners to participate as a part of the Medicaid pharmacy
1944 network regardless of the practitioner's proximity to any other
1945 entity that is dispensing prescription drugs under the Medicaid
1946 program. A dispensing practitioner must meet all credentialing
1947 requirements applicable to his or her practice, as determined by
1948 the agency.
1949 6.~~5.~~ The agency shall develop and implement a program that
1950 requires Medicaid practitioners who prescribe drugs to use a
1951 counterfeit-proof prescription pad for Medicaid prescriptions.
1952 The agency shall require the use of standardized counterfeit-
1953 proof prescription pads by Medicaid-participating prescribers or
1954 prescribers who write prescriptions for Medicaid recipients. The
1955 agency may implement the program in targeted geographic areas or

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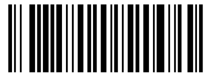
1956 statewide.
1957 7.~~6.~~ The agency may enter into arrangements that require
1958 manufacturers of generic drugs prescribed to Medicaid recipients
1959 to provide rebates of at least 15.1 percent of the average
1960 manufacturer price for the manufacturer’s generic products.
1961 These arrangements shall require that if a generic-drug
1962 manufacturer pays federal rebates for Medicaid-reimbursed drugs
1963 at a level below 15.1 percent, the manufacturer must provide a
1964 supplemental rebate to the state in an amount necessary to
1965 achieve a 15.1-percent rebate level.
1966 8.~~7.~~ The agency may establish a preferred drug list as
1967 described in this subsection, and, pursuant to the establishment
1968 of such preferred drug list, it is authorized to negotiate
1969 supplemental rebates from manufacturers that are in addition to
1970 those required by Title XIX of the Social Security Act and at no
1971 less than 14 percent of the average manufacturer price as
1972 defined in 42 U.S.C. s. 1936 on the last day of a quarter unless
1973 the federal or supplemental rebate, or both, equals or exceeds
1974 29 percent. There is no upper limit on the supplemental rebates
1975 the agency may negotiate. The agency may determine that specific
1976 products, brand-name or generic, are competitive at lower rebate
1977 percentages. Agreement to pay the minimum supplemental rebate
1978 percentage will guarantee a manufacturer that the Medicaid
1979 Pharmaceutical and Therapeutics Committee will consider a
1980 product for inclusion on the preferred drug list. However, a
1981 pharmaceutical manufacturer is not guaranteed placement on the
1982 preferred drug list by simply paying the minimum supplemental
1983 rebate. Agency decisions will be made on the clinical efficacy
1984 of a drug and recommendations of the Medicaid Pharmaceutical and




1985 Therapeutics Committee, as well as the price of competing
1986 products minus federal and state rebates. The agency is
1987 authorized to contract with an outside agency or contractor to
1988 conduct negotiations for supplemental rebates. For the purposes
1989 of this section, the term "supplemental rebates" means cash
1990 rebates. Effective July 1, 2004, value-added programs as a
1991 substitution for supplemental rebates are prohibited. The agency
1992 is authorized to seek any federal waivers to implement this
1993 initiative.
1994 9.~~8.~~ The Agency for Health Care Administration shall expand
1995 home delivery of pharmacy products. To assist Medicaid patients
1996 in securing their prescriptions and reduce program costs, the
1997 agency shall expand its current mail-order-pharmacy diabetes-
1998 supply program to include all generic and brand-name drugs used
1999 by Medicaid patients with diabetes. Medicaid recipients in the
2000 current program may obtain nondiabetes drugs on a voluntary
2001 basis. This initiative is limited to the geographic area covered
2002 by the current contract. The agency may seek and implement any
2003 federal waivers necessary to implement this subparagraph.
2004 10.~~9.~~ The agency shall limit to one dose per month any drug
2005 prescribed to treat erectile dysfunction.
2006 11.~~10.~~a. The agency may implement a Medicaid behavioral
2007 drug management system. The agency may contract with a vendor
2008 that has experience in operating behavioral drug management
2009 systems to implement this program. The agency is authorized to
2010 seek federal waivers to implement this program.
2011 b. The agency, in conjunction with the Department of
2012 Children and Family Services, may implement the Medicaid
2013 behavioral drug management system that is designed to improve

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2014 the quality of care and behavioral health prescribing practices
2015 based on best practice guidelines, improve patient adherence to
2016 medication plans, reduce clinical risk, and lower prescribed
2017 drug costs and the rate of inappropriate spending on Medicaid
2018 behavioral drugs. The program may include the following
2019 elements:
2020 (I) Provide for the development and adoption of best
2021 practice guidelines for behavioral health-related drugs such as
2022 antipsychotics, antidepressants, and medications for treating
2023 bipolar disorders and other behavioral conditions; translate
2024 them into practice; review behavioral health prescribers and
2025 compare their prescribing patterns to a number of indicators
2026 that are based on national standards; and determine deviations
2027 from best practice guidelines.
2028 (II) Implement processes for providing feedback to and
2029 educating prescribers using best practice educational materials
2030 and peer-to-peer consultation.
2031 (III) Assess Medicaid beneficiaries who are outliers in
2032 their use of behavioral health drugs with regard to the numbers
2033 and types of drugs taken, drug dosages, combination drug
2034 therapies, and other indicators of improper use of behavioral
2035 health drugs.
2036 (IV) Alert prescribers to patients who fail to refill
2037 prescriptions in a timely fashion, are prescribed multiple same-
2038 class behavioral health drugs, and may have other potential
2039 medication problems.
2040 (V) Track spending trends for behavioral health drugs and
2041 deviation from best practice guidelines.
2042 (VI) Use educational and technological approaches to

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2043 promote best practices, educate consumers, and train prescribers
2044 in the use of practice guidelines.
2045 (VII) Disseminate electronic and published materials.
2046 (VIII) Hold statewide and regional conferences.
2047 (IX) Implement a disease management program with a model
2048 quality-based medication component for severely mentally ill
2049 individuals and emotionally disturbed children who are high
2050 users of care.
2051 12.~~11.~~a. The agency shall implement a Medicaid prescription
2052 drug management system. The agency may contract with a vendor
2053 that has experience in operating prescription drug management
2054 systems in order to implement this system. Any management system
2055 that is implemented in accordance with this subparagraph must
2056 rely on cooperation between physicians and pharmacists to
2057 determine appropriate practice patterns and clinical guidelines
2058 to improve the prescribing, dispensing, and use of drugs in the
2059 Medicaid program. The agency may seek federal waivers to
2060 implement this program.
2061 b. The drug management system must be designed to improve
2062 the quality of care and prescribing practices based on best
2063 practice guidelines, improve patient adherence to medication
2064 plans, reduce clinical risk, and lower prescribed drug costs and
2065 the rate of inappropriate spending on Medicaid prescription
2066 drugs. The program must:
2067 (I) Provide for the development and adoption of best
2068 practice guidelines for the prescribing and use of drugs in the
2069 Medicaid program, including translating best practice guidelines
2070 into practice; reviewing prescriber patterns and comparing them
2071 to indicators that are based on national standards and practice

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2072 patterns of clinical peers in their community, statewide, and
2073 nationally; and determine deviations from best practice
2074 guidelines.
2075 (II) Implement processes for providing feedback to and
2076 educating prescribers using best practice educational materials
2077 and peer-to-peer consultation.
2078 (III) Assess Medicaid recipients who are outliers in their
2079 use of a single or multiple prescription drugs with regard to
2080 the numbers and types of drugs taken, drug dosages, combination
2081 drug therapies, and other indicators of improper use of
2082 prescription drugs.
2083 (IV) Alert prescribers to patients who fail to refill
2084 prescriptions in a timely fashion, are prescribed multiple drugs
2085 that may be redundant or contraindicated, or may have other
2086 potential medication problems.
2087 (V) Track spending trends for prescription drugs and
2088 deviation from best practice guidelines.
2089 (VI) Use educational and technological approaches to
2090 promote best practices, educate consumers, and train prescribers
2091 in the use of practice guidelines.
2092 (VII) Disseminate electronic and published materials.
2093 (VIII) Hold statewide and regional conferences.
2094 (IX) Implement disease management programs in cooperation
2095 with physicians and pharmacists, along with a model quality-
2096 based medication component for individuals having chronic
2097 medical conditions.
2098 13. ~~12.~~ The agency is authorized to contract for drug rebate
2099 administration, including, but not limited to, calculating
2100 rebate amounts, invoicing manufacturers, negotiating disputes

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2101 with manufacturers, and maintaining a database of rebate
2102 collections.
2103 14.~~13.~~ The agency may specify the preferred daily dosing
2104 form or strength for the purpose of promoting best practices
2105 with regard to the prescribing of certain drugs as specified in
2106 the General Appropriations Act and ensuring cost-effective
2107 prescribing practices.
2108 15.~~14.~~ The agency may require prior authorization for
2109 Medicaid-covered prescribed drugs. The agency may, but is not
2110 required to, prior-authorize the use of a product:
2111 a. For an indication not approved in labeling;
2112 b. To comply with certain clinical guidelines; or
2113 c. If the product has the potential for overuse, misuse, or
2114 abuse.
2115
2116 The agency may require the prescribing professional to provide
2117 information about the rationale and supporting medical evidence
2118 for the use of a drug. The agency may post prior authorization
2119 criteria and protocol and updates to the list of drugs that are
2120 subject to prior authorization on an Internet website without
2121 amending its rule or engaging in additional rulemaking.
2122 16.~~15.~~ The agency, in conjunction with the Pharmaceutical
2123 and Therapeutics Committee, may require age-related prior
2124 authorizations for certain prescribed drugs. The agency may
2125 preauthorize the use of a drug for a recipient who may not meet
2126 the age requirement or may exceed the length of therapy for use
2127 of this product as recommended by the manufacturer and approved
2128 by the Food and Drug Administration. Prior authorization may
2129 require the prescribing professional to provide information

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2130 about the rationale and supporting medical evidence for the use
2131 of a drug.
2132 17. ~~16.~~ The agency shall implement a step-therapy prior
2133 authorization approval process for medications excluded from the
2134 preferred drug list. Medications listed on the preferred drug
2135 list must be used within the previous 12 months prior to the
2136 alternative medications that are not listed. The step-therapy
2137 prior authorization may require the prescriber to use the
2138 medications of a similar drug class or for a similar medical
2139 indication unless contraindicated in the Food and Drug
2140 Administration labeling. The trial period between the specified
2141 steps may vary according to the medical indication. The step-
2142 therapy approval process shall be developed in accordance with
2143 the committee as stated in s. 409.91195(7) and (8). A drug
2144 product may be approved without meeting the step-therapy prior
2145 authorization criteria if the prescribing physician provides the
2146 agency with additional written medical or clinical documentation
2147 that the product is medically necessary because:
2148 a. There is not a drug on the preferred drug list to treat
2149 the disease or medical condition which is an acceptable clinical
2150 alternative;
2151 b. The alternatives have been ineffective in the treatment
2152 of the beneficiary’s disease; or
2153 c. Based on historic evidence and known characteristics of
2154 the patient and the drug, the drug is likely to be ineffective,
2155 or the number of doses have been ineffective.
2156
2157 The agency shall work with the physician to determine the best
2158 alternative for the patient. The agency may adopt rules waiving

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2159 the requirements for written clinical documentation for specific
2160 drugs in limited clinical situations.
2161 18.~~17.~~ The agency shall implement a return and reuse
2162 program for drugs dispensed by pharmacies to institutional
2163 recipients, which includes payment of a $5 restocking fee for
2164 the implementation and operation of the program. The return and
2165 reuse program shall be implemented electronically and in a
2166 manner that promotes efficiency. The program must permit a
2167 pharmacy to exclude drugs from the program if it is not
2168 practical or cost-effective for the drug to be included and must
2169 provide for the return to inventory of drugs that cannot be
2170 credited or returned in a cost-effective manner. The agency
2171 shall determine if the program has reduced the amount of
2172 Medicaid prescription drugs which are destroyed on an annual
2173 basis and if there are additional ways to ensure more
2174 prescription drugs are not destroyed which could safely be
2175 reused. The agency's conclusion and recommendations shall be
2176 reported to the Legislature by December 1, 2005.
2177 Section 65. Subsections (3) and (4) of section 429.07,
2178 Florida Statutes, are amended, and subsections (6) and (7) are
2179 added to that section, to read:
2180 429.07 License required; fee; inspections.—
2181 (3) In addition to the requirements of s. 408.806, each
2182 license granted by the agency must state the type of care for
2183 which the license is granted. Licenses shall be issued for one
2184 or more of the following categories of care: standard, extended
2185 congregate care, ~~limited nursing services,~~ or limited mental
2186 health.
2187 (a) A standard license shall be issued to a facility

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2188 ~~facilities~~ providing one or more of the personal services
2189 identified in s. 429.02. Such licensee ~~facilities~~ may also
2190 employ or contract with a person ~~licensed under part I of~~
2191 ~~chapter 464~~ to ~~administer medications and~~ perform other tasks as
2192 specified in s. 429.255.
2193 (b) An extended congregate care license shall be issued to
2194 a licensee ~~facilities~~ providing, directly or through contract,
2195 services beyond those authorized in paragraph (a), including
2196 acts performed pursuant to part I of chapter 464 by persons
2197 licensed thereunder, and supportive services defined by rule to
2198 persons who otherwise would be disqualified from continued
2199 residence in a facility licensed under this part.
2200 1. In order for extended congregate care services to be
2201 provided in a facility licensed under this part, the agency must
2202 first determine that all requirements established in law and
2203 rule are met and must specifically designate, on the ~~facility's~~
2204 license, that such services may be provided and whether the
2205 designation applies to all or part of a facility. Such
2206 designation may be made at the time of initial licensure or
2207 relicensure, or upon request in writing by a licensee under this
2208 part and part II of chapter 408. Notification of approval or
2209 denial of such request shall be made in accordance with part II
2210 of chapter 408. An existing licensee ~~facilities~~ qualifying to
2211 provide extended congregate care services must have maintained a
2212 standard license and ~~may~~ not ~~have~~ been subject to administrative
2213 sanctions during the previous 2 years, or since initial
2214 licensure if ~~the facility has been~~ licensed for less than 2
2215 years, for any of the following reasons:
2216 a. A class I or class II violation;

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2217 b. Three or more repeat or recurring class III violations
2218 of identical or similar resident care standards as specified in
2219 rule from which a pattern of noncompliance is found by the
2220 agency;
2221 c. Three or more class III violations that were not
2222 corrected in accordance with the corrective action plan approved
2223 by the agency;
2224 d. Violation of resident care standards resulting in a
2225 requirement to employ the services of a consultant pharmacist or
2226 consultant dietitian;
2227 e. Denial, suspension, or revocation of a license for
2228 another facility under this part in which the applicant for an
2229 extended congregate care license has at least 25 percent
2230 ownership interest; or
2231 f. Imposition of a moratorium pursuant to this part or part
2232 II of chapter 408 or initiation of injunctive proceedings.
2233 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide
2234 extended congregate care services shall maintain a written
2235 progress report for ~~on~~ each person who receives such services,
2236 and the ~~which~~ report must describe ~~describes~~ the type, amount,
2237 duration, scope, and outcome of services that are rendered and
2238 the general status of the resident's health. ~~A registered nurse,~~
2239 ~~or appropriate designee, representing the agency shall visit~~
2240 ~~such facilities at least quarterly to monitor residents who are~~
2241 ~~receiving extended congregate care services and to determine if~~
2242 ~~the facility is in compliance with this part, part II of chapter~~
2243 ~~408, and rules that relate to extended congregate care. One of~~
2244 ~~these visits may be in conjunction with the regular survey. The~~
2245 ~~monitoring visits may be provided through contractual~~

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2246 ~~arrangements with appropriate community agencies. A registered~~
2247 ~~nurse shall serve as part of the team that inspects such~~
2248 ~~facility. The agency may waive one of the required yearly~~
2249 ~~monitoring visits for a facility that has been licensed for at~~
2250 ~~least 24 months to provide extended congregate care services,~~
2251 ~~if, during the inspection, the registered nurse determines that~~
2252 ~~extended congregate care services are being provided~~
2253 ~~appropriately, and if the facility has no class I or class II~~
2254 ~~violations and no uncorrected class III violations. Before such~~
2255 ~~decision is made, the agency shall consult with the long-term~~
2256 ~~care ombudsman council for the area in which the facility is~~
2257 ~~located to determine if any complaints have been made and~~
2258 ~~substantiated about the quality of services or care. The agency~~
2259 ~~may not waive one of the required yearly monitoring visits if~~
2260 ~~complaints have been made and substantiated.~~
2261 3. Licensees ~~Facilities~~ that are licensed to provide
2262 extended congregate care services shall:
2263 a. Demonstrate the capability to meet unanticipated
2264 resident service needs.
2265 b. Offer a physical environment that promotes a homelike
2266 setting, provides for resident privacy, promotes resident
2267 independence, and allows sufficient congregate space as defined
2268 by rule.
2269 c. Have sufficient staff available, taking into account the
2270 physical plant and firesafety features of the building, to
2271 assist with the evacuation of residents in an emergency, as
2272 necessary.
2273 d. Adopt and follow policies and procedures that maximize
2274 resident independence, dignity, choice, and decisionmaking to

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2275 permit residents to age in place to the extent possible, so that
2276 moves due to changes in functional status are minimized or
2277 avoided.
2278 e. Allow residents or, if applicable, a resident’s
2279 representative, designee, surrogate, guardian, or attorney in
2280 fact to make a variety of personal choices, participate in
2281 developing service plans, and share responsibility in
2282 decisionmaking.
2283 f. Implement the concept of managed risk.
2284 g. Provide, either directly or through contract, the
2285 services of a person licensed pursuant to part I of chapter 464.
2286 h. In addition to the training mandated in s. 429.52,
2287 provide specialized training as defined by rule for facility
2288 staff.
2289 4. Licensees ~~Facilities~~ licensed to provide extended
2290 congregate care services are exempt from the criteria for
2291 continued residency as set forth in rules adopted under s.
2292 429.41. Licensees ~~Facilities so licensed~~ shall adopt their own
2293 requirements within guidelines for continued residency set forth
2294 by rule. However, such licensees ~~facilities~~ may not serve
2295 residents who require 24-hour nursing supervision. Licensees
2296 ~~Facilities~~ licensed to provide extended congregate care services
2297 shall provide each resident with a written copy of facility
2298 policies governing admission and retention.
2299 5. The primary purpose of extended congregate care services
2300 is to allow residents, as they become more impaired, the option
2301 of remaining in a familiar setting from which they would
2302 otherwise be disqualified for continued residency. A facility
2303 licensed to provide extended congregate care services may also

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2304 admit an individual who exceeds the admission criteria for a
2305 facility with a standard license, if the individual is
2306 determined appropriate for admission to the extended congregate
2307 care facility.
2308 6. Before admission of an individual to a facility licensed
2309 to provide extended congregate care services, the individual
2310 must undergo a medical examination as provided in s. 429.26(4)
2311 and the facility must develop a preliminary service plan for the
2312 individual.
2313 7. When a licensee facility can no longer provide or
2314 arrange for services in accordance with the resident's service
2315 plan and needs and the licensee's facility's policy, the
2316 licensee facility shall make arrangements for relocating the
2317 person in accordance with s. 429.28(1)(k).
2318 8. Failure to provide extended congregate care services may
2319 result in denial of extended congregate care license renewal.
2320 9. No later than January 1 of each year, the department, in
2321 consultation with the agency, shall prepare and submit to the
2322 Governor, the President of the Senate, the Speaker of the House
2323 of Representatives, and the chairs of appropriate legislative
2324 committees, a report on the status of, and recommendations
2325 related to, extended congregate care services. The status report
2326 must include, but need not be limited to, the following
2327 information:
2328 a. A description of the facilities licensed to provide such
2329 services, including total number of beds licensed under this
2330 part.
2331 b. The number and characteristics of residents receiving
2332 such services.

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2333 ~~c. The types of services rendered that could not be~~
2334 ~~provided through a standard license.~~
2335 ~~d. An analysis of deficiencies cited during licensure~~
2336 ~~inspections.~~
2337 ~~e. The number of residents who required extended congregate~~
2338 ~~care services at admission and the source of admission.~~
2339 ~~f. Recommendations for statutory or regulatory changes.~~
2340 ~~g. The availability of extended congregate care to state~~
2341 ~~clients residing in facilities licensed under this part and in~~
2342 ~~need of additional services, and recommendations for~~
2343 ~~appropriations to subsidize extended congregate care services~~
2344 ~~for such persons.~~
2345 ~~h. Such other information as the department considers~~
2346 ~~appropriate.~~
2347 ~~(c) A limited nursing services license shall be issued to a~~
2348 ~~facility that provides services beyond those authorized in~~
2349 ~~paragraph (a) and as specified in this paragraph.~~
2350 ~~1. In order for limited nursing services to be provided in~~
2351 ~~a facility licensed under this part, the agency must first~~
2352 ~~determine that all requirements established in law and rule are~~
2353 ~~met and must specifically designate, on the facility's license,~~
2354 ~~that such services may be provided. Such designation may be made~~
2355 ~~at the time of initial licensure or relicensure, or upon request~~
2356 ~~in writing by a licensee under this part and part II of chapter~~
2357 ~~408. Notification of approval or denial of such request shall be~~
2358 ~~made in accordance with part II of chapter 408. Existing~~
2359 ~~facilities qualifying to provide limited nursing services shall~~
2360 ~~have maintained a standard license and may not have been subject~~
2361 ~~to administrative sanctions that affect the health, safety, and~~

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2362 ~~welfare of residents for the previous 2 years or since initial~~
2363 ~~licensure if the facility has been licensed for less than 2~~
2364 ~~years.~~
2365 ~~2. Facilities that are licensed to provide limited nursing~~
2366 ~~services shall maintain a written progress report on each person~~
2367 ~~who receives such nursing services, which report describes the~~
2368 ~~type, amount, duration, scope, and outcome of services that are~~
2369 ~~rendered and the general status of the resident's health. A~~
2370 ~~registered nurse representing the agency shall visit such~~
2371 ~~facilities at least twice a year to monitor residents who are~~
2372 ~~receiving limited nursing services and to determine if the~~
2373 ~~facility is in compliance with applicable provisions of this~~
2374 ~~part, part II of chapter 408, and related rules. The monitoring~~
2375 ~~visits may be provided through contractual arrangements with~~
2376 ~~appropriate community agencies. A registered nurse shall also~~
2377 ~~serve as part of the team that inspects such facility.~~
2378 ~~3. A person who receives limited nursing services under~~
2379 ~~this part must meet the admission criteria established by the~~
2380 ~~agency for assisted living facilities. When a resident no longer~~
2381 ~~meets the admission criteria for a facility licensed under this~~
2382 ~~part, arrangements for relocating the person shall be made in~~
2383 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
2384 ~~to provide extended congregate care services.~~
2385 (4) In accordance with s. 408.805, an applicant or licensee
2386 shall pay a fee for each license application submitted under
2387 this part, part II of chapter 408, and applicable rules. The
2388 amount of the fee shall be established by rule.
2389 (a) The biennial license fee required of a facility is $356
2390 ~~$300~~ per license, with an additional fee of $67.50 ~~$50~~ per

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2391 resident based on the total licensed resident capacity of the
2392 facility, except that no additional fee will be assessed for
2393 beds designated for recipients of optional state supplementation
2394 payments provided for in s. 409.212. The total fee may not
2395 exceed $18,000 ~~$10,000~~.
2396 (b) In addition to the total fee assessed under paragraph
2397 (a), the agency shall require facilities that are licensed to
2398 provide extended congregate care services under this part to pay
2399 an additional fee per licensed facility. The amount of the
2400 biennial fee shall be $501 ~~$400~~ per license, with an additional
2401 fee of $10 per resident based on the total licensed resident
2402 capacity of the facility.
2403 ~~(c) In addition to the total fee assessed under paragraph~~
2404 ~~(a), the agency shall require facilities that are licensed to~~
2405 ~~provide limited nursing services under this part to pay an~~
2406 ~~additional fee per licensed facility. The amount of the biennial~~
2407 ~~fee shall be $250 per license, with an additional fee of $10 per~~
2408 ~~resident based on the total licensed resident capacity of the~~
2409 ~~facility.~~
2410 (6) In order to determine whether the facility is
2411 adequately protecting residents' rights as provided in s.
2412 429.28, the biennial survey shall include private informal
2413 conversations with a sample of residents and consultation with
2414 the ombudsman council in the planning and service area in which
2415 the facility is located to discuss residents' experiences within
2416 the facility.
2417 (7) An assisted living facility that has been cited within
2418 the previous 24-month period for a class I or class II
2419 violation, regardless of the status of any enforcement or

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2420 disciplinary action, is subject to periodic unannounced
2421 monitoring to determine if the facility is in compliance with
2422 this part, part II of chapter 408, and applicable rules.
2423 Monitoring may occur through a desk review or an onsite
2424 assessment. If the class I or class II violation relates to
2425 providing or failing to provide nursing care, a registered nurse
2426 must participate in at least two onsite monitoring visits within
2427 a 12-month period.
2428 Section 66. Subsection (7) of section 429.11, Florida
2429 Statutes, is renumbered as subsection (6), and present
2430 subsection (6) of that section is amended to read:
2431 429.11 Initial application for license~~; provisional~~
2432 ~~license~~.—
2433 ~~(6) In addition to the license categories available in s.~~
2434 ~~408.808, a provisional license may be issued to an applicant~~
2435 ~~making initial application for licensure or making application~~
2436 ~~for a change of ownership. A provisional license shall be~~
2437 ~~limited in duration to a specific period of time not to exceed 6~~
2438 ~~months, as determined by the agency.~~
2439 Section 67. Section 429.12, Florida Statutes, is amended to
2440 read:
2441 429.12 Sale or transfer of ownership of a facility.—It is
2442 the intent of the Legislature to protect the rights of the
2443 residents of an assisted living facility when the facility is
2444 sold or the ownership thereof is transferred. Therefore, in
2445 addition to the requirements of part II of chapter 408, whenever
2446 a facility is sold or the ownership thereof is transferred,
2447 including leasing~~:~~.
2448 ~~(1)~~ The transferee shall notify the residents, in writing,

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2449 of the change of ownership within 7 days after receipt of the
2450 new license.
2451 ~~(2) The transferor of a facility the license of which is~~
2452 ~~denied pending an administrative hearing shall, as a part of the~~
2453 ~~written change-of-ownership contract, advise the transferee that~~
2454 ~~a plan of correction must be submitted by the transferee and~~
2455 ~~approved by the agency at least 7 days before the change of~~
2456 ~~ownership and that failure to correct the condition which~~
2457 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~
2458 ~~denial of licensure is grounds for denial of the transferee's~~
2459 ~~license.~~
2460 Section 68. Paragraphs (b) through (l) of subsection (1) of
2461 section 429.14, Florida Statutes, are redesignated as paragraphs
2462 (a) through (k), respectively, and present paragraph (a) of
2463 subsection (1) and subsections (5) and (6) of that section are
2464 amended to read:
2465 429.14 Administrative penalties.—
2466 (1) In addition to the requirements of part II of chapter
2467 408, the agency may deny, revoke, and suspend any license issued
2468 under this part and impose an administrative fine in the manner
2469 provided in chapter 120 against a licensee of an assisted living
2470 facility for a violation of any provision of this part, part II
2471 of chapter 408, or applicable rules, or for any of the following
2472 actions by a licensee of an assisted living facility, for the
2473 actions of any person subject to level 2 background screening
2474 under s. 408.809, or for the actions of any facility employee:
2475 ~~(a) An intentional or negligent act seriously affecting the~~
2476 ~~health, safety, or welfare of a resident of the facility.~~
2477 (5) An action taken by the agency to suspend, deny, or

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2478 revoke a facility's license under this part or part II of
2479 chapter 408, in which the agency claims that the facility owner
2480 or an employee of the facility has threatened the health,
2481 safety, or welfare of a resident of the facility shall be heard
2482 by the Division of Administrative Hearings of the Department of
2483 Management Services within 120 days after receipt of the
2484 facility's request for a hearing, unless that time limitation is
2485 waived by both parties. The administrative law judge must render
2486 a decision within 30 days after receipt of a proposed
2487 recommended order.
2488 (6) The agency shall provide to the Division of Hotels and
2489 Restaurants of the Department of Business and Professional
2490 Regulation, on a monthly basis, a list of those assisted living
2491 facilities that have had their licenses denied, suspended, or
2492 revoked or that are involved in an appellate proceeding pursuant
2493 to s. 120.60 related to the denial, suspension, or revocation of
2494 a license. This information may be provided electronically or
2495 through the agency's Internet website.
2496 Section 69. Subsections (1), (4), and (5) of section
2497 429.17, Florida Statutes, are amended to read:
2498 429.17 Expiration of license; renewal; conditional
2499 license.—
2500 (1) ~~Limited nursing,~~ Extended congregate care~~,~~ and limited
2501 mental health licenses shall expire at the same time as the
2502 facility's standard license, regardless of when issued.
2503 (4) In addition to the license categories available in s.
2504 408.808, a conditional license may be issued to an applicant for
2505 license renewal if the applicant fails to meet all standards and
2506 requirements for licensure. A conditional license issued under

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2507 this subsection shall be limited in duration to a specific
2508 period of time not to exceed 6 months, as determined by the
2509 agency~~, and shall be accompanied by an agency-approved plan of~~
2510 ~~correction~~.
2511 (5) When an extended congregate care ~~or limited nursing~~
2512 ~~license~~ is requested during a facility’s biennial license
2513 period, the fee shall be prorated in order to permit the
2514 additional license to expire at the end of the biennial license
2515 period. The fee shall be calculated as of the date the
2516 additional license application is received by the agency.
2517 Section 70. Subsection (7) of section 429.19, Florida
2518 Statutes, is amended to read:
2519 429.19 Violations; imposition of administrative fines;
2520 grounds.—
2521 (7) In addition to any administrative fines imposed, the
2522 agency may assess a survey or monitoring fee, equal to the
2523 lesser of one half of the facility’s biennial license and bed
2524 fee or $500, to cover the cost of conducting initial complaint
2525 investigations that result in the finding of a violation that
2526 was the subject of the complaint or to monitor the health,
2527 safety, or security of residents under s. 429.07(7) ~~monitoring~~
2528 ~~visits conducted under s. 429.28(3)(c) to verify the correction~~
2529 ~~of the violations~~.
2530 Section 71. Subsections (6) through (10) of section 429.23,
2531 Florida Statutes, are renumbered as subsections (5) through (9),
2532 respectively, and present subsection (5) of that section is
2533 amended to read:
2534 429.23 Internal risk management and quality assurance
2535 program; adverse incidents and reporting requirements.—

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2536 ~~(5) Each facility shall report monthly to the agency any~~
2537 ~~liability claim filed against it. The report must include the~~
2538 ~~name of the resident, the dates of the incident leading to the~~
2539 ~~claim, if applicable, and the type of injury or violation of~~
2540 ~~rights alleged to have occurred. This report is not discoverable~~
2541 ~~in any civil or administrative action, except in such actions~~
2542 ~~brought by the agency to enforce the provisions of this part.~~
2543 Section 72. Paragraph (a) of subsection (1) and subsection
2544 (2) of section 429.255, Florida Statutes, are amended to read:
2545 429.255 Use of personnel; emergency care.—
2546 (1)(a) Persons under contract to the facility or~~,~~ facility
2547 staff~~, or volunteers,~~ who are licensed according to part I of
2548 chapter 464, or those persons exempt under s. 464.022(1), and
2549 others as defined by rule, may administer medications to
2550 residents, take residents’ vital signs, manage individual weekly
2551 pill organizers for residents who self-administer medication,
2552 give prepackaged enemas ordered by a physician, observe
2553 residents, document observations on the appropriate resident’s
2554 record, report observations to the resident’s physician, and
2555 contract or allow residents or a resident’s representative,
2556 designee, surrogate, guardian, or attorney in fact to contract
2557 with a third party, provided residents meet the criteria for
2558 appropriate placement as defined in s. 429.26. Persons under
2559 contract to the facility or facility staff who are licensed
2560 according to part I of chapter 464 may provide limited nursing
2561 services. Nursing assistants certified pursuant to part II of
2562 chapter 464 may take residents’ vital signs as directed by a
2563 licensed nurse or physician. The facility is responsible for
2564 maintaining documentation of services provided under this

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2565 paragraph as required by rule and ensuring that staff are
2566 adequately trained to monitor residents receiving these
2567 services.
2568 (2) In facilities licensed to provide extended congregate
2569 care, persons under contract to the facility or, facility staff,
2570 or volunteers, who are licensed according to part I of chapter
2571 464, or those persons exempt under s. 464.022(1), or those
2572 persons certified as nursing assistants pursuant to part II of
2573 chapter 464, may also perform all duties within the scope of
2574 their license or certification, as approved by the facility
2575 administrator and pursuant to this part.
2576 Section 73. Subsection (3) of section 429.28, Florida
2577 Statutes, is amended to read:
2578 429.28 Resident bill of rights.—
2579 (3)(a) The agency shall conduct a survey to determine
2580 general compliance with facility standards and compliance with
2581 residents' rights as a prerequisite to initial licensure or
2582 licensure renewal.
2583 (b) In order to determine whether the facility is
2584 adequately protecting residents' rights, the biennial survey
2585 shall include private informal conversations with a sample of
2586 residents and consultation with the ombudsman council in the
2587 planning and service area in which the facility is located to
2588 discuss residents' experiences within the facility.
2589 (c) During any calendar year in which no survey is
2590 conducted, the agency shall conduct at least one monitoring
2591 visit of each facility cited in the previous year for a class I
2592 or class II violation, or more than three uncorrected class III
2593 violations.

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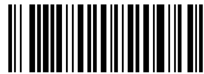
2594 ~~(d) The agency may conduct periodic followup inspections as~~
2595 ~~necessary to monitor the compliance of facilities with a history~~
2596 ~~of any class I, class II, or class III violations that threaten~~
2597 ~~the health, safety, or security of residents.~~
2598 ~~(e) The agency may conduct complaint investigations as~~
2599 ~~warranted to investigate any allegations of noncompliance with~~
2600 ~~requirements required under this part or rules adopted under~~
2601 ~~this part.~~
2602 Section 74. Subsection (2) of section 429.35, Florida
2603 Statutes, is amended to read:
2604 429.35 Maintenance of records; reports.—
2605 (2) Within 60 days after the date of the biennial
2606 inspection visit required under s. 408.811 or within 30 days
2607 after the date of any interim visit, the agency shall forward
2608 the results of the inspection to the local ombudsman council in
2609 whose planning and service area, as defined in part II of
2610 chapter 400, the facility is located; to at least one public
2611 library or, in the absence of a public library, the county seat
2612 in the county in which the inspected assisted living facility is
2613 located; and, when appropriate, to the district Adult Services
2614 and Mental Health Program Offices. This information may be
2615 provided electronically or through the agency’s Internet
2616 website.
2617 Section 75. Paragraphs (i) and (j) of subsection (1) of
2618 section 429.41, Florida Statutes, are amended to read:
2619 429.41 Rules establishing standards.—
2620 (1) It is the intent of the Legislature that rules
2621 published and enforced pursuant to this section shall include
2622 criteria by which a reasonable and consistent quality of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2623 resident care and quality of life may be ensured and the results
2624 of such resident care may be demonstrated. Such rules shall also
2625 ensure a safe and sanitary environment that is residential and
2626 noninstitutional in design or nature. It is further intended
2627 that reasonable efforts be made to accommodate the needs and
2628 preferences of residents to enhance the quality of life in a
2629 facility. The agency, in consultation with the department, may
2630 adopt rules to administer the requirements of part II of chapter
2631 408. In order to provide safe and sanitary facilities and the
2632 highest quality of resident care accommodating the needs and
2633 preferences of residents, the department, in consultation with
2634 the agency, the Department of Children and Family Services, and
2635 the Department of Health, shall adopt rules, policies, and
2636 procedures to administer this part, which must include
2637 reasonable and fair minimum standards in relation to:
2638 (i) Facilities holding an ~~a limited nursing,~~ extended
2639 congregate care~~,~~ or limited mental health license.
2640 (j) The establishment of specific criteria to define
2641 appropriateness of resident admission and continued residency in
2642 a facility holding a standard, ~~limited nursing,~~ extended
2643 congregate care, and limited mental health license.
2644 Section 76. Subsections (1) and (2) of section 429.53,
2645 Florida Statutes, are amended to read:
2646 429.53 Consultation by the agency.—
2647 (1) The ~~area offices of licensure and certification of the~~
2648 agency shall provide consultation to the following upon request:
2649 (a) A licensee of a facility.
2650 (b) A person interested in obtaining a license to operate a
2651 facility under this part.

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2652 (2) As used in this section, "consultation" includes:
2653 (a) An explanation of the requirements of this part and
2654 rules adopted pursuant thereto;
2655 (b) An explanation of the license application and renewal
2656 procedures;
2657 ~~(c) The provision of a checklist of general local and state~~
2658 ~~approvals required prior to constructing or developing a~~
2659 ~~facility and a listing of the types of agencies responsible for~~
2660 ~~such approvals;~~
2661 ~~(d) An explanation of benefits and financial assistance~~
2662 ~~available to a recipient of supplemental security income~~
2663 ~~residing in a facility;~~
2664 (c)~~(e)~~ Any other information which the agency deems
2665 necessary to promote compliance with the requirements of this
2666 part; and
2667 ~~(f) A preconstruction review of a facility to ensure~~
2668 ~~compliance with agency rules and this part.~~
2669 Section 77. Subsections (1) and (2) of section 429.54,
2670 Florida Statutes, are renumbered as subsections (2) and (3),
2671 respectively, and a new subsection (1) is added to that section
2672 to read:
2673 429.54 Collection of information; local subsidy.—
2674 (1) A facility that is licensed under this part must report
2675 electronically to the agency semiannually data related to the
2676 facility, including, but not limited to, the total number of
2677 residents, the number of residents who are receiving limited
2678 mental health services, the number of residents who are
2679 receiving extended congregate care services, the number of
2680 residents who are receiving limited nursing services, and

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2681 professional staffing employed by or under contract with the
2682 licensee to provide resident services. The department, in
2683 consultation with the agency, shall adopt rules to administer
2684 this subsection.
2685 Section 78. Subsections (1) and (5) of section 429.71,
2686 Florida Statutes, are amended to read:
2687 429.71 Classification of violations ~~deficiencies~~;
2688 administrative fines.—
2689 (1) In addition to the requirements of part II of chapter
2690 408 and in addition to any other liability or penalty provided
2691 by law, the agency may impose an administrative fine on a
2692 provider according to the following classification:
2693 (a) Class I violations are defined in s. 408.813 ~~those~~
2694 ~~conditions or practices related to the operation and maintenance~~
2695 ~~of an adult family-care home or to the care of residents which~~
2696 ~~the agency determines present an imminent danger to the~~
2697 ~~residents or guests of the facility or a substantial probability~~
2698 ~~that death or serious physical or emotional harm would result~~
2699 ~~therefrom. The condition or practice that constitutes a class I~~
2700 ~~violation must be abated or eliminated within 24 hours, unless a~~
2701 ~~fixed period, as determined by the agency, is required for~~
2702 ~~correction~~. A class I violation ~~deficiency~~ is subject to an
2703 administrative fine in an amount not less than $500 and not
2704 exceeding $1,000 for each violation. ~~A fine may be levied~~
2705 ~~notwithstanding the correction of the deficiency.~~
2706 (b) Class II violations are defined in s. 408.813 ~~those~~
2707 ~~conditions or practices related to the operation and maintenance~~
2708 ~~of an adult family-care home or to the care of residents which~~
2709 ~~the agency determines directly threaten the physical or~~

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2710 ~~emotional health, safety, or security of the residents, other~~
2711 ~~than class I violations~~. A class II violation is subject to an
2712 administrative fine in an amount not less than $250 and not
2713 exceeding $500 for each violation. ~~A citation for a class II~~
2714 ~~violation must specify the time within which the violation is~~
2715 ~~required to be corrected. If a class II violation is corrected~~
2716 ~~within the time specified, no civil penalty shall be imposed,~~
2717 ~~unless it is a repeated offense.~~
2718 (c) Class III violations are <u>defined in s. 408.813</u> ~~those~~
2719 ~~conditions or practices related to the operation and maintenance~~
2720 ~~of an adult family-care home or to the care of residents which~~
2721 ~~the agency determines indirectly or potentially threaten the~~
2722 ~~physical or emotional health, safety, or security of residents,~~
2723 ~~other than class I or class II violations~~. A class III violation
2724 is subject to an administrative fine in an amount not less than
2725 $100 and not exceeding $250 for each violation. ~~A citation for a~~
2726 ~~class III violation shall specify the time within which the~~
2727 ~~violation is required to be corrected.~~ If a class III violation
2728 is corrected within the time specified, no civil penalty shall
2729 be imposed, unless it is a repeated <u>violation</u> ~~offense~~.
2730 (d) Class IV violations are <u>defined in s. 408.813</u> ~~those~~
2731 ~~conditions or occurrences related to the operation and~~
2732 ~~maintenance of an adult family-care home, or related to the~~
2733 ~~required reports, forms, or documents, which do not have the~~
2734 ~~potential of negatively affecting the residents~~. ~~A provider that~~
2735 ~~does not correct~~ A class IV violation ~~within the time limit~~
2736 ~~specified by the agency~~ is subject to an administrative fine in
2737 an amount not less than $50 and not exceeding $100 for each
2738 violation. Any class IV violation that is corrected during the

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2739 time the agency survey is conducted will be identified as an
2740 agency finding and not as a violation, unless it is a repeat
2741 violation.
2742 (5) As an alternative to or in conjunction with an
2743 administrative action against a provider, the agency may request
2744 a plan of corrective action that demonstrates a good faith
2745 effort to remedy each violation by a specific date, subject to
2746 the approval of the agency.
2747 Section 79. Paragraphs (b) through (e) of subsection (2) of
2748 section 429.911, Florida Statutes, are redesignated as
2749 paragraphs (a) through (d), respectively, and present paragraph
2750 (a) of that subsection is amended to read:
2751 429.911 Denial, suspension, revocation of license;
2752 emergency action; administrative fines; investigations and
2753 inspections.—
2754 (2) Each of the following actions by the owner of an adult
2755 day care center or by its operator or employee is a ground for
2756 action by the agency against the owner of the center or its
2757 operator or employee:
2758 (a) An intentional or negligent act materially affecting
2759 the health or safety of center participants.
2760 Section 80. Section 429.915, Florida Statutes, is amended
2761 to read:
2762 429.915 Conditional license.—In addition to the license
2763 categories available in part II of chapter 408, the agency may
2764 issue a conditional license to an applicant for license renewal
2765 or change of ownership if the applicant fails to meet all
2766 standards and requirements for licensure. A conditional license
2767 issued under this subsection must be limited to a specific

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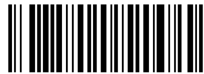
2768 period not exceeding 6 months, as determined by the agency~~, and~~
2769 ~~must be accompanied by an approved plan of correction~~.
2770 Section 81. Paragraphs (b) and (h) of subsection (3) of
2771 section 430.80, Florida Statutes, are amended to read:
2772 430.80 Implementation of a teaching nursing home pilot
2773 project.—
2774 (3) To be designated as a teaching nursing home, a nursing
2775 home licensee must, at a minimum:
2776 (b) Participate in a nationally recognized accreditation
2777 program and hold a valid accreditation, such as the
2778 accreditation awarded by The Joint Commission ~~on Accreditation~~
2779 ~~of Healthcare Organizations~~;
2780 (h) Maintain insurance coverage pursuant to s.
2781 400.141(1)<u>(q)</u>~~(s)~~ or proof of financial responsibility in a
2782 minimum amount of $750,000. Such proof of financial
2783 responsibility may include:
2784 1. Maintaining an escrow account consisting of cash or
2785 assets eligible for deposit in accordance with s. 625.52; or
2786 2. Obtaining and maintaining pursuant to chapter 675 an
2787 unexpired, irrevocable, nontransferable and nonassignable letter
2788 of credit issued by any bank or savings association organized
2789 and existing under the laws of this state or any bank or savings
2790 association organized under the laws of the United States that
2791 has its principal place of business in this state or has a
2792 branch office which is authorized to receive deposits in this
2793 state. The letter of credit shall be used to satisfy the
2794 obligation of the facility to the claimant upon presentment of a
2795 final judgment indicating liability and awarding damages to be
2796 paid by the facility or upon presentment of a settlement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2797 agreement signed by all parties to the agreement when such final
2798 judgment or settlement is a result of a liability claim against
2799 the facility.
2800 Section 82. Paragraph (a) of subsection (2) of section
2801 440.13, Florida Statutes, is amended to read:
2802 440.13 Medical services and supplies; penalty for
2803 violations; limitations.—
2804 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—
2805 (a) Subject to the limitations specified elsewhere in this
2806 chapter, the employer shall furnish to the employee such
2807 medically necessary remedial treatment, care, and attendance for
2808 such period as the nature of the injury or the process of
2809 recovery may require, which is in accordance with established
2810 practice parameters and protocols of treatment as provided for
2811 in this chapter, including medicines, medical supplies, durable
2812 medical equipment, orthoses, prostheses, and other medically
2813 necessary apparatus. Remedial treatment, care, and attendance,
2814 including work-hardening programs or pain-management programs
2815 accredited by the Commission on Accreditation of Rehabilitation
2816 Facilities or The Joint Commission ~~on the Accreditation of~~
2817 ~~Health Organizations~~ or pain-management programs affiliated with
2818 medical schools, shall be considered as covered treatment only
2819 when such care is given based on a referral by a physician as
2820 defined in this chapter. Medically necessary treatment, care,
2821 and attendance does not include chiropractic services in excess
2822 of 24 treatments or rendered 12 weeks beyond the date of the
2823 initial chiropractic treatment, whichever comes first, unless
2824 the carrier authorizes additional treatment or the employee is
2825 catastrophically injured.

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2826
2827 Failure of the carrier to timely comply with this subsection
2828 shall be a violation of this chapter and the carrier shall be
2829 subject to penalties as provided for in s. 440.525.
2830 Section 83. Section 483.294, Florida Statutes, is amended
2831 to read:
2832 483.294 Inspection of centers.—In accordance with s.
2833 408.811, the agency shall biennially~~, at least once annually,~~
2834 inspect the premises and operations of all centers subject to
2835 licensure under this part.
2836 Section 84. Paragraph (a) of subsection (53) of section
2837 499.003, Florida Statutes, is amended to read:
2838 499.003 Definitions of terms used in this part.—As used in
2839 this part, the term:
2840 (53) “Wholesale distribution” means distribution of
2841 prescription drugs to persons other than a consumer or patient,
2842 but does not include:
2843 (a) Any of the following activities, which is not a
2844 violation of s. 499.005(21) if such activity is conducted in
2845 accordance with s. 499.01(2)(g):
2846 1. The purchase or other acquisition by a hospital or other
2847 health care entity that is a member of a group purchasing
2848 organization of a prescription drug for its own use from the
2849 group purchasing organization or from other hospitals or health
2850 care entities that are members of that organization.
2851 2. The sale, purchase, or trade of a prescription drug or
2852 an offer to sell, purchase, or trade a prescription drug by a
2853 charitable organization described in s. 501(c)(3) of the
2854 Internal Revenue Code of 1986, as amended and revised, to a

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2855 nonprofit affiliate of the organization to the extent otherwise
2856 permitted by law.
2857 3. The sale, purchase, or trade of a prescription drug or
2858 an offer to sell, purchase, or trade a prescription drug among
2859 hospitals or other health care entities that are under common
2860 control. For purposes of this subparagraph, “common control”
2861 means the power to direct or cause the direction of the
2862 management and policies of a person or an organization, whether
2863 by ownership of stock, by voting rights, by contract, or
2864 otherwise.
2865 4. The sale, purchase, trade, or other transfer of a
2866 prescription drug from or for any federal, state, or local
2867 government agency or any entity eligible to purchase
2868 prescription drugs at public health services prices pursuant to
2869 Pub. L. No. 102-585, s. 602 to a contract provider or its
2870 subcontractor for eligible patients of the agency or entity
2871 under the following conditions:
2872 a. The agency or entity must obtain written authorization
2873 for the sale, purchase, trade, or other transfer of a
2874 prescription drug under this subparagraph from the State Surgeon
2875 General or his or her designee.
2876 b. The contract provider or subcontractor must be
2877 authorized by law to administer or dispense prescription drugs.
2878 c. In the case of a subcontractor, the agency or entity
2879 must be a party to and execute the subcontract.
2880 ~~d. A contract provider or subcontractor must maintain~~
2881 ~~separate and apart from other prescription drug inventory any~~
2882 ~~prescription drugs of the agency or entity in its possession.~~
2883 d.~~e.~~ The contract provider and subcontractor must maintain

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2884 and produce immediately for inspection all records of movement
2885 or transfer of all the prescription drugs belonging to the
2886 agency or entity, including, but not limited to, the records of
2887 receipt and disposition of prescription drugs. Each contractor
2888 and subcontractor dispensing or administering these drugs must
2889 maintain and produce records documenting the dispensing or
2890 administration. Records that are required to be maintained
2891 include, but are not limited to, a perpetual inventory itemizing
2892 drugs received and drugs dispensed by prescription number or
2893 administered by patient identifier, which must be submitted to
2894 the agency or entity quarterly.
2895 e.~~f.~~ The contract provider or subcontractor may administer
2896 or dispense the prescription drugs only to the eligible patients
2897 of the agency or entity or must return the prescription drugs
2898 for or to the agency or entity. The contract provider or
2899 subcontractor must require proof from each person seeking to
2900 fill a prescription or obtain treatment that the person is an
2901 eligible patient of the agency or entity and must, at a minimum,
2902 maintain a copy of this proof as part of the records of the
2903 contractor or subcontractor required under sub-subparagraph d.
2904 ~~e.~~
2905 f.~~g.~~ In addition to the departmental inspection authority
2906 set forth in s. 499.051, the establishment of the contract
2907 provider and subcontractor and all records pertaining to
2908 prescription drugs subject to this subparagraph shall be subject
2909 to inspection by the agency or entity. All records relating to
2910 prescription drugs of a manufacturer under this subparagraph
2911 shall be subject to audit by the manufacturer of those drugs,
2912 without identifying individual patient information.

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2913 Section 85. Paragraph (i) is added to subsection (3) of
2914 section 499.01212, Florida Statutes, to read:
2915 499.01212 Pedigree paper.—
2916 (3) EXCEPTIONS.—A pedigree paper is not required for:
2917 (i) The wholesale distribution of prescription drugs
2918 contained within a sealed medical convenience kit if the kit:
2919 1. Is assembled in an establishment that is registered as a
2920 medical device manufacturer with the Food and Drug
2921 Administration; and
2922 2. Does not contain any controlled substance that appears
2923 in any schedule contained in or subject to chapter 893 or the
2924 federal Comprehensive Drug Abuse Prevention and Control Act of
2925 1970.
2926 Section 86. Subsection (1) of section 627.645, Florida
2927 Statutes, is amended to read:
2928 627.645 Denial of health insurance claims restricted.—
2929 (1) No claim for payment under a health insurance policy or
2930 self-insured program of health benefits for treatment, care, or
2931 services in a licensed hospital which is accredited by The Joint
2932 Commission ~~on the Accreditation of Hospitals~~, the American
2933 Osteopathic Association, or the Commission on the Accreditation
2934 of Rehabilitative Facilities shall be denied because such
2935 hospital lacks major surgical facilities and is primarily of a
2936 rehabilitative nature, if such rehabilitation is specifically
2937 for treatment of physical disability.
2938 Section 87. Paragraph (c) of subsection (2) of section
2939 627.668, Florida Statutes, is amended to read:
2940 627.668 Optional coverage for mental and nervous disorders
2941 required; exception.—

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2942 (2) Under group policies or contracts, inpatient hospital
2943 benefits, partial hospitalization benefits, and outpatient
2944 benefits consisting of durational limits, dollar amounts,
2945 deductibles, and coinsurance factors shall not be less favorable
2946 than for physical illness generally, except that:
2947 (c) Partial hospitalization benefits shall be provided
2948 under the direction of a licensed physician. For purposes of
2949 this part, the term "partial hospitalization services" is
2950 defined as those services offered by a program accredited by The
2951 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
2952 compliance with equivalent standards. Alcohol rehabilitation
2953 programs accredited by The Joint Commission ~~on Accreditation of~~
2954 ~~Hospitals~~ or approved by the state and licensed drug abuse
2955 rehabilitation programs shall also be qualified providers under
2956 this section. In any benefit year, if partial hospitalization
2957 services or a combination of inpatient and partial
2958 hospitalization are utilized, the total benefits paid for all
2959 such services shall not exceed the cost of 30 days of inpatient
2960 hospitalization for psychiatric services, including physician
2961 fees, which prevail in the community in which the partial
2962 hospitalization services are rendered. If partial
2963 hospitalization services benefits are provided beyond the limits
2964 set forth in this paragraph, the durational limits, dollar
2965 amounts, and coinsurance factors thereof need not be the same as
2966 those applicable to physical illness generally.
2967 Section 88. Subsection (3) of section 627.669, Florida
2968 Statutes, is amended to read:
2969 627.669 Optional coverage required for substance abuse
2970 impaired persons; exception.—

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2971 (3) The benefits provided under this section shall be
2972 applicable only if treatment is provided by, or under the
2973 supervision of, or is prescribed by, a licensed physician or
2974 licensed psychologist and if services are provided in a program
2975 accredited by The Joint Commission ~~on Accreditation of Hospitals~~
2976 or approved by the state.
2977 Section 89. Paragraph (a) of subsection (1) of section
2978 627.736, Florida Statutes, is amended to read:
2979 627.736 Required personal injury protection benefits;
2980 exclusions; priority; claims.—
2981 (1) REQUIRED BENEFITS.—Every insurance policy complying
2982 with the security requirements of s. 627.733 shall provide
2983 personal injury protection to the named insured, relatives
2984 residing in the same household, persons operating the insured
2985 motor vehicle, passengers in such motor vehicle, and other
2986 persons struck by such motor vehicle and suffering bodily injury
2987 while not an occupant of a self-propelled vehicle, subject to
2988 the provisions of subsection (2) and paragraph (4)(e), to a
2989 limit of $10,000 for loss sustained by any such person as a
2990 result of bodily injury, sickness, disease, or death arising out
2991 of the ownership, maintenance, or use of a motor vehicle as
2992 follows:
2993 (a) *Medical benefits.*—Eighty percent of all reasonable
2994 expenses for medically necessary medical, surgical, X-ray,
2995 dental, and rehabilitative services, including prosthetic
2996 devices, and medically necessary ambulance, hospital, and
2997 nursing services. However, the medical benefits shall provide
2998 reimbursement only for such services and care that are lawfully
2999 provided, supervised, ordered, or prescribed by a physician

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3000 licensed under chapter 458 or chapter 459, a dentist licensed
3001 under chapter 466, or a chiropractic physician licensed under
3002 chapter 460 or that are provided by any of the following persons
3003 or entities:
3004 1. A hospital or ambulatory surgical center licensed under
3005 chapter 395.
3006 2. A person or entity licensed under ss. 401.2101-401.45
3007 that provides emergency transportation and treatment.
3008 3. An entity wholly owned by one or more physicians
3009 licensed under chapter 458 or chapter 459, chiropractic
3010 physicians licensed under chapter 460, or dentists licensed
3011 under chapter 466 or by such practitioner or practitioners and
3012 the spouse, parent, child, or sibling of that practitioner or
3013 those practitioners.
3014 4. An entity wholly owned, directly or indirectly, by a
3015 hospital or hospitals.
3016 5. A health care clinic licensed under ss. 400.990-400.995
3017 that is:
3018 a. Accredited by The Joint Commission ~~on Accreditation of~~
3019 ~~Healthcare Organizations~~, the American Osteopathic Association,
3020 the Commission on Accreditation of Rehabilitation Facilities, or
3021 the Accreditation Association for Ambulatory Health Care, Inc.;
3022 or
3023 b. A health care clinic that:
3024 (I) Has a medical director licensed under chapter 458,
3025 chapter 459, or chapter 460;
3026 (II) Has been continuously licensed for more than 3 years
3027 or is a publicly traded corporation that issues securities
3028 traded on an exchange registered with the United States

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3029 Securities and Exchange Commission as a national securities
3030 exchange; and
3031 (III) Provides at least four of the following medical
3032 specialties:
3033 (A) General medicine.
3034 (B) Radiography.
3035 (C) Orthopedic medicine.
3036 (D) Physical medicine.
3037 (E) Physical therapy.
3038 (F) Physical rehabilitation.
3039 (G) Prescribing or dispensing outpatient prescription
3040 medication.
3041 (H) Laboratory services.
3042
3043 The Financial Services Commission shall adopt by rule the form
3044 that must be used by an insurer and a health care provider
3045 specified in subparagraph 3., subparagraph 4., or subparagraph
3046 5. to document that the health care provider meets the criteria
3047 of this paragraph, which rule must include a requirement for a
3048 sworn statement or affidavit.
3049
3050 Only insurers writing motor vehicle liability insurance in this
3051 state may provide the required benefits of this section, and no
3052 such insurer shall require the purchase of any other motor
3053 vehicle coverage other than the purchase of property damage
3054 liability coverage as required by s. 627.7275 as a condition for
3055 providing such required benefits. Insurers may not require that
3056 property damage liability insurance in an amount greater than
3057 $10,000 be purchased in conjunction with personal injury

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3058 protection. Such insurers shall make benefits and required
3059 property damage liability insurance coverage available through
3060 normal marketing channels. Any insurer writing motor vehicle
3061 liability insurance in this state who fails to comply with such
3062 availability requirement as a general business practice shall be
3063 deemed to have violated part IX of chapter 626, and such
3064 violation shall constitute an unfair method of competition or an
3065 unfair or deceptive act or practice involving the business of
3066 insurance; and any such insurer committing such violation shall
3067 be subject to the penalties afforded in such part, as well as
3068 those which may be afforded elsewhere in the insurance code.
3069 Section 90. Section 633.081, Florida Statutes, is amended
3070 to read:
3071 633.081 Inspection of buildings and equipment; orders;
3072 firesafety inspection training requirements; certification;
3073 disciplinary action.—The State Fire Marshal and her or his
3074 agents shall, at any reasonable hour, when the department has
3075 reasonable cause to believe that a violation of this chapter or
3076 s. 509.215, or a rule promulgated thereunder, or a minimum
3077 firesafety code adopted by a local authority, may exist, inspect
3078 any and all buildings and structures which are subject to the
3079 requirements of this chapter or s. 509.215 and rules promulgated
3080 thereunder. The authority to inspect shall extend to all
3081 equipment, vehicles, and chemicals which are located within the
3082 premises of any such building or structure. The State Fire
3083 Marshal and her or his agents shall inspect nursing homes
3084 licensed under part II of chapter 400 only once every calendar
3085 year and upon receiving a complaint forming the basis of a
3086 reasonable cause to believe that a violation of this chapter or

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3087 s. 509.215, or a rule promulgated thereunder, or a minimum
3088 firesafety code adopted by a local authority may exist and upon
3089 identifying such a violation in the course of conducting
3090 orientation or training activities within a nursing home.
3091 (1) Each county, municipality, and special district that
3092 has firesafety enforcement responsibilities shall employ or
3093 contract with a firesafety inspector. The firesafety inspector
3094 must conduct all firesafety inspections that are required by
3095 law. The governing body of a county, municipality, or special
3096 district that has firesafety enforcement responsibilities may
3097 provide a schedule of fees to pay only the costs of inspections
3098 conducted pursuant to this subsection and related administrative
3099 expenses. Two or more counties, municipalities, or special
3100 districts that have firesafety enforcement responsibilities may
3101 jointly employ or contract with a firesafety inspector.
3102 (2) Every firesafety inspection conducted pursuant to state
3103 or local firesafety requirements shall be by a person certified
3104 as having met the inspection training requirements set by the
3105 State Fire Marshal. Such person shall:
3106 (a) Be a high school graduate or the equivalent as
3107 determined by the department;
3108 (b) Not have been found guilty of, or having pleaded guilty
3109 or nolo contendere to, a felony or a crime punishable by
3110 imprisonment of 1 year or more under the law of the United
3111 States, or of any state thereof, which involves moral turpitude,
3112 without regard to whether a judgment of conviction has been
3113 entered by the court having jurisdiction of such cases;
3114 (c) Have her or his fingerprints on file with the
3115 department or with an agency designated by the department;

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3116 (d) Have good moral character as determined by the
3117 department;
3118 (e) Be at least 18 years of age;
3119 (f) Have satisfactorily completed the firesafety inspector
3120 certification examination as prescribed by the department; and
3121 (g)1. Have satisfactorily completed, as determined by the
3122 department, a firesafety inspector training program of not less
3123 than 200 hours established by the department and administered by
3124 agencies and institutions approved by the department for the
3125 purpose of providing basic certification training for firesafety
3126 inspectors; or
3127 2. Have received in another state training which is
3128 determined by the department to be at least equivalent to that
3129 required by the department for approved firesafety inspector
3130 education and training programs in this state.
3131 (3) Each special state firesafety inspection which is
3132 required by law and is conducted by or on behalf of an agency of
3133 the state must be performed by an individual who has met the
3134 provision of subsection (2), except that the duration of the
3135 training program shall not exceed 120 hours of specific training
3136 for the type of property that such special state firesafety
3137 inspectors are assigned to inspect.
3138 (4) A firefighter certified pursuant to s. 633.35 may
3139 conduct firesafety inspections, under the supervision of a
3140 certified firesafety inspector, while on duty as a member of a
3141 fire department company conducting inservice firesafety
3142 inspections without being certified as a firesafety inspector,
3143 if such firefighter has satisfactorily completed an inservice
3144 fire department company inspector training program of at least

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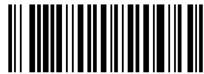
3145 24 hours' duration as provided by rule of the department.
3146 (5) Every firesafety inspector or special state firesafety
3147 inspector certificate is valid for a period of 3 years from the
3148 date of issuance. Renewal of certification shall be subject to
3149 the affected person's completing proper application for renewal
3150 and meeting all of the requirements for renewal as established
3151 under this chapter or by rule promulgated thereunder, which
3152 shall include completion of at least 40 hours during the
3153 preceding 3-year period of continuing education as required by
3154 the rule of the department or, in lieu thereof, successful
3155 passage of an examination as established by the department.
3156 (6) The State Fire Marshal may deny, refuse to renew,
3157 suspend, or revoke the certificate of a firesafety inspector or
3158 special state firesafety inspector if it finds that any of the
3159 following grounds exist:
3160 (a) Any cause for which issuance of a certificate could
3161 have been refused had it then existed and been known to the
3162 State Fire Marshal.
3163 (b) Violation of this chapter or any rule or order of the
3164 State Fire Marshal.
3165 (c) Falsification of records relating to the certificate.
3166 (d) Having been found guilty of or having pleaded guilty or
3167 nolo contendere to a felony, whether or not a judgment of
3168 conviction has been entered.
3169 (e) Failure to meet any of the renewal requirements.
3170 (f) Having been convicted of a crime in any jurisdiction
3171 which directly relates to the practice of fire code inspection,
3172 plan review, or administration.
3173 (g) Making or filing a report or record that the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3174 certificateholder knows to be false, or knowingly inducing
3175 another to file a false report or record, or knowingly failing
3176 to file a report or record required by state or local law, or
3177 knowingly impeding or obstructing such filing, or knowingly
3178 inducing another person to impede or obstruct such filing.
3179 (h) Failing to properly enforce applicable fire codes or
3180 permit requirements within this state which the
3181 certificateholder knows are applicable by committing willful
3182 misconduct, gross negligence, gross misconduct, repeated
3183 negligence, or negligence resulting in a significant danger to
3184 life or property.
3185 (i) Accepting labor, services, or materials at no charge or
3186 at a noncompetitive rate from any person who performs work that
3187 is under the enforcement authority of the certificateholder and
3188 who is not an immediate family member of the certificateholder.
3189 For the purpose of this paragraph, the term “immediate family
3190 member” means a spouse, child, parent, sibling, grandparent,
3191 aunt, uncle, or first cousin of the person or the person’s
3192 spouse or any person who resides in the primary residence of the
3193 certificateholder.
3194 (7) The department shall provide by rule for the
3195 certification of firesafety inspectors.
3196 Section 91. Subsection (12) of section 641.495, Florida
3197 Statutes, is amended to read:
3198 641.495 Requirements for issuance and maintenance of
3199 certificate.—
3200 (12) The provisions of part I of chapter 395 do not apply
3201 to a health maintenance organization that, on or before January
3202 1, 1991, provides not more than 10 outpatient holding beds for

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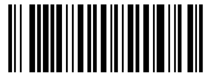
3203 short-term and hospice-type patients in an ambulatory care
3204 facility for its members, provided that such health maintenance
3205 organization maintains current accreditation by The Joint
3206 Commission on Accreditation of Health Care Organizations, the
3207 Accreditation Association for Ambulatory Health Care, or the
3208 National Committee for Quality Assurance.
3209 Section 92. Subsection (13) of section 651.118, Florida
3210 Statutes, is amended to read:
3211 651.118 Agency for Health Care Administration; certificates
3212 of need; sheltered beds; community beds.—
3213 (13) Residents, as defined in this chapter, are not
3214 considered new admissions for the purpose of s.
3215 400.141(1)(n)(o)1.d.
3216 Section 93. Subsection (2) of section 766.1015, Florida
3217 Statutes, is amended to read:
3218 766.1015 Civil immunity for members of or consultants to
3219 certain boards, committees, or other entities.—
3220 (2) Such committee, board, group, commission, or other
3221 entity must be established in accordance with state law or in
3222 accordance with requirements of The Joint Commission on
3223 Accreditation of Healthcare Organizations, established and duly
3224 constituted by one or more public or licensed private hospitals
3225 or behavioral health agencies, or established by a governmental
3226 agency. To be protected by this section, the act, decision,
3227 omission, or utterance may not be made or done in bad faith or
3228 with malicious intent.
3229 Section 94. Subsection (4) of section 766.202, Florida
3230 Statutes, is amended to read:
3231 766.202 Definitions; ss. 766.201-766.212.—As used in ss.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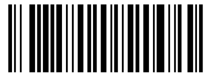
3232 766.201-766.212, the term:
3233 (4) “Health care provider” means any hospital, ambulatory
3234 surgical center, or mobile surgical facility as defined and
3235 licensed under chapter 395; a birth center licensed under
3236 chapter 383; any person licensed under chapter 458, chapter 459,
3237 chapter 460, chapter 461, chapter 462, chapter 463, part I of
3238 chapter 464, chapter 466, chapter 467, part XIV of chapter 468,
3239 or chapter 486; a clinical lab licensed under chapter 483; a
3240 health maintenance organization certificated under part I of
3241 chapter 641; a blood bank; a plasma center; an industrial
3242 clinic; a renal dialysis facility; or a professional association
3243 partnership, corporation, joint venture, or other association
3244 for professional activity by health care providers.
3245 Section 95. This act shall take effect July 1, 2010.
3246
3247 ================= T I T L E A M E N D M E N T ================
3248 And the title is amended as follows:
3249 Delete everything before the enacting clause
3250 and insert:
3251 A bill to be entitled
3252 An act relating to the reduction and simplification of
3253 health care provider regulation; amending s. 112.0455,
3254 F.S., relating to the Drug-Free Workplace Act;
3255 deleting an obsolete provision; amending s. 318.21,
3256 F.S.; revising distribution of funds from civil
3257 penalties imposed for traffic infractions by county
3258 courts; amending s. 381.00315, F.S.; directing the
3259 Department of Health to accept funds from counties,
3260 municipalities, and certain other entities for the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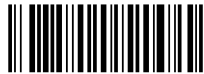
3261 purchase of certain products made available under a
3262 contract of the United States Department of Health and
3263 Human Services for the manufacture and delivery of
3264 such products in response to a public health
3265 emergency; amending s. 381.0072, F.S.; limiting
3266 Department of Health food service inspections in
3267 nursing homes; requiring the department to coordinate
3268 inspections with the Agency for Health Care
3269 Administration; repealing s. 383.325, F.S., relating
3270 to confidentiality of inspection reports of licensed
3271 birth center facilities; amending s. 395.002, F.S.;
3272 revising and deleting definitions applicable to
3273 regulation of hospitals and other licensed facilities;
3274 conforming a cross-reference; amending s. 395.003,
3275 F.S.; deleting an obsolete provision; conforming a
3276 cross-reference; amending s. 395.0193, F.S.; requiring
3277 a licensed facility to report certain peer review
3278 information and final disciplinary actions to the
3279 Division of Medical Quality Assurance of the
3280 Department of Health rather than the Division of
3281 Health Quality Assurance of the Agency for Health Care
3282 Administration; amending s. 395.1023, F.S.; providing
3283 for the Department of Children and Family Services
3284 rather than the Department of Health to perform
3285 certain functions with respect to child protection
3286 cases; requiring certain hospitals to notify the
3287 Department of Children and Family Services of
3288 compliance; amending s. 395.1041, F.S., relating to
3289 hospital emergency services and care; deleting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3290 obsolete provisions; repealing s. 395.1046, F.S.,
3291 relating to complaint investigation procedures;
3292 amending s. 395.1055, F.S.; requiring licensed
3293 facility beds to conform to standards specified by the
3294 Agency for Health Care Administration, the Florida
3295 Building Code, and the Florida Fire Prevention Code;
3296 amending s. 395.10972, F.S.; revising a reference to
3297 the Florida Society of Healthcare Risk Management to
3298 conform to the current designation; amending s.
3299 395.2050, F.S.; revising a reference to the federal
3300 Health Care Financing Administration to conform to the
3301 current designation; amending s. 395.3036, F.S.;
3302 correcting a reference; repealing s. 395.3037, F.S.,
3303 relating to redundant definitions; amending ss.
3304 154.11, 394.741, 395.3038, 400.925, 400.9935, 408.05,
3305 440.13, 627.645, 627.668, 627.669, 627.736, 641.495,
3306 and 766.1015, F.S.; revising references to the Joint
3307 Commission on Accreditation of Healthcare
3308 Organizations, the Commission on Accreditation of
3309 Rehabilitation Facilities, and the Council on
3310 Accreditation to conform to their current
3311 designations; amending s. 395.602, F.S.; revising the
3312 definition of the term “rural hospital” to delete an
3313 obsolete provision; amending s. 400.021, F.S.;
3314 revising the definition of the term “geriatric
3315 outpatient clinic”; amending s. 400.063, F.S.;
3316 deleting an obsolete provision; amending ss. 400.071
3317 and 400.0712, F.S.; revising applicability of general
3318 licensure requirements under pt. II of ch. 408, F.S.,

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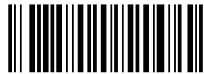
3319 to applications for nursing home licensure; revising
3320 provisions governing inactive licenses; amending s.
3321 400.111, F.S.; providing for disclosure of controlling
3322 interest of a nursing home facility upon request by
3323 the Agency for Health Care Administration; amending s.
3324 400.1183, F.S.; revising grievance record maintenance
3325 and reporting requirements for nursing homes; amending
3326 s. 400.141, F.S.; providing criteria for the provision
3327 of respite services by nursing homes; requiring a
3328 written plan of care; requiring a contract for
3329 services; requiring resident release to caregivers to
3330 be designated in writing; providing an exemption to
3331 the application of discharge planning rules; providing
3332 for residents’ rights; providing for use of personal
3333 medications; providing terms of respite stay;
3334 providing for communication of patient information;
3335 requiring a physician order for care and proof of a
3336 physical examination; providing for services for
3337 respite patients and duties of facilities with respect
3338 to such patients; conforming a cross-reference;
3339 requiring facilities to maintain clinical records that
3340 meet specified standards; providing a fine relating to
3341 an admissions moratorium; deleting requirement for
3342 facilities to submit certain information related to
3343 management companies to the agency; deleting a
3344 requirement for facilities to notify the agency of
3345 certain bankruptcy filings to conform to changes made
3346 by the act; amending s. 400.142, F.S.; deleting
3347 language relating to agency adoption of rules;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3348 amending 400.147, F.S.; revising reporting
3349 requirements for licensed nursing home facilities
3350 relating to adverse incidents; repealing s. 400.148,
3351 F.S., relating to the Medicaid "Up-or-Out" Quality of
3352 Care Contract Management Program; amending s. 400.162,
3353 F.S., requiring nursing homes to provide a resident
3354 property statement annually and upon request; amending
3355 s. 400.179, F.S.; revising requirements for nursing
3356 home lease bond alternative fees; deleting an obsolete
3357 provision; amending s. 400.19, F.S.; revising
3358 inspection requirements; repealing s. 400.195, F.S.,
3359 relating to agency reporting requirements; amending s.
3360 400.23, F.S.; deleting an obsolete provision;
3361 correcting a reference; directing the agency to adopt
3362 rules for minimum staffing standards in nursing homes
3363 that serve persons under 21 years of age; providing
3364 minimum staffing standards; amending s. 400.275, F.S.;
3365 revising agency duties with regard to training nursing
3366 home surveyor teams; revising requirements for team
3367 members; amending s. 400.484, F.S.; revising the
3368 schedule of home health agency inspection violations;
3369 amending s. 400.606, F.S.; revising the content
3370 requirements of the plan accompanying an initial or
3371 change-of-ownership application for licensure of a
3372 hospice; revising requirements relating to
3373 certificates of need for certain hospice facilities;
3374 amending s. 400.607, F.S.; revising grounds for agency
3375 action against a hospice; amending s. 400.931, F.S.;
3376 deleting a requirement that an applicant for a home

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3377 medical equipment provider license submit a surety
3378 bond to the agency; amending s. 400.932, F.S.;
3379 revising grounds for the imposition of administrative
3380 penalties for certain violations by an employee of a
3381 home medical equipment provider; amending s. 400.967,
3382 F.S.; revising the schedule of inspection violations
3383 for intermediate care facilities for the
3384 developmentally disabled; providing a penalty for
3385 certain violations; amending s. 400.9905, F.S.;
3386 providing that pt. X of ch, 400, F.S., the Health Care
3387 Clinic Act, does not apply to an entity owned by a
3388 corporation with a specified amount of annual sales of
3389 health care services under certain circumstances or to
3390 an entity owned or controlled by a publicly traded
3391 entity with a specified amount of annual revenues;
3392 amending s. 400.991, F.S.; conforming terminology;
3393 revising application requirements relating to
3394 documentation of financial ability to operate a mobile
3395 clinic; amending s. 408.034, F.S.; revising agency
3396 authority relating to licensing of intermediate care
3397 facilities for the developmentally disabled; amending
3398 s. 408.036, F.S.; deleting an exemption from certain
3399 certificate-of-need review requirements for a hospice
3400 or a hospice inpatient facility; amending s. 408.043,
3401 F.S.; revising requirements for certain freestanding
3402 inpatient hospice care facilities to obtain a
3403 certificate of need; amending s. 408.061, F.S.;
3404 revising health care facility data reporting
3405 requirements; amending s. 408.10, F.S.; removing

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3406 agency authority to investigate certain consumer
3407 complaints; amending s. 408.802, F.S.; removing
3408 applicability of pt. II of ch. 408, F.S., relating to
3409 general licensure requirements, to private review
3410 agents; amending s. 408.804, F.S.; providing penalties
3411 for altering, defacing, or falsifying a license
3412 certificate issued by the agency or displaying such an
3413 altered, defaced, or falsified certificate; amending
3414 s. 408.806, F.S.; revising agency responsibilities for
3415 notification of licensees of impending expiration of a
3416 license; requiring payment of a late fee for a license
3417 application to be considered complete under certain
3418 circumstances; amending s. 408.810, F.S.; revising
3419 provisions relating to information required for
3420 licensure; requiring proof of submission of notice to
3421 a mortgagor or landlord regarding provision of
3422 services requiring licensure; requiring disclosure of
3423 information by a controlling interest of certain court
3424 actions relating to financial instability within a
3425 specified time period; amending s. 408.813, F.S.;
3426 authorizing the agency to impose fines for
3427 unclassified violations of pt. II of ch. 408, F.S.;
3428 amending s. 408.815, F.S.; authorizing the agency to
3429 extend a license expiration date under certain
3430 circumstances; amending s. 409.221, F.S.; deleting a
3431 reporting requirement relating to the consumer-
3432 directed care program; amending s. 409.91196, F.S.;
3433 conforming a cross-reference; amending s. 409.912,
3434 F.S.; revising procedures for implementation of a

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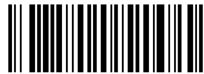
3435 Medicaid prescribed-drug spending-control program;
3436 amending s. 429.07, F.S.; deleting the requirement for
3437 an assisted living facility to obtain an additional
3438 license in order to provide limited nursing services;
3439 deleting the requirement for the agency to conduct
3440 quarterly monitoring visits of facilities that hold a
3441 license to provide extended congregate care services;
3442 deleting the requirement for the department to report
3443 annually on the status of and recommendations related
3444 to extended congregate care; deleting the requirement
3445 for the agency to conduct monitoring visits at least
3446 twice a year to facilities providing limited nursing
3447 services; increasing the licensure fees and the
3448 maximum fee required for the standard license;
3449 increasing the licensure fees for the extended
3450 congregate care license; eliminating the license fee
3451 for the limited nursing services license; transferring
3452 from another provision of law the requirement that a
3453 biennial survey of an assisted living facility include
3454 specific actions to determine whether the facility is
3455 adequately protecting residents' rights; providing
3456 that an assisted living facility that has a class I or
3457 class II violation is subject to monitoring visits;
3458 requiring a registered nurse to participate in certain
3459 monitoring visits; amending s. 429.11, F.S.; revising
3460 licensure application requirements for assisted living
3461 facilities to eliminate provisional licenses; amending
3462 s. 429.12, F.S.; revising notification requirements
3463 for the sale or transfer of ownership of an assisted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3464 living facility; amending s. 429.14, F.S.; removing a
3465 ground for the imposition of an administrative
3466 penalty; clarifying language relating to a facility's
3467 request for a hearing under certain circumstances;
3468 authorizing the agency to provide certain information
3469 relating to the licensure status of assisted living
3470 facilities electronically or through the agency's
3471 Internet website; amending s. 429.17, F.S.; deleting
3472 provisions relating to the limited nursing services
3473 license; revising agency responsibilities regarding
3474 the issuance of conditional licenses; amending s.
3475 429.19, F.S.; clarifying that a monitoring fee may be
3476 assessed in addition to an administrative fine;
3477 amending s. 429.23, F.S.; deleting reporting
3478 requirements for assisted living facilities relating
3479 to liability claims; amending s. 429.255, F.S.;
3480 eliminating provisions authorizing the use of
3481 volunteers to provide certain health-care-related
3482 services in assisted living facilities; authorizing
3483 assisted living facilities to provide limited nursing
3484 services; requiring an assisted living facility to be
3485 responsible for certain recordkeeping and staff to be
3486 trained to monitor residents receiving certain health-
3487 care-related services; amending s. 429.28, F.S.;
3488 deleting a requirement for a biennial survey of an
3489 assisted living facility, to conform to changes made
3490 by the act; amending s. 429.35, F.S.; authorizing the
3491 agency to provide certain information relating to the
3492 inspections of assisted living facilities

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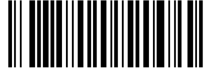
3493 electronically or through the agency’s Internet
3494 website; amending s. 429.41, F.S., relating to
3495 rulemaking; conforming provisions to changes made by
3496 the act; amending s. 429.53, F.S.; revising provisions
3497 relating to consultation by the agency; revising a
3498 definition; amending s. 429.54, F.S.; requiring
3499 licensed assisted living facilities to electronically
3500 report certain data semiannually to the agency in
3501 accordance with rules adopted by the department;
3502 amending s. 429.71, F.S.; revising schedule of
3503 inspection violations for adult family-care homes;
3504 amending s. 429.911, F.S.; deleting a ground for
3505 agency action against an adult day care center;
3506 amending s. 429.915, F.S.; revising agency
3507 responsibilities regarding the issuance of conditional
3508 licenses; amending s. 483.294, F.S.; revising
3509 frequency of agency inspections of multiphasic health
3510 testing centers; amending s. 499.003, F.S.; removing a
3511 requirement that certain prescription drug purchasers
3512 maintain a separate inventory of certain prescription
3513 drugs; amending s. 499.01212, F.S.; exempting
3514 prescription drugs contained in sealed medical
3515 convenience kits from the pedigree paper requirements
3516 under specified circumstances; amending s. 633.081,
3517 F.S.; limiting Fire Marshal inspections of nursing
3518 homes to once a year; providing for additional
3519 inspections based on complaints and violations
3520 identified in the course of orientation or training
3521 activities; amending s. 766.202, F.S.; adding persons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3522 licensed under pt. XIV of ch. 468, F.S., to the
3523 definition of “health care provider”; amending ss.
3524 394.4787, 400.0239, 408.07, 430.80, and 651.118, F.S.;
3525 conforming terminology and cross-references; revising
3526 a reference; providing an effective date.