

By Senator Gardiner

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1 A bill to be entitled
2 An act relating to health care; repealing s.
3 112.0455(10) (e), F.S., relating to a prohibition
4 against applying the Drug-Free Workplace Act
5 retroactively; amending ss. 154.11, 395.3038, 400.925,
6 400.9935, 408.05, 440.13, 627.645, 627.668, 627.669,
7 627.736, 641.495, and 766.1015, F.S.; changing
8 references to the Joint Commission on the
9 Accreditation of Healthcare Organizations to the
10 "Joint Commission"; amending s. 318.21, F.S.;
11 requiring that a specified percentage of fines
12 collected from certain civil penalties levied by
13 county courts for traffic infractions be deposited
14 into the Brain and Spinal Cord Injury Rehabilitation
15 Trust Fund within the Department of Health for use for
16 Medicaid recipients who have spinal cord injuries;
17 repealing s. 383.325, F.S., relating to records of
18 licensed birth center facilities; amending s. 394.741
19 F.S.; changing references to the Council on
20 Accreditation for Children and Family Services to the
21 "Council on Accreditation"; amending s. 394.4787,
22 F.S.; conforming a cross-reference; amending s.
23 395.002, F.S.; redefining the term "accrediting
24 organizations" as it relates to hospital licensure and
25 regulation; deleting definitions of the terms "initial
26 denial determination," "private review agent,"
27 "utilization review," and "utilization review plan" as
28 they relate to hospital licensure and regulation;
29 amending s. 395.003, F.S.; deleting an obsolete

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30 provision; conforming a cross-reference; amending s.
31 395.0193, F.S.; requiring the Division of Medical
32 Quality Assurance within the Department of Health
33 rather than the Agency for Health Care Administration
34 to review certain peer review reports and disciplinary
35 actions; amending s. 395.1023, F.S.; requiring a
36 licensed facility to adopt a protocol to designate a
37 physician to act as a liaison between the Department
38 of Children and Family Services, rather than the
39 Department of Health, and the licensed facility in
40 cases involving suspected child abuse; amending s.
41 395.1041, F.S., relating to emergency services;
42 deleting obsolete provisions; repealing s. 395.1046,
43 F.S., relating to the investigation of complaints
44 regarding hospitals; amending s. 395.1055, F.S.;
45 requiring the agency to adopt rules that ensure that
46 licensed facility beds conform to certain standards as
47 specified by the agency, the Florida Building Code,
48 and the Florida Fire Prevention Code; amending s.
49 395.10972, F.S.; changing a reference to the Florida
50 Society of Healthcare Risk Management to the "Florida
51 Society for Healthcare Risk Management and Patient
52 Safety"; amending s. 395.2050, F.S.; providing that
53 the federal Centers for Medicare and Medicaid
54 Services, rather than the federal Health Care
55 Financing Administration, designates organ procurement
56 organizations; amending s. 395.3036, F.S.; correcting
57 a cross-reference; repealing s. 395.3037, F.S.;
58 deleting obsolete definitions; amending s. 395.602,

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59 F.S.; revising the definition of a "rural hospital" as
60 it relates to hospital licensure and regulation;
61 amending s. 400.021, F.S.; revising the definition of
62 a "geriatric outpatient clinic" with regard to
63 staffing; amending s. 400.063, F.S.; removing an
64 obsolete provision; amending s. 400.071, F.S.;
65 revising the requirements for an application for a
66 license to operate a nursing home facility; amending
67 s. 400.0712, F.S.; deleting a provision related to the
68 issuance of an inactive license to a nursing home;
69 amending s. 400.111, F.S.; specifying that the
70 required disclosure of a financial or ownership
71 interest is contingent upon a request by the agency;
72 amending s. 400.1183, F.S.; requiring nursing home
73 facilities to maintain records of grievances for
74 agency inspection; deleting a requirement that a
75 facility report the number of grievances handled
76 during the prior licensure period; amending s.
77 400.141, F.S.; conforming a cross-reference; deleting
78 the requirement that a facility submit to the agency
79 information regarding a management company with which
80 it has entered into an agreement; specifying a fine
81 for a nursing facility's failure to impose an
82 admissions moratorium if it has failed to comply with
83 state minimum-staffing requirements; deleting the
84 requirement for a facility to report to the agency any
85 filing of bankruptcy protection, divestiture, or
86 corporate reorganization; amending s. 400.142, F.S.;
87 removing obsolete provisions requiring the agency to

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88 adopt certain rules; repealing s. 400.147(10), F.S.,
89 relating to a requirement that a nursing home report
90 any notice of a filing of a claim for a violation of a
91 resident's rights or a claim of negligence; repealing
92 s. 400.148, F.S., relating to the Medicaid "Up-or-Out"
93 Quality of Care Contract Management Program; amending
94 s. 400.19, F.S.; authorizing the agency to verify the
95 correction of certain violations without reinspection,
96 even when they are related to resident rights or
97 resident care, after an unannounced inspection of a
98 nursing home; repealing s. 400.195, F.S., relating to
99 reporting requirements; deleting obsolete provisions;
100 amending s. 400.23, F.S.; changing a reference to the
101 Division of Children's Medical Services to the
102 "Division of Children's Medical Services Network";
103 deleting an obsolete provision; amending s. 400.275,
104 F.S.; deleting a requirement that the agency ensure
105 that a newly hired nursing home surveyor is assigned
106 full time to a licensed nursing home to observe
107 facility operations; amending ss. 400.484, 400.967,
108 and 429.71, F.S.; redesignating class I, II, III, and
109 IV deficiencies as class I, II, III, and IV
110 "violations"; amending s. 400.606, F.S.; eliminating a
111 requirement that the plan for the delivery of home,
112 residential, and homelike inpatient hospice services
113 for terminally ill patients and their families include
114 projected annual operating costs; amending s. 400.607,
115 F.S.; revising the grounds under which the agency may
116 take administrative action against a hospice; amending

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117 s. 400.931, F.S.; deleting a provision allowing an
118 applicant for a license to be a home medical equipment
119 provider to submit a surety bond to the agency;
120 amending s. 400.932, F.S.; revising the grounds under
121 which the agency may take administrative action
122 against a home medical equipment provider; amending s.
123 400.933, F.S.; prohibiting a home medical equipment
124 provider from providing a survey or inspection of an
125 accrediting organization in lieu of periodic agency
126 inspection if the provider's licensure is conditional;
127 amending s. 400.953, F.S.; deleting a requirement that
128 the general manager of a home medical equipment
129 provider annually sign an affidavit regarding the
130 background screening of personnel; providing
131 requirements for submission of the affidavit; amending
132 s. 400.9905, F.S.; specifying that certain licensure
133 requirements do not apply to certain orthotic or
134 prosthetic pediatric cardiology or perinatology
135 clinical facilities; redefining the term "portable
136 service or equipment provider" as it relates to the
137 Health Care Clinic Act; amending s. 400.991, F.S.;
138 conforming a provision to changes made by the act;
139 revising application requirements to show proof of
140 financial ability to operate a health care clinic;
141 amending s. 408.034, F.S.; prohibiting the agency from
142 issuing a license to a health care facility that
143 applies for a license to operate an intermediate care
144 facility for developmentally disabled persons under
145 certain circumstances; amending s. 408.036, F.S.,

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146 relating to certificates of need; conforming a
147 provision to changes made by the act; amending s.
148 408.043, F.S.; requiring a freestanding facility or a
149 part of the facility that is the inpatient hospice
150 care component of a hospice to obtain a certificate of
151 need, regardless of whether it is primarily engaged in
152 providing inpatient care and related services;
153 amending s. 408.061, F.S.; revising requirements for
154 the reporting of certified data elements by health
155 care facilities; amending s. 408.10, F.S.; authorizing
156 the agency to provide staffing for a toll-free phone
157 number for the purpose of handling consumer complaints
158 regarding a health care facility; repealing s.
159 408.802(11), F.S., relating to the applicability of
160 the Health Care Licensing Procedures Act to private
161 review agents; amending s. 408.804, F.S.; providing a
162 criminal penalty for altering, defacing, or falsifying
163 a license certificate of certain health care
164 providers; providing civil penalties for displaying an
165 altered, defaced, or falsified license certificate;
166 amending s. 408.806, F.S.; requiring the agency to
167 provide a courtesy notice to a licensee regarding the
168 expiration of a licensee's license; providing that
169 failure of the agency to provide the courtesy notice
170 or failure of the licensee to receive the notice does
171 not excuse the licensee from timely renewing its
172 license; providing that payment of the late fee is
173 required for a later application; amending s. 408.810,
174 F.S.; revising the requirements for obtaining and

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175 maintaining a license for certain health care
176 providers and those who own a controlling interest in
177 a health care provider; amending s. 408.813, F.S.;
178 authorizing the agency to impose administrative fines
179 for unclassified violations and identifying some of
180 those violations; amending s. 408.815, F.S.;
181 authorizing the agency to extend the expiration date
182 of a license for the purpose of the safe and orderly
183 discharge of clients; authorizing the agency to impose
184 conditions on the extension; amending s. 409.906,
185 F.S.; requiring the agency, in consultation with the
186 Department of Elderly Affairs, to phase out the adult
187 day health care waiver program; requiring adult day
188 health care waiver providers, in consultation with
189 resource centers for the aged, to assist in the
190 transition of enrollees from the waiver program;
191 repealing s. 409.221(4)(k), F.S., relating to the
192 responsibility of the agency, the Department of
193 Elderly Affairs, the Department of Health, the
194 Department of Children and Family Services, and the
195 Agency for Persons with Disabilities to review and
196 assess the implementation of the consumer-directed
197 care program and the agency's responsibility to submit
198 a report to the Legislature; repealing s.
199 409.912(15)(e), (f), and (g), F.S., relating to a
200 requirement that the Agency for Health Care
201 Administration submit a report to the Legislature
202 regarding the operation of the CARES program; amending
203 s. 429.11, F.S.; deleting a provision authorizing

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204 issuance of a provisional license to operate as an
205 assisted living facility; repealing s. 429.12(2),
206 F.S., relating to the sale or transfer of ownership of
207 an assisted living facility; amending s. 429.14, F.S.;
208 authorizing the agency to provide to the Division of
209 Hotels and Restaurants of the Department of Business
210 and Professional Regulation, by electronic means or
211 through the agency's website, information regarding
212 the denial, suspension, or revocation of a license;
213 amending s. 429.17, F.S.; revising the requirements
214 for a conditional license to operate an assisted
215 living facility; repealing s. 429.23(5), F.S.,
216 relating to a requirement that each assisted living
217 facility submit a report to the agency regarding
218 liability claims filed against it; amending s. 429.35,
219 F.S.; authorizing the agency to provide to the local
220 ombudsman council, electronically or through the
221 agency's website, information regarding the results of
222 an inspection; amending s. 429.53, F.S.; requiring the
223 agency, rather than the agency's area offices of
224 licensure and certification, to provide consultation
225 to certain persons and licensees regarding assisted
226 living facilities; redefining the term "consultation"
227 as it relates to assisted living facilities; amending
228 s. 429.65, F.S.; redefining the term "adult family-
229 care home" as it relates to the Adult Family-Care Home
230 Act; repealing s. 429.911, F.S., relating to the
231 denial, suspension, or revocation of a license to
232 operate an adult day care center; amending s. 429.915,

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233 F.S.; revising requirements for a conditional license
234 to operate an adult day care center; amending s.
235 430.80, F.S.; conforming a cross-reference; amending
236 s. 483.294, F.S.; requiring the agency to biennially,
237 rather than at least annually, inspect the premises
238 and operations of multiphasic health testing centers;
239 providing effective dates.

240

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

242

243 Section 1. Paragraph (e) of subsection (10) of section
244 112.0455, Florida Statutes, is repealed.

245 Section 2. Paragraph (n) of subsection (1) of section
246 154.11, Florida Statutes, is amended to read:

247 154.11 Powers of board of trustees.—

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

256 (n) To make original appointments of ~~appoint originally~~ the
257 staff of physicians to practice in any designated facility owned
258 or operated by the board and to approve the bylaws and rules ~~to~~
259 ~~be~~ adopted by the medical staff of any designated facility owned
260 and operated by the board. Such governing regulations must ~~to~~
261 be in accordance with the standards of the Joint Commission and

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262 ~~must on the Accreditation of Hospitals which~~ provide, among
263 other things, for the method of appointing additional staff
264 members and for the removal of staff members.

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

267 318.21 Disposition of civil penalties by county courts.—All
268 civil penalties received by a county court pursuant to the
269 provisions of this chapter shall be distributed and paid monthly
270 as follows:

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

290 (a) Fifty percent shall be allocated equally among all

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291 Level I, Level II, and pediatric trauma centers in recognition
292 of readiness costs for maintaining trauma services.

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

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

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

300 394.741 Accreditation requirements for providers of
301 behavioral health care services.—

302 (2) Notwithstanding any ~~provision of~~ law to the contrary,
303 accreditation shall be accepted by the agency and department in
304 lieu of the agency's and department's facility licensure onsite
305 review requirements and shall be accepted as a substitute for
306 the department's administrative and program monitoring
307 requirements, except as required by subsections (3) and (4),
308 for:

309 (a) Any organization from which the department purchases
310 behavioral health care services that is accredited by the Joint
311 ~~Commission on Accreditation of Healthcare Organizations~~ or the
312 ~~Council on Accreditation for Children and Family Services~~, or
313 has those services that are being purchased by the department
314 accredited by CARF—the Rehabilitation Accreditation Commission.

315 (b) Any mental health facility licensed by the agency or
316 any substance abuse component licensed by the department that is
317 accredited by the Joint Commission ~~on Accreditation of~~
318 ~~Healthcare Organizations~~, CARF—the Rehabilitation Accreditation
319 Commission, or the Council on Accreditation ~~of Children and~~

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320 ~~Family Services.~~

321 (c) Any network of providers from which the department or
322 the agency purchases behavioral health care services accredited
323 by the Joint Commission ~~on Accreditation of Healthcare~~
324 ~~Organizations~~, CARF—the Rehabilitation Accreditation Commission,
325 the Council on Accreditation ~~of Children and Family Services~~, or
326 the National Committee for Quality Assurance. A provider
327 organization that, ~~which~~ is part of an accredited network, is
328 afforded the same rights under this part.

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

331 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
332 394.4789.—As used in this section and ss. 394.4786, 394.4788,
333 and 394.4789:

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

337 Section 7. Section 395.002, Florida Statutes, is amended to
338 read:

339 395.002 Definitions.—As used in this chapter the term:

340 (1) "Accrediting organizations" means nationally recognized
341 or approved accrediting organizations whose standards
342 incorporate comparable licensure requirements as determined by
343 the agency ~~the Joint Commission on Accreditation of Healthcare~~
344 ~~Organizations, the American Osteopathic Association, the~~
345 ~~Commission on Accreditation of Rehabilitation Facilities, and~~
346 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

347 (2) "Agency" means the Agency for Health Care
348 Administration.

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349 (3) "Ambulatory surgical center" or "mobile surgical
350 facility" means a facility that has as its ~~the~~ primary purpose
351 the provision of ~~which is to provide~~ elective surgical care, in
352 which the patient is admitted to and discharged from the ~~such~~
353 facility within the same working day and is not permitted to
354 stay overnight, and which is not part of a hospital. However, a
355 facility existing for the primary purpose of performing
356 terminations of pregnancy, an office maintained by a physician
357 for the practice of medicine, or an office maintained for the
358 practice of dentistry shall not be construed to be an ambulatory
359 surgical center, provided that any facility or office that ~~which~~
360 is certified or seeks certification as a Medicare ambulatory
361 surgical center shall be licensed as an ambulatory surgical
362 center pursuant to s. 395.003. Any structure or vehicle in which
363 a physician maintains an office and practices surgery, and which
364 can appear to the public to be a mobile office because the
365 structure or vehicle operates at more than one address, shall be
366 construed to be a mobile surgical facility.

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

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

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

374 (7) "Director" means any member of the official board of
375 directors as reported in the organization's annual corporate
376 report to the Florida Department of State, or, if no such report
377 is made, any member of the operating board of directors. The

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378 term excludes members of separate, restricted boards that serve
379 only in an advisory capacity to the operating board.

380 (8) "Emergency medical condition" means:

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

385 1. Serious jeopardy to patient health, including a pregnant
386 woman or fetus.

387 2. Serious impairment to bodily functions.

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

389 (b) With respect to a pregnant woman:

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

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

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

396 (9) "Emergency services and care" means medical screening,
397 examination, and evaluation by a physician, or, to the extent
398 permitted by applicable law, by other appropriate personnel
399 under the supervision of a physician, to determine if an
400 emergency medical condition exists and, if it does, the care,
401 treatment, or surgery by a physician necessary to relieve or
402 eliminate the emergency medical condition, within the service
403 capability of the facility.

404 (10) "General hospital" means any facility that ~~which~~ meets
405 the provisions of subsection (12) and which regularly makes its
406 facilities and services available to the general population.

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

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

411 (a) Offers services more intensive than those required for
412 room, board, personal services, and general nursing care, and
413 offers facilities and beds for use beyond 24 hours by
414 individuals requiring diagnosis, treatment, or care for illness,
415 injury, deformity, infirmity, abnormality, disease, or
416 pregnancy; and

417 (b) Regularly makes available at least clinical laboratory
418 services, diagnostic X-ray services, and treatment facilities
419 for surgery or obstetrical care, or other definitive medical
420 treatment of similar extent, except that a critical access
421 hospital, as defined in s. 408.07, shall not be required to make
422 available treatment facilities for surgery, obstetrical care, or
423 similar services as long as it maintains its critical access
424 hospital designation and shall be required to make such
425 facilities available only if it ceases to be designated as a
426 critical access hospital.

427
428 However, ~~the provisions of this chapter~~ does ~~de~~ not apply to any
429 institution conducted by or for the adherents of any well-
430 recognized church or religious denomination that depends
431 exclusively upon prayer or spiritual means to heal, care for, or
432 treat any person. For purposes of local zoning matters, the term
433 "hospital" includes a medical office building located on the
434 same premises as a hospital facility, provided the land on which
435 the medical office building is constructed is zoned for use as a

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436 hospital; provided the premises were zoned for hospital purposes
437 on January 1, 1992.

438 (13) "Hospital bed" means a hospital accommodation that
439 ~~which~~ is ready for immediate occupancy, or is capable of being
440 made ready for occupancy within 48 hours, excluding provision of
441 staffing, and which conforms to minimum space, equipment, and
442 furnishings standards as specified by rule of the agency for the
443 provision of services specified in this section to a single
444 patient.

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

449 (14)~~(15)~~ "Intensive residential treatment programs for
450 children and adolescents" means a specialty hospital accredited
451 by an accrediting organization as defined in subsection (1)
452 which provides 24-hour care and which has the primary functions
453 of diagnosis and treatment of patients under the age of 18
454 having psychiatric disorders in order to restore such patients
455 to an optimal level of functioning.

456 (15)~~(16)~~ "Licensed facility" means a hospital, ambulatory
457 surgical center, or mobile surgical facility licensed in
458 accordance with this chapter.

459 (16)~~(17)~~ "Lifesafety" means the control and prevention of
460 fire and other life-threatening conditions on a premises for the
461 purpose of preserving human life.

462 (17)~~(18)~~ "Managing employee" means the administrator or
463 other similarly titled individual who is responsible for the
464 daily operation of the facility.

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465 (18)~~(19)~~ "Medical staff" means physicians licensed under
466 chapter 458 or chapter 459 with privileges in a licensed
467 facility, as well as other licensed health care practitioners
468 with clinical privileges as approved by a licensed facility's
469 governing board.

470 (19)~~(20)~~ "Medically necessary transfer" means a transfer
471 made necessary because the patient is in immediate need of
472 treatment for an emergency medical condition for which the
473 facility lacks service capability or is at service capacity.

474 (20)~~(21)~~ "Mobile surgical facility" is a mobile facility in
475 which licensed health care professionals provide elective
476 surgical care under contract with the Department of Corrections
477 or a private correctional facility operating pursuant to chapter
478 957 and in which inmate patients are admitted to and discharged
479 from said facility within the same working day and are not
480 permitted to stay overnight. However, mobile surgical facilities
481 may only provide health care services to the inmate patients of
482 the Department of Corrections, or inmate patients of a private
483 correctional facility operating pursuant to chapter 957, and not
484 to the general public.

485 (21)~~(22)~~ "Person" means any individual, partnership,
486 corporation, association, or governmental unit.

487 (22)~~(23)~~ "Premises" means those buildings, beds, and
488 equipment located at the address of the licensed facility and
489 all other buildings, beds, and equipment for the provision of
490 hospital, ambulatory surgical, or mobile surgical care located
491 in such reasonable proximity to the address of the licensed
492 facility as to appear to the public to be under the dominion and
493 control of the licensee. For any licensee that is a teaching

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494 hospital as defined in s. 408.07(45), reasonable proximity
495 includes any buildings, beds, services, programs, and equipment
496 under the dominion and control of the licensee that are located
497 at a site with a main address that is within 1 mile of the main
498 address of the licensed facility; and all such buildings, beds,
499 and equipment may, at the request of a licensee or applicant, be
500 included on the facility license as a single premises.

501 ~~(24) "Private review agent" means any person or entity~~
502 ~~which performs utilization review services for third-party~~
503 ~~payors on a contractual basis for outpatient or inpatient~~
504 ~~services. However, the term shall not include full-time~~
505 ~~employees, personnel, or staff of health insurers, health~~
506 ~~maintenance organizations, or hospitals, or wholly owned~~
507 ~~subsidiaries thereof or affiliates under common ownership, when~~
508 ~~performing utilization review for their respective hospitals,~~
509 ~~health maintenance organizations, or insureds of the same~~
510 ~~insurance group. For this purpose, health insurers, health~~
511 ~~maintenance organizations, and hospitals, or wholly owned~~
512 ~~subsidiaries thereof or affiliates under common ownership,~~
513 ~~include such entities engaged as administrators of self-~~
514 ~~insurance as defined in s. 624.031.~~

515 (23)~~(25)~~ "Service capability" means all services offered by
516 the facility where identification of services offered is
517 evidenced by the appearance of the service in a patient's
518 medical record or itemized bill.

519 (24)~~(26)~~ "At service capacity" means the temporary
520 inability of a hospital to provide a service that ~~which~~ is
521 within the service capability of the hospital, due to maximum
522 use of the service at the time of the request for the service.

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523 (25)~~(27)~~ "Specialty bed" means a bed, other than a general
524 bed, designated on the face of the hospital license for a
525 dedicated use.

526 (26)~~(28)~~ "Specialty hospital" means any facility that ~~which~~
527 meets the provisions of subsection (12)~~,~~ and ~~which~~ regularly
528 makes available either:

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

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

535 (c) Intensive residential treatment programs for children
536 and adolescents as defined in subsection (15).

537 (27)~~(29)~~ "Stabilized" means, with respect to an emergency
538 medical condition, that no material deterioration of the
539 condition is likely, within reasonable medical probability, to
540 result from the transfer of the patient from a hospital.

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

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

548 (28)~~(32)~~ "Validation inspection" means an inspection of the
549 premises of a licensed facility by the agency to assess whether
550 a review by an accrediting organization has adequately evaluated
551 the licensed facility according to minimum state standards.

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552 Section 8. Subsection (1) and paragraph (b) of subsection
553 (2) of section 395.003, Florida Statutes, are amended to read:
554 395.003 Licensure; denial, suspension, and revocation.—

555 (1) (a) The requirements of part II of chapter 408 apply to
556 the provision of services that require licensure pursuant to ss.
557 395.001-395.1065 and part II of chapter 408 and to entities
558 licensed by or applying for such licensure from the Agency for
559 Health Care Administration pursuant to ss. 395.001-395.1065. A
560 license issued by the agency is required in order to operate a
561 hospital, ambulatory surgical center, or mobile surgical
562 facility in this state.

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

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

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

576 (2)

577 (b) The agency shall, at the request of a licensee that is
578 a teaching hospital as defined in s. 408.07(45), issue a single
579 license to a licensee for facilities that have been previously
580 licensed as separate premises, provided such separately licensed

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581 facilities, taken together, constitute the same premises as
 582 defined in s. 395.002(22) ~~s. 395.002(23)~~. Such license for the
 583 single premises shall include all of the beds, services, and
 584 programs that were previously included on the licenses for the
 585 separate premises. The granting of a single license under this
 586 paragraph shall not in any manner reduce the number of beds,
 587 services, or programs operated by the licensee.

588 Section 9. Paragraph (e) of subsection (2) and subsection
 589 (4) of section 395.0193, Florida Statutes, are amended to read:

590 395.0193 Licensed facilities; peer review; disciplinary
 591 powers; agency or partnership with physicians.—

592 (2) Each licensed facility, as a condition of licensure,
 593 shall provide for peer review of physicians who deliver health
 594 care services at the facility. Each licensed facility shall
 595 develop written, binding procedures by which such peer review
 596 shall be conducted. Such procedures shall include:

597 (e) Recording of agendas and minutes that ~~which~~ do not
 598 contain confidential material, for review by the Division of
 599 Medical Quality Assurance of the department ~~Health Quality~~
 600 ~~Assurance of the agency~~.

601 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
 602 actions taken under subsection (3) shall be reported in writing
 603 to the Division of Medical Quality Assurance of the department
 604 ~~Health Quality Assurance of the agency~~ within 30 working days
 605 after its initial occurrence, regardless of the pendency of
 606 appeals to the governing board of the hospital. The notification
 607 shall identify the disciplined practitioner, the action taken,
 608 and the reason for such action. All final disciplinary actions
 609 taken under subsection (3), if different from those ~~which were~~

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610 reported to the department ~~agency~~ within 30 days after the
611 initial occurrence, shall be reported within 10 working days to
612 the Division of Medical Quality Assurance of the department
613 ~~Health Quality Assurance of the agency~~ in writing and shall
614 specify the disciplinary action taken and the specific grounds
615 therefor. The division shall review each report and determine
616 whether it potentially involved conduct by the licensee that is
617 subject to disciplinary action, in which case s. 456.073 shall
618 apply. The reports are not subject to inspection under s.
619 119.07(1) even if the division's investigation results in a
620 finding of probable cause.

621 Section 10. Section 395.1023, Florida Statutes, is amended
622 to read:

623 395.1023 Child abuse and neglect cases; duties.—Each
624 licensed facility shall adopt a protocol that, at a minimum,
625 requires the facility to:

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

630 (2) In any case involving suspected child abuse,
631 abandonment, or neglect, designate, at the request of the
632 Department of Children and Family Services ~~department~~, a staff
633 physician to act as a liaison between the hospital and the
634 Department of Children and Family Services office that ~~which~~ is
635 investigating the suspected abuse, abandonment, or neglect, and
636 the child protection team, as defined in s. 39.01, when the case
637 is referred to such a team.

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

649 Section 11. Subsection (2) and paragraph (d) of subsection
650 (3) of section 395.1041, Florida Statutes, are amended to read:
651 395.1041 Access to emergency services and care.—

652 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency
653 shall establish and maintain an inventory of hospitals with
654 emergency services. The inventory shall list all services within
655 the service capability of the hospital, and such services shall
656 appear on the face of the hospital license. Each hospital having
657 emergency services shall notify the agency of its service
658 capability in the manner and form prescribed by the agency. The
659 agency shall use the inventory to assist emergency medical
660 services providers and others in locating appropriate emergency
661 medical care. The inventory shall also be made available to the
662 general public. ~~On or before August 1, 1992, the agency shall~~
663 ~~request that each hospital identify the services which are~~
664 ~~within its service capability. On or before November 1, 1992,~~
665 ~~the agency shall notify each hospital of the service capability~~
666 ~~to be included in the inventory. The hospital has 15 days from~~
667 ~~the date of receipt to respond to the notice. By December 1,~~

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668 ~~1992, the agency shall publish a final inventory.~~ Each hospital
669 shall reaffirm its service capability when its license is
670 renewed and shall notify the agency of the addition of a new
671 service or the termination of a service prior to a change in its
672 service capability.

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

675 (d)1. Every hospital shall ensure the provision of services
676 within the service capability of the hospital, at all times,
677 either directly or indirectly through an arrangement with
678 another hospital, through an arrangement with one or more
679 physicians, or as otherwise made through prior arrangements. A
680 hospital may enter into an agreement with another hospital for
681 purposes of meeting its service capability requirement, and
682 appropriate compensation or other reasonable conditions may be
683 negotiated for these backup services.

684 2. If any arrangement requires the provision of emergency
685 medical transportation, such arrangement must be made in
686 consultation with the applicable provider and may not require
687 the emergency medical service provider to provide transportation
688 that is outside the routine service area of that provider or in
689 a manner that impairs the ability of the emergency medical
690 service provider to timely respond to prehospital emergency
691 calls.

692 3. A hospital shall not be required to ensure service
693 capability at all times as required in subparagraph 1. if, prior
694 to the receiving of any patient needing such service capability,
695 such hospital has demonstrated to the agency that it lacks the
696 ability to ensure such capability and it has exhausted all

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697 reasonable efforts to ensure such capability through backup
698 arrangements. In reviewing a hospital's demonstration of lack of
699 ability to ensure service capability, the agency shall consider
700 factors relevant to the particular case, including the
701 following:

702 a. Number and proximity of hospitals with the same service
703 capability.

704 b. Number, type, credentials, and privileges of
705 specialists.

706 c. Frequency of procedures.

707 d. Size of hospital.

708 4. The agency shall publish proposed rules implementing a
709 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~
710 ~~1. shall become effective upon the effective date of said rules~~
711 ~~or January 31, 1993, whichever is earlier. For a period not to~~
712 ~~exceed 1 year from the effective date of subparagraph 1., a~~
713 ~~hospital requesting an exemption shall be deemed to be exempt~~
714 ~~from offering the service until the agency initially acts to~~
715 ~~deny or grant the original request. The agency has 45 days from~~
716 ~~the date of receipt of the request to approve or deny the~~
717 ~~request. After the first year from the effective date of~~
718 ~~subparagraph 1.,~~ If the agency fails to initially act within the
719 time period, the hospital is deemed to be exempt from offering
720 the service until the agency initially acts to deny the request.

721 Section 12. Section 395.1046, Florida Statutes, is
722 repealed.

723 Section 13. Paragraph (e) of subsection (1) of section
724 395.1055, Florida Statutes, is amended to read:

725 395.1055 Rules and enforcement.—

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

729 (e) Licensed facility beds conform to minimum space,
730 equipment, and furnishings standards as specified by the agency,
731 the Florida Building Code, and the Florida Fire Prevention Code
732 department.

733 Section 14. Subsection (1) of section 395.10972, Florida
734 Statutes, is amended to read:

735 395.10972 Health Care Risk Manager Advisory Council.—The
736 Secretary of Health Care Administration may appoint a seven-
737 member advisory council to advise the agency on matters
738 pertaining to health care risk managers. The members of the
739 council shall serve at the pleasure of the secretary. The
740 council shall designate a chair. The council shall meet at the
741 call of the secretary or at those times as may be required by
742 rule of the agency. The members of the advisory council shall
743 receive no compensation for their services, but shall be
744 reimbursed for travel expenses as provided in s. 112.061. The
745 council shall consist of individuals representing the following
746 areas:

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

751 Section 15. Subsection (3) of section 395.2050, Florida
752 Statutes, is amended to read:

753 395.2050 Routine inquiry for organ and tissue donation;
754 certification for procurement activities; death records review.—

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755 (3) Each organ procurement organization designated by the
 756 federal Centers for Medicare and Medicaid Services ~~Health Care~~
 757 ~~Financing Administration~~ and licensed by the state shall conduct
 758 an annual death records review in the organ procurement
 759 organization's affiliated donor hospitals. The organ procurement
 760 organization shall enlist the services of every Florida licensed
 761 tissue bank and eye bank affiliated with or providing service to
 762 the donor hospital and operating in the same service area to
 763 participate in the death records review.

764 Section 16. Subsection (2) of section 395.3036, Florida
 765 Statutes, is amended to read:

766 395.3036 Confidentiality of records and meetings of
 767 corporations that lease public hospitals or other public health
 768 care facilities.—The records of a private corporation that
 769 leases a public hospital or other public health care facility
 770 are confidential and exempt from the provisions of s. 119.07(1)
 771 and s. 24(a), Art. I of the State Constitution, and the meetings
 772 of the governing board of a private corporation are exempt from
 773 s. 286.011 and s. 24(b), Art. I of the State Constitution when
 774 the public lessor complies with the public finance
 775 accountability provisions of s. 155.40(5) with respect to the
 776 transfer of any public funds to the private lessee and when the
 777 private lessee meets at least three of the five following
 778 criteria:

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

783 Section 17. Section 395.3037, Florida Statutes, is

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784 repealed.

785 Section 18. Subsections (1), (4), and (5) of section
786 395.3038, Florida Statutes, are amended to read:

787 395.3038 State-listed primary stroke centers and
788 comprehensive stroke centers; notification of hospitals.—

789 (1) The agency shall make available on its website and to
790 the department a list of the name and address of each hospital
791 that meets the criteria for a primary stroke center and the name
792 and address of each hospital that meets the criteria for a
793 comprehensive stroke center. The list of primary and
794 comprehensive stroke centers shall include only those hospitals
795 that attest in an affidavit submitted to the agency that the
796 hospital meets the named criteria, or those hospitals that
797 attest in an affidavit submitted to the agency that the hospital
798 is certified as a primary or a comprehensive stroke center by
799 the Joint Commission ~~on Accreditation of Healthcare~~
800 ~~Organizations~~.

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

805 (5) The agency shall adopt by rule criteria for a
806 comprehensive stroke center. However, if the Joint Commission ~~on~~
807 ~~Accreditation of Healthcare Organizations~~ establishes criteria
808 for a comprehensive stroke center, the agency shall establish
809 criteria for a comprehensive stroke center which are
810 substantially similar to those criteria established by the Joint
811 Commission ~~on Accreditation of Healthcare Organizations~~.

812 Section 19. Subsection (2) of section 395.602, Florida

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813 Statutes, is amended to read:

814 395.602 Rural hospitals.—

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

816 (a) "Emergency care hospital" means a medical facility that
817 ~~which~~ provides:

818 1. Emergency medical treatment; and

819 2. Inpatient care to ill or injured persons prior to their
820 transportation to another hospital or provides inpatient medical
821 care to persons needing care for a period of up to 96 hours. The
822 96-hour limitation on inpatient care does not apply to respite,
823 skilled nursing, hospice, or other nonacute care patients.

824 (b) "Essential access community hospital" means any
825 facility that ~~which~~:

826 1. Has at least 100 beds;

827 2. Is located more than 35 miles from any other essential
828 access community hospital, rural referral center, or urban
829 hospital meeting criteria for classification as a regional
830 referral center;

831 3. Is part of a network that includes rural primary care
832 hospitals;

833 4. Provides emergency and medical backup services to rural
834 primary care hospitals in its rural health network;

835 5. Extends staff privileges to rural primary care hospital
836 physicians in its network; and

837 6. Accepts patients transferred from rural primary care
838 hospitals in its network.

839 (c) "Inactive rural hospital bed" means a licensed acute
840 care hospital bed, as defined in s. 395.002(13), that is
841 inactive in that it cannot be occupied by acute care inpatients.

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842 (d) "Rural area health education center" means an area
843 health education center (AHEC), as authorized by Pub. L. No. 94-
844 484, which provides services in a county with a population
845 density of no greater than 100 persons per square mile.

846 (e) "Rural hospital" means an acute care hospital licensed
847 under this chapter which has,~~having~~ 100 or fewer licensed beds
848 and an emergency room and,~~which~~ is:

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

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

856 3. A hospital supported by a tax district or subdistrict
857 whose boundaries encompass a population of 100 persons or fewer
858 per square mile;

859 ~~4. A hospital in a constitutional charter county with a~~
860 ~~population of over 1 million persons that has imposed a local~~
861 ~~option health service tax pursuant to law and in an area that~~
862 ~~was directly impacted by a catastrophic event on August 24,~~
863 ~~1992, for which the Governor of Florida declared a state of~~
864 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
865 ~~serves an agricultural community with an emergency room~~
866 ~~utilization of no less than 20,000 visits and a Medicaid~~
867 ~~inpatient utilization rate greater than 15 percent;~~

868 4.5. A hospital with a service area that has a population
869 of 100 persons or fewer per square mile. As used in this
870 subparagraph, the term "service area" means the fewest number of

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871 zip codes that account for 75 percent of the hospital's
872 discharges for the most recent 5-year period, based on
873 information available from the hospital inpatient discharge
874 database in the Florida Center for Health Information and Policy
875 Analysis at the Agency for Health Care Administration; or
876 5.6. A hospital designated as a critical access hospital,
877 as defined in s. 408.07(15).

878
879 Population densities used in this paragraph must be based upon
880 the most recently completed United States census. A hospital
881 that received funds under s. 409.9116 for a quarter beginning no
882 later than July 1, 2002, is deemed to have been and shall
883 continue to be a rural hospital from that date through June 30,
884 2015, if the hospital continues to have 100 or fewer licensed
885 beds and an emergency room, ~~or meets the criteria of~~
886 ~~subparagraph 4~~. An acute care hospital that has not previously
887 been designated as a rural hospital and that meets the criteria
888 of this paragraph shall be granted such designation upon
889 application, including supporting documentation to the Agency
890 for Health Care Administration.

891 (f) "Rural primary care hospital" means any facility
892 meeting the criteria in paragraph (e) or s. 395.605 which
893 provides:

- 894 1. Twenty-four-hour emergency medical care;
- 895 2. Temporary inpatient care for periods of 72 hours or less
896 to patients requiring stabilization before discharge or transfer
897 to another hospital. The 72-hour limitation does not apply to
898 respite, skilled nursing, hospice, or other nonacute care
899 patients; and

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900 3. Has no more than six licensed acute care inpatient beds.

901 (g) "Swing-bed" means a bed that ~~which~~ can be used
902 interchangeably as either a hospital, skilled nursing facility
903 (SNF), or intermediate care facility (ICF) bed pursuant to 42
904 C.F.R. parts 405, 435, 440, 442, and 447.

905 Section 20. Subsection (8) of section 400.021, Florida
906 Statutes, is amended to read:

907 400.021 Definitions.—When used in this part, unless the
908 context otherwise requires, the term:

909 (8) "Geriatric outpatient clinic" means a site for
910 providing outpatient health care to persons 60 years of age or
911 older, ~~which is staffed by a registered nurse or a physician~~
912 assistant, a licensed practical nurse under the direct
913 supervision of a registered nurse, or an advanced registered
914 nurse practitioner.

915 Section 21. Subsection (2) of section 400.063, Florida
916 Statutes, is amended to read:

917 400.063 Resident protection.—

918 (2) The agency is authorized to establish for each
919 facility, subject to intervention by the agency, a separate bank
920 account for the deposit to the credit of the agency of any
921 moneys received from the Health Care Trust Fund or any other
922 moneys received for the maintenance and care of residents in the
923 facility, and the agency is authorized to disburse moneys from
924 such account to pay obligations incurred for the purposes of
925 this section. The agency is authorized to requisition moneys
926 from the Health Care Trust Fund in advance of an actual need for
927 cash on the basis of an estimate by the agency of moneys to be
928 spent under the authority of this section. Any bank account

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929 established under this section need not be approved in advance
930 of its creation as required by s. 17.58, but shall be secured by
931 depository insurance equal to or greater than the balance of
932 such account or by the pledge of collateral security ~~in~~
933 ~~conformance with criteria established in s. 18.11.~~ The agency
934 shall notify the Chief Financial Officer of any such account so
935 established and shall make a quarterly accounting to the Chief
936 Financial Officer for all moneys deposited in such account.

937 Section 22. Subsections (1) and (5) of section 400.071,
938 Florida Statutes, are amended to read:

939 400.071 Application for license.—

940 (1) In addition to the requirements of part II of chapter
941 408, the application for a license shall be under oath and must
942 contain the following:

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

946 ~~(b) A signed affidavit disclosing any financial or~~
947 ~~ownership interest that a controlling interest as defined in~~
948 ~~part II of chapter 408 has held in the last 5 years in any~~
949 ~~entity licensed by this state or any other state to provide~~
950 ~~health or residential care which has closed voluntarily or~~
951 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
952 ~~appointed; has had a license denied, suspended, or revoked; or~~
953 ~~has had an injunction issued against it which was initiated by a~~
954 ~~regulatory agency. The affidavit must disclose the reason any~~
955 ~~such entity was closed, whether voluntarily or involuntarily.~~

956 ~~(c) The total number of beds and the total number of~~
957 ~~Medicare and Medicaid certified beds.~~

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958 (b)~~(d)~~ Information relating to the applicant and employees
959 which the agency requires by rule. The applicant must
960 demonstrate that sufficient numbers of qualified staff, by
961 training or experience, will be employed to properly care for
962 the type and number of residents who will reside in the
963 facility.

964 (c)~~(e)~~ Copies of any civil verdict or judgment involving
965 the applicant rendered within the 10 years preceding the
966 application, relating to medical negligence, violation of
967 residents' rights, or wrongful death. As a condition of
968 licensure, the licensee agrees to provide to the agency copies
969 of any new verdict or judgment involving the applicant, relating
970 to such matters, within 30 days after filing with the clerk of
971 the court. The information required in this paragraph shall be
972 maintained in the facility's licensure file and in an agency
973 database that ~~which~~ is available as a public record.

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

977 Section 23. Section 400.0712, Florida Statutes, is amended
978 to read:

979 400.0712 Application for inactive license.-

980 ~~(1) As specified in this section, the agency may issue an
981 inactive license to a nursing home facility for all or a portion
982 of its beds. Any request by a licensee that a nursing home or
983 portion of a nursing home become inactive must be submitted to
984 the agency in the approved format. The facility may not initiate
985 any suspension of services, notify residents, or initiate
986 inactivity before receiving approval from the agency; and a~~

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987 ~~licensee that violates this provision may not be issued an~~
988 ~~inactive license.~~

989 (1)(2) In addition to the authority granted in part II of
990 chapter 408, the agency may issue an inactive license to a
991 nursing home that chooses to use an unoccupied contiguous
992 portion of the facility for an alternative use to meet the needs
993 of elderly persons through the use of less restrictive, less
994 institutional services.

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

999 (b) A request to extend the inactive license must be
1000 submitted to the agency in the approved format and approved by
1001 the agency in writing.

1002 (c) Nursing homes that receive an inactive license to
1003 provide alternative services shall not receive preference for
1004 participation in the Assisted Living for the Elderly Medicaid
1005 waiver.

1006 (2)(3) The agency shall adopt rules pursuant to ss.
1007 120.536(1) and 120.54 necessary to administer ~~implement~~ this
1008 section.

1009 Section 24. Section 400.111, Florida Statutes, is amended
1010 to read:

1011 400.111 Disclosure of controlling interest.—In addition to
1012 the requirements of part II of chapter 408, when requested by
1013 the agency, the licensee shall submit a signed affidavit
1014 disclosing any financial or ownership interest that a
1015 controlling interest has held within the last 5 years in any

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1016 entity licensed by the state or any other state to provide
1017 health or residential care if that ~~which~~ entity has closed
1018 voluntarily or involuntarily; has filed for bankruptcy; has had
1019 a receiver appointed; has had a license denied, suspended, or
1020 revoked; or has had an injunction issued against it which was
1021 initiated by a regulatory agency. The affidavit must disclose
1022 the reason such entity was closed, whether voluntarily or
1023 involuntarily.

1024 Section 25. Section 400.1183, Florida Statutes, is amended
1025 to read:

1026 400.1183 Resident grievance procedures.—

1027 (1) Every nursing home must have a grievance procedure
1028 available to its residents and their families. The grievance
1029 procedure must include:

1030 (a) An explanation of how to pursue redress of a grievance.

1031 (b) The names, job titles, and telephone numbers of the
1032 employees responsible for implementing the facility's grievance
1033 procedure. The list must include the address and the toll-free
1034 telephone numbers of the ombudsman and the agency.

1035 (c) A simple description of the process through which a
1036 resident may, at any time, contact the toll-free telephone
1037 hotline of the ombudsman or the agency to report the unresolved
1038 grievance.

1039 (d) A procedure for providing assistance to residents who
1040 cannot prepare a written grievance without help.

1041 (2) Each facility shall maintain records of all grievances
1042 for agency inspection ~~and shall report to the agency at the time~~
1043 ~~of relicensure the total number of grievances handled during the~~
1044 ~~prior licensure period, a categorization of the cases underlying~~

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1045 ~~the grievances, and the final disposition of the grievances.~~

1046 (3) Each facility must respond to the grievance within a
1047 reasonable time after its submission.

1048 (4) The agency may investigate any grievance at any time.

1049 Section 26. Section 400.141, Florida Statutes, is amended
1050 to read:

1051 400.141 Administration and management of nursing home
1052 facilities.—

1053 (1) Every licensed facility shall comply with all
1054 applicable standards and rules of the agency and shall:

1055 (a) Be under the administrative direction and charge of a
1056 licensed administrator.

1057 (b) Appoint a medical director licensed pursuant to chapter
1058 458 or chapter 459. The agency may establish by rule more
1059 specific criteria for the appointment of a medical director.

1060 (c) Have available the regular, consultative, and emergency
1061 services of physicians licensed by the state.

1062 (d) Provide for resident use of a community pharmacy as
1063 specified in s. 400.022(1)(q). Any other law to the contrary
1064 notwithstanding, a registered pharmacist licensed in Florida,
1065 that is under contract with a facility licensed under this
1066 chapter or chapter 429, shall repackage a nursing facility
1067 resident's bulk prescription medication that ~~which~~ has been
1068 packaged by another pharmacist licensed in any state in the
1069 United States into a unit dose system compatible with the system
1070 used by the nursing facility, if the pharmacist is requested to
1071 offer such service. In order to be eligible for the repackaging,
1072 a resident or the resident's spouse must receive prescription
1073 medication benefits provided through a former employer as part

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1074 of his or her retirement benefits, a qualified pension plan as
1075 specified in s. 4972 of the Internal Revenue Code, a federal
1076 retirement program as specified under 5 C.F.R. s. 831, or a
1077 long-term care policy as defined in s. 627.9404(1). A pharmacist
1078 who correctly repackages and relabels the medication and the
1079 nursing facility that ~~which~~ correctly administers such
1080 repackaged medication under this paragraph may not be held
1081 liable in any civil or administrative action arising from the
1082 repackaging. In order to be eligible for the repackaging, a
1083 nursing facility resident for whom the medication is to be
1084 repackaged shall sign an informed consent form provided by the
1085 facility which includes an explanation of the repackaging
1086 process and which notifies the resident of the immunities from
1087 liability provided in this paragraph. A pharmacist who
1088 repackages and relabels prescription medications, as authorized
1089 under this paragraph, may charge a reasonable fee for costs
1090 resulting from the implementation of this provision.

1091 (e) Provide for the access of the facility residents to
1092 dental and other health-related services, recreational services,
1093 rehabilitative services, and social work services appropriate to
1094 their needs and conditions and not directly furnished by the
1095 licensee. When a geriatric outpatient nurse clinic is conducted
1096 in accordance with rules adopted by the agency, outpatients
1097 attending such clinic shall not be counted as part of the
1098 general resident population of the nursing home facility, nor
1099 shall the nursing staff of the geriatric outpatient clinic be
1100 counted as part of the nursing staff of the facility, until the
1101 outpatient clinic load exceeds 15 a day.

1102 (f) Be allowed and encouraged by the agency to provide

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1103 other needed services under certain conditions. If the facility
1104 has a standard licensure status, and has had no class I or class
1105 II violations ~~deficiencies~~ during the past 2 years or has been
1106 awarded a Gold Seal under the program established in s. 400.235,
1107 it may be encouraged by the agency to provide services,
1108 including, but not limited to, respite and adult day services
1109 that, ~~which~~ enable individuals to move in and out of the
1110 facility. A facility is not subject to any additional licensure
1111 requirements for providing these services. Respite care may be
1112 offered to persons in need of short-term or temporary nursing
1113 home services. Respite care must be provided in accordance with
1114 this part and rules adopted by the agency. However, the agency
1115 shall, by rule, adopt modified requirements for resident
1116 assessment, resident care plans, resident contracts, physician
1117 orders, and other provisions, as appropriate, for short-term or
1118 temporary nursing home services. The agency shall allow for
1119 shared programming and staff in a facility that ~~which~~ meets
1120 minimum standards and offers services pursuant to this
1121 paragraph, but, if the facility is cited for deficiencies in
1122 patient care, may require additional staff and programs
1123 appropriate to the needs of service recipients. A person who
1124 receives respite care may not be counted as a resident of the
1125 facility for purposes of the facility's licensed capacity unless
1126 that person receives 24-hour respite care. A person receiving
1127 either respite care for 24 hours or longer or adult day services
1128 must be included when calculating minimum staffing for the
1129 facility. Any costs and revenues generated by a nursing home
1130 facility from nonresidential programs or services shall be
1131 excluded from the calculations of Medicaid per diems for nursing

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1132 home institutional care reimbursement.

1133 (g) If the facility has a standard license or is a Gold
1134 Seal facility, exceeds the minimum required hours of licensed
1135 nursing and certified nursing assistant direct care per resident
1136 per day, and is part of a continuing care facility licensed
1137 under chapter 651 or a retirement community that offers other
1138 services pursuant to part III of this chapter or part I or part
1139 III of chapter 429 on a single campus, be allowed to share
1140 programming and staff. At the time of inspection and in the
1141 semiannual report required pursuant to paragraph (o), a
1142 continuing care facility or retirement community that uses this
1143 option must demonstrate through staffing records that minimum
1144 staffing requirements for the facility were met. Licensed nurses
1145 and certified nursing assistants who work in the nursing home
1146 facility may be used to provide services elsewhere on campus if
1147 the facility exceeds the minimum number of direct care hours
1148 required per resident per day and the total number of residents
1149 receiving direct care services from a licensed nurse or a
1150 certified nursing assistant does not cause the facility to
1151 violate the staffing ratios required under s. 400.23(3)(a).
1152 Compliance with the minimum staffing ratios shall be based on
1153 total number of residents receiving direct care services,
1154 regardless of where they reside on campus. If the facility
1155 receives a conditional license, it may not share staff until the
1156 conditional license status ends. This paragraph does not
1157 restrict the agency's authority under federal or state law to
1158 require additional staff if a facility is cited for deficiencies
1159 in care which are caused by an insufficient number of certified
1160 nursing assistants or licensed nurses. The agency may adopt

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1161 rules for the documentation necessary to determine compliance
1162 with this provision.

1163 (h) Maintain the facility premises and equipment and
1164 conduct its operations in a safe and sanitary manner.

1165 (i) If the licensee furnishes food service, provide a
1166 wholesome and nourishing diet sufficient to meet generally
1167 accepted standards of proper nutrition for its residents and
1168 provide such therapeutic diets as may be prescribed by attending
1169 physicians. In making rules to implement this paragraph, the
1170 agency shall be guided by standards recommended by nationally
1171 recognized professional groups and associations with knowledge
1172 of dietetics.

1173 (j) Keep full records of resident admissions and
1174 discharges; medical and general health status, including medical
1175 records, personal and social history, and identity and address
1176 of next of kin or other persons who may have responsibility for
1177 the affairs of the residents; and individual resident care plans
1178 including, but not limited to, prescribed services, service
1179 frequency and duration, and service goals. The records shall be
1180 open to inspection by the agency.

1181 (k) Keep such fiscal records of its operations and
1182 conditions as may be necessary to provide information pursuant
1183 to this part.

1184 (l) Furnish copies of personnel records for employees
1185 affiliated with such facility, to any other facility licensed by
1186 this state requesting this information pursuant to this part.
1187 Such information contained in the records may include, but is
1188 not limited to, disciplinary matters and any reason for
1189 termination. Any facility releasing such records pursuant to

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1190 this part shall be considered to be acting in good faith and may
1191 not be held liable for information contained in such records,
1192 absent a showing that the facility maliciously falsified such
1193 records.

1194 (m) Publicly display a poster provided by the agency
1195 containing the names, addresses, and telephone numbers for the
1196 state's abuse hotline, the State Long-Term Care Ombudsman, the
1197 Agency for Health Care Administration consumer hotline, the
1198 Advocacy Center for Persons with Disabilities, the Florida
1199 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
1200 with a clear description of the assistance to be expected from
1201 each.

1202 ~~(n) Submit to the agency the information specified in s.~~
1203 ~~400.071(1)(b) for a management company within 30 days after the~~
1204 ~~effective date of the management agreement.~~

1205 (n)~~(e)~~1. Submit semiannually to the agency, or more
1206 frequently if requested by the agency, information regarding
1207 facility staff-to-resident ratios, staff turnover, and staff
1208 stability, including information regarding certified nursing
1209 assistants, licensed nurses, the director of nursing, and the
1210 facility administrator. For purposes of this reporting:

1211 a. Staff-to-resident ratios must be reported in the
1212 categories specified in s. 400.23(3)(a) and applicable rules.
1213 The ratio must be reported as an average for the most recent
1214 calendar quarter.

1215 b. Staff turnover must be reported for the most recent 12-
1216 month period ending on the last workday of the most recent
1217 calendar quarter prior to the date the information is submitted.
1218 The turnover rate must be computed quarterly, with the annual

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1219 rate being the cumulative sum of the quarterly rates. The
1220 turnover rate is the total number of terminations or separations
1221 experienced during the quarter, excluding any employee
1222 terminated during a probationary period of 3 months or less,
1223 divided by the total number of staff employed at the end of the
1224 period for which the rate is computed, and expressed as a
1225 percentage.

1226 c. The formula for determining staff stability is the total
1227 number of employees who ~~that~~ have been employed for more than 12
1228 months, divided by the total number of employees employed at the
1229 end of the most recent calendar quarter, and expressed as a
1230 percentage.

1231 d. A nursing facility that has failed to comply with state
1232 minimum-staffing requirements for 2 consecutive days is
1233 prohibited from accepting new admissions until the facility has
1234 achieved the minimum-staffing requirements for a period of 6
1235 consecutive days. For the purposes of this sub-subparagraph, any
1236 person who was a resident of the facility and was absent from
1237 the facility for the purpose of receiving medical care at a
1238 separate location or was on a leave of absence is not considered
1239 a new admission. Failure to impose such an admissions moratorium
1240 constitutes a class II violation, and the agency shall fine the
1241 nursing facility \$1,000 for such violation ~~deficiency~~.

1242 e. A nursing facility that ~~which~~ does not have a
1243 conditional license may be cited for failure to comply with the
1244 standards in s. 400.23(3)(a)1.a. only if it has failed to meet
1245 those standards on 2 consecutive days or if it has failed to
1246 meet at least 97 percent of those standards on any one day.

1247 f. A facility that ~~which~~ has a conditional license must be

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1248 in compliance with the standards in s. 400.23(3)(a) at all
1249 times.

1250 2. This paragraph does not limit the agency's ability to
1251 impose a deficiency or take other actions if a facility does not
1252 have enough staff to meet the residents' needs.

1253 (o)~~(p)~~ Notify a licensed physician when a resident exhibits
1254 signs of dementia or cognitive impairment or has a change of
1255 condition in order to rule out the presence of an underlying
1256 physiological condition that may be contributing to such
1257 dementia or impairment. The notification must occur within 30
1258 days after the acknowledgment of such signs by facility staff.
1259 If an underlying condition is determined to exist, the facility
1260 shall arrange, with the appropriate health care provider, the
1261 necessary care and services to treat the condition.

1262 (p)~~(q)~~ If the facility implements a dining and hospitality
1263 attendant program, ensure that the program is developed and
1264 implemented under the supervision of the facility director of
1265 nursing. A licensed nurse, licensed speech or occupational
1266 therapist, or a registered dietitian must conduct training of
1267 dining and hospitality attendants. A person employed by a
1268 facility as a dining and hospitality attendant must perform
1269 tasks under the direct supervision of a licensed nurse.

1270 ~~(r) Report to the agency any filing for bankruptcy~~
1271 ~~protection by the facility or its parent corporation,~~
1272 ~~divestiture or spin-off of its assets, or corporate~~
1273 ~~reorganization within 30 days after the completion of such~~
1274 ~~activity.~~

1275 (q)~~(s)~~ Maintain general and professional liability
1276 insurance coverage that is in force at all times. In lieu of

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1277 general and professional liability insurance coverage, a state-
1278 designated teaching nursing home and its affiliated assisted
1279 living facilities created under s. 430.80 may demonstrate proof
1280 of financial responsibility as provided in s. 430.80(3)(h).

1281 (r)~~(t)~~ Maintain in the medical record for each resident a
1282 daily chart of certified nursing assistant services provided to
1283 the resident. The certified nursing assistant who is caring for
1284 the resident must complete this record by the end of his or her
1285 shift. This record must indicate assistance with activities of
1286 daily living, assistance with eating, and assistance with
1287 drinking, and must record each offering of nutrition and
1288 hydration for those residents whose plan of care or assessment
1289 indicates a risk for malnutrition or dehydration.

1290 (s)~~(u)~~ Before November 30 of each year, subject to the
1291 availability of an adequate supply of the necessary vaccine,
1292 provide for immunizations against influenza viruses to all its
1293 consenting residents in accordance with the recommendations of
1294 the United States Centers for Disease Control and Prevention,
1295 subject to exemptions for medical contraindications and
1296 religious or personal beliefs. Subject to these exemptions, any
1297 consenting person who becomes a resident of the facility after
1298 November 30 but before March 31 of the following year must be
1299 immunized within 5 working days after becoming a resident.
1300 Immunization shall not be provided to any resident who provides
1301 documentation that he or she has been immunized as required by
1302 this paragraph. This paragraph does not prohibit a resident from
1303 receiving the immunization from his or her personal physician if
1304 he or she so chooses. A resident who chooses to receive the
1305 immunization from his or her personal physician shall provide

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1306 proof of immunization to the facility. The agency may adopt and
1307 enforce any rules necessary to comply with or administer
1308 ~~implement~~ this paragraph ~~subsection~~.

1309 (t)~~(v)~~ Assess all residents for eligibility for
1310 pneumococcal polysaccharide vaccination (PPV) and vaccinate
1311 residents when indicated within 60 days after the effective date
1312 of this act in accordance with the recommendations of the United
1313 States Centers for Disease Control and Prevention, subject to
1314 exemptions for medical contraindications and religious or
1315 personal beliefs. Residents admitted after the effective date of
1316 this act shall be assessed within 5 working days of admission
1317 and, when indicated, vaccinated within 60 days in accordance
1318 with the recommendations of the United States Centers for
1319 Disease Control and Prevention, subject to exemptions for
1320 medical contraindications and religious or personal beliefs.
1321 Immunization shall not be provided to any resident who provides
1322 documentation that he or she has been immunized as required by
1323 this paragraph. This paragraph does not prohibit a resident from
1324 receiving the immunization from his or her personal physician if
1325 he or she so chooses. A resident who chooses to receive the
1326 immunization from his or her personal physician shall provide
1327 proof of immunization to the facility. The agency may adopt and
1328 enforce any rules necessary to comply with or administer
1329 ~~implement~~ this paragraph.

1330 (u)~~(w)~~ Annually encourage and promote to its employees the
1331 benefits associated with immunizations against influenza viruses
1332 in accordance with the recommendations of the United States
1333 Centers for Disease Control and Prevention. The agency may adopt
1334 and enforce any rules necessary to comply with or administer

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1335 ~~implement~~ this paragraph.

1336 (2) Facilities that have been awarded a Gold Seal under the
1337 program established in s. 400.235 may develop a plan to provide
1338 certified nursing assistant training as prescribed by federal
1339 regulations and state rules and may apply to the agency for
1340 approval of their program.

1341 Section 27. Subsection (3) of section 400.142, Florida
1342 Statutes, is amended to read:

1343 400.142 Emergency medication kits; orders not to
1344 resuscitate.—

1345 (3) Facility staff may withhold or withdraw cardiopulmonary
1346 resuscitation if presented with an order not to resuscitate
1347 executed pursuant to s. 401.45. ~~The agency shall adopt rules~~
1348 ~~providing for the implementation of such orders.~~ Facility staff
1349 and facilities are ~~shall~~ not ~~be~~ subject to criminal prosecution
1350 or civil liability, nor be considered to have engaged in
1351 negligent or unprofessional conduct, for withholding or
1352 withdrawing cardiopulmonary resuscitation pursuant to such an
1353 order and rules adopted by the agency. The absence of an order
1354 not to resuscitate executed pursuant to s. 401.45 does not
1355 preclude a physician from withholding or withdrawing
1356 cardiopulmonary resuscitation as otherwise permitted by law.

1357 Section 28. Subsection (10) of section 400.147, Florida
1358 Statutes, is repealed.

1359 Section 29. Section 400.148, Florida Statutes, is repealed.

1360 Section 30. Subsection (3) of section 400.19, Florida
1361 Statutes, is amended to read:

1362 400.19 Right of entry and inspection.—

1363 (3) The agency shall every 15 months conduct at least one

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1364 unannounced inspection to determine compliance by the licensee
1365 with statutes, and with rules promulgated under the provisions
1366 of those statutes, governing minimum standards of construction,
1367 quality and adequacy of care, and rights of residents. The
1368 survey shall be conducted every 6 months for the next 2-year
1369 period if the facility has been cited for a class I deficiency,
1370 has been cited for two or more class II violations ~~deficiencies~~
1371 arising from separate surveys or investigations within a 60-day
1372 period, or has had three or more substantiated complaints within
1373 a 6-month period, each resulting in at least one class I or
1374 class II deficiency. In addition to any other fees or fines in
1375 this part, the agency shall assess a fine for each facility that
1376 is subject to the 6-month survey cycle. The fine for the 2-year
1377 period shall be \$6,000, one-half to be paid at the completion of
1378 each survey. The agency may adjust this fine by the change in
1379 the Consumer Price Index, based on the 12 months immediately
1380 preceding the increase, to cover the cost of the additional
1381 surveys. The agency shall verify through subsequent inspection
1382 that any deficiency identified during inspection is corrected.
1383 However, the agency may verify the correction of a class III or
1384 class IV violation ~~deficiency unrelated to resident rights or~~
1385 ~~resident care~~ without reinspecting the facility if adequate
1386 written documentation has been received from the facility, which
1387 provides assurance that the deficiency has been corrected. The
1388 giving or causing to be given of advance notice of such
1389 unannounced inspections by an employee of the agency to any
1390 unauthorized person shall constitute cause for suspension of not
1391 fewer than 5 working days according to the provisions of chapter
1392 110.

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1393 Section 31. Section 400.195, Florida Statutes, is repealed.

1394 Section 32. Subsection (5) of section 400.23, Florida
1395 Statutes, is amended to read:

1396 400.23 Rules; evaluation and deficiencies; licensure
1397 status.—

1398 (5) The agency, in collaboration with the Division of
1399 Children's Medical Services Network of the Department of Health,
1400 ~~must, no later than December 31, 1993,~~ adopt rules for minimum
1401 standards of care for persons under 21 years of age who reside
1402 in nursing home facilities. The rules must include a methodology
1403 for reviewing a nursing home facility under ss. 408.031-408.045
1404 which serves only persons under 21 years of age. A facility may
1405 be exempt from these standards for specific persons between 18
1406 and 21 years of age, if the person's physician agrees that
1407 minimum standards of care based on age are not necessary.

1408 Section 33. Subsection (1) of section 400.275, Florida
1409 Statutes, is amended to read:

1410 400.275 Agency duties.—

1411 ~~(1) The agency shall ensure that each newly hired nursing
1412 home surveyor, as a part of basic training, is assigned full-
1413 time to a licensed nursing home for at least 2 days within a 7-
1414 day period to observe facility operations outside of the survey
1415 process before the surveyor begins survey responsibilities. Such
1416 observations may not be the sole basis of a deficiency citation
1417 against the facility. The agency may not assign an individual to
1418 be a member of a survey team for purposes of a survey,
1419 evaluation, or consultation visit at a nursing home facility in
1420 which the surveyor was an employee within the preceding 5 years.~~

1421 Section 34. Section 400.484, Florida Statutes, is amended

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1422 to read:

1423 400.484 Right of inspection; violations ~~deficiencies~~;
1424 fines.-

1425 (1) In addition to the requirements of s. 408.811, the
1426 agency may make such inspections and investigations as are
1427 necessary in order to determine the state of compliance with
1428 this part, part II of chapter 408, and applicable rules.

1429 (2) The agency shall impose fines for various classes of
1430 violations ~~deficiencies~~ in accordance with the following
1431 schedule:

1432 (a) A class I violation is defined in s. 408.813. ~~A class I~~
1433 ~~deficiency is any act, omission, or practice that results in a~~
1434 ~~patient's death, disablement, or permanent injury, or places a~~
1435 ~~patient at imminent risk of death, disablement, or permanent~~
1436 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
1437 shall impose an administrative fine in the amount of \$15,000 for
1438 each occurrence and each day that the violation ~~deficiency~~
1439 exists.

1440 (b) A class II violation is defined in s. 408.813. ~~A class~~
1441 ~~II deficiency is any act, omission, or practice that has a~~
1442 ~~direct adverse effect on the health, safety, or security of a~~
1443 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1444 agency shall impose an administrative fine in the amount of
1445 \$5,000 for each occurrence and each day that the violation
1446 ~~deficiency~~ exists.

1447 (c) A class III violation is defined in s. 408.813. ~~A class~~
1448 ~~III deficiency is any act, omission, or practice that has an~~
1449 ~~indirect, adverse effect on the health, safety, or security of a~~
1450 ~~patient.~~ Upon finding an uncorrected or repeated class III

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1451 violation deficiency, the agency shall impose an administrative
1452 fine not to exceed \$1,000 for each occurrence and each day that
1453 the uncorrected or repeated violation deficiency exists.

1454 (d) A class IV violation is defined in s. 408.813. ~~A class~~
1455 ~~IV deficiency is any act, omission, or practice related to~~
1456 ~~required reports, forms, or documents which does not have the~~
1457 ~~potential of negatively affecting patients. These violations are~~
1458 ~~of a type that the agency determines do not threaten the health,~~
1459 ~~safety, or security of patients.~~ Upon finding an uncorrected or
1460 repeated class IV violation deficiency, the agency shall impose
1461 an administrative fine not to exceed \$500 for each occurrence
1462 and each day that the uncorrected or repeated violation
1463 deficiency exists.

1464 (3) In addition to any other penalties imposed pursuant to
1465 this section or part, the agency may assess costs related to an
1466 investigation that results in a successful prosecution,
1467 excluding costs associated with an attorney's time.

1468 Section 35. Subsections (1) and (4) of section 400.606,
1469 Florida Statutes, are amended to read:

1470 400.606 License; application; renewal; conditional license
1471 or permit; certificate of need.-

1472 (1) In addition to the requirements of part II of chapter
1473 408, the initial application and change of ownership application
1474 must be accompanied by a plan for the delivery of home,
1475 residential, and homelike inpatient hospice services to
1476 terminally ill persons and their families. Such plan must
1477 contain, but need not be limited to:

1478 (a) The estimated average number of terminally ill persons
1479 to be served monthly.

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1480 (b) The geographic area in which hospice services will be
1481 available.

1482 (c) A listing of services that ~~which~~ are or will be
1483 provided, either directly by the applicant or through
1484 contractual arrangements with existing providers.

1485 (d) Provisions for the implementation of hospice home care
1486 within 3 months after licensure.

1487 (e) Provisions for the implementation of hospice homelike
1488 inpatient care within 12 months after licensure.

1489 (f) The number and disciplines of professional staff to be
1490 employed.

1491 (g) The name and qualifications of any existing or
1492 potential contractee.

1493 (h) A plan for attracting and training volunteers.

1494 ~~(i) The projected annual operating cost of the hospice.~~

1495
1496 If the applicant is an existing licensed health care provider,
1497 the application must be accompanied by a copy of the most recent
1498 profit-loss statement and, if applicable, the most recent
1499 licensure inspection report.

1500 (4) A freestanding hospice facility that is ~~primarily~~
1501 engaged in providing inpatient and related services and that is
1502 not otherwise licensed as a health care facility shall be
1503 required to obtain a certificate of need. However, a
1504 freestanding hospice facility with six or fewer beds shall not
1505 be required to comply with institutional standards such as, but
1506 not limited to, standards requiring sprinkler systems, emergency
1507 electrical systems, or special lavatory devices.

1508 Section 36. Subsection (2) of section 400.607, Florida

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1509 Statutes, is amended to read:

1510 400.607 Denial, suspension, revocation of license;
1511 emergency actions; imposition of administrative fine; grounds.-

1512 (2) A violation of the provisions of this part, part II of
1513 chapter 408, or applicable rules ~~Any of the following actions~~ by
1514 a licensed hospice or any of its employees shall be grounds for
1515 administrative action by the agency against a hospice.†

1516 ~~(a) A violation of the provisions of this part, part II of~~
1517 ~~chapter 408, or applicable rules.~~

1518 ~~(b) An intentional or negligent act materially affecting~~
1519 ~~the health or safety of a patient.~~

1520 Section 37. Subsection (1) of section 400.925, Florida
1521 Statutes, is amended to read:

1522 400.925 Definitions.-As used in this part, the term:

1523 (1) "Accrediting organizations" means the Joint Commission
1524 ~~on Accreditation of Healthcare Organizations~~ or other national
1525 accreditation agencies whose standards for accreditation are
1526 comparable to those required by this part for licensure.

1527 Section 38. Section 400.931, Florida Statutes, is amended
1528 to read:

1529 400.931 Application for license; fee; ~~provisional license;~~
1530 ~~temporary permit.~~-

1531 (1) In addition to the requirements of part II of chapter
1532 408, the applicant must file with the application satisfactory
1533 proof that the home medical equipment provider is in compliance
1534 with this part and applicable rules, including:

1535 (a) A report, by category, of the equipment to be provided,
1536 indicating those offered either directly by the applicant or
1537 through contractual arrangements with existing providers.

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1538 Categories of equipment include:

- 1539 1. Respiratory modalities.
1540 2. Ambulation aids.
1541 3. Mobility aids.
1542 4. Sickroom setup.
1543 5. Disposables.

1544 (b) A report, by category, of the services to be provided,
1545 indicating those offered either directly by the applicant or
1546 through contractual arrangements with existing providers.

1547 Categories of services include:

- 1548 1. Intake.
1549 2. Equipment selection.
1550 3. Delivery.
1551 4. Setup and installation.
1552 5. Patient training.
1553 6. Ongoing service and maintenance.
1554 7. Retrieval.

1555 (c) A listing of those with whom the applicant contracts,
1556 both the providers the applicant uses to provide equipment or
1557 services to its consumers and the providers for whom the
1558 applicant provides services or equipment.

1559 ~~(2) As an alternative to submitting proof of financial~~
1560 ~~ability to operate as required in s. 408.810(8), the applicant~~
1561 ~~may submit a \$50,000 surety bond to the agency.~~

1562 (2)~~(3)~~ As specified in part II of chapter 408, the home
1563 medical equipment provider must also obtain and maintain
1564 professional and commercial liability insurance. Proof of
1565 liability insurance, as defined in s. 624.605, must be submitted
1566 with the application. The agency shall set the required amounts

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1567 of liability insurance by rule, but the required amount must not
 1568 be less than \$250,000 per claim. In the case of contracted
 1569 services, ~~it is required that~~ the contractor must have liability
 1570 insurance not less than \$250,000 per claim.

1571 (3)~~(4)~~ When a change of the general manager of a home
 1572 medical equipment provider occurs, the licensee must notify the
 1573 agency of the change within 45 days.

1574 (4)~~(5)~~ In accordance with s. 408.805, an applicant or a
 1575 licensee shall pay a fee for each license application submitted
 1576 under this part, part II of chapter 408, and applicable rules.
 1577 The amount of the fee shall be established by rule and may not
 1578 exceed \$300 per biennium. The agency shall set the fees in an
 1579 amount that is sufficient to cover its costs in carrying out its
 1580 responsibilities under this part. However, state, county, or
 1581 municipal governments applying for licenses under this part are
 1582 exempt from the payment of license fees.

1583 (5)~~(6)~~ An applicant for initial licensure, renewal, or
 1584 change of ownership shall also pay an inspection fee not to
 1585 exceed \$400, which shall be paid by all applicants except those
 1586 not subject to licensure inspection by the agency as described
 1587 in s. 400.933.

1588 Section 39. Subsection (2) of section 400.932, Florida
 1589 Statutes, is amended to read:

1590 400.932 Administrative penalties.—

1591 (2) A violation of this part, part II of chapter 408, or
 1592 applicable rules ~~Any of the following actions~~ by an employee of
 1593 a home medical equipment provider is ~~are~~ grounds for
 1594 administrative action or penalties by the agency.÷

1595 ~~(a) Violation of this part, part II of chapter 408, or~~

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1596 ~~applicable rules.~~

1597 ~~(b) An intentional, reckless, or negligent act that~~
 1598 ~~materially affects the health or safety of a patient.~~

1599 Section 40. Subsection (2) of section 400.933, Florida
 1600 Statutes, is amended to read:

1601 400.933 Licensure inspections and investigations.—

1602 (2) The agency shall accept, in lieu of its own periodic
 1603 inspections for licensure, submission of the following:

1604 (a) The survey or inspection of an accrediting
 1605 organization, provided the accreditation of the licensed home
 1606 medical equipment provider is not conditional or provisional and
 1607 provided the licensed home medical equipment provider authorizes
 1608 release of, and the agency receives the report of, the
 1609 accrediting organization; or

1610 (b) A copy of a valid medical oxygen retail establishment
 1611 permit issued by the Department of Health, pursuant to chapter
 1612 499.

1613 Section 41. Subsection (2) of section 400.953, Florida
 1614 Statutes, is amended to read:

1615 400.953 Background screening of home medical equipment
 1616 provider personnel.—The agency shall require employment
 1617 screening as provided in chapter 435, using the level 1
 1618 standards for screening set forth in that chapter, for home
 1619 medical equipment provider personnel.

1620 (2) The general manager of each home medical equipment
 1621 provider must sign an affidavit ~~annually~~, under penalty of
 1622 perjury, stating that all home medical equipment provider
 1623 personnel hired on or after July 1, 1999, who enter the home of
 1624 a patient in the capacity of their employment have been screened

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1625 and that its remaining personnel have worked for the home
1626 medical equipment provider continuously since before July 1,
1627 1999. This attestation must be submitted in accordance with s.
1628 408.809(6).

1629 Section 42. Section 400.967, Florida Statutes, is amended
1630 to read:

1631 400.967 Rules and classification of violations
1632 ~~deficiencies.~~-

1633 (1) It is the intent of the Legislature that rules adopted
1634 and enforced under this part and part II of chapter 408 include
1635 criteria by which a reasonable and consistent quality of
1636 resident care may be ensured, the results of such resident care
1637 can be demonstrated, and safe and sanitary facilities can be
1638 provided.

1639 (2) Pursuant to the intention of the Legislature, the
1640 agency, in consultation with the Agency for Persons with
1641 Disabilities and the Department of Elderly Affairs, shall adopt
1642 and enforce rules to administer this part and part II of chapter
1643 408, which shall include reasonable and fair criteria governing:

1644 (a) The location and construction of the facility;
1645 including fire and life safety, plumbing, heating, cooling,
1646 lighting, ventilation, and other housing conditions that will
1647 ensure the health, safety, and comfort of residents. The agency
1648 shall establish standards for facilities and equipment to
1649 increase the extent to which new facilities and a new wing or
1650 floor added to an existing facility after July 1, 2000, are
1651 structurally capable of serving as shelters only for residents,
1652 staff, and families of residents and staff, and equipped to be
1653 self-supporting during and immediately following disasters. The

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1654 Agency for Health Care Administration shall work with facilities
1655 licensed under this part and report to the Governor and the
1656 Legislature by April 1, 2000, its recommendations for cost-
1657 effective renovation standards to be applied to existing
1658 facilities. In making such rules, the agency shall be guided by
1659 criteria recommended by nationally recognized, reputable
1660 professional groups and associations having knowledge concerning
1661 such subject matters. The agency shall update or revise such
1662 criteria as the need arises. All facilities must comply with
1663 those lifesafety code requirements and building code standards
1664 applicable at the time of approval of their construction plans.
1665 The agency may require alterations to a building if it
1666 determines that an existing condition constitutes a distinct
1667 hazard to life, health, or safety. The agency shall adopt fair
1668 and reasonable rules setting forth conditions under which
1669 existing facilities undergoing additions, alterations,
1670 conversions, renovations, or repairs are required to comply with
1671 the most recent updated or revised standards.

1672 (b) The number and qualifications of all personnel,
1673 including management, medical nursing, and other personnel,
1674 having responsibility for any part of the care given to
1675 residents.

1676 (c) All sanitary conditions within the facility and its
1677 surroundings, including water supply, sewage disposal, food
1678 handling, and general hygiene, which will ensure the health and
1679 comfort of residents.

1680 (d) The equipment essential to the health and welfare of
1681 the residents.

1682 (e) A uniform accounting system.

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1683 (f) The care, treatment, and maintenance of residents and
1684 measurement of the quality and adequacy thereof.

1685 (g) The preparation and annual update of a comprehensive
1686 emergency management plan. The agency shall adopt rules
1687 establishing minimum criteria for the plan after consultation
1688 with the Department of Community Affairs. At a minimum, the
1689 rules must provide for plan components that address emergency
1690 evacuation transportation; adequate sheltering arrangements;
1691 postdisaster activities, including emergency power, food, and
1692 water; postdisaster transportation; supplies; staffing;
1693 emergency equipment; individual identification of residents and
1694 transfer of records; and responding to family inquiries. The
1695 comprehensive emergency management plan is subject to review and
1696 approval by the local emergency management agency. During its
1697 review, the local emergency management agency shall ensure that
1698 the following agencies, at a minimum, are given the opportunity
1699 to review the plan: the Department of Elderly Affairs, the
1700 Agency for Persons with Disabilities, the Agency for Health Care
1701 Administration, and the Department of Community Affairs. Also,
1702 appropriate volunteer organizations must be given the
1703 opportunity to review the plan. The local emergency management
1704 agency shall complete its review within 60 days and either
1705 approve the plan or advise the facility of necessary revisions.

1706 (h) The use of restraint and seclusion. Such rules must be
1707 consistent with recognized best practices; prohibit inherently
1708 dangerous restraint or seclusion procedures; establish
1709 limitations on the use and duration of restraint and seclusion;
1710 establish measures to ensure the safety of clients and staff
1711 during an incident of restraint or seclusion; establish

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1712 procedures for staff to follow before, during, and after
1713 incidents of restraint or seclusion, including individualized
1714 plans for the use of restraints or seclusion in emergency
1715 situations; establish professional qualifications of and
1716 training for staff who may order or be engaged in the use of
1717 restraint or seclusion; establish requirements for facility data
1718 collection and reporting relating to the use of restraint and
1719 seclusion; and establish procedures relating to the
1720 documentation of the use of restraint or seclusion in the
1721 client's facility or program record.

1722 (3) The agency shall adopt rules to provide that, when the
1723 criteria established under this part and part II of chapter 408
1724 are not met, such violations ~~deficiencies~~ shall be classified
1725 according to the nature of the violation ~~deficiency~~. The agency
1726 shall indicate the classification on the face of the notice of
1727 violations ~~deficiencies~~ as follows:

1728 (a) Class I violations ~~deficiencies~~ are defined in s.
1729 408.813. ~~those which the agency determines present an imminent~~
1730 ~~danger to the residents or guests of the facility or a~~
1731 ~~substantial probability that death or serious physical harm~~
1732 ~~would result therefrom. The condition or practice constituting a~~
1733 ~~class I violation must be abated or eliminated immediately,~~
1734 ~~unless a fixed period of time, as determined by the agency, is~~
1735 ~~required for correction.~~ A class I violation ~~deficiency~~ is
1736 subject to a civil penalty in an amount not less than \$5,000 and
1737 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may
1738 be levied notwithstanding the correction of the violation
1739 ~~deficiency~~.

1740 (b) Class II violations ~~deficiencies~~ are defined in s.

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1741 ~~408.813. those which the agency determines have a direct or~~
1742 ~~immediate relationship to the health, safety, or security of the~~
1743 ~~facility residents, other than class I deficiencies.~~ A class II
1744 violation deficiency is subject to a civil penalty in an amount
1745 not less than \$1,000 and not exceeding \$5,000 for each
1746 deficiency. A citation for a class II violation deficiency shall
1747 specify the time within which the violation deficiency must be
1748 corrected. If a class II violation deficiency is corrected
1749 within the time specified, no civil penalty shall be imposed,
1750 unless it is a repeated offense.

1751 (c) Class III violations deficiencies are defined in s.
1752 ~~408.813. those which the agency determines to have an indirect~~
1753 ~~or potential relationship to the health, safety, or security of~~
1754 ~~the facility residents, other than class I or class II~~
1755 ~~deficiencies.~~ A class III violation deficiency is subject to a
1756 civil penalty of not less than \$500 and not exceeding \$1,000 for
1757 each violation deficiency. A citation for a class III violation
1758 deficiency shall specify the time within which the violation
1759 deficiency must be corrected. If a class III violation
1760 deficiency is corrected within the time specified, no civil
1761 penalty shall be imposed, unless it is a repeated offense.

1762 (d) Class IV violations are defined in s. 408.813.

1763 (4) The agency shall approve or disapprove the plans and
1764 specifications within 60 days after receipt of the final plans
1765 and specifications. The agency may be granted one 15-day
1766 extension for the review period, if the secretary of the agency
1767 so approves. If the agency fails to act within the specified
1768 time, it is deemed to have approved the plans and
1769 specifications. When the agency disapproves plans and

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1770 specifications, it must set forth in writing the reasons for
1771 disapproval. Conferences and consultations may be provided as
1772 necessary.

1773 (5) The agency may charge an initial fee of \$2,000 for
1774 review of plans and construction on all projects, no part of
1775 which is refundable. The agency may also collect a fee, not to
1776 exceed 1 percent of the estimated construction cost or the
1777 actual cost of review, whichever is less, for the portion of the
1778 review that ~~which~~ encompasses initial review through the initial
1779 revised construction document review. The agency may collect its
1780 actual costs on all subsequent portions of the review and
1781 construction inspections. Initial fee payment must accompany the
1782 initial submission of plans and specifications. Any subsequent
1783 payment that is due is payable upon receipt of the invoice from
1784 the agency. Notwithstanding any other ~~provision of~~ law, all
1785 money received by the agency under this section shall be deemed
1786 to be trust funds, to be held and applied solely for the
1787 operations required under this section.

1788 Section 43. Paragraph (1) of subsection (4) and subsection
1789 (7) of section 400.9905, Florida Statutes, are amended to read:

1790 400.9905 Definitions.—

1791 (4) "Clinic" means an entity where ~~at which~~ health care
1792 services are provided to individuals and which tenders charges
1793 for reimbursement for such services, including a mobile clinic
1794 and a portable equipment provider. For purposes of this part,
1795 the term does not include and the licensure requirements of this
1796 part do not apply to:

1797 (1) Orthotic or prosthetic pediatric cardiology, or
1798 perinatology clinical facilities that are a publicly traded

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1799 corporation or that are wholly owned, directly or indirectly, by
1800 a publicly traded corporation. As used in this paragraph, a
1801 publicly traded corporation is a corporation that issues
1802 securities traded on an exchange registered with the United
1803 States Securities and Exchange Commission as a national
1804 securities exchange.

1805 (7) "Portable service or equipment provider" means an
1806 entity that contracts with or employs persons to provide
1807 portable health care services or equipment to multiple locations
1808 ~~which performing treatment or diagnostic testing of individuals,~~
1809 ~~that~~ bills third-party payors for those services, and which ~~that~~
1810 otherwise meets the definition of a clinic in subsection (4).

1811 Section 44. Subsections (1) and (4) of section 400.991,
1812 Florida Statutes, are amended to read:

1813 400.991 License requirements; background screenings;
1814 prohibitions.—

1815 (1) (a) The requirements of part II of chapter 408 apply to
1816 the provision of services that require licensure pursuant to
1817 this part and part II of chapter 408 and to entities licensed by
1818 or applying for such licensure from the agency pursuant to this
1819 part. A license issued by the agency is required in order to
1820 operate a clinic in this state. Each clinic location shall be
1821 licensed separately regardless of whether the clinic is operated
1822 under the same business name or management as another clinic.

1823 (b) Each mobile clinic must obtain a separate health care
1824 clinic license and must provide to the agency, at least
1825 quarterly, its projected street location to enable the agency to
1826 locate and inspect such clinic. A portable equipment and health
1827 services provider must obtain a health care clinic license for a

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1828 single administrative office and is not required to submit
1829 quarterly projected street locations.

1830 (4) In addition to the requirements of part II of chapter
1831 408, the applicant must file with the application satisfactory
1832 proof that the clinic is in compliance with this part and
1833 applicable rules, including:

1834 (a) A listing of services to be provided either directly by
1835 the applicant or through contractual arrangements with existing
1836 providers;

1837 (b) The number and discipline of each professional staff
1838 member to be employed; and

1839 (c) Proof of financial ability to operate as required under
1840 ss. 408.8065 and s. 408.810(8). ~~As an alternative to submitting~~
1841 ~~proof of financial ability to operate as required under s.~~
1842 ~~408.810(8), the applicant may file a surety bond of at least~~
1843 ~~\$500,000 which guarantees that the clinic will act in full~~
1844 ~~conformity with all legal requirements for operating a clinic,~~
1845 ~~payable to the agency. The agency may adopt rules to specify~~
1846 ~~related requirements for such surety bond.~~

1847 Section 45. Paragraph (g) of subsection (1) and paragraph
1848 (a) of subsection (7) of section 400.9935, Florida Statutes, are
1849 amended to read:

1850 400.9935 Clinic responsibilities.—

1851 (1) Each clinic shall appoint a medical director or clinic
1852 director who shall agree in writing to accept legal
1853 responsibility for the following activities on behalf of the
1854 clinic. The medical director or the clinic director shall:

1855 (g) Conduct systematic reviews of clinic billings to ensure
1856 that the billings are not fraudulent or unlawful. Upon discovery

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1857 of an unlawful charge, the medical director or clinic director
1858 shall take immediate corrective action. If the clinic performs
1859 only the technical component of magnetic resonance imaging,
1860 static radiographs, computed tomography, or positron emission
1861 tomography, and provides the professional interpretation of such
1862 services, in a fixed facility that is accredited by the Joint
1863 Commission ~~on Accreditation of Healthcare Organizations~~ or the
1864 Accreditation Association for Ambulatory Health Care, and the
1865 American College of Radiology; and if, in the preceding quarter,
1866 the percentage of scans performed by that clinic which was
1867 billed to all personal injury protection insurance carriers was
1868 less than 15 percent, the chief financial officer of the clinic
1869 may, in a written acknowledgment provided to the agency, assume
1870 the responsibility for the conduct of the systematic reviews of
1871 clinic billings to ensure that the billings are not fraudulent
1872 or unlawful.

1873 (7) (a) Each clinic engaged in magnetic resonance imaging
1874 services must be accredited by the Joint Commission ~~on~~
1875 ~~Accreditation of Healthcare Organizations~~, the American College
1876 of Radiology, or the Accreditation Association for Ambulatory
1877 Health Care, within 1 year after licensure. A clinic that is
1878 accredited by the American College of Radiology or is within the
1879 original 1-year period after licensure and replaces its core
1880 magnetic resonance imaging equipment shall be given 1 year after
1881 the date on which the equipment is replaced to attain
1882 accreditation. However, a clinic may request a single, 6-month
1883 extension if it provides evidence to the agency establishing
1884 that, for good cause shown, such clinic cannot be accredited
1885 within 1 year after licensure, and that such accreditation will

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1886 be completed within the 6-month extension. After obtaining
1887 accreditation as required by this subsection, each such clinic
1888 must maintain accreditation as a condition of renewal of its
1889 license. A clinic that files a change of ownership application
1890 must comply with the original accreditation timeframe
1891 requirements of the transferor. The agency shall deny a change
1892 of ownership application if the clinic is not in compliance with
1893 the accreditation requirements. When a clinic adds, replaces, or
1894 modifies magnetic resonance imaging equipment and the
1895 accreditation agency requires new accreditation, the clinic must
1896 be accredited within 1 year after the date of the addition,
1897 replacement, or modification but may request a single, 6-month
1898 extension if the clinic provides evidence of good cause to the
1899 agency.

1900 Section 46. Subsection (2) of section 408.034, Florida
1901 Statutes, is amended to read:

1902 408.034 Duties and responsibilities of agency; rules.—

1903 (2) In the exercise of its authority to issue licenses to
1904 health care facilities and health service providers, as provided
1905 under chapters 393 and 395 and parts II, ~~and~~ IV, and VIII of
1906 chapter 400, the agency may not issue a license to any health
1907 care facility or health service provider that fails to receive a
1908 certificate of need or an exemption for the licensed facility or
1909 service.

1910 Section 47. Paragraph (d) of subsection (1) of section
1911 408.036, Florida Statutes, is amended to read:

1912 408.036 Projects subject to review; exemptions.—

1913 (1) APPLICABILITY.—Unless exempt under subsection (3), all
1914 health-care-related projects, as described in paragraphs (a)–

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1915 (g), are subject to review and must file an application for a
1916 certificate of need with the agency. The agency is exclusively
1917 responsible for determining whether a health-care-related
1918 project is subject to review under ss. 408.031-408.045.

1919 (d) The establishment of a hospice or hospice inpatient
1920 facility, ~~except as provided in s. 408.043.~~

1921 Section 48. Subsection (2) of section 408.043, Florida
1922 Statutes, is amended to read:

1923 408.043 Special provisions.—

1924 (2) HOSPICES.—When an application is made for a certificate
1925 of need to establish or to expand a hospice, the need for such
1926 hospice shall be determined on the basis of the need for and
1927 availability of hospice services in the community. The formula
1928 on which the certificate of need is based shall discourage
1929 regional monopolies and promote competition. The inpatient
1930 hospice care component of a hospice that ~~which~~ is a freestanding
1931 facility, or a part of a facility, ~~which is primarily engaged in~~
1932 ~~providing inpatient care and related services~~ and is not
1933 licensed as a health care facility shall also be required to
1934 obtain a certificate of need. Provision of hospice care by any
1935 current provider of health care is a significant change in
1936 service and therefore requires a certificate of need for such
1937 services.

1938 Section 49. Paragraph (k) of subsection (3) of section
1939 408.05, Florida Statutes, is amended to read:

1940 408.05 Florida Center for Health Information and Policy
1941 Analysis.—

1942 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
1943 produce comparable and uniform health information and statistics

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1944 for the development of policy recommendations, the agency shall
1945 perform the following functions:

1946 (k) Develop, in conjunction with the State Consumer Health
1947 Information and Policy Advisory Council, and implement a long-
1948 range plan for making available health care quality measures and
1949 financial data that will allow consumers to compare health care
1950 services. The health care quality measures and financial data
1951 the agency must make available shall include, but is not limited
1952 to, pharmaceuticals, physicians, health care facilities, and
1953 health plans and managed care entities. The agency shall submit
1954 the initial plan to the Governor, the President of the Senate,
1955 and the Speaker of the House of Representatives by January 1,
1956 2006, and shall update the plan and report on the status of its
1957 implementation annually thereafter. The agency shall also make
1958 the plan and status report available to the public on its
1959 Internet website. As part of the plan, the agency shall identify
1960 the process and timeframes for implementation, any barriers to
1961 implementation, and recommendations of changes in the law that
1962 may be enacted by the Legislature to eliminate the barriers. As
1963 preliminary elements of the plan, the agency shall:

1964 1. Make available patient-safety indicators, inpatient
1965 quality indicators, and performance outcome and patient charge
1966 data collected from health care facilities pursuant to s.
1967 408.061(1)(a) and (2). The terms "patient-safety indicators" and
1968 "inpatient quality indicators" shall be as defined by the
1969 Centers for Medicare and Medicaid Services, the National Quality
1970 Forum, the Joint Commission ~~on Accreditation of Healthcare~~
1971 ~~Organizations~~, the Agency for Healthcare Research and Quality,
1972 the Centers for Disease Control and Prevention, or a similar

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1973 national entity that establishes standards to measure the
1974 performance of health care providers, or by other states. The
1975 agency shall determine which conditions, procedures, health care
1976 quality measures, and patient charge data to disclose based upon
1977 input from the council. When determining which conditions and
1978 procedures are to be disclosed, the council and the agency shall
1979 consider variation in costs, variation in outcomes, and
1980 magnitude of variations and other relevant information. When
1981 determining which health care quality measures to disclose, the
1982 agency:

1983 a. Shall consider such factors as volume of cases; average
1984 patient charges; average length of stay; complication rates;
1985 mortality rates; and infection rates, among others, which shall
1986 be adjusted for case mix and severity, if applicable.

1987 b. May consider such additional measures ~~that are~~ adopted
1988 by the Centers for Medicare and Medicaid Studies, National
1989 Quality Forum, the Joint Commission ~~on Accreditation of~~
1990 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
1991 Quality, Centers for Disease Control and Prevention, or a
1992 similar national entity that establishes standards to measure
1993 the performance of health care providers, or by other states.

1994
1995 When determining which patient charge data to disclose, the
1996 agency shall include such measures as the average of
1997 undiscounted charges on frequently performed procedures and
1998 preventive diagnostic procedures, the range of procedure charges
1999 from highest to lowest, average net revenue per adjusted patient
2000 day, average cost per adjusted patient day, and average cost per
2001 admission, among others.

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2002 2. Make available performance measures, benefit design, and
2003 premium cost data from health plans licensed pursuant to chapter
2004 627 or chapter 641. The agency shall determine which health care
2005 quality measures and member and subscriber cost data to
2006 disclose, based upon input from the council. When determining
2007 which data to disclose, the agency shall consider information
2008 that may be required by either individual or group purchasers to
2009 assess the value of the product, which may include membership
2010 satisfaction, quality of care, current enrollment or membership,
2011 coverage areas, accreditation status, premium costs, plan costs,
2012 premium increases, range of benefits, copayments and
2013 deductibles, accuracy and speed of claims payment, credentials
2014 of physicians, number of providers, names of network providers,
2015 and hospitals in the network. Health plans shall make available
2016 to the agency any such data or information that is not currently
2017 reported to the agency or the office.

2018 3. Determine the method and format for public disclosure of
2019 data reported pursuant to this paragraph. The agency shall make
2020 its determination based upon input from the State Consumer
2021 Health Information and Policy Advisory Council. At a minimum,
2022 the data shall be made available on the agency's Internet
2023 website in a manner that allows consumers to conduct an
2024 interactive search that allows them to view and compare the
2025 information for specific providers. The website must include
2026 such additional information as is determined necessary to ensure
2027 that the website enhances informed decisionmaking among
2028 consumers and health care purchasers, which shall include, at a
2029 minimum, appropriate guidance on how to use the data and an
2030 explanation of why the data may vary from provider to provider.

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2031 The data specified in subparagraph 1. shall be released no later
2032 than January 1, 2006, for the reporting of infection rates, and
2033 no later than October 1, 2005, for mortality rates and
2034 complication rates. The data specified in subparagraph 2. shall
2035 be released no later than October 1, 2006.

2036 4. Publish on its website undiscounted charges for no fewer
2037 than 150 of the most commonly performed adult and pediatric
2038 procedures, including outpatient, inpatient, diagnostic, and
2039 preventative procedures.

2040 Section 50. Paragraph (a) of subsection (1) of section
2041 408.061, Florida Statutes, is amended to read:

2042 408.061 Data collection; uniform systems of financial
2043 reporting; information relating to physician charges;
2044 confidential information; immunity.—

2045 (1) The agency shall require the submission by health care
2046 facilities, health care providers, and health insurers of data
2047 necessary to carry out the agency's duties. Specifications for
2048 data to be collected under this section shall be developed by
2049 the agency with the assistance of technical advisory panels
2050 including representatives of affected entities, consumers,
2051 purchasers, and such other interested parties as may be
2052 determined by the agency.

2053 (a) Data submitted by health care facilities, including the
2054 facilities as defined in chapter 395, shall include, but are not
2055 limited to: case-mix data, patient admission and discharge data,
2056 hospital emergency department data that ~~which shall~~ include the
2057 number of patients treated in the emergency department of a
2058 licensed hospital reported by patient acuity level, data on
2059 hospital-acquired infections as specified by rule, data on

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2060 complications as specified by rule, data on readmissions as
2061 specified by rule, with patient and provider-specific
2062 identifiers included, actual charge data by diagnostic groups,
2063 financial data, accounting data, operating expenses, expenses
2064 incurred for rendering services to patients who cannot or do not
2065 pay, interest charges, depreciation expenses based on the
2066 expected useful life of the property and equipment involved, and
2067 demographic data. The agency shall adopt nationally recognized
2068 risk adjustment methodologies or software consistent with the
2069 standards of the Agency for Healthcare Research and Quality and
2070 as selected by the agency for all data submitted as required by
2071 this section. Data may be obtained from documents such as, but
2072 not limited to: leases, contracts, debt instruments, itemized
2073 patient bills, medical record abstracts, and related diagnostic
2074 information. Reported data elements shall be reported
2075 electronically and in accordance with rule 59E-7.012, Florida
2076 Administrative Code. Data submitted shall be certified by the
2077 chief executive officer or an appropriate and duly authorized
2078 representative or employee of the licensed facility that the
2079 information submitted is true and accurate.

2080 Section 51. Subsection (1) of section 408.10, Florida
2081 Statutes, is amended to read:

2082 408.10 Consumer complaints.—The agency shall:

2083 (1) Publish and make available to the public a toll-free
2084 telephone number for the purpose of handling consumer complaints
2085 and shall serve as a liaison between consumer entities and other
2086 private entities and governmental entities for the disposition
2087 of problems identified by consumers of health care. The agency
2088 may provide staffing for this toll-free number through agency

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2089 staff or other arrangements.

2090 Section 52. Subsection (11) of section 408.802, Florida
2091 Statutes, is repealed.

2092 Section 53. Effective October 1, 2010, subsection (3) is
2093 added to section 408.804, Florida Statutes, to read:

2094 408.804 License required; display.—

2095 (3) A person who knowingly alters, defaces, or falsifies
2096 any license certificate issued by the agency, or causes or
2097 procures another person to commit such an offense, commits a
2098 misdemeanor of the second degree, punishable as provided in s.
2099 775.082 or s. 775.083. Any licensee or provider who displays an
2100 altered, defaced, or falsified license certificate is subject to
2101 the penalties set forth in s. 408.815 and an administrative fine
2102 of \$1,000 for each day of illegal display.

2103 Section 54. Paragraph (d) of subsection (2) of section
2104 408.806, Florida Statutes, is amended to read:

2105 408.806 License application process.—

2106 (2)

2107 ~~(d) The agency shall notify the licensee by mail or~~
2108 ~~electronically at least 90 days before the expiration of a~~
2109 ~~license that a renewal license is necessary to continue~~
2110 ~~operation.~~ The failure of the licensee to timely submit a
2111 renewal application and license application fee with the agency
2112 shall result in a \$50 per day late fee charged to the licensee
2113 by the agency; however, the aggregate amount of the late fee may
2114 not exceed 50 percent of the licensure fee or \$500, whichever is
2115 less. The agency shall provide a courtesy notice to the licensee
2116 by United States mail, electronically, or by any other manner at
2117 its address of record at least 90 days before the expiration of

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2118 a license informing the licensee of the expiration of the
2119 license. Any failure of the agency to provide the courtesy
2120 notice or any failure of the licensee to receive the courtesy
2121 notice does not excuse the licensee from the legal obligation to
2122 timely file the renewal application and license application fee
2123 with the agency and does not mitigate the late fee. Payment of
2124 the late fee is required in order for any late application to be
2125 complete, and failure to pay the late fee is an omission from
2126 the application. ~~If an application is received after the~~
2127 ~~required filing date and exhibits a hand-canceled postmark~~
2128 ~~obtained from a United States post office dated on or before the~~
2129 ~~required filing date, no fine will be levied.~~

2130 Section 55. Subsections (6) and (9) of section 408.810,
2131 Florida Statutes, are amended to read:

2132 408.810 Minimum licensure requirements.—In addition to the
2133 licensure requirements specified in this part, authorizing
2134 statutes, and applicable rules, each applicant and licensee must
2135 comply with the requirements of this section in order to obtain
2136 and maintain a license.

2137 (6) (a) An applicant must provide the agency with proof of
2138 the applicant's legal right to occupy the property before a
2139 license may be issued. Proof may include, but need not be
2140 limited to, copies of warranty deeds, lease or rental
2141 agreements, contracts for deeds, quitclaim deeds, or other such
2142 documentation.

2143 (b) If the property is encumbered by a mortgage or is
2144 leased, an applicant must provide the agency with proof that the
2145 mortgagor or landlord has received written notice of the
2146 applicant's intent, as mortgagee or tenant, to provide services

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2147 that require licensure and with instructions that the agency
2148 must be served by certified mail with copies of any actions
2149 initiated by the mortgagor or landlord against applicant.

2150 (9) A controlling interest may not withhold from the agency
2151 any evidence of financial instability, including, but not
2152 limited to, checks returned due to insufficient funds,
2153 delinquent accounts, nonpayment of withholding taxes, unpaid
2154 utility expenses, nonpayment for essential services, or adverse
2155 court action concerning the financial viability of the provider
2156 or any other provider licensed under this part which ~~that~~ is
2157 under the control of the controlling interest. A controlling
2158 interest shall notify the agency within 10 days after a court
2159 action, including, but not limited to, the initiation of
2160 bankruptcy proceedings, foreclosure, or eviction proceedings in
2161 which the controlling interest is a petitioner or defendant. Any
2162 person who violates this subsection commits a misdemeanor of the
2163 second degree, punishable as provided in s. 775.082 or s.
2164 775.083. Each day of continuing violation is a separate offense.

2165 Section 56. Paragraph (e) is added to subsection (2) of
2166 section 408.813, Florida Statutes, to read:

2167 408.813 Administrative fines; violations.—As a penalty for
2168 any violation of this part, authorizing statutes, or applicable
2169 rules, the agency may impose an administrative fine.

2170 (2) Violations of this part, authorizing statutes, or
2171 applicable rules shall be classified according to the nature of
2172 the violation and the gravity of its probable effect on clients.
2173 The scope of a violation may be cited as an isolated, patterned,
2174 or widespread deficiency. An isolated deficiency is a deficiency
2175 affecting one or a very limited number of clients, or involving

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2176 one or a very limited number of staff, or a situation that
2177 occurred only occasionally or in a very limited number of
2178 locations. A patterned deficiency is a deficiency in which more
2179 than a very limited number of clients are affected, or more than
2180 a very limited number of staff are involved, or the situation
2181 has occurred in several locations, or the same client or clients
2182 have been affected by repeated occurrences of the same deficient
2183 practice but the effect of the deficient practice is not found
2184 to be pervasive throughout the provider. A widespread deficiency
2185 is a deficiency in which the problems causing the deficiency are
2186 pervasive in the provider or represent systemic failure that has
2187 affected or has the potential to affect a large portion of the
2188 provider's clients. This subsection does not affect the
2189 legislative determination of the amount of a fine imposed under
2190 authorizing statutes. Violations shall be classified on the
2191 written notice as follows:

2192 (e) The agency may impose an administrative fine for
2193 violations that do not qualify as class I, class II, class III,
2194 or class IV violations. The amount of the fine may not exceed
2195 \$500 for each violation. Unclassified violations may include:

- 2196 1. Violating any term or condition of a license.
2197 2. Violating any provision of this part, authorizing
2198 statutes, or applicable rules.
2199 3. Exceeding licensed capacity without authorization.
2200 4. Providing services beyond the scope of the license.
2201 5. Violating a moratorium.

2202 Section 57. Subsection (5) is added to section 408.815,
2203 Florida Statutes, to read:

2204 408.815 License or application denial; revocation.—

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2205 (5) In order to ensure the health, safety, and welfare of
2206 clients when a license has been denied or revoked or is set to
2207 terminate, the agency may extend the license expiration date for
2208 up to 60 days after denial, revocation, or termination for the
2209 sole purpose of allowing the safe and orderly discharge of
2210 clients. The agency may impose conditions on the extension,
2211 including, but not limited to, prohibiting or limiting
2212 admissions, expediting discharge planning, submitting required
2213 status reports, and mandatory monitoring by the agency or third
2214 parties. The agency may terminate the extension or modify the
2215 conditions at any time at its discretion. Upon the discharge of
2216 the final client, the extension shall immediately terminate and
2217 the provider shall cease operation and promptly surrender its
2218 license certificate to the agency. During the extension, the
2219 provider must continue to meet all other requirements of this
2220 part, authorizing statutes, and applicable rules. This authority
2221 is in addition to any other authority granted to the agency
2222 under chapter 120, this part, and the authorizing statutes, but
2223 does not create any right or entitlement to an extension of a
2224 license expiration date.

2225 Section 58. Paragraph (d) is added to subsection (13) of
2226 section 409.906, Florida Statutes, to read:

2227 409.906 Optional Medicaid services.—Subject to specific
2228 appropriations, the agency may make payments for services which
2229 are optional to the state under Title XIX of the Social Security
2230 Act and are furnished by Medicaid providers to recipients who
2231 are determined to be eligible on the dates on which the services
2232 were provided. Any optional service that is provided shall be
2233 provided only when medically necessary and in accordance with

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2234 state and federal law. Optional services rendered by providers
2235 in mobile units to Medicaid recipients may be restricted or
2236 prohibited by the agency. Nothing in this section shall be
2237 construed to prevent or limit the agency from adjusting fees,
2238 reimbursement rates, lengths of stay, number of visits, or
2239 number of services, or making any other adjustments necessary to
2240 comply with the availability of moneys and any limitations or
2241 directions provided for in the General Appropriations Act or
2242 chapter 216. If necessary to safeguard the state's systems of
2243 providing services to elderly and disabled persons and subject
2244 to the notice and review provisions of s. 216.177, the Governor
2245 may direct the Agency for Health Care Administration to amend
2246 the Medicaid state plan to delete the optional Medicaid service
2247 known as "Intermediate Care Facilities for the Developmentally
2248 Disabled." Optional services may include:

2249 (13) HOME AND COMMUNITY-BASED SERVICES.—

2250 (d) The agency, in consultation with the Department of
2251 Elderly Affairs, shall phase out the adult day health care
2252 waiver program and transfer existing waiver enrollees to other
2253 appropriate home and community-based service programs. Effective
2254 July 1, 2010, the adult day health care waiver program shall
2255 cease to enroll new members. Existing enrollees in the adult day
2256 health care program shall receive counseling regarding available
2257 options and shall be offered an alternative home and community-
2258 based services program based on eligibility and personal choice.
2259 Each enrollee in the waiver program shall continue to receive
2260 home and community-based services without interruption in the
2261 enrollee's program of choice. The providers of the adult day
2262 health care waiver program, in consultation with resource

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2263 centers for the aged, shall assist in the transition of
2264 enrollees and cease provision of adult day health care waiver
2265 services by December 31, 2010. The agency may seek federal
2266 waiver approval to administer this change.

2267 Section 59. Paragraph (k) of subsection (4) of section
2268 409.221, Florida Statutes, is repealed.

2269 Section 60. Paragraphs (e), (f), and (g) of subsection (15)
2270 of section 409.912, Florida Statutes, are repealed.

2271 Section 61. Section 429.11, Florida Statutes, is amended to
2272 read:

2273 429.11 Initial application for license; ~~provisional~~
2274 ~~license.~~

2275 (1) Each applicant for licensure must comply with all
2276 provisions of part II of chapter 408 and must:

2277 (a) Identify all other homes or facilities, including the
2278 addresses and the license or licenses under which they operate,
2279 if applicable, which are currently operated by the applicant or
2280 administrator and which provide housing, meals, and personal
2281 services to residents.

2282 (b) Provide the location of the facility for which a
2283 license is sought and documentation, signed by the appropriate
2284 local government official, which states that the applicant has
2285 met local zoning requirements.

2286 (c) Provide the name, address, date of birth, social
2287 security number, education, and experience of the administrator,
2288 if different from the applicant.

2289 (2) The applicant shall provide proof of liability
2290 insurance as defined in s. 624.605.

2291 (3) If the applicant is a community residential home, the

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2292 applicant must provide proof that it has met the requirements
2293 specified in chapter 419.

2294 (4) The applicant must furnish proof that the facility has
2295 received a satisfactory firesafety inspection. The local
2296 authority having jurisdiction or the State Fire Marshal must
2297 conduct the inspection within 30 days after written request by
2298 the applicant.

2299 (5) The applicant must furnish documentation of a
2300 satisfactory sanitation inspection of the facility by the county
2301 health department.

2302 ~~(6) In addition to the license categories available in s.~~
2303 ~~408.808, a provisional license may be issued to an applicant~~
2304 ~~making initial application for licensure or making application~~
2305 ~~for a change of ownership. A provisional license shall be~~
2306 ~~limited in duration to a specific period of time not to exceed 6~~
2307 ~~months, as determined by the agency.~~

2308 (6)~~(7)~~ A county or municipality may not issue an
2309 occupational license that is being obtained for the purpose of
2310 operating a facility regulated under this part without first
2311 ascertaining that the applicant has been licensed to operate
2312 such facility at the specified location or locations by the
2313 agency. The agency shall furnish to local agencies responsible
2314 for issuing occupational licenses sufficient instruction for
2315 making such determinations.

2316 Section 62. Subsection (2) of section 429.12, Florida
2317 Statutes, is repealed.

2318 Section 63. Subsections (5) and (6) of section 429.14,
2319 Florida Statutes, are amended to read:

2320 429.14 Administrative penalties.—

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2321 (5) An action taken by the agency to suspend, deny, or
2322 revoke a facility's license under this part or part II of
2323 chapter 408, in which the agency claims that the facility owner
2324 or an employee of the facility has threatened the health,
2325 safety, or welfare of a resident of the facility shall be heard
2326 by the Division of Administrative Hearings of the Department of
2327 Management Services within 120 days after receipt of the
2328 facility's request for a hearing, unless that time limitation is
2329 waived by both parties. The administrative law judge must render
2330 a decision within 30 days after receipt of a proposed
2331 recommended order.

2332 (6) The agency shall provide to the Division of Hotels and
2333 Restaurants of the Department of Business and Professional
2334 Regulation, on a monthly basis, a list of those assisted living
2335 facilities that have had their licenses denied, suspended, or
2336 revoked or that are involved in an appellate proceeding pursuant
2337 to s. 120.60 related to the denial, suspension, or revocation of
2338 a license. This information may be provided electronically or
2339 through the agency's Internet website.

2340 Section 64. Subsection (4) of section 429.17, Florida
2341 Statutes, is amended to read:

2342 429.17 Expiration of license; renewal; conditional
2343 license.—

2344 (4) In addition to the license categories available in s.
2345 408.808, a conditional license may be issued to an applicant for
2346 license renewal if the applicant fails to meet all standards and
2347 requirements for licensure. A conditional license issued under
2348 this subsection shall be limited in duration to a specific
2349 period of time not to exceed 6 months, as determined by the

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2350 agency, ~~and shall be accompanied by an agency approved plan of~~
2351 ~~correction.~~

2352 Section 65. Subsection (5) of section 429.23, Florida
2353 Statutes, is repealed.

2354 Section 66. Subsection (2) of section 429.35, Florida
2355 Statutes, is amended to read:

2356 429.35 Maintenance of records; reports.—

2357 (2) Within 60 days after the date of the biennial
2358 inspection visit required under s. 408.811 or within 30 days
2359 after the date of any interim visit, the agency shall forward
2360 the results of the inspection to the local ombudsman council in
2361 whose planning and service area, as defined in part II of
2362 chapter 400, the facility is located; to at least one public
2363 library or, in the absence of a public library, the county seat
2364 in the county in which the inspected assisted living facility is
2365 located; and, when appropriate, to the district Adult Services
2366 and Mental Health Program Offices. This information may be
2367 provided electronically or through the agency's Internet site.

2368 Section 67. Section 429.53, Florida Statutes, is amended to
2369 read:

2370 429.53 Consultation by the agency.—

2371 (1) ~~The area offices of licensure and certification of the~~
2372 agency shall provide consultation to the following upon request:

2373 (a) A licensee of a facility.

2374 (b) A person interested in obtaining a license to operate a
2375 facility under this part.

2376 (2) As used in this section, "consultation" includes:

2377 (a) An explanation of the requirements of this part and
2378 rules adopted pursuant thereto;

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2379 (b) An explanation of the license application and renewal
2380 procedures; and

2381 ~~(c) The provision of a checklist of general local and state~~
2382 ~~approvals required prior to constructing or developing a~~
2383 ~~facility and a listing of the types of agencies responsible for~~
2384 ~~such approvals;~~

2385 ~~(d) An explanation of benefits and financial assistance~~
2386 ~~available to a recipient of supplemental security income~~
2387 ~~residing in a facility;~~

2388 ~~(c)(e)~~ Any other information ~~which~~ the agency deems
2389 necessary to promote compliance with the requirements of this
2390 part; ~~and~~

2391 ~~(f) A preconstruction review of a facility to ensure~~
2392 ~~compliance with agency rules and this part.~~

2393 (3) The agency may charge a fee commensurate with the cost
2394 of providing consultation under this section.

2395 Section 68. Subsections (2) and (11) of section 429.65,
2396 Florida Statutes, are amended to read:

2397 429.65 Definitions.—As used in this part, the term:

2398 (2) "Adult family-care home" means a full-time, family-type
2399 living arrangement, in a private home, under which up to two
2400 individuals ~~a person~~ who reside in the home and own or rent ~~owns~~
2401 ~~or rents~~ the home provide ~~provides~~ room, board, and personal
2402 care, on a 24-hour basis, for no more than five disabled adults
2403 or frail elders who are not relatives. The following family-type
2404 living arrangements are not required to be licensed as an adult
2405 family-care home:

2406 (a) An arrangement whereby the person who resides in the
2407 home and owns or rents the home provides room, board, and

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2408 personal services for not more than two adults who do not
2409 receive optional state supplementation under s. 409.212. The
2410 person who provides the housing, meals, and personal care must
2411 own or rent the home and reside therein.

2412 (b) An arrangement whereby the person who owns or rents the
2413 home provides room, board, and personal services only to his or
2414 her relatives.

2415 (c) An establishment that is licensed as an assisted living
2416 facility under this chapter.

2417 (11) "Provider" means up to two individuals ~~a person~~ who
2418 are ~~is~~ licensed to operate an adult family-care home.

2419 Section 69. Section 429.71, Florida Statutes, is amended to
2420 read:

2421 429.71 Classification of violations ~~deficiencies~~;
2422 administrative fines.-

2423 (1) In addition to the requirements of part II of chapter
2424 408 and in addition to any other liability or penalty provided
2425 by law, the agency may impose an administrative fine on a
2426 provider according to the following classification:

2427 (a) Class I violations are defined in s. 408.813. ~~these~~
2428 ~~conditions or practices related to the operation and maintenance~~
2429 ~~of an adult family-care home or to the care of residents which~~
2430 ~~the agency determines present an imminent danger to the~~
2431 ~~residents or guests of the facility or a substantial probability~~
2432 ~~that death or serious physical or emotional harm would result~~
2433 ~~therefrom. The condition or practice that constitutes a class I~~
2434 ~~violation must be abated or eliminated within 24 hours, unless a~~
2435 ~~fixed period, as determined by the agency, is required for~~
2436 ~~correction.~~ A class I violation ~~deficiency~~ is subject to an

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2437 administrative fine in an amount not less than \$500 and not
2438 exceeding \$1,000 for each violation. A fine may be levied
2439 notwithstanding the correction of the violation ~~deficiency~~.

2440 (b) Class II violations are defined in s. 408.813. ~~these~~
2441 ~~conditions or practices related to the operation and maintenance~~
2442 ~~of an adult family-care home or to the care of residents which~~
2443 ~~the agency determines directly threaten the physical or~~
2444 ~~emotional health, safety, or security of the residents, other~~
2445 ~~than class I violations~~. A class II violation is subject to an
2446 administrative fine in an amount not less than \$250 and not
2447 exceeding \$500 for each violation. ~~A citation for a class II~~
2448 ~~violation must specify the time within which the violation is~~
2449 ~~required to be corrected. If a class II violation is corrected~~
2450 ~~within the time specified, no civil penalty shall be imposed,~~
2451 ~~unless it is a repeated offense.~~

2452 (c) Class III violations are defined in s. 408.813. ~~these~~
2453 ~~conditions or practices related to the operation and maintenance~~
2454 ~~of an adult family-care home or to the care of residents which~~
2455 ~~the agency determines indirectly or potentially threaten the~~
2456 ~~physical or emotional health, safety, or security of residents,~~
2457 ~~other than class I or class II violations~~. A class III violation
2458 is subject to an administrative fine in an amount not less than
2459 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~
2460 ~~class III violation shall specify the time within which the~~
2461 ~~violation is required to be corrected. If a class III violation~~
2462 ~~is corrected within the time specified, no civil penalty shall~~
2463 ~~be imposed, unless it is a repeated offense.~~

2464 (d) Class IV violations are defined in s. 408.813. ~~these~~
2465 ~~conditions or occurrences related to the operation and~~

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2466 ~~maintenance of an adult family care home, or related to the~~
2467 ~~required reports, forms, or documents, which do not have the~~
2468 ~~potential of negatively affecting the residents. A provider that~~
2469 ~~does not correct~~ A class IV violation ~~within the time limit~~
2470 ~~specified by the agency~~ is subject to an administrative fine in
2471 an amount not less than \$50 and not exceeding \$100 for each
2472 violation. ~~Any class IV violation that is corrected during the~~
2473 ~~time the agency survey is conducted will be identified as an~~
2474 ~~agency finding and not as a violation.~~

2475 (2) The agency may impose an administrative fine for
2476 violations that ~~which~~ do not qualify as class I, class II, class
2477 III, or class IV violations. The amount of the fine may ~~shall~~
2478 not exceed \$250 for each violation or \$2,000 in the aggregate.
2479 Unclassified violations may include:

2480 (a) Violating any term or condition of a license.

2481 (b) Violating any provision of this part, part II of
2482 chapter 408, or applicable rules.

2483 (c) Failure to follow the criteria and procedures provided
2484 under part I of chapter 394 relating to the transportation,
2485 voluntary admission, and involuntary examination of adult
2486 family-care home residents.

2487 (d) Exceeding licensed capacity.

2488 (e) Providing services beyond the scope of the license.

2489 (f) Violating a moratorium.

2490 (3) Each day during which a violation occurs constitutes a
2491 separate offense.

2492 (4) In determining whether a penalty is to be imposed, and
2493 in fixing the amount of any penalty to be imposed, the agency
2494 must consider:

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- 2495 (a) The gravity of the violation.
- 2496 (b) Actions taken by the provider to correct a violation.
- 2497 (c) Any previous violation by the provider.
- 2498 (d) The financial benefit to the provider of committing or
- 2499 continuing the violation.
- 2500 ~~(5) As an alternative to or in conjunction with an~~
- 2501 ~~administrative action against a provider, the agency may request~~
- 2502 ~~a plan of corrective action that demonstrates a good faith~~
- 2503 ~~effort to remedy each violation by a specific date, subject to~~
- 2504 ~~the approval of the agency.~~
- 2505 (5)~~(6)~~ The department shall set forth, by rule, notice
- 2506 requirements and procedures for correction of deficiencies.
- 2507 Section 70. Section 429.911, Florida Statutes, is repealed.
- 2508 Section 71. Section 429.915, Florida Statutes, is amended
- 2509 to read:
- 2510 429.915 Conditional license.—In addition to the license
- 2511 categories available in part II of chapter 408, the agency may
- 2512 issue a conditional license to an applicant for license renewal
- 2513 or change of ownership if the applicant fails to meet all
- 2514 standards and requirements for licensure. A conditional license
- 2515 issued under this subsection must be limited to a specific
- 2516 period not exceeding 6 months, as determined by the agency, ~~and~~
- 2517 ~~must be accompanied by an approved plan of correction.~~
- 2518 Section 72. Subsection (3) of section 430.80, Florida
- 2519 Statutes, is amended to read:
- 2520 430.80 Implementation of a teaching nursing home pilot
- 2521 project.—
- 2522 (3) To be designated as a teaching nursing home, a nursing
- 2523 home licensee must, at a minimum:

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2524 (a) Provide a comprehensive program of integrated senior
 2525 services that include institutional services and community-based
 2526 services;

2527 (b) Participate in a nationally recognized accreditation
 2528 program and hold a valid accreditation, such as the
 2529 accreditation awarded by the Joint Commission ~~on Accreditation~~
 2530 ~~of Healthcare Organizations~~;

2531 (c) Have been in business in this state for a minimum of 10
 2532 consecutive years;

2533 (d) Demonstrate an active program in multidisciplinary
 2534 education and research that relates to gerontology;

2535 (e) Have a formalized contractual relationship with at
 2536 least one accredited health profession education program located
 2537 in this state;

2538 (f) Have a formalized contractual relationship with an
 2539 accredited hospital that is designated by law as a teaching
 2540 hospital; and

2541 (g) Have senior staff members who hold formal faculty
 2542 appointments at universities, which must include at least one
 2543 accredited health profession education program.

2544 (h) Maintain insurance coverage pursuant to s.
 2545 400.141(1)(g) ~~s. 400.141(1)(s)~~ or proof of financial
 2546 responsibility in a minimum amount of \$750,000. Such proof of
 2547 financial responsibility may include:

2548 1. Maintaining an escrow account consisting of cash or
 2549 assets eligible for deposit in accordance with s. 625.52; or

2550 2. Obtaining and maintaining pursuant to chapter 675 an
 2551 unexpired, irrevocable, nontransferable and nonassignable letter
 2552 of credit issued by any bank or savings association organized

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2553 and existing under the laws of this state or any bank or savings
2554 association organized under the laws of the United States which
2555 ~~that~~ has its principal place of business in this state or which
2556 has a branch office that ~~which~~ is authorized to receive deposits
2557 in this state. The letter of credit shall be used to satisfy the
2558 obligation of the facility to the claimant upon presentment of a
2559 final judgment indicating liability and awarding damages to be
2560 paid by the facility or upon presentment of a settlement
2561 agreement signed by all parties to the agreement when such final
2562 judgment or settlement is a result of a liability claim against
2563 the facility.

2564 Section 73. Paragraph (a) of subsection (2) of section
2565 440.13, Florida Statutes, is amended to read:

2566 440.13 Medical services and supplies; penalty for
2567 violations; limitations.—

2568 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

2569 (a) Subject to the limitations specified elsewhere in this
2570 chapter, the employer shall furnish to the employee such
2571 medically necessary remedial treatment, care, and attendance for
2572 such period as the nature of the injury or the process of
2573 recovery may require, which is in accordance with established
2574 practice parameters and protocols of treatment as provided for
2575 in this chapter, including medicines, medical supplies, durable
2576 medical equipment, orthoses, prostheses, and other medically
2577 necessary apparatus. Remedial treatment, care, and attendance,
2578 including work-hardening programs or pain-management programs
2579 accredited by the Commission on Accreditation of Rehabilitation
2580 Facilities or Joint Commission ~~on the Accreditation of Health~~
2581 ~~Organizations~~ or pain-management programs affiliated with

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2582 medical schools, shall be considered as covered treatment only
2583 when such care is given based on a referral by a physician as
2584 defined in this chapter. Medically necessary treatment, care,
2585 and attendance does not include chiropractic services in excess
2586 of 24 treatments or rendered 12 weeks beyond the date of the
2587 initial chiropractic treatment, whichever comes first, unless
2588 the carrier authorizes additional treatment or the employee is
2589 catastrophically injured.

2590
2591 Failure of the carrier to timely comply with this subsection
2592 shall be a violation of this chapter and the carrier shall be
2593 subject to penalties as provided for in s. 440.525.

2594 Section 74. Section 483.294, Florida Statutes, is amended
2595 to read:

2596 483.294 Inspection of centers.—In accordance with s.
2597 408.811, the agency shall biennially, ~~at least once annually~~,
2598 inspect the premises and operations of all centers subject to
2599 licensure under this part.

2600 Section 75. Subsection (1) of section 627.645, Florida
2601 Statutes, is amended to read:

2602 627.645 Denial of health insurance claims restricted.—

2603 (1) A ~~No~~ claim for payment under a health insurance policy
2604 or self-insured program of health benefits for treatment, care,
2605 or services in a licensed hospital that ~~which~~ is accredited by
2606 the Joint Commission ~~on the Accreditation of Hospitals~~, the
2607 American Osteopathic Association, or the Commission on the
2608 Accreditation of Rehabilitative Facilities may not ~~shall~~ be
2609 denied because the ~~such~~ hospital lacks major surgical facilities
2610 and is primarily of a rehabilitative nature, if such

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2611 rehabilitation is specifically for treatment of physical
2612 disability.

2613 Section 76. Paragraph (c) of subsection (2) of section
2614 627.668, Florida Statutes, is amended to read:

2615 627.668 Optional coverage for mental and nervous disorders
2616 required; exception.—

2617 (2) Under group policies or contracts, inpatient hospital
2618 benefits, partial hospitalization benefits, and outpatient
2619 benefits consisting of durational limits, dollar amounts,
2620 deductibles, and coinsurance factors shall not be less favorable
2621 than for physical illness generally, except that:

2622 (c) Partial hospitalization benefits shall be provided
2623 under the direction of a licensed physician. For purposes of
2624 this part, the term "partial hospitalization services" is
2625 defined as those services offered by a program accredited by the
2626 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
2627 compliance with equivalent standards. Alcohol rehabilitation
2628 programs accredited by the Joint Commission ~~on Accreditation of~~
2629 ~~Hospitals~~ or approved by the state and licensed drug abuse
2630 rehabilitation programs shall also be qualified providers under
2631 this section. In any benefit year, if partial hospitalization
2632 services or a combination of inpatient and partial
2633 hospitalization are utilized, the total benefits paid for all
2634 such services shall not exceed the cost of 30 days of inpatient
2635 hospitalization for psychiatric services, including physician
2636 fees, which prevail in the community in which the partial
2637 hospitalization services are rendered. If partial
2638 hospitalization services benefits are provided beyond the limits
2639 set forth in this paragraph, the durational limits, dollar

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2640 amounts, and coinsurance factors thereof need not be the same as
2641 those applicable to physical illness generally.

2642 Section 77. Subsection (3) of section 627.669, Florida
2643 Statutes, is amended to read:

2644 627.669 Optional coverage required for substance abuse
2645 impaired persons; exception.—

2646 (3) The benefits provided under this section shall be
2647 applicable only if treatment is provided by, or under the
2648 supervision of, or is prescribed by, a licensed physician or
2649 licensed psychologist and if services are provided in a program
2650 accredited by the Joint Commission ~~on Accreditation of Hospitals~~
2651 or approved by the state.

2652 Section 78. Paragraph (a) of subsection (1) of section
2653 627.736, Florida Statutes, is amended to read:

2654 627.736 Required personal injury protection benefits;
2655 exclusions; priority; claims.—

2656 (1) REQUIRED BENEFITS.—Every insurance policy complying
2657 with the security requirements of s. 627.733 shall provide
2658 personal injury protection to the named insured, relatives
2659 residing in the same household, persons operating the insured
2660 motor vehicle, passengers in such motor vehicle, and other
2661 persons struck by such motor vehicle and suffering bodily injury
2662 while not an occupant of a self-propelled vehicle, subject to
2663 the provisions of subsection (2) and paragraph (4) (e), to a
2664 limit of \$10,000 for loss sustained by any such person as a
2665 result of bodily injury, sickness, disease, or death arising out
2666 of the ownership, maintenance, or use of a motor vehicle as
2667 follows:

2668 (a) *Medical benefits.*—Eighty percent of all reasonable

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2669 expenses for medically necessary medical, surgical, X-ray,
2670 dental, and rehabilitative services, including prosthetic
2671 devices, and medically necessary ambulance, hospital, and
2672 nursing services. However, the medical benefits shall provide
2673 reimbursement only for such services and care that are lawfully
2674 provided, supervised, ordered, or prescribed by a physician
2675 licensed under chapter 458 or chapter 459, a dentist licensed
2676 under chapter 466, or a chiropractic physician licensed under
2677 chapter 460 or that are provided by any of the following persons
2678 or entities:

2679 1. A hospital or ambulatory surgical center licensed under
2680 chapter 395.

2681 2. A person or entity licensed under ss. 401.2101-401.45
2682 which that provides emergency transportation and treatment.

2683 3. An entity wholly owned by one or more physicians
2684 licensed under chapter 458 or chapter 459, chiropractic
2685 physicians licensed under chapter 460, or dentists licensed
2686 under chapter 466 or by such practitioner or practitioners and
2687 the spouse, parent, child, or sibling of that practitioner or
2688 those practitioners.

2689 4. An entity wholly owned, directly or indirectly, by a
2690 hospital or hospitals.

2691 5. A health care clinic licensed under ss. 400.990-400.995
2692 which that is:

2693 a. Accredited by the Joint Commission ~~on Accreditation of~~
2694 ~~Healthcare Organizations~~, the American Osteopathic Association,
2695 the Commission on Accreditation of Rehabilitation Facilities, or
2696 the Accreditation Association for Ambulatory Health Care, Inc. ;
2697 or

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2698 b. A health care clinic that:

2699 (I) Has a medical director licensed under chapter 458,

2700 chapter 459, or chapter 460;

2701 (II) Has been continuously licensed for more than 3 years

2702 or is a publicly traded corporation that issues securities

2703 traded on an exchange registered with the United States

2704 Securities and Exchange Commission as a national securities

2705 exchange; and

2706 (III) Provides at least four of the following medical

2707 specialties:

2708 (A) General medicine.

2709 (B) Radiography.

2710 (C) Orthopedic medicine.

2711 (D) Physical medicine.

2712 (E) Physical therapy.

2713 (F) Physical rehabilitation.

2714 (G) Prescribing or dispensing outpatient prescription

2715 medication.

2716 (H) Laboratory services.

2717

2718 The Financial Services Commission shall adopt by rule the form

2719 that must be used by an insurer and a health care provider

2720 specified in subparagraph 3., subparagraph 4., or subparagraph

2721 5. to document that the health care provider meets the criteria

2722 of this paragraph. This, ~~which~~ rule must include a requirement

2723 for a sworn statement or affidavit.

2724

2725 Only insurers writing motor vehicle liability insurance in this

2726 state may provide the required benefits of this section, and no

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2727 such insurer shall require the purchase of any other motor
2728 vehicle coverage other than the purchase of property damage
2729 liability coverage as required by s. 627.7275 as a condition for
2730 providing such required benefits. Insurers may not require that
2731 property damage liability insurance in an amount greater than
2732 \$10,000 be purchased in conjunction with personal injury
2733 protection. Such insurers shall make benefits and required
2734 property damage liability insurance coverage available through
2735 normal marketing channels. Any insurer writing motor vehicle
2736 liability insurance in this state who fails to comply with such
2737 availability requirement as a general business practice shall be
2738 deemed to have violated part IX of chapter 626, and such
2739 violation shall constitute an unfair method of competition or an
2740 unfair or deceptive act or practice involving the business of
2741 insurance; and any such insurer committing such violation shall
2742 be subject to the penalties afforded in such part, as well as
2743 those which may be afforded elsewhere in the insurance code.

2744 Section 79. Subsection (12) of section 641.495, Florida
2745 Statutes, is amended to read:

2746 641.495 Requirements for issuance and maintenance of
2747 certificate.—

2748 (12) The provisions of part I of chapter 395 do not apply
2749 to a health maintenance organization that, on or before January
2750 1, 1991, provides not more than 10 outpatient holding beds for
2751 short-term and hospice-type patients in an ambulatory care
2752 facility for its members, provided that such health maintenance
2753 organization maintains current accreditation by the Joint
2754 Commission ~~on Accreditation of Health Care Organizations~~, the
2755 Accreditation Association for Ambulatory Health Care, or the

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2756 National Committee for Quality Assurance.

2757 Section 80. Subsection (2) of section 766.1015, Florida
2758 Statutes, is amended to read:

2759 766.1015 Civil immunity for members of or consultants to
2760 certain boards, committees, or other entities.—

2761 (2) Such committee, board, group, commission, or other
2762 entity must be established in accordance with state law or in
2763 accordance with requirements of the Joint Commission ~~on~~
2764 ~~Accreditation of Healthcare Organizations~~, established and duly
2765 constituted by one or more public or licensed private hospitals
2766 or behavioral health agencies, or established by a governmental
2767 agency. To be protected by this section, the act, decision,
2768 omission, or utterance may not be made or done in bad faith or
2769 with malicious intent.

2770 Section 81. Except as otherwise expressly provided in this
2771 act, this act shall take effect July 1, 2010.