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Proposed Committee Substitute by the Committee on Health
Regulation

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



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28 they relate to hospital licensure and regulation;
29 amending s. 395.003, F.S.; deleting an obsolete
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



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57 a cross-reference; repealing s. 395.3037, F.S.;

58 deleting obsolete definitions; amending s. 395.602,

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. 400.0239, F.S.; deleting an

64 obsolete provision; amending s. 400.0255, F.S.;

65 correcting an obsolete cross-reference to

66 administrative rules; amending s. 400.063, F.S.;

67 removing an obsolete provision; amending s. 400.071,

68 F.S.; revising the requirements for an application for

69 a license to operate a nursing home facility; amending

70 s. 400.0712, F.S.; deleting a provision related to the

71 issuance of an inactive license to a nursing home;

72 amending s. 400.111, F.S.; specifying that the

73 required disclosure of a financial or ownership

74 interest is contingent upon a request by the agency;

75 amending s. 400.1183, F.S.; requiring nursing home

76 facilities to maintain records of grievances for

77 agency inspection; deleting a requirement that a

78 facility report the number of grievances handled

79 during the prior licensure period; amending s.

80 400.141, F.S.; conforming a cross-reference; deleting

81 the requirement that a facility submit to the agency

82 information regarding a management company with which

83 it has entered into an agreement; specifying a fine

84 for a nursing facility's failure to impose an

85 admissions moratorium if it has failed to comply with



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86 state minimum-staffing requirements; deleting the
87 requirement for a facility to report to the agency any
88 filing of bankruptcy protection, divestiture, or
89 corporate reorganization; amending s. 400.142, F.S.;
90 removing obsolete provisions requiring the agency to
91 adopt certain rules; repealing s. 400.147(10), F.S.,
92 relating to a requirement that a nursing home report
93 any notice of a filing of a claim for a violation of a
94 resident's rights or a claim of negligence; repealing
95 s. 400.148, F.S., relating to the Medicaid "Up-or-Out"
96 Quality of Care Contract Management Program; amending
97 s. 400.19, F.S.; authorizing the agency to verify the
98 correction of certain violations without reinspection,
99 even when they are related to resident rights or
100 resident care, after an unannounced inspection of a
101 nursing home; repealing s. 400.195, F.S., relating to
102 reporting requirements; deleting obsolete provisions;
103 amending s. 400.23, F.S.; changing a reference to the
104 Division of Children's Medical Services to the
105 "Division of Children's Medical Services Network";
106 deleting an obsolete provision; amending s. 400.275,
107 F.S.; deleting a requirement that the agency ensure
108 that a newly hired nursing home surveyor is assigned
109 full time to a licensed nursing home to observe
110 facility operations; amending ss. 400.484, 400.967,
111 and 429.71, F.S.; redesignating class I, II, III, and
112 IV deficiencies as class I, II, III, and IV
113 "violations"; amending s. 400.606, F.S.; eliminating a
114 requirement that the plan for the delivery of home,



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115 residential, and homelike inpatient hospice services
116 for terminally ill patients and their families include
117 projected annual operating costs; amending s. 400.607,
118 F.S.; revising the grounds under which the agency may
119 take administrative action against a hospice; amending
120 s. 400.915, F.S.; correcting an obsolete cross-
121 reference to administrative rules; amending s.
122 400.931, F.S.; deleting a provision allowing an
123 applicant for a license to be a home medical equipment
124 provider to submit a surety bond to the agency;
125 amending s. 400.932, F.S.; revising the grounds under
126 which the agency may take administrative action
127 against a home medical equipment provider; amending s.
128 400.933, F.S.; prohibiting a home medical equipment
129 provider from providing a survey or inspection of an
130 accrediting organization in lieu of periodic agency
131 inspection if the provider's licensure is conditional;
132 amending s. 400.953, F.S.; deleting a requirement that
133 the general manager of a home medical equipment
134 provider annually sign an affidavit regarding the
135 background screening of personnel; providing
136 requirements for submission of the affidavit; amending
137 s. 400.9905, F.S.; specifying that certain licensure
138 requirements do not apply to certain orthotic,
139 prosthetic, pediatric cardiology, or perinatology
140 clinical facilities; redefining the term "portable
141 service or equipment provider" as it relates to the
142 Health Care Clinic Act; amending s. 400.991, F.S.;
143 conforming a provision to changes made by the act;



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144 revising application requirements to show proof of
145 financial ability to operate a health care clinic;
146 amending s. 408.034, F.S.; prohibiting the agency from
147 issuing a license to a health care facility that
148 applies for a license to operate an intermediate care
149 facility for developmentally disabled persons under
150 certain circumstances; amending s. 408.036, F.S.,
151 relating to certificates of need; conforming a
152 provision to changes made by the act; amending s.
153 408.043, F.S.; requiring a freestanding facility or a
154 part of the facility that is the inpatient hospice
155 care component of a hospice to obtain a certificate of
156 need, regardless of whether it is primarily engaged in
157 providing inpatient care and related services;
158 amending s. 408.061, F.S.; revising requirements for
159 the reporting of certified data elements by health
160 care facilities; amending s. 408.10, F.S.; authorizing
161 the agency to provide staffing for a toll-free phone
162 number for the purpose of handling consumer complaints
163 regarding a health care facility; repealing s.
164 408.802(11), F.S., relating to the applicability of
165 the Health Care Licensing Procedures Act to private
166 review agents; amending s. 408.804, F.S.; providing a
167 criminal penalty for altering, defacing, or falsifying
168 a license certificate of certain health care
169 providers; providing civil penalties for displaying an
170 altered, defaced, or falsified license certificate;
171 amending s. 408.806, F.S.; requiring the agency to
172 provide a courtesy notice to a licensee regarding the



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173 expiration of a licensee's license; providing that
174 failure of the agency to provide the courtesy notice
175 or failure of the licensee to receive the notice does
176 not excuse the licensee from timely renewing its
177 license; providing that payment of the late fee is
178 required for a later application; amending s. 408.810,
179 F.S.; revising the requirements for obtaining and
180 maintaining a license for certain health care
181 providers and those who own a controlling interest in
182 a health care provider; amending s. 408.813, F.S.;
183 authorizing the agency to impose administrative fines
184 for unclassified violations and identifying some of
185 those violations; amending s. 408.815, F.S.;
186 authorizing the agency to extend the expiration date
187 of a license for the purpose of the safe and orderly
188 discharge of clients; authorizing the agency to impose
189 conditions on the extension; amending s. 409.906,
190 F.S.; requiring the agency, in consultation with the
191 Department of Elderly Affairs, to phase out the adult
192 day health care waiver program; requiring adult day
193 health care waiver providers, in consultation with
194 resource centers for the aged, to assist in the
195 transition of enrollees from the waiver program;
196 repealing s. 409.221(4)(k), F.S., relating to the
197 responsibility of the agency, the Department of
198 Elderly Affairs, the Department of Health, the
199 Department of Children and Family Services, and the
200 Agency for Persons with Disabilities to review and
201 assess the implementation of the consumer-directed



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202 care program and the agency's responsibility to submit
203 a report to the Legislature; repealing s.
204 409.912(15)(e), (f), and (g), F.S., relating to a
205 requirement that the Agency for Health Care
206 Administration submit a report to the Legislature
207 regarding the operation of the CARES program; amending
208 s. 429.07, F.S.; deleting the requirement for an
209 assisted living facility to obtain an additional
210 license in order to provide limited nursing services;
211 deleting the requirement for the Agency for Health
212 Care Administration to conduct quarterly monitoring
213 visits of facilities that hold a license to provide
214 extended congregate care services; deleting the
215 requirement for the Department of Elderly Affairs to
216 report annually on the status of and recommendations
217 related to extended congregate care; deleting the
218 requirement for the Agency for Health Care
219 Administration to conduct monitoring visits at least
220 twice a year to facilities providing limited nursing
221 services; increasing the licensure fees and the
222 maximum fee required for a standard license;
223 increasing the licensure fees for the extended
224 congregate care license; eliminating the license fee
225 for the limited nursing services license; transferring
226 from another provision of law the requirement that a
227 biennial survey of an assisted living facility include
228 specific actions to determine whether the facility is
229 adequately protecting residents' rights; providing
230 that an assisted living facility that has been cited



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231 for certain violations is subject to monitoring
232 visits; requiring a registered nurse to participate in
233 certain monitoring visits; amending s. 429.11, F.S.;
234 deleting a provision authorizing issuance of a
235 provisional license to operate as an assisted living
236 facility; repealing s. 429.12(2), F.S., relating to
237 the sale or transfer of ownership of an assisted
238 living facility; amending s. 429.14, F.S.; authorizing
239 the agency to provide to the Division of Hotels and
240 Restaurants of the Department of Business and
241 Professional Regulation, by electronic means or
242 through the agency's website, information regarding
243 the denial, suspension, or revocation of a license;
244 amending s. 429.17, F.S.; deleting provisions related
245 to the limited nursing services license; revising the
246 requirements for a conditional license to operate an
247 assisted living facility; amending s. 429.19, F.S.;
248 clarifying that a monitoring fee may be assessed in
249 addition to an administrative fine; repealing s.
250 429.23(5), F.S., relating to a requirement that each
251 assisted living facility submit a report to the agency
252 regarding liability claims filed against it; amending
253 s. 429.255, F.S.; eliminating provisions authorizing
254 the use of volunteers to provide certain health-care-
255 related services in assisted living facilities;
256 authorizing assisted living facilities to provide
257 limited nursing services; requiring an assisted living
258 facility to be responsible for certain recordkeeping
259 and staff to be trained to monitor residents receiving



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260 certain health-care-related services; repealing s.
261 429.28(3), F.S., relating to a requirement for a
262 biennial survey of an assisted living facility, to
263 conform to changes made by the act; amending s.
264 429.35, F.S.; authorizing the agency to provide to the
265 local ombudsman council, electronically or through the
266 agency's website, information regarding the results of
267 an inspection; amending s. 429.41, F.S., relating to
268 rulemaking; conforming provisions to changes made by
269 the act; amending s. 429.53, F.S.; requiring the
270 agency, rather than the agency's area offices of
271 licensure and certification, to provide consultation
272 to certain persons and licensees regarding assisted
273 living facilities; redefining the term "consultation"
274 as it relates to assisted living facilities; amending
275 s. 429.54, F.S.; requiring licensed assisted living
276 facilities to electronically report certain data
277 semiannually to the Agency for Health Care
278 Administration in accordance with rules adopted by the
279 Department of Elderly Affairs; amending s. 429.65,
280 F.S.; redefining the term "adult family-care home" as
281 it relates to the Adult Family-Care Home Act;
282 repealing s. 429.901(5), F.S.; relating to the
283 definition of the term "multiple or repeated
284 violations"; repealing s. 429.911, F.S., relating to
285 the denial, suspension, or revocation of a license to
286 operate an adult day care center; amending s. 429.915,
287 F.S.; revising requirements for a conditional license
288 to operate an adult day care center; amending s.



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289 430.80, F.S.; conforming a cross-reference; amending
290 s. 483.294, F.S.; requiring the agency to biennially,
291 rather than at least annually, inspect the premises
292 and operations of multiphasic health testing centers;
293 providing effective dates.

294

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

296

297 Section 1. Paragraph (e) of subsection (10) of section
298 112.0455, Florida Statutes, is repealed.

299 Section 2. Paragraph (n) of subsection (1) of section
300 154.11, Florida Statutes, is amended to read:

301 154.11 Powers of board of trustees.—

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

310 (n) To make original appointments of ~~appoint originally~~ the
311 staff of physicians to practice in any designated facility owned
312 or operated by the board and to approve the bylaws and rules ~~to~~
313 ~~be~~ adopted by the medical staff of any designated facility owned
314 and operated by the board. Such governing regulations must ~~to~~
315 be in accordance with the standards of the Joint Commission and
316 must ~~on the Accreditation of Hospitals which~~ provide, among
317 other things, for the method of appointing additional staff



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318 members and for the removal of staff members.

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

321 318.21 Disposition of civil penalties by county courts.—All
322 civil penalties received by a county court pursuant to the
323 provisions of this chapter shall be distributed and paid monthly
324 as follows:

325 (15) Of the additional fine assessed under s. 318.18(3)(e)
326 for a violation of s. 316.1893, 50 percent of the moneys
327 received from the fines shall be remitted to the Department of
328 Revenue and deposited into the Brain and Spinal Cord Injury
329 Trust Fund within the Department of Health and shall be
330 appropriated to the Department of Health ~~Agency for Health Care~~
331 ~~Administration~~ as general revenue to ~~provide an enhanced~~
332 ~~Medicaid payment to nursing homes that serve adult~~ Medicaid
333 recipients with ~~brain and~~ spinal cord injuries that are
334 medically complex and that are technologically and respiratory
335 dependent. The remaining 50 percent of the moneys received from
336 the enhanced fine imposed under s. 318.18(3)(e) shall be
337 remitted to the Department of Revenue and deposited into the
338 Department of Health Administrative Trust Fund to provide
339 financial support to certified trauma centers in the counties
340 where enhanced penalty zones are established to ensure the
341 availability and accessibility of trauma services. Funds
342 deposited into the Administrative Trust Fund under this
343 subsection shall be allocated as follows:

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



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

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

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

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

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

363 (a) Any organization from which the department purchases
364 behavioral health care services that is accredited by the Joint
365 Commission ~~on Accreditation of Healthcare Organizations~~ or the
366 Council on Accreditation ~~for Children and Family Services~~, or
367 has those services that are being purchased by the department
368 accredited by CARF—the Rehabilitation Accreditation Commission.

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

375 (c) Any network of providers from which the department or



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

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

385 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
386 394.4789.—As used in this section and ss. 394.4786, 394.4788,
387 and 394.4789:

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

391 Section 7. Section 395.002, Florida Statutes, is amended to
392 read:

393 395.002 Definitions.—As used in this chapter the term:

394 (1) "Accrediting organizations" means nationally recognized
395 or approved accrediting organizations whose standards
396 incorporate comparable licensure requirements as determined by
397 the agency ~~the Joint Commission on Accreditation of Healthcare~~
398 ~~Organizations, the American Osteopathic Association, the~~
399 ~~Commission on Accreditation of Rehabilitation Facilities, and~~
400 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

401 (2) "Agency" means the Agency for Health Care
402 Administration.

403 (3) "Ambulatory surgical center" or "mobile surgical
404 facility" means a facility that has as its ~~the~~ primary purpose



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405 the provision of ~~which is to provide~~ elective surgical care, in
406 which the patient is admitted to and discharged from the ~~such~~
407 facility within the same working day and is not permitted to
408 stay overnight, and which is not part of a hospital. However, a
409 facility existing for the primary purpose of performing
410 terminations of pregnancy, an office maintained by a physician
411 for the practice of medicine, or an office maintained for the
412 practice of dentistry shall not be construed to be an ambulatory
413 surgical center, provided that any facility or office that ~~which~~
414 is certified or seeks certification as a Medicare ambulatory
415 surgical center shall be licensed as an ambulatory surgical
416 center pursuant to s. 395.003. Any structure or vehicle in which
417 a physician maintains an office and practices surgery, and which
418 can appear to the public to be a mobile office because the
419 structure or vehicle operates at more than one address, shall be
420 construed to be a mobile surgical facility.

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

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

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

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



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434 (8) "Emergency medical condition" means:

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

439 1. Serious jeopardy to patient health, including a pregnant
440 woman or fetus.

441 2. Serious impairment to bodily functions.

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

443 (b) With respect to a pregnant woman:

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

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

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

450 (9) "Emergency services and care" means medical screening,
451 examination, and evaluation by a physician, or, to the extent
452 permitted by applicable law, by other appropriate personnel
453 under the supervision of a physician, to determine if an
454 emergency medical condition exists and, if it does, the care,
455 treatment, or surgery by a physician necessary to relieve or
456 eliminate the emergency medical condition, within the service
457 capability of the facility.

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

461 (11) "Governmental unit" means the state or any county,
462 municipality, or other political subdivision, or any department,



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463 division, board, or other agency of any of the foregoing.

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

465 (a) Offers services more intensive than those required for
466 room, board, personal services, and general nursing care, and
467 offers facilities and beds for use beyond 24 hours by
468 individuals requiring diagnosis, treatment, or care for illness,
469 injury, deformity, infirmity, abnormality, disease, or
470 pregnancy; and

471 (b) Regularly makes available at least clinical laboratory
472 services, diagnostic X-ray services, and treatment facilities
473 for surgery or obstetrical care, or other definitive medical
474 treatment of similar extent, except that a critical access
475 hospital, as defined in s. 408.07, shall not be required to make
476 available treatment facilities for surgery, obstetrical care, or
477 similar services as long as it maintains its critical access
478 hospital designation and shall be required to make such
479 facilities available only if it ceases to be designated as a
480 critical access hospital.

481
482 However, ~~the provisions of~~ this chapter does ~~de~~ not apply to any
483 institution conducted by or for the adherents of any well-
484 recognized church or religious denomination that depends
485 exclusively upon prayer or spiritual means to heal, care for, or
486 treat any person. For purposes of local zoning matters, the term
487 "hospital" includes a medical office building located on the
488 same premises as a hospital facility, provided the land on which
489 the medical office building is constructed is zoned for use as a
490 hospital; provided the premises were zoned for hospital purposes
491 on January 1, 1992.



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492 (13) "Hospital bed" means a hospital accommodation that
493 ~~which~~ is ready for immediate occupancy, or is capable of being
494 made ready for occupancy within 48 hours, excluding provision of
495 staffing, and which conforms to minimum space, equipment, and
496 furnishings standards as specified by rule of the agency for the
497 provision of services specified in this section to a single
498 patient.

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

503 (14) ~~(15)~~ "Intensive residential treatment programs for
504 children and adolescents" means a specialty hospital accredited
505 by an accrediting organization as defined in subsection (1)
506 which provides 24-hour care and which has the primary functions
507 of diagnosis and treatment of patients under the age of 18
508 having psychiatric disorders in order to restore such patients
509 to an optimal level of functioning.

510 (15) ~~(16)~~ "Licensed facility" means a hospital, ambulatory
511 surgical center, or mobile surgical facility licensed in
512 accordance with this chapter.

513 (16) ~~(17)~~ "Lifesafety" means the control and prevention of
514 fire and other life-threatening conditions on a premises for the
515 purpose of preserving human life.

516 (17) ~~(18)~~ "Managing employee" means the administrator or
517 other similarly titled individual who is responsible for the
518 daily operation of the facility.

519 (18) ~~(19)~~ "Medical staff" means physicians licensed under
520 chapter 458 or chapter 459 with privileges in a licensed



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521 facility, as well as other licensed health care practitioners
522 with clinical privileges as approved by a licensed facility's
523 governing board.

524 ~~(19)~~~~(20)~~ "Medically necessary transfer" means a transfer
525 made necessary because the patient is in immediate need of
526 treatment for an emergency medical condition for which the
527 facility lacks service capability or is at service capacity.

528 ~~(20)~~~~(21)~~ "Mobile surgical facility" is a mobile facility in
529 which licensed health care professionals provide elective
530 surgical care under contract with the Department of Corrections
531 or a private correctional facility operating pursuant to chapter
532 957 and in which inmate patients are admitted to and discharged
533 from said facility within the same working day and are not
534 permitted to stay overnight. However, mobile surgical facilities
535 may only provide health care services to the inmate patients of
536 the Department of Corrections, or inmate patients of a private
537 correctional facility operating pursuant to chapter 957, and not
538 to the general public.

539 ~~(21)~~~~(22)~~ "Person" means any individual, partnership,
540 corporation, association, or governmental unit.

541 ~~(22)~~~~(23)~~ "Premises" means those buildings, beds, and
542 equipment located at the address of the licensed facility and
543 all other buildings, beds, and equipment for the provision of
544 hospital, ambulatory surgical, or mobile surgical care located
545 in such reasonable proximity to the address of the licensed
546 facility as to appear to the public to be under the dominion and
547 control of the licensee. For any licensee that is a teaching
548 hospital as defined in s. 408.07(45), reasonable proximity
549 includes any buildings, beds, services, programs, and equipment



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550 under the dominion and control of the licensee that are located
551 at a site with a main address that is within 1 mile of the main
552 address of the licensed facility; and all such buildings, beds,
553 and equipment may, at the request of a licensee or applicant, be
554 included on the facility license as a single premises.

555 ~~(24) "Private review agent" means any person or entity~~
556 ~~which performs utilization review services for third party~~
557 ~~payors on a contractual basis for outpatient or inpatient~~
558 ~~services. However, the term shall not include full-time~~
559 ~~employees, personnel, or staff of health insurers, health~~
560 ~~maintenance organizations, or hospitals, or wholly owned~~
561 ~~subsidiaries thereof or affiliates under common ownership, when~~
562 ~~performing utilization review for their respective hospitals,~~
563 ~~health maintenance organizations, or insureds of the same~~
564 ~~insurance group. For this purpose, health insurers, health~~
565 ~~maintenance organizations, and hospitals, or wholly owned~~
566 ~~subsidiaries thereof or affiliates under common ownership,~~
567 ~~include such entities engaged as administrators of self-~~
568 ~~insurance as defined in s. 624.031.~~

569 ~~(23)~~(25) "Service capability" means all services offered by
570 the facility where identification of services offered is
571 evidenced by the appearance of the service in a patient's
572 medical record or itemized bill.

573 ~~(24)~~(26) "At service capacity" means the temporary
574 inability of a hospital to provide a service that ~~which~~ is
575 within the service capability of the hospital, due to maximum
576 use of the service at the time of the request for the service.

577 ~~(25)~~(27) "Specialty bed" means a bed, other than a general
578 bed, designated on the face of the hospital license for a



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579 dedicated use.

580 ~~(26)-(28)~~ "Specialty hospital" means any facility that ~~which~~
581 meets the provisions of subsection (12), ~~and which~~ regularly
582 makes available either:

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

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

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

591 ~~(27)-(29)~~ "Stabilized" means, with respect to an emergency
592 medical condition, that no material deterioration of the
593 condition is likely, within reasonable medical probability, to
594 result from the transfer of the patient from a hospital.

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

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

602 ~~(28)-(32)~~ "Validation inspection" means an inspection of the
603 premises of a licensed facility by the agency to assess whether
604 a review by an accrediting organization has adequately evaluated
605 the licensed facility according to minimum state standards.

606 Section 8. Subsection (1) and paragraph (b) of subsection
607 (2) of section 395.003, Florida Statutes, are amended to read:



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608 395.003 Licensure; denial, suspension, and revocation.—

609 (1) (a) The requirements of part II of chapter 408 apply to
610 the provision of services that require licensure pursuant to ss.
611 395.001-395.1065 and part II of chapter 408 and to entities
612 licensed by or applying for such licensure from the Agency for
613 Health Care Administration pursuant to ss. 395.001-395.1065. A
614 license issued by the agency is required in order to operate a
615 hospital, ambulatory surgical center, or mobile surgical
616 facility in this state.

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

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

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

630 (2)

631 (b) The agency shall, at the request of a licensee that is
632 a teaching hospital as defined in s. 408.07(45), issue a single
633 license to a licensee for facilities that have been previously
634 licensed as separate premises, provided such separately licensed
635 facilities, taken together, constitute the same premises as
636 defined in s. 395.002(22) ~~s. 395.002(23)~~. Such license for the



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637 single premises shall include all of the beds, services, and
638 programs that were previously included on the licenses for the
639 separate premises. The granting of a single license under this
640 paragraph shall not in any manner reduce the number of beds,
641 services, or programs operated by the licensee.

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

644 395.0193 Licensed facilities; peer review; disciplinary
645 powers; agency or partnership with physicians.—

646 (2) Each licensed facility, as a condition of licensure,
647 shall provide for peer review of physicians who deliver health
648 care services at the facility. Each licensed facility shall
649 develop written, binding procedures by which such peer review
650 shall be conducted. Such procedures shall include:

651 (e) Recording of agendas and minutes that ~~which~~ do not
652 contain confidential material, for review by the Division of
653 Medical Quality Assurance of the department ~~Health Quality~~
654 ~~Assurance of the agency~~.

655 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
656 actions taken under subsection (3) shall be reported in writing
657 to the Division of Medical Quality Assurance of the department
658 ~~Health Quality Assurance of the agency~~ within 30 working days
659 after its initial occurrence, regardless of the pendency of
660 appeals to the governing board of the hospital. The notification
661 shall identify the disciplined practitioner, the action taken,
662 and the reason for such action. All final disciplinary actions
663 taken under subsection (3), if different from those ~~which were~~
664 reported to the department ~~agency~~ within 30 days after the
665 initial occurrence, shall be reported within 10 working days to



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666 the Division of Medical Quality Assurance of the department
667 ~~Health Quality Assurance of the agency~~ in writing and shall
668 specify the disciplinary action taken and the specific grounds
669 therefor. The division shall review each report and determine
670 whether it potentially involved conduct by the licensee that is
671 subject to disciplinary action, in which case s. 456.073 shall
672 apply. The reports are not subject to inspection under s.
673 119.07(1) even if the division's investigation results in a
674 finding of probable cause.

675 Section 10. Section 395.1023, Florida Statutes, is amended
676 to read:

677 395.1023 Child abuse and neglect cases; duties.—Each
678 licensed facility shall adopt a protocol that, at a minimum,
679 requires the facility to:

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

684 (2) In any case involving suspected child abuse,
685 abandonment, or neglect, designate, at the request of the
686 Department of Children and Family Services ~~department~~, a staff
687 physician to act as a liaison between the hospital and the
688 Department of Children and Family Services office that ~~which~~ is
689 investigating the suspected abuse, abandonment, or neglect, and
690 the child protection team, as defined in s. 39.01, when the case
691 is referred to such a team.

692
693 Each general hospital and appropriate specialty hospital shall
694 comply with the provisions of this section and shall notify the



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695 agency and the Department of Children and Family Services
696 ~~department~~ of its compliance by sending a copy of its policy to
697 the agency and the Department of Children and Family Services
698 ~~department~~ as required by rule. The failure by a general
699 hospital or appropriate specialty hospital to comply shall be
700 punished by a fine not exceeding \$1,000, to be fixed, imposed,
701 and collected by the agency. Each day in violation is considered
702 a separate offense.

703 Section 11. Subsection (2) and paragraph (d) of subsection
704 (3) of section 395.1041, Florida Statutes, are amended to read:
705 395.1041 Access to emergency services and care.-

706 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.-The agency
707 shall establish and maintain an inventory of hospitals with
708 emergency services. The inventory shall list all services within
709 the service capability of the hospital, and such services shall
710 appear on the face of the hospital license. Each hospital having
711 emergency services shall notify the agency of its service
712 capability in the manner and form prescribed by the agency. The
713 agency shall use the inventory to assist emergency medical
714 services providers and others in locating appropriate emergency
715 medical care. The inventory shall also be made available to the
716 general public. ~~On or before August 1, 1992, the agency shall~~
717 ~~request that each hospital identify the services which are~~
718 ~~within its service capability. On or before November 1, 1992,~~
719 ~~the agency shall notify each hospital of the service capability~~
720 ~~to be included in the inventory. The hospital has 15 days from~~
721 ~~the date of receipt to respond to the notice. By December 1,~~
722 ~~1992, the agency shall publish a final inventory. Each hospital~~
723 shall reaffirm its service capability when its license is



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724 renewed and shall notify the agency of the addition of a new
725 service or the termination of a service prior to a change in its
726 service capability.

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

729 (d)1. Every hospital shall ensure the provision of services
730 within the service capability of the hospital, at all times,
731 either directly or indirectly through an arrangement with
732 another hospital, through an arrangement with one or more
733 physicians, or as otherwise made through prior arrangements. A
734 hospital may enter into an agreement with another hospital for
735 purposes of meeting its service capability requirement, and
736 appropriate compensation or other reasonable conditions may be
737 negotiated for these backup services.

738 2. If any arrangement requires the provision of emergency
739 medical transportation, such arrangement must be made in
740 consultation with the applicable provider and may not require
741 the emergency medical service provider to provide transportation
742 that is outside the routine service area of that provider or in
743 a manner that impairs the ability of the emergency medical
744 service provider to timely respond to prehospital emergency
745 calls.

746 3. A hospital shall not be required to ensure service
747 capability at all times as required in subparagraph 1. if, prior
748 to the receiving of any patient needing such service capability,
749 such hospital has demonstrated to the agency that it lacks the
750 ability to ensure such capability and it has exhausted all
751 reasonable efforts to ensure such capability through backup
752 arrangements. In reviewing a hospital's demonstration of lack of



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753 ability to ensure service capability, the agency shall consider
754 factors relevant to the particular case, including the
755 following:

756 a. Number and proximity of hospitals with the same service
757 capability.

758 b. Number, type, credentials, and privileges of
759 specialists.

760 c. Frequency of procedures.

761 d. Size of hospital.

762 4. The agency shall publish proposed rules implementing a
763 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~
764 ~~1. shall become effective upon the effective date of said rules~~
765 ~~or January 31, 1993, whichever is earlier. For a period not to~~
766 ~~exceed 1 year from the effective date of subparagraph 1., a~~
767 ~~hospital requesting an exemption shall be deemed to be exempt~~
768 ~~from offering the service until the agency initially acts to~~
769 ~~deny or grant the original request. The agency has 45 days from~~
770 ~~the date of receipt of the request to approve or deny the~~
771 ~~request. After the first year from the effective date of~~
772 ~~subparagraph 1.,~~ If the agency fails to initially act within the
773 time period, the hospital is deemed to be exempt from offering
774 the service until the agency initially acts to deny the request.

775 Section 12. Section 395.1046, Florida Statutes, is
776 repealed.

777 Section 13. Paragraph (e) of subsection (1) of section
778 395.1055, Florida Statutes, is amended to read:

779 395.1055 Rules and enforcement.—

780 (1) The agency shall adopt rules pursuant to ss. 120.536(1)
781 and 120.54 to implement the provisions of this part, which shall



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782 include reasonable and fair minimum standards for ensuring that:

783 (e) Licensed facility beds conform to minimum space,
784 equipment, and furnishings standards as specified by the agency,
785 the Florida Building Code, and the Florida Fire Prevention Code
786 department.

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

789 395.10972 Health Care Risk Manager Advisory Council.—The
790 Secretary of Health Care Administration may appoint a seven-
791 member advisory council to advise the agency on matters
792 pertaining to health care risk managers. The members of the
793 council shall serve at the pleasure of the secretary. The
794 council shall designate a chair. The council shall meet at the
795 call of the secretary or at those times as may be required by
796 rule of the agency. The members of the advisory council shall
797 receive no compensation for their services, but shall be
798 reimbursed for travel expenses as provided in s. 112.061. The
799 council shall consist of individuals representing the following
800 areas:

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

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

807 395.2050 Routine inquiry for organ and tissue donation;
808 certification for procurement activities; death records review.—

809 (3) Each organ procurement organization designated by the
810 federal Centers for Medicare and Medicaid Services ~~Health Care~~



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811 ~~Financing Administration~~ and licensed by the state shall conduct
812 an annual death records review in the organ procurement
813 organization's affiliated donor hospitals. The organ procurement
814 organization shall enlist the services of every Florida licensed
815 tissue bank and eye bank affiliated with or providing service to
816 the donor hospital and operating in the same service area to
817 participate in the death records review.

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

820 395.3036 Confidentiality of records and meetings of
821 corporations that lease public hospitals or other public health
822 care facilities.—The records of a private corporation that
823 leases a public hospital or other public health care facility
824 are confidential and exempt from the provisions of s. 119.07(1)
825 and s. 24(a), Art. I of the State Constitution, and the meetings
826 of the governing board of a private corporation are exempt from
827 s. 286.011 and s. 24(b), Art. I of the State Constitution when
828 the public lessor complies with the public finance
829 accountability provisions of s. 155.40(5) with respect to the
830 transfer of any public funds to the private lessee and when the
831 private lessee meets at least three of the five following
832 criteria:

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

837 Section 17. Section 395.3037, Florida Statutes, is
838 repealed.

839 Section 18. Subsections (1), (4), and (5) of section



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840 395.3038, Florida Statutes, are amended to read:

841 395.3038 State-listed primary stroke centers and
842 comprehensive stroke centers; notification of hospitals.—

843 (1) The agency shall make available on its website and to
844 the department a list of the name and address of each hospital
845 that meets the criteria for a primary stroke center and the name
846 and address of each hospital that meets the criteria for a
847 comprehensive stroke center. The list of primary and
848 comprehensive stroke centers shall include only those hospitals
849 that attest in an affidavit submitted to the agency that the
850 hospital meets the named criteria, or those hospitals that
851 attest in an affidavit submitted to the agency that the hospital
852 is certified as a primary or a comprehensive stroke center by
853 the Joint Commission ~~on Accreditation of Healthcare~~
854 ~~Organizations~~.

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

859 (5) The agency shall adopt by rule criteria for a
860 comprehensive stroke center. However, if the Joint Commission ~~on~~
861 ~~Accreditation of Healthcare Organizations~~ establishes criteria
862 for a comprehensive stroke center, the agency shall establish
863 criteria for a comprehensive stroke center which are
864 substantially similar to those criteria established by the Joint
865 Commission ~~on Accreditation of Healthcare Organizations~~.

866 Section 19. Subsection (2) of section 395.602, Florida
867 Statutes, is amended to read:

868 395.602 Rural hospitals.—



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

870 (a) "Emergency care hospital" means a medical facility that
871 ~~which~~ provides:

872 1. Emergency medical treatment; and

873 2. Inpatient care to ill or injured persons prior to their
874 transportation to another hospital or provides inpatient medical
875 care to persons needing care for a period of up to 96 hours. The
876 96-hour limitation on inpatient care does not apply to respite,
877 skilled nursing, hospice, or other nonacute care patients.

878 (b) "Essential access community hospital" means any
879 facility that ~~which~~:

880 1. Has at least 100 beds;

881 2. Is located more than 35 miles from any other essential
882 access community hospital, rural referral center, or urban
883 hospital meeting criteria for classification as a regional
884 referral center;

885 3. Is part of a network that includes rural primary care
886 hospitals;

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

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

891 6. Accepts patients transferred from rural primary care
892 hospitals in its network.

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

896 (d) "Rural area health education center" means an area
897 health education center (AHEC), as authorized by Pub. L. No. 94-



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898 484, which provides services in a county with a population
899 density of no greater than 100 persons per square mile.

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

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

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

910 3. A hospital supported by a tax district or subdistrict
911 whose boundaries encompass a population of 100 persons or fewer
912 per square mile;

913 ~~4. A hospital in a constitutional charter county with a~~
914 ~~population of over 1 million persons that has imposed a local~~
915 ~~option health service tax pursuant to law and in an area that~~
916 ~~was directly impacted by a catastrophic event on August 24,~~
917 ~~1992, for which the Governor of Florida declared a state of~~
918 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
919 ~~serves an agricultural community with an emergency room~~
920 ~~utilization of no less than 20,000 visits and a Medicaid~~
921 ~~inpatient utilization rate greater than 15 percent;~~

922 ~~4.5.~~ A hospital with a service area that has a population
923 of 100 persons or fewer per square mile. As used in this
924 subparagraph, the term "service area" means the fewest number of
925 zip codes that account for 75 percent of the hospital's
926 discharges for the most recent 5-year period, based on



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927 information available from the hospital inpatient discharge
928 database in the Florida Center for Health Information and Policy
929 Analysis at the Agency for Health Care Administration; or

930 ~~5.6.~~ A hospital designated as a critical access hospital,
931 as defined in s. 408.07(15).

932
933 Population densities used in this paragraph must be based upon
934 the most recently completed United States census. A hospital
935 that received funds under s. 409.9116 for a quarter beginning no
936 later than July 1, 2002, is deemed to have been and shall
937 continue to be a rural hospital from that date through June 30,
938 2015, if the hospital continues to have 100 or fewer licensed
939 beds and an emergency room, ~~or meets the criteria of~~

940 ~~subparagraph 4.~~ An acute care hospital that has not previously
941 been designated as a rural hospital and that meets the criteria
942 of this paragraph shall be granted such designation upon
943 application, including supporting documentation to the Agency
944 for Health Care Administration.

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

- 948 1. Twenty-four-hour emergency medical care;
949 2. Temporary inpatient care for periods of 72 hours or less
950 to patients requiring stabilization before discharge or transfer
951 to another hospital. The 72-hour limitation does not apply to
952 respite, skilled nursing, hospice, or other nonacute care
953 patients; and

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

955 (g) "Swing-bed" means a bed that ~~which~~ can be used



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956 interchangeably as either a hospital, skilled nursing facility
957 (SNF), or intermediate care facility (ICF) bed pursuant to 42
958 C.F.R. parts 405, 435, 440, 442, and 447.

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

961 400.021 Definitions.—When used in this part, unless the
962 context otherwise requires, the term:

963 (8) "Geriatric outpatient clinic" means a site for
964 providing outpatient health care to persons 60 years of age or
965 older, ~~which is staffed by a registered nurse or a physician~~
966 assistant, a licensed practical nurse under the direct
967 supervision of a registered nurse, or an advanced registered
968 nurse practitioner.

969 Section 21. Paragraph (g) of subsection (2) of section
970 400.0239, Florida Statutes, is amended to read:

971 400.0239 Quality of Long-Term Care Facility Improvement
972 Trust Fund.—

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

975 (g) Other initiatives authorized by the Centers for
976 Medicare and Medicaid Services for the use of federal civil
977 monetary penalties, ~~including projects recommended through the~~
978 ~~Medicaid "Up-or-Out" Quality of Care Contract Management Program~~
979 ~~pursuant to s. 400.148.~~

980 Section 22. Subsection (15) of section 400.0255, Florida
981 Statutes, is amended to read

982 400.0255 Resident transfer or discharge; requirements and
983 procedures; hearings.—

984 (15) (a) The department's Office of Appeals Hearings shall



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985 conduct hearings under this section. The office shall notify the
986 facility of a resident's request for a hearing.

987 (b) The department shall, by rule, establish procedures to
988 be used for fair hearings requested by residents. These
989 procedures shall be equivalent to the procedures used for fair
990 hearings for other Medicaid cases appearing in s. 409.285 and
991 applicable rules, chapter 10-2, part VI, Florida Administrative
992 Code. The burden of proof must be clear and convincing evidence.
993 A hearing decision must be rendered within 90 days after receipt
994 of the request for hearing.

995 (c) If the hearing decision is favorable to the resident
996 who has been transferred or discharged, the resident must be
997 readmitted to the facility's first available bed.

998 (d) The decision of the hearing officer shall be final. Any
999 aggrieved party may appeal the decision to the district court of
1000 appeal in the appellate district where the facility is located.
1001 Review procedures shall be conducted in accordance with the
1002 Florida Rules of Appellate Procedure.

1003 Section 23. Subsection (2) of section 400.063, Florida
1004 Statutes, is amended to read:

1005 400.063 Resident protection.—

1006 (2) The agency is authorized to establish for each
1007 facility, subject to intervention by the agency, a separate bank
1008 account for the deposit to the credit of the agency of any
1009 moneys received from the Health Care Trust Fund or any other
1010 moneys received for the maintenance and care of residents in the
1011 facility, and the agency is authorized to disburse moneys from
1012 such account to pay obligations incurred for the purposes of
1013 this section. The agency is authorized to requisition moneys



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1014 from the Health Care Trust Fund in advance of an actual need for
1015 cash on the basis of an estimate by the agency of moneys to be
1016 spent under the authority of this section. Any bank account
1017 established under this section need not be approved in advance
1018 of its creation as required by s. 17.58, but shall be secured by
1019 depository insurance equal to or greater than the balance of
1020 such account or by the pledge of collateral security ~~in~~
1021 ~~conformance with criteria established in s. 18.11.~~ The agency
1022 shall notify the Chief Financial Officer of any such account so
1023 established and shall make a quarterly accounting to the Chief
1024 Financial Officer for all moneys deposited in such account.

1025 Section 24. Subsections (1) and (5) of section 400.071,
1026 Florida Statutes, are amended to read:

1027 400.071 Application for license.—

1028 (1) In addition to the requirements of part II of chapter
1029 408, the application for a license shall be under oath and must
1030 contain the following:

1031 (a) The location of the facility for which a license is
1032 sought and an indication, as in the original application, that
1033 such location conforms to the local zoning ordinances.

1034 ~~(b) A signed affidavit disclosing any financial or~~
1035 ~~ownership interest that a controlling interest as defined in~~
1036 ~~part II of chapter 408 has held in the last 5 years in any~~
1037 ~~entity licensed by this state or any other state to provide~~
1038 ~~health or residential care which has closed voluntarily or~~
1039 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
1040 ~~appointed; has had a license denied, suspended, or revoked; or~~
1041 ~~has had an injunction issued against it which was initiated by a~~
1042 ~~regulatory agency. The affidavit must disclose the reason any~~



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1043 ~~such entity was closed, whether voluntarily or involuntarily.~~

1044 ~~(c) The total number of beds and the total number of~~
1045 ~~Medicare and Medicaid certified beds.~~

1046 ~~(b)(d)~~ Information relating to the applicant and employees
1047 which the agency requires by rule. The applicant must
1048 demonstrate that sufficient numbers of qualified staff, by
1049 training or experience, will be employed to properly care for
1050 the type and number of residents who will reside in the
1051 facility.

1052 ~~(c)(e)~~ Copies of any civil verdict or judgment involving
1053 the applicant rendered within the 10 years preceding the
1054 application, relating to medical negligence, violation of
1055 residents' rights, or wrongful death. As a condition of
1056 licensure, the licensee agrees to provide to the agency copies
1057 of any new verdict or judgment involving the applicant, relating
1058 to such matters, within 30 days after filing with the clerk of
1059 the court. The information required in this paragraph shall be
1060 maintained in the facility's licensure file and in an agency
1061 database that ~~which~~ is available as a public record.

1062 (5) As a condition of licensure, each facility must
1063 establish ~~and submit with its application~~ a plan for quality
1064 assurance and for conducting risk management.

1065 Section 25. Section 400.0712, Florida Statutes, is amended
1066 to read:

1067 400.0712 Application for inactive license.-

1068 ~~(1) As specified in this section, the agency may issue an~~
1069 ~~inactive license to a nursing home facility for all or a portion~~
1070 ~~of its beds. Any request by a licensee that a nursing home or~~
1071 ~~portion of a nursing home become inactive must be submitted to~~



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1072 ~~the agency in the approved format. The facility may not initiate~~
1073 ~~any suspension of services, notify residents, or initiate~~
1074 ~~inactivity before receiving approval from the agency; and a~~
1075 ~~licensee that violates this provision may not be issued an~~
1076 ~~inactive license.~~

1077 (1)~~(2)~~ In addition to the authority granted in part II of
1078 chapter 408, the agency may issue an inactive license to a
1079 nursing home that chooses to use an unoccupied contiguous
1080 portion of the facility for an alternative use to meet the needs
1081 of elderly persons through the use of less restrictive, less
1082 institutional services.

1083 (a) An inactive license issued under this subsection may be
1084 granted for a period not to exceed the current licensure
1085 expiration date but may be renewed by the agency at the time of
1086 licensure renewal.

1087 (b) A request to extend the inactive license must be
1088 submitted to the agency in the approved format and approved by
1089 the agency in writing.

1090 (c) Nursing homes that receive an inactive license to
1091 provide alternative services shall not receive preference for
1092 participation in the Assisted Living for the Elderly Medicaid
1093 waiver.

1094 (2)~~(3)~~ The agency shall adopt rules pursuant to ss.
1095 120.536(1) and 120.54 necessary to administer ~~implement~~ this
1096 section.

1097 Section 26. Section 400.111, Florida Statutes, is amended
1098 to read:

1099 400.111 Disclosure of controlling interest.—In addition to
1100 the requirements of part II of chapter 408, when requested by



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1101 the agency, the licensee shall submit a signed affidavit
1102 disclosing any financial or ownership interest that a
1103 controlling interest has held within the last 5 years in any
1104 entity licensed by the state or any other state to provide
1105 health or residential care if that ~~which~~ entity has closed
1106 voluntarily or involuntarily; has filed for bankruptcy; has had
1107 a receiver appointed; has had a license denied, suspended, or
1108 revoked; or has had an injunction issued against it which was
1109 initiated by a regulatory agency. The affidavit must disclose
1110 the reason such entity was closed, whether voluntarily or
1111 involuntarily.

1112 Section 27. Section 400.1183, Florida Statutes, is amended
1113 to read:

1114 400.1183 Resident grievance procedures.—

1115 (1) Every nursing home must have a grievance procedure
1116 available to its residents and their families. The grievance
1117 procedure must include:

1118 (a) An explanation of how to pursue redress of a grievance.

1119 (b) The names, job titles, and telephone numbers of the
1120 employees responsible for implementing the facility's grievance
1121 procedure. The list must include the address and the toll-free
1122 telephone numbers of the ombudsman and the agency.

1123 (c) A simple description of the process through which a
1124 resident may, at any time, contact the toll-free telephone
1125 hotline of the ombudsman or the agency to report the unresolved
1126 grievance.

1127 (d) A procedure for providing assistance to residents who
1128 cannot prepare a written grievance without help.

1129 (2) Each facility shall maintain records of all grievances



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1130 ~~for agency inspection and shall report to the agency at the time~~
1131 ~~of relicensure the total number of grievances handled during the~~
1132 ~~prior licensure period, a categorization of the cases underlying~~
1133 ~~the grievances, and the final disposition of the grievances.~~

1134 (3) Each facility must respond to the grievance within a
1135 reasonable time after its submission.

1136 (4) The agency may investigate any grievance at any time.

1137 Section 28. Section 400.141, Florida Statutes, is amended
1138 to read:

1139 400.141 Administration and management of nursing home
1140 facilities.—

1141 (1) Every licensed facility shall comply with all
1142 applicable standards and rules of the agency and shall:

1143 (a) Be under the administrative direction and charge of a
1144 licensed administrator.

1145 (b) Appoint a medical director licensed pursuant to chapter
1146 458 or chapter 459. The agency may establish by rule more
1147 specific criteria for the appointment of a medical director.

1148 (c) Have available the regular, consultative, and emergency
1149 services of physicians licensed by the state.

1150 (d) Provide for resident use of a community pharmacy as
1151 specified in s. 400.022(1)(q). Any other law to the contrary
1152 notwithstanding, a registered pharmacist licensed in Florida,
1153 that is under contract with a facility licensed under this
1154 chapter or chapter 429, shall repackage a nursing facility
1155 resident's bulk prescription medication that ~~which~~ has been
1156 packaged by another pharmacist licensed in any state in the
1157 United States into a unit dose system compatible with the system
1158 used by the nursing facility, if the pharmacist is requested to



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1159 offer such service. In order to be eligible for the repackaging,
1160 a resident or the resident's spouse must receive prescription
1161 medication benefits provided through a former employer as part
1162 of his or her retirement benefits, a qualified pension plan as
1163 specified in s. 4972 of the Internal Revenue Code, a federal
1164 retirement program as specified under 5 C.F.R. s. 831, or a
1165 long-term care policy as defined in s. 627.9404(1). A pharmacist
1166 who correctly repackages and relabels the medication and the
1167 nursing facility that ~~which~~ correctly administers such
1168 repackaged medication under this paragraph may not be held
1169 liable in any civil or administrative action arising from the
1170 repackaging. In order to be eligible for the repackaging, a
1171 nursing facility resident for whom the medication is to be
1172 repackaged shall sign an informed consent form provided by the
1173 facility which includes an explanation of the repackaging
1174 process and which notifies the resident of the immunities from
1175 liability provided in this paragraph. A pharmacist who
1176 repackages and relabels prescription medications, as authorized
1177 under this paragraph, may charge a reasonable fee for costs
1178 resulting from the implementation of this provision.

1179 (e) Provide for the access of the facility residents to
1180 dental and other health-related services, recreational services,
1181 rehabilitative services, and social work services appropriate to
1182 their needs and conditions and not directly furnished by the
1183 licensee. When a geriatric outpatient nurse clinic is conducted
1184 in accordance with rules adopted by the agency, outpatients
1185 attending such clinic shall not be counted as part of the
1186 general resident population of the nursing home facility, nor
1187 shall the nursing staff of the geriatric outpatient clinic be



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1188 counted as part of the nursing staff of the facility, until the
1189 outpatient clinic load exceeds 15 a day.

1190 (f) Be allowed and encouraged by the agency to provide
1191 other needed services under certain conditions. If the facility
1192 has a standard licensure status, and has had no class I or class
1193 II violations ~~deficiencies~~ during the past 2 years or has been
1194 awarded a Gold Seal under the program established in s. 400.235,
1195 it may be encouraged by the agency to provide services,
1196 including, but not limited to, respite and adult day services
1197 that, ~~which~~ enable individuals to move in and out of the
1198 facility. A facility is not subject to any additional licensure
1199 requirements for providing these services. Respite care may be
1200 offered to persons in need of short-term or temporary nursing
1201 home services. Respite care must be provided in accordance with
1202 this part and rules adopted by the agency. However, the agency
1203 shall, by rule, adopt modified requirements for resident
1204 assessment, resident care plans, resident contracts, physician
1205 orders, and other provisions, as appropriate, for short-term or
1206 temporary nursing home services. The agency shall allow for
1207 shared programming and staff in a facility that ~~which~~ meets
1208 minimum standards and offers services pursuant to this
1209 paragraph, but, if the facility is cited for deficiencies in
1210 patient care, may require additional staff and programs
1211 appropriate to the needs of service recipients. A person who
1212 receives respite care may not be counted as a resident of the
1213 facility for purposes of the facility's licensed capacity unless
1214 that person receives 24-hour respite care. A person receiving
1215 either respite care for 24 hours or longer or adult day services
1216 must be included when calculating minimum staffing for the



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1217 facility. Any costs and revenues generated by a nursing home
1218 facility from nonresidential programs or services shall be
1219 excluded from the calculations of Medicaid per diems for nursing
1220 home institutional care reimbursement.

1221 (g) If the facility has a standard license or is a Gold
1222 Seal facility, exceeds the minimum required hours of licensed
1223 nursing and certified nursing assistant direct care per resident
1224 per day, and is part of a continuing care facility licensed
1225 under chapter 651 or a retirement community that offers other
1226 services pursuant to part III of this chapter or part I or part
1227 III of chapter 429 on a single campus, be allowed to share
1228 programming and staff. At the time of inspection and in the
1229 semiannual report required pursuant to paragraph (o), a
1230 continuing care facility or retirement community that uses this
1231 option must demonstrate through staffing records that minimum
1232 staffing requirements for the facility were met. Licensed nurses
1233 and certified nursing assistants who work in the nursing home
1234 facility may be used to provide services elsewhere on campus if
1235 the facility exceeds the minimum number of direct care hours
1236 required per resident per day and the total number of residents
1237 receiving direct care services from a licensed nurse or a
1238 certified nursing assistant does not cause the facility to
1239 violate the staffing ratios required under s. 400.23(3)(a).
1240 Compliance with the minimum staffing ratios shall be based on
1241 total number of residents receiving direct care services,
1242 regardless of where they reside on campus. If the facility
1243 receives a conditional license, it may not share staff until the
1244 conditional license status ends. This paragraph does not
1245 restrict the agency's authority under federal or state law to



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1246 require additional staff if a facility is cited for deficiencies
1247 in care which are caused by an insufficient number of certified
1248 nursing assistants or licensed nurses. The agency may adopt
1249 rules for the documentation necessary to determine compliance
1250 with this provision.

1251 (h) Maintain the facility premises and equipment and
1252 conduct its operations in a safe and sanitary manner.

1253 (i) If the licensee furnishes food service, provide a
1254 wholesome and nourishing diet sufficient to meet generally
1255 accepted standards of proper nutrition for its residents and
1256 provide such therapeutic diets as may be prescribed by attending
1257 physicians. In making rules to implement this paragraph, the
1258 agency shall be guided by standards recommended by nationally
1259 recognized professional groups and associations with knowledge
1260 of dietetics.

1261 (j) Keep full records of resident admissions and
1262 discharges; medical and general health status, including medical
1263 records, personal and social history, and identity and address
1264 of next of kin or other persons who may have responsibility for
1265 the affairs of the residents; and individual resident care plans
1266 including, but not limited to, prescribed services, service
1267 frequency and duration, and service goals. The records shall be
1268 open to inspection by the agency.

1269 (k) Keep such fiscal records of its operations and
1270 conditions as may be necessary to provide information pursuant
1271 to this part.

1272 (l) Furnish copies of personnel records for employees
1273 affiliated with such facility, to any other facility licensed by
1274 this state requesting this information pursuant to this part.



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1275 Such information contained in the records may include, but is
1276 not limited to, disciplinary matters and any reason for
1277 termination. Any facility releasing such records pursuant to
1278 this part shall be considered to be acting in good faith and may
1279 not be held liable for information contained in such records,
1280 absent a showing that the facility maliciously falsified such
1281 records.

1282 (m) Publicly display a poster provided by the agency
1283 containing the names, addresses, and telephone numbers for the
1284 state's abuse hotline, the State Long-Term Care Ombudsman, the
1285 Agency for Health Care Administration consumer hotline, the
1286 Advocacy Center for Persons with Disabilities, the Florida
1287 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
1288 with a clear description of the assistance to be expected from
1289 each.

1290 ~~(n) Submit to the agency the information specified in s.~~
1291 ~~400.071(1)(b) for a management company within 30 days after the~~
1292 ~~effective date of the management agreement.~~

1293 (n) ~~(e)~~1. Submit semiannually to the agency, or more
1294 frequently if requested by the agency, information regarding
1295 facility staff-to-resident ratios, staff turnover, and staff
1296 stability, including information regarding certified nursing
1297 assistants, licensed nurses, the director of nursing, and the
1298 facility administrator. For purposes of this reporting:

1299 a. Staff-to-resident ratios must be reported in the
1300 categories specified in s. 400.23(3)(a) and applicable rules.
1301 The ratio must be reported as an average for the most recent
1302 calendar quarter.

1303 b. Staff turnover must be reported for the most recent 12-



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1304 month period ending on the last workday of the most recent
1305 calendar quarter prior to the date the information is submitted.
1306 The turnover rate must be computed quarterly, with the annual
1307 rate being the cumulative sum of the quarterly rates. The
1308 turnover rate is the total number of terminations or separations
1309 experienced during the quarter, excluding any employee
1310 terminated during a probationary period of 3 months or less,
1311 divided by the total number of staff employed at the end of the
1312 period for which the rate is computed, and expressed as a
1313 percentage.

1314 c. The formula for determining staff stability is the total
1315 number of employees who ~~that~~ have been employed for more than 12
1316 months, divided by the total number of employees employed at the
1317 end of the most recent calendar quarter, and expressed as a
1318 percentage.

1319 d. A nursing facility that has failed to comply with state
1320 minimum-staffing requirements for 2 consecutive days is
1321 prohibited from accepting new admissions until the facility has
1322 achieved the minimum-staffing requirements for a period of 6
1323 consecutive days. For the purposes of this sub-subparagraph, any
1324 person who was a resident of the facility and was absent from
1325 the facility for the purpose of receiving medical care at a
1326 separate location or was on a leave of absence is not considered
1327 a new admission. Failure to impose such an admissions moratorium
1328 constitutes a class II violation, and the agency shall fine the
1329 nursing facility \$1,000 for such violation ~~deficiency~~.

1330 e. A nursing facility that ~~which~~ does not have a
1331 conditional license may be cited for failure to comply with the
1332 standards in s. 400.23(3)(a)1.a. only if it has failed to meet



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1333 those standards on 2 consecutive days or if it has failed to
1334 meet at least 97 percent of those standards on any one day.

1335 f. A facility that ~~which~~ has a conditional license must be
1336 in compliance with the standards in s. 400.23(3)(a) at all
1337 times.

1338 2. This paragraph does not limit the agency's ability to
1339 impose a deficiency or take other actions if a facility does not
1340 have enough staff to meet the residents' needs.

1341 (o) ~~(p)~~ Notify a licensed physician when a resident exhibits
1342 signs of dementia or cognitive impairment or has a change of
1343 condition in order to rule out the presence of an underlying
1344 physiological condition that may be contributing to such
1345 dementia or impairment. The notification must occur within 30
1346 days after the acknowledgment of such signs by facility staff.
1347 If an underlying condition is determined to exist, the facility
1348 shall arrange, with the appropriate health care provider, the
1349 necessary care and services to treat the condition.

1350 (p) ~~(q)~~ If the facility implements a dining and hospitality
1351 attendant program, ensure that the program is developed and
1352 implemented under the supervision of the facility director of
1353 nursing. A licensed nurse, licensed speech or occupational
1354 therapist, or a registered dietitian must conduct training of
1355 dining and hospitality attendants. A person employed by a
1356 facility as a dining and hospitality attendant must perform
1357 tasks under the direct supervision of a licensed nurse.

1358 ~~(r) Report to the agency any filing for bankruptcy~~
1359 ~~protection by the facility or its parent corporation,~~
1360 ~~divestiture or spin-off of its assets, or corporate~~
1361 ~~reorganization within 30 days after the completion of such~~



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1362 ~~activity.~~

1363 (q)~~(s)~~ Maintain general and professional liability
1364 insurance coverage that is in force at all times. In lieu of
1365 general and professional liability insurance coverage, a state-
1366 designated teaching nursing home and its affiliated assisted
1367 living facilities created under s. 430.80 may demonstrate proof
1368 of financial responsibility as provided in s. 430.80(3)(h).

1369 (r)~~(t)~~ Maintain in the medical record for each resident a
1370 daily chart of certified nursing assistant services provided to
1371 the resident. The certified nursing assistant who is caring for
1372 the resident must complete this record by the end of his or her
1373 shift. This record must indicate assistance with activities of
1374 daily living, assistance with eating, and assistance with
1375 drinking, and must record each offering of nutrition and
1376 hydration for those residents whose plan of care or assessment
1377 indicates a risk for malnutrition or dehydration.

1378 (s)~~(u)~~ Before November 30 of each year, subject to the
1379 availability of an adequate supply of the necessary vaccine,
1380 provide for immunizations against influenza viruses to all its
1381 consenting residents in accordance with the recommendations of
1382 the United States Centers for Disease Control and Prevention,
1383 subject to exemptions for medical contraindications and
1384 religious or personal beliefs. Subject to these exemptions, any
1385 consenting person who becomes a resident of the facility after
1386 November 30 but before March 31 of the following year must be
1387 immunized within 5 working days after becoming a resident.
1388 Immunization shall not be provided to any resident who provides
1389 documentation that he or she has been immunized as required by
1390 this paragraph. This paragraph does not prohibit a resident from



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1391 receiving the immunization from his or her personal physician if
1392 he or she so chooses. A resident who chooses to receive the
1393 immunization from his or her personal physician shall provide
1394 proof of immunization to the facility. The agency may adopt and
1395 enforce any rules necessary to comply with or administer
1396 ~~implement~~ this paragraph ~~subsection~~.

1397 (t) ~~(v)~~ Assess all residents for eligibility for
1398 pneumococcal polysaccharide vaccination (PPV) and vaccinate
1399 residents when indicated within 60 days after the effective date
1400 of this act in accordance with the recommendations of the United
1401 States Centers for Disease Control and Prevention, subject to
1402 exemptions for medical contraindications and religious or
1403 personal beliefs. Residents admitted after the effective date of
1404 this act shall be assessed within 5 working days of admission
1405 and, when indicated, vaccinated within 60 days in accordance
1406 with the recommendations of the United States Centers for
1407 Disease Control and Prevention, subject to exemptions for
1408 medical contraindications and religious or personal beliefs.
1409 Immunization shall not be provided to any resident who provides
1410 documentation that he or she has been immunized as required by
1411 this paragraph. This paragraph does not prohibit a resident from
1412 receiving the immunization from his or her personal physician if
1413 he or she so chooses. A resident who chooses to receive the
1414 immunization from his or her personal physician shall provide
1415 proof of immunization to the facility. The agency may adopt and
1416 enforce any rules necessary to comply with or administer
1417 ~~implement~~ this paragraph.

1418 (u) ~~(w)~~ Annually encourage and promote to its employees the
1419 benefits associated with immunizations against influenza viruses



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1420 in accordance with the recommendations of the United States
1421 Centers for Disease Control and Prevention. The agency may adopt
1422 and enforce any rules necessary to comply with or administer
1423 ~~implement~~ this paragraph.

1424 (2) Facilities that have been awarded a Gold Seal under the
1425 program established in s. 400.235 may develop a plan to provide
1426 certified nursing assistant training as prescribed by federal
1427 regulations and state rules and may apply to the agency for
1428 approval of their program.

1429 Section 29. Subsection (3) of section 400.142, Florida
1430 Statutes, is amended to read:

1431 400.142 Emergency medication kits; orders not to
1432 resuscitate.-

1433 (3) Facility staff may withhold or withdraw cardiopulmonary
1434 resuscitation if presented with an order not to resuscitate
1435 executed pursuant to s. 401.45. ~~The agency shall adopt rules~~
1436 ~~providing for the implementation of such orders.~~ Facility staff
1437 and facilities are ~~shall~~ not ~~be~~ subject to criminal prosecution
1438 or civil liability, nor be considered to have engaged in
1439 negligent or unprofessional conduct, for withholding or
1440 withdrawing cardiopulmonary resuscitation pursuant to such an
1441 order and rules adopted by the agency. The absence of an order
1442 not to resuscitate executed pursuant to s. 401.45 does not
1443 preclude a physician from withholding or withdrawing
1444 cardiopulmonary resuscitation as otherwise permitted by law.

1445 Section 30. Subsection (10) of section 400.147, Florida
1446 Statutes, is repealed.

1447 Section 31. Section 400.148, Florida Statutes, is repealed.

1448 Section 32. Subsection (3) of section 400.19, Florida



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1449 Statutes, is amended to read:

1450 400.19 Right of entry and inspection.—

1451 (3) The agency shall every 15 months conduct at least one
1452 unannounced inspection to determine compliance by the licensee
1453 with statutes, and with rules adopted ~~promulgated~~ under the
1454 provisions of those statutes, governing minimum standards of
1455 construction, quality and adequacy of care, and rights of
1456 residents. The survey shall be conducted every 6 months for the
1457 next 2-year period if the facility has been cited for a class I
1458 deficiency, has been cited for two or more class II violations
1459 ~~deficiencies~~ arising from separate surveys or investigations
1460 within a 60-day period, or has had three or more substantiated
1461 complaints within a 6-month period, each resulting in at least
1462 one class I or class II deficiency. In addition to any other
1463 fees or fines in this part, the agency shall assess a fine for
1464 each facility that is subject to the 6-month survey cycle. The
1465 fine for the 2-year period shall be \$6,000, one-half to be paid
1466 at the completion of each survey. The agency may adjust this
1467 fine by the change in the Consumer Price Index, based on the 12
1468 months immediately preceding the increase, to cover the cost of
1469 the additional surveys. The agency shall verify through
1470 subsequent inspection that any deficiency identified during
1471 inspection is corrected. However, the agency may verify the
1472 correction of a class III or class IV violation ~~deficiency~~
1473 ~~unrelated to resident rights or resident care~~ without
1474 reinspecting the facility if adequate written documentation has
1475 been received from the facility, which provides assurance that
1476 the deficiency has been corrected. The giving or causing to be
1477 given of advance notice of such unannounced inspections by an



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1478 employee of the agency to any unauthorized person shall
1479 constitute cause for suspension of not fewer than 5 working days
1480 according to the provisions of chapter 110.

1481 Section 33. Section 400.195, Florida Statutes, is repealed.

1482 Section 34. Subsection (5) of section 400.23, Florida
1483 Statutes, is amended to read:

1484 400.23 Rules; evaluation and deficiencies; licensure
1485 status.—

1486 (5) The agency, in collaboration with the Division of
1487 Children's Medical Services Network of the Department of Health,
1488 ~~must, no later than December 31, 1993,~~ adopt rules for minimum
1489 standards of care for persons under 21 years of age who reside
1490 in nursing home facilities. The rules must include a methodology
1491 for reviewing a nursing home facility under ss. 408.031-408.045
1492 which serves only persons under 21 years of age. A facility may
1493 be exempt from these standards for specific persons between 18
1494 and 21 years of age, if the person's physician agrees that
1495 minimum standards of care based on age are not necessary.

1496 Section 35. Subsection (1) of section 400.275, Florida
1497 Statutes, is amended to read:

1498 400.275 Agency duties.—

1499 ~~(1) The agency shall ensure that each newly hired nursing~~
1500 ~~home surveyor, as a part of basic training, is assigned full-~~
1501 ~~time to a licensed nursing home for at least 2 days within a 7-~~
1502 ~~day period to observe facility operations outside of the survey~~
1503 ~~process before the surveyor begins survey responsibilities. Such~~
1504 ~~observations may not be the sole basis of a deficiency citation~~
1505 ~~against the facility.~~ The agency may not assign an individual to
1506 be a member of a survey team for purposes of a survey,



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1507 evaluation, or consultation visit at a nursing home facility in
1508 which the surveyor was an employee within the preceding 5 years.

1509 Section 36. Section 400.484, Florida Statutes, is amended
1510 to read:

1511 400.484 Right of inspection; violations ~~deficiencies~~;
1512 fines.—

1513 (1) In addition to the requirements of s. 408.811, the
1514 agency may make such inspections and investigations as are
1515 necessary in order to determine the state of compliance with
1516 this part, part II of chapter 408, and applicable rules.

1517 (2) The agency shall impose fines for various classes of
1518 violations ~~deficiencies~~ in accordance with the following
1519 schedule:

1520 (a) A class I violation is defined in s. 408.813. ~~A class I~~
1521 ~~deficiency is any act, omission, or practice that results in a~~
1522 ~~patient's death, disablement, or permanent injury, or places a~~
1523 ~~patient at imminent risk of death, disablement, or permanent~~
1524 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
1525 shall impose an administrative fine in the amount of \$15,000 for
1526 each occurrence and each day that the violation ~~deficiency~~
1527 exists.

1528 (b) A class II violation is defined in s. 408.813. ~~A class~~
1529 ~~II deficiency is any act, omission, or practice that has a~~
1530 ~~direct adverse effect on the health, safety, or security of a~~
1531 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1532 agency shall impose an administrative fine in the amount of
1533 \$5,000 for each occurrence and each day that the violation
1534 ~~deficiency~~ exists.

1535 (c) A class III violation is defined in s. 408.813. ~~A class~~



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1536 ~~III deficiency is any act, omission, or practice that has an~~
1537 ~~indirect, adverse effect on the health, safety, or security of a~~
1538 ~~patient.~~ Upon finding an uncorrected or repeated class III
1539 violation deficiency, the agency shall impose an administrative
1540 fine not to exceed \$1,000 for each occurrence and each day that
1541 the uncorrected or repeated violation deficiency exists.

1542 (d) A class IV violation is defined in s. 408.813. ~~A class~~
1543 ~~IV deficiency is any act, omission, or practice related to~~
1544 ~~required reports, forms, or documents which does not have the~~
1545 ~~potential of negatively affecting patients. These violations are~~
1546 ~~of a type that the agency determines do not threaten the health,~~
1547 ~~safety, or security of patients.~~ Upon finding an uncorrected or
1548 repeated class IV violation deficiency, the agency shall impose
1549 an administrative fine not to exceed \$500 for each occurrence
1550 and each day that the uncorrected or repeated violation
1551 deficiency exists.

1552 (3) In addition to any other penalties imposed pursuant to
1553 this section or part, the agency may assess costs related to an
1554 investigation that results in a successful prosecution,
1555 excluding costs associated with an attorney's time.

1556 Section 37. Subsections (1) and (4) of section 400.606,
1557 Florida Statutes, are amended to read:

1558 400.606 License; application; renewal; conditional license
1559 or permit; certificate of need.-

1560 (1) In addition to the requirements of part II of chapter
1561 408, the initial application and change of ownership application
1562 must be accompanied by a plan for the delivery of home,
1563 residential, and homelike inpatient hospice services to
1564 terminally ill persons and their families. Such plan must



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1565 contain, but need not be limited to:

1566 (a) The estimated average number of terminally ill persons
1567 to be served monthly.

1568 (b) The geographic area in which hospice services will be
1569 available.

1570 (c) A listing of services that ~~which~~ are or will be
1571 provided, either directly by the applicant or through
1572 contractual arrangements with existing providers.

1573 (d) Provisions for the implementation of hospice home care
1574 within 3 months after licensure.

1575 (e) Provisions for the implementation of hospice homelike
1576 inpatient care within 12 months after licensure.

1577 (f) The number and disciplines of professional staff to be
1578 employed.

1579 (g) The name and qualifications of any existing or
1580 potential contractee.

1581 (h) A plan for attracting and training volunteers.

1582 ~~(i) The projected annual operating cost of the hospice.~~

1583
1584 If the applicant is an existing licensed health care provider,
1585 the application must be accompanied by a copy of the most recent
1586 profit-loss statement and, if applicable, the most recent
1587 licensure inspection report.

1588 (4) A freestanding hospice facility that is ~~primarily~~
1589 engaged in providing inpatient and related services and that is
1590 not otherwise licensed as a health care facility shall be
1591 required to obtain a certificate of need. However, a
1592 freestanding hospice facility with six or fewer beds shall not
1593 be required to comply with institutional standards such as, but



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1594 not limited to, standards requiring sprinkler systems, emergency
1595 electrical systems, or special lavatory devices.

1596 Section 38. Subsection (2) of section 400.607, Florida
1597 Statutes, is amended to read:

1598 400.607 Denial, suspension, revocation of license;
1599 emergency actions; imposition of administrative fine; grounds.-

1600 (2) A violation of the provisions of this part, part II of
1601 chapter 408, or applicable rules ~~Any of the following actions~~ by
1602 a licensed hospice or any of its employees shall be grounds for
1603 administrative action by the agency against a hospice.†

1604 ~~(a) A violation of the provisions of this part, part II of~~
1605 ~~chapter 408, or applicable rules.~~

1606 ~~(b) An intentional or negligent act materially affecting~~
1607 ~~the health or safety of a patient.~~

1608 Section 39. Section 400.915, Florida Statutes, is amended
1609 to read:

1610 400.915 Construction and renovation; requirements.-The
1611 requirements for the construction or renovation of a PPEC center
1612 shall comply with:

1613 (1) The provisions of chapter 553, which pertain to
1614 building construction standards, including plumbing, electrical
1615 code, glass, manufactured buildings, accessibility for the
1616 physically disabled;

1617 (2) The provisions of s. 633.022 and applicable rules
1618 pertaining to physical minimum standards for nonresidential
1619 child care physical facilities in rule 10M-12.003, Florida
1620 Administrative Code, Child Care Standards; and

1621 (3) The standards or rules adopted pursuant to this part
1622 and part II of chapter 408.



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1623 Section 40. Subsection (1) of section 400.925, Florida
1624 Statutes, is amended to read:

1625 400.925 Definitions.—As used in this part, the term:

1626 (1) "Accrediting organizations" means the Joint Commission
1627 ~~on Accreditation of Healthcare Organizations~~ or other national
1628 accreditation agencies whose standards for accreditation are
1629 comparable to those required by this part for licensure.

1630 Section 41. Section 400.931, Florida Statutes, is amended
1631 to read:

1632 400.931 Application for license; ~~fee; provisional license;~~
1633 ~~temporary permit.~~—

1634 (1) In addition to the requirements of part II of chapter
1635 408, the applicant must file with the application satisfactory
1636 proof that the home medical equipment provider is in compliance
1637 with this part and applicable rules, including:

1638 (a) A report, by category, of the equipment to be provided,
1639 indicating those offered either directly by the applicant or
1640 through contractual arrangements with existing providers.

1641 Categories of equipment include:

- 1642 1. Respiratory modalities.
- 1643 2. Ambulation aids.
- 1644 3. Mobility aids.
- 1645 4. Sickroom setup.
- 1646 5. Disposables.

1647 (b) A report, by category, of the services to be provided,
1648 indicating those offered either directly by the applicant or
1649 through contractual arrangements with existing providers.

1650 Categories of services include:

- 1651 1. Intake.



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- 1652 2. Equipment selection.
1653 3. Delivery.
1654 4. Setup and installation.
1655 5. Patient training.
1656 6. Ongoing service and maintenance.
1657 7. Retrieval.

1658 (c) A listing of those with whom the applicant contracts,
1659 both the providers the applicant uses to provide equipment or
1660 services to its consumers and the providers for whom the
1661 applicant provides services or equipment.

1662 ~~(2) As an alternative to submitting proof of financial~~
1663 ~~ability to operate as required in s. 408.810(8), the applicant~~
1664 ~~may submit a \$50,000 surety bond to the agency.~~

1665 (2)~~(3)~~ As specified in part II of chapter 408, the home
1666 medical equipment provider must also obtain and maintain
1667 professional and commercial liability insurance. Proof of
1668 liability insurance, as defined in s. 624.605, must be submitted
1669 with the application. The agency shall set the required amounts
1670 of liability insurance by rule, but the required amount must not
1671 be less than \$250,000 per claim. In the case of contracted
1672 services, ~~it is required that~~ the contractor must have liability
1673 insurance not less than \$250,000 per claim.

1674 (3)~~(4)~~ When a change of the general manager of a home
1675 medical equipment provider occurs, the licensee must notify the
1676 agency of the change within 45 days.

1677 (4)~~(5)~~ In accordance with s. 408.805, an applicant or a
1678 licensee shall pay a fee for each license application submitted
1679 under this part, part II of chapter 408, and applicable rules.
1680 The amount of the fee shall be established by rule and may not



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1681 exceed \$300 per biennium. The agency shall set the fees in an
1682 amount that is sufficient to cover its costs in carrying out its
1683 responsibilities under this part. However, state, county, or
1684 municipal governments applying for licenses under this part are
1685 exempt from the payment of license fees.

1686 ~~(5)(6)~~ An applicant for initial licensure, renewal, or
1687 change of ownership shall also pay an inspection fee not to
1688 exceed \$400, which shall be paid by all applicants except those
1689 not subject to licensure inspection by the agency as described
1690 in s. 400.933.

1691 Section 42. Subsection (2) of section 400.932, Florida
1692 Statutes, is amended to read:

1693 400.932 Administrative penalties.—

1694 (2) A violation of this part, part II of chapter 408, or
1695 applicable rules ~~Any of the following actions~~ by an employee of
1696 a home medical equipment provider is ~~are~~ grounds for
1697 administrative action or penalties by the agency.÷

1698 ~~(a) Violation of this part, part II of chapter 408, or~~
1699 ~~applicable rules.~~

1700 ~~(b) An intentional, reckless, or negligent act that~~
1701 ~~materially affects the health or safety of a patient.~~

1702 Section 43. Subsection (2) of section 400.933, Florida
1703 Statutes, is amended to read:

1704 400.933 Licensure inspections and investigations.—

1705 (2) The agency shall accept, in lieu of its own periodic
1706 inspections for licensure, submission of the following:

1707 (a) The survey or inspection of an accrediting
1708 organization, provided the accreditation of the licensed home
1709 medical equipment provider is not conditional or provisional and



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1710 provided the licensed home medical equipment provider authorizes
1711 release of, and the agency receives the report of, the
1712 accrediting organization; or

1713 (b) A copy of a valid medical oxygen retail establishment
1714 permit issued by the Department of Health, pursuant to chapter
1715 499.

1716 Section 44. Subsection (2) of section 400.953, Florida
1717 Statutes, is amended to read:

1718 400.953 Background screening of home medical equipment
1719 provider personnel.—The agency shall require employment
1720 screening as provided in chapter 435, using the level 1
1721 standards for screening set forth in that chapter, for home
1722 medical equipment provider personnel.

1723 (2) The general manager of each home medical equipment
1724 provider must sign an affidavit ~~annually~~, under penalty of
1725 perjury, stating that all home medical equipment provider
1726 personnel hired on or after July 1, 1999, who enter the home of
1727 a patient in the capacity of their employment have been screened
1728 and that its remaining personnel have worked for the home
1729 medical equipment provider continuously since before July 1,
1730 1999. This attestation must be submitted in accordance with s.
1731 408.809(6).

1732 Section 45. Section 400.967, Florida Statutes, is amended
1733 to read:

1734 400.967 Rules and classification of violations
1735 ~~deficiencies~~.—

1736 (1) It is the intent of the Legislature that rules adopted
1737 and enforced under this part and part II of chapter 408 include
1738 criteria by which a reasonable and consistent quality of



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1739 resident care may be ensured, the results of such resident care
1740 can be demonstrated, and safe and sanitary facilities can be
1741 provided.

1742 (2) Pursuant to the intention of the Legislature, the
1743 agency, in consultation with the Agency for Persons with
1744 Disabilities and the Department of Elderly Affairs, shall adopt
1745 and enforce rules to administer this part and part II of chapter
1746 408, which shall include reasonable and fair criteria governing:

1747 (a) The location and construction of the facility;
1748 including fire and life safety, plumbing, heating, cooling,
1749 lighting, ventilation, and other housing conditions that will
1750 ensure the health, safety, and comfort of residents. The agency
1751 shall establish standards for facilities and equipment to
1752 increase the extent to which new facilities and a new wing or
1753 floor added to an existing facility after July 1, 2000, are
1754 structurally capable of serving as shelters only for residents,
1755 staff, and families of residents and staff, and equipped to be
1756 self-supporting during and immediately following disasters. The
1757 Agency for Health Care Administration shall work with facilities
1758 licensed under this part and report to the Governor and the
1759 Legislature by April 1, 2000, its recommendations for cost-
1760 effective renovation standards to be applied to existing
1761 facilities. In making such rules, the agency shall be guided by
1762 criteria recommended by nationally recognized, reputable
1763 professional groups and associations having knowledge concerning
1764 such subject matters. The agency shall update or revise such
1765 criteria as the need arises. All facilities must comply with
1766 those lifesafety code requirements and building code standards
1767 applicable at the time of approval of their construction plans.



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1768 The agency may require alterations to a building if it
1769 determines that an existing condition constitutes a distinct
1770 hazard to life, health, or safety. The agency shall adopt fair
1771 and reasonable rules setting forth conditions under which
1772 existing facilities undergoing additions, alterations,
1773 conversions, renovations, or repairs are required to comply with
1774 the most recent updated or revised standards.

1775 (b) The number and qualifications of all personnel,
1776 including management, medical nursing, and other personnel,
1777 having responsibility for any part of the care given to
1778 residents.

1779 (c) All sanitary conditions within the facility and its
1780 surroundings, including water supply, sewage disposal, food
1781 handling, and general hygiene, which will ensure the health and
1782 comfort of residents.

1783 (d) The equipment essential to the health and welfare of
1784 the residents.

1785 (e) A uniform accounting system.

1786 (f) The care, treatment, and maintenance of residents and
1787 measurement of the quality and adequacy thereof.

1788 (g) The preparation and annual update of a comprehensive
1789 emergency management plan. The agency shall adopt rules
1790 establishing minimum criteria for the plan after consultation
1791 with the Department of Community Affairs. At a minimum, the
1792 rules must provide for plan components that address emergency
1793 evacuation transportation; adequate sheltering arrangements;
1794 postdisaster activities, including emergency power, food, and
1795 water; postdisaster transportation; supplies; staffing;
1796 emergency equipment; individual identification of residents and



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1797 transfer of records; and responding to family inquiries. The
1798 comprehensive emergency management plan is subject to review and
1799 approval by the local emergency management agency. During its
1800 review, the local emergency management agency shall ensure that
1801 the following agencies, at a minimum, are given the opportunity
1802 to review the plan: the Department of Elderly Affairs, the
1803 Agency for Persons with Disabilities, the Agency for Health Care
1804 Administration, and the Department of Community Affairs. Also,
1805 appropriate volunteer organizations must be given the
1806 opportunity to review the plan. The local emergency management
1807 agency shall complete its review within 60 days and either
1808 approve the plan or advise the facility of necessary revisions.

1809 (h) The use of restraint and seclusion. Such rules must be
1810 consistent with recognized best practices; prohibit inherently
1811 dangerous restraint or seclusion procedures; establish
1812 limitations on the use and duration of restraint and seclusion;
1813 establish measures to ensure the safety of clients and staff
1814 during an incident of restraint or seclusion; establish
1815 procedures for staff to follow before, during, and after
1816 incidents of restraint or seclusion, including individualized
1817 plans for the use of restraints or seclusion in emergency
1818 situations; establish professional qualifications of and
1819 training for staff who may order or be engaged in the use of
1820 restraint or seclusion; establish requirements for facility data
1821 collection and reporting relating to the use of restraint and
1822 seclusion; and establish procedures relating to the
1823 documentation of the use of restraint or seclusion in the
1824 client's facility or program record.

1825 (3) The agency shall adopt rules to provide that, when the



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1826 criteria established under this part and part II of chapter 408
1827 are not met, such violations ~~deficiencies~~ shall be classified
1828 according to the nature of the violation ~~deficiency~~. The agency
1829 shall indicate the classification on the face of the notice of
1830 violations ~~deficiencies~~ as follows:

1831 (a) Class I violations ~~deficiencies~~ are defined in s.
1832 408.813. ~~those which the agency determines present an imminent~~
1833 ~~danger to the residents or guests of the facility or a~~
1834 ~~substantial probability that death or serious physical harm~~
1835 ~~would result therefrom. The condition or practice constituting a~~
1836 ~~class I violation must be abated or eliminated immediately,~~
1837 ~~unless a fixed period of time, as determined by the agency, is~~
1838 ~~required for correction.~~ A class I violation ~~deficiency~~ is
1839 subject to a civil penalty in an amount not less than \$5,000 and
1840 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may
1841 be levied notwithstanding the correction of the violation
1842 ~~deficiency~~.

1843 (b) Class II violations ~~deficiencies~~ are defined in s.
1844 408.813. ~~those which the agency determines have a direct or~~
1845 ~~immediate relationship to the health, safety, or security of the~~
1846 ~~facility residents, other than class I deficiencies.~~ A class II
1847 violation ~~deficiency~~ is subject to a civil penalty in an amount
1848 not less than \$1,000 and not exceeding \$5,000 for each
1849 deficiency. A citation for a class II violation ~~deficiency~~ shall
1850 specify the time within which the violation ~~deficiency~~ must be
1851 corrected. If a class II violation ~~deficiency~~ is corrected
1852 within the time specified, no civil penalty shall be imposed,
1853 unless it is a repeated offense.

1854 (c) Class III violations ~~deficiencies~~ are defined in s.



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1855 ~~408.813. those which the agency determines to have an indirect~~
1856 ~~or potential relationship to the health, safety, or security of~~
1857 ~~the facility residents, other than class I or class II~~
1858 ~~deficiencies.~~ A class III violation deficiency is subject to a
1859 civil penalty of not less than \$500 and not exceeding \$1,000 for
1860 each violation ~~deficiency~~. A citation for a class III violation
1861 ~~deficiency~~ shall specify the time within which the violation
1862 ~~deficiency~~ must be corrected. If a class III violation
1863 ~~deficiency~~ is corrected within the time specified, no civil
1864 penalty shall be imposed, unless it is a repeated offense.

1865 (d) Class IV violations are defined in s. 408.813.

1866 (4) The agency shall approve or disapprove the plans and
1867 specifications within 60 days after receipt of the final plans
1868 and specifications. The agency may be granted one 15-day
1869 extension for the review period, if the secretary of the agency
1870 so approves. If the agency fails to act within the specified
1871 time, it is deemed to have approved the plans and
1872 specifications. When the agency disapproves plans and
1873 specifications, it must set forth in writing the reasons for
1874 disapproval. Conferences and consultations may be provided as
1875 necessary.

1876 (5) The agency may charge an initial fee of \$2,000 for
1877 review of plans and construction on all projects, no part of
1878 which is refundable. The agency may also collect a fee, not to
1879 exceed 1 percent of the estimated construction cost or the
1880 actual cost of review, whichever is less, for the portion of the
1881 review that ~~which~~ encompasses initial review through the initial
1882 revised construction document review. The agency may collect its
1883 actual costs on all subsequent portions of the review and



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1884 construction inspections. Initial fee payment must accompany the
1885 initial submission of plans and specifications. Any subsequent
1886 payment that is due is payable upon receipt of the invoice from
1887 the agency. Notwithstanding any other ~~provision of~~ law, all
1888 money received by the agency under this section shall be deemed
1889 to be trust funds, to be held and applied solely for the
1890 operations required under this section.

1891 Section 46. Subsections (4) and (7) of section 400.9905,
1892 Florida Statutes, are amended to read:

1893 400.9905 Definitions.—

1894 (4) "Clinic" means an entity where ~~at which~~ health care
1895 services are provided to individuals and which tenders charges
1896 for reimbursement for such services, including a mobile clinic
1897 and a portable service or equipment provider. For purposes of
1898 this part, the term does not include and the licensure
1899 requirements of this part do not apply to:

1900 (a) Entities licensed or registered by the state under
1901 chapter 395; or entities licensed or registered by the state and
1902 providing only health care services within the scope of services
1903 authorized under their respective licenses granted under ss.
1904 383.30-383.335, chapter 390, chapter 394, chapter 397, this
1905 chapter except part X, chapter 429, chapter 463, chapter 465,
1906 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
1907 chapter 651; end-stage renal disease providers authorized under
1908 42 C.F.R. part 405, subpart U; or providers certified under 42
1909 C.F.R. part 485, subpart B or subpart H; or any entity that
1910 provides neonatal or pediatric hospital-based health care
1911 services or other health care services by licensed practitioners
1912 solely within a hospital licensed under chapter 395.



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1913 (b) Entities that own, directly or indirectly, entities
1914 licensed or registered by the state pursuant to chapter 395; or
1915 entities that own, directly or indirectly, entities licensed or
1916 registered by the state and providing only health care services
1917 within the scope of services authorized pursuant to their
1918 respective licenses granted under ss. 383.30-383.335, chapter
1919 390, chapter 394, chapter 397, this chapter except part X,
1920 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1921 part I of chapter 483, chapter 484, chapter 651; end-stage renal
1922 disease providers authorized under 42 C.F.R. part 405, subpart
1923 U; or providers certified under 42 C.F.R. part 485, subpart B or
1924 subpart H; or any entity that provides neonatal or pediatric
1925 hospital-based health care services by licensed practitioners
1926 solely within a hospital licensed under chapter 395.

1927 (c) Entities that are owned, directly or indirectly, by an
1928 entity licensed or registered by the state pursuant to chapter
1929 395; or entities that are owned, directly or indirectly, by an
1930 entity licensed or registered by the state and providing only
1931 health care services within the scope of services authorized
1932 pursuant to their respective licenses granted under ss. 383.30-
1933 383.335, chapter 390, chapter 394, chapter 397, this chapter
1934 except part X, chapter 429, chapter 463, chapter 465, chapter
1935 466, chapter 478, part I of chapter 483, chapter 484, or chapter
1936 651; end-stage renal disease providers authorized under 42
1937 C.F.R. part 405, subpart U; or providers certified under 42
1938 C.F.R. part 485, subpart B or subpart H; or any entity that
1939 provides neonatal or pediatric hospital-based health care
1940 services by licensed practitioners solely within a hospital
1941 under chapter 395.



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1942 (d) Entities that are under common ownership, directly or
1943 indirectly, with an entity licensed or registered by the state
1944 pursuant to chapter 395; or entities that are under common
1945 ownership, directly or indirectly, with an entity licensed or
1946 registered by the state and providing only health care services
1947 within the scope of services authorized pursuant to their
1948 respective licenses granted under ss. 383.30-383.335, chapter
1949 390, chapter 394, chapter 397, this chapter except part X,
1950 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1951 part I of chapter 483, chapter 484, or chapter 651; end-stage
1952 renal disease providers authorized under 42 C.F.R. part 405,
1953 subpart U; or providers certified under 42 C.F.R. part 485,
1954 subpart B or subpart H; or any entity that provides neonatal or
1955 pediatric hospital-based health care services by licensed
1956 practitioners solely within a hospital licensed under chapter
1957 395.

1958 (e) An entity that is exempt from federal taxation under 26
1959 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
1960 under 26 U.S.C. s. 409 that has a board of trustees not less
1961 than two-thirds of which are Florida-licensed health care
1962 practitioners and provides only physical therapy services under
1963 physician orders, any community college or university clinic,
1964 and any entity owned or operated by the federal or state
1965 government, including agencies, subdivisions, or municipalities
1966 thereof.

1967 (f) A sole proprietorship, group practice, partnership, or
1968 corporation that provides health care services by physicians
1969 covered by s. 627.419, that is directly supervised by one or
1970 more of such physicians, and that is wholly owned by one or more



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1971 of those physicians or by a physician and the spouse, parent,
1972 child, or sibling of that physician.

1973 (g) A sole proprietorship, group practice, partnership, or
1974 corporation that provides health care services by licensed
1975 health care practitioners under chapter 457, chapter 458,
1976 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
1977 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
1978 chapter 490, chapter 491, or part I, part III, part X, part
1979 XIII, or part XIV of chapter 468, or s. 464.012, which are
1980 wholly owned by one or more licensed health care practitioners,
1981 or the licensed health care practitioners set forth in this
1982 paragraph and the spouse, parent, child, or sibling of a
1983 licensed health care practitioner, so long as one of the owners
1984 who is a licensed health care practitioner is supervising the
1985 business activities and is legally responsible for the entity's
1986 compliance with all federal and state laws. However, a health
1987 care practitioner may not supervise services beyond the scope of
1988 the practitioner's license, except that, for the purposes of
1989 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
1990 provides only services authorized pursuant to s. 456.053(3)(b)
1991 may be supervised by a licensee specified in s. 456.053(3)(b).

1992 (h) Clinical facilities affiliated with an accredited
1993 medical school at which training is provided for medical
1994 students, residents, or fellows.

1995 (i) Entities that provide only oncology or radiation
1996 therapy services by physicians licensed under chapter 458 or
1997 chapter 459 or entities that provide oncology or radiation
1998 therapy services by physicians licensed under chapter 458 or
1999 chapter 459 which are owned by a corporation whose shares are



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publicly traded on a recognized stock exchange.

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

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

(l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or perinatology clinical facilities that are a publicly traded corporation or that are wholly owned, directly or indirectly, by a publicly traded corporation. As used in this paragraph, a publicly traded corporation is a corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange.

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

Section 47. Subsections (1) and (4) of section 400.991, Florida Statutes, are amended to read:

400.991 License requirements; background screenings; prohibitions.-



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2029 (1) (a) The requirements of part II of chapter 408 apply to
2030 the provision of services that require licensure pursuant to
2031 this part and part II of chapter 408 and to entities licensed by
2032 or applying for such licensure from the agency pursuant to this
2033 part. A license issued by the agency is required in order to
2034 operate a clinic in this state. Each clinic location shall be
2035 licensed separately regardless of whether the clinic is operated
2036 under the same business name or management as another clinic.

2037 (b) Each mobile clinic must obtain a separate health care
2038 clinic license and must provide to the agency, at least
2039 quarterly, its projected street location to enable the agency to
2040 locate and inspect such clinic. A portable service or equipment
2041 provider must obtain a health care clinic license for a single
2042 administrative office and is not required to submit quarterly
2043 projected street locations.

2044 (4) In addition to the requirements of part II of chapter
2045 408, the applicant must file with the application satisfactory
2046 proof that the clinic is in compliance with this part and
2047 applicable rules, including:

2048 (a) A listing of services to be provided either directly by
2049 the applicant or through contractual arrangements with existing
2050 providers;

2051 (b) The number and discipline of each professional staff
2052 member to be employed; and

2053 (c) Proof of financial ability to operate as required under
2054 ss. 408.8065 and s. 408.810(8). ~~As an alternative to submitting~~
2055 ~~proof of financial ability to operate as required under s.~~
2056 ~~408.810(8), the applicant may file a surety bond of at least~~
2057 ~~\$500,000 which guarantees that the clinic will act in full~~



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2058 ~~conformity with all legal requirements for operating a clinic,~~
2059 ~~payable to the agency. The agency may adopt rules to specify~~
2060 ~~related requirements for such surety bond.~~

2061 Section 48. Paragraph (g) of subsection (1) and paragraph
2062 (a) of subsection (7) of section 400.9935, Florida Statutes, are
2063 amended to read:

2064 400.9935 Clinic responsibilities.-

2065 (1) Each clinic shall appoint a medical director or clinic
2066 director who shall agree in writing to accept legal
2067 responsibility for the following activities on behalf of the
2068 clinic. The medical director or the clinic director shall:

2069 (g) Conduct systematic reviews of clinic billings to ensure
2070 that the billings are not fraudulent or unlawful. Upon discovery
2071 of an unlawful charge, the medical director or clinic director
2072 shall take immediate corrective action. If the clinic performs
2073 only the technical component of magnetic resonance imaging,
2074 static radiographs, computed tomography, or positron emission
2075 tomography, and provides the professional interpretation of such
2076 services, in a fixed facility that is accredited by the Joint
2077 Commission ~~on Accreditation of Healthcare Organizations~~ or the
2078 Accreditation Association for Ambulatory Health Care, and the
2079 American College of Radiology; and if, in the preceding quarter,
2080 the percentage of scans performed by that clinic which was
2081 billed to all personal injury protection insurance carriers was
2082 less than 15 percent, the chief financial officer of the clinic
2083 may, in a written acknowledgment provided to the agency, assume
2084 the responsibility for the conduct of the systematic reviews of
2085 clinic billings to ensure that the billings are not fraudulent
2086 or unlawful.



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2087 (7) (a) Each clinic engaged in magnetic resonance imaging
2088 services must be accredited by the Joint Commission ~~on~~
2089 ~~Accreditation of Healthcare Organizations~~, the American College
2090 of Radiology, or the Accreditation Association for Ambulatory
2091 Health Care, within 1 year after licensure. A clinic that is
2092 accredited by the American College of Radiology or is within the
2093 original 1-year period after licensure and replaces its core
2094 magnetic resonance imaging equipment shall be given 1 year after
2095 the date on which the equipment is replaced to attain
2096 accreditation. However, a clinic may request a single, 6-month
2097 extension if it provides evidence to the agency establishing
2098 that, for good cause shown, such clinic cannot be accredited
2099 within 1 year after licensure, and that such accreditation will
2100 be completed within the 6-month extension. After obtaining
2101 accreditation as required by this subsection, each such clinic
2102 must maintain accreditation as a condition of renewal of its
2103 license. A clinic that files a change of ownership application
2104 must comply with the original accreditation timeframe
2105 requirements of the transferor. The agency shall deny a change
2106 of ownership application if the clinic is not in compliance with
2107 the accreditation requirements. When a clinic adds, replaces, or
2108 modifies magnetic resonance imaging equipment and the
2109 accreditation agency requires new accreditation, the clinic must
2110 be accredited within 1 year after the date of the addition,
2111 replacement, or modification but may request a single, 6-month
2112 extension if the clinic provides evidence of good cause to the
2113 agency.

2114 Section 49. Subsection (2) of section 408.034, Florida
2115 Statutes, is amended to read:



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2116 408.034 Duties and responsibilities of agency; rules.-
2117 (2) In the exercise of its authority to issue licenses to
2118 health care facilities and health service providers, as provided
2119 under chapters 393 and 395 and parts II, and IV, and VIII of
2120 chapter 400, the agency may not issue a license to any health
2121 care facility or health service provider that fails to receive a
2122 certificate of need or an exemption for the licensed facility or
2123 service.

2124 Section 50. Paragraph (d) of subsection (1) of section
2125 408.036, Florida Statutes, is amended to read:

2126 408.036 Projects subject to review; exemptions.-

2127 (1) APPLICABILITY.-Unless exempt under subsection (3), all
2128 health-care-related projects, as described in paragraphs (a)-
2129 (g), are subject to review and must file an application for a
2130 certificate of need with the agency. The agency is exclusively
2131 responsible for determining whether a health-care-related
2132 project is subject to review under ss. 408.031-408.045.

2133 (d) The establishment of a hospice or hospice inpatient
2134 facility, ~~except as provided in s. 408.043.~~

2135 Section 51. Subsection (2) of section 408.043, Florida
2136 Statutes, is amended to read:

2137 408.043 Special provisions.-

2138 (2) HOSPICES.-When an application is made for a certificate
2139 of need to establish or to expand a hospice, the need for such
2140 hospice shall be determined on the basis of the need for and
2141 availability of hospice services in the community. The formula
2142 on which the certificate of need is based shall discourage
2143 regional monopolies and promote competition. The inpatient
2144 hospice care component of a hospice that ~~which~~ is a freestanding



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2145 facility, or a part of a facility, ~~which is primarily engaged in~~
2146 ~~providing inpatient care and related services~~ and is not
2147 licensed as a health care facility shall also be required to
2148 obtain a certificate of need. Provision of hospice care by any
2149 current provider of health care is a significant change in
2150 service and therefore requires a certificate of need for such
2151 services.

2152 Section 52. Paragraph (k) of subsection (3) of section
2153 408.05, Florida Statutes, is amended to read:

2154 408.05 Florida Center for Health Information and Policy
2155 Analysis.—

2156 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
2157 produce comparable and uniform health information and statistics
2158 for the development of policy recommendations, the agency shall
2159 perform the following functions:

2160 (k) Develop, in conjunction with the State Consumer Health
2161 Information and Policy Advisory Council, and implement a long-
2162 range plan for making available health care quality measures and
2163 financial data that will allow consumers to compare health care
2164 services. The health care quality measures and financial data
2165 the agency must make available shall include, but is not limited
2166 to, pharmaceuticals, physicians, health care facilities, and
2167 health plans and managed care entities. The agency shall submit
2168 the initial plan to the Governor, the President of the Senate,
2169 and the Speaker of the House of Representatives by January 1,
2170 2006, and shall update the plan and report on the status of its
2171 implementation annually thereafter. The agency shall also make
2172 the plan and status report available to the public on its
2173 Internet website. As part of the plan, the agency shall identify



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2174 the process and timeframes for implementation, any barriers to
2175 implementation, and recommendations of changes in the law that
2176 may be enacted by the Legislature to eliminate the barriers. As
2177 preliminary elements of the plan, the agency shall:

2178 1. Make available patient-safety indicators, inpatient
2179 quality indicators, and performance outcome and patient charge
2180 data collected from health care facilities pursuant to s.
2181 408.061(1)(a) and (2). The terms "patient-safety indicators" and
2182 "inpatient quality indicators" shall be as defined by the
2183 Centers for Medicare and Medicaid Services, the National Quality
2184 Forum, the Joint Commission ~~on Accreditation of Healthcare~~
2185 ~~Organizations~~, the Agency for Healthcare Research and Quality,
2186 the Centers for Disease Control and Prevention, or a similar
2187 national entity that establishes standards to measure the
2188 performance of health care providers, or by other states. The
2189 agency shall determine which conditions, procedures, health care
2190 quality measures, and patient charge data to disclose based upon
2191 input from the council. When determining which conditions and
2192 procedures are to be disclosed, the council and the agency shall
2193 consider variation in costs, variation in outcomes, and
2194 magnitude of variations and other relevant information. When
2195 determining which health care quality measures to disclose, the
2196 agency:

2197 a. Shall consider such factors as volume of cases; average
2198 patient charges; average length of stay; complication rates;
2199 mortality rates; and infection rates, among others, which shall
2200 be adjusted for case mix and severity, if applicable.

2201 b. May consider such additional measures ~~that are~~ adopted
2202 by the Centers for Medicare and Medicaid Studies, National



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2203 Quality Forum, the Joint Commission ~~on Accreditation of~~
2204 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
2205 Quality, Centers for Disease Control and Prevention, or a
2206 similar national entity that establishes standards to measure
2207 the performance of health care providers, or by other states.
2208

2209 When determining which patient charge data to disclose, the
2210 agency shall include such measures as the average of
2211 undiscounted charges on frequently performed procedures and
2212 preventive diagnostic procedures, the range of procedure charges
2213 from highest to lowest, average net revenue per adjusted patient
2214 day, average cost per adjusted patient day, and average cost per
2215 admission, among others.

2216 2. Make available performance measures, benefit design, and
2217 premium cost data from health plans licensed pursuant to chapter
2218 627 or chapter 641. The agency shall determine which health care
2219 quality measures and member and subscriber cost data to
2220 disclose, based upon input from the council. When determining
2221 which data to disclose, the agency shall consider information
2222 that may be required by either individual or group purchasers to
2223 assess the value of the product, which may include membership
2224 satisfaction, quality of care, current enrollment or membership,
2225 coverage areas, accreditation status, premium costs, plan costs,
2226 premium increases, range of benefits, copayments and
2227 deductibles, accuracy and speed of claims payment, credentials
2228 of physicians, number of providers, names of network providers,
2229 and hospitals in the network. Health plans shall make available
2230 to the agency any such data or information that is not currently
2231 reported to the agency or the office.



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2232 3. Determine the method and format for public disclosure of
2233 data reported pursuant to this paragraph. The agency shall make
2234 its determination based upon input from the State Consumer
2235 Health Information and Policy Advisory Council. At a minimum,
2236 the data shall be made available on the agency's Internet
2237 website in a manner that allows consumers to conduct an
2238 interactive search that allows them to view and compare the
2239 information for specific providers. The website must include
2240 such additional information as is determined necessary to ensure
2241 that the website enhances informed decisionmaking among
2242 consumers and health care purchasers, which shall include, at a
2243 minimum, appropriate guidance on how to use the data and an
2244 explanation of why the data may vary from provider to provider.
2245 The data specified in subparagraph 1. shall be released no later
2246 than January 1, 2006, for the reporting of infection rates, and
2247 no later than October 1, 2005, for mortality rates and
2248 complication rates. The data specified in subparagraph 2. shall
2249 be released no later than October 1, 2006.

2250 4. Publish on its website undiscounted charges for no fewer
2251 than 150 of the most commonly performed adult and pediatric
2252 procedures, including outpatient, inpatient, diagnostic, and
2253 preventative procedures.

2254 Section 53. Paragraph (a) of subsection (1) of section
2255 408.061, Florida Statutes, is amended to read:

2256 408.061 Data collection; uniform systems of financial
2257 reporting; information relating to physician charges;
2258 confidential information; immunity.—

2259 (1) The agency shall require the submission by health care
2260 facilities, health care providers, and health insurers of data



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2261 necessary to carry out the agency's duties. Specifications for
2262 data to be collected under this section shall be developed by
2263 the agency with the assistance of technical advisory panels
2264 including representatives of affected entities, consumers,
2265 purchasers, and such other interested parties as may be
2266 determined by the agency.

2267 (a) Data submitted by health care facilities, including the
2268 facilities as defined in chapter 395, shall include, but are not
2269 limited to: case-mix data, patient admission and discharge data,
2270 hospital emergency department data that ~~which shall~~ include the
2271 number of patients treated in the emergency department of a
2272 licensed hospital reported by patient acuity level, data on
2273 hospital-acquired infections as specified by rule, data on
2274 complications as specified by rule, data on readmissions as
2275 specified by rule, with patient and provider-specific
2276 identifiers included, actual charge data by diagnostic groups,
2277 financial data, accounting data, operating expenses, expenses
2278 incurred for rendering services to patients who cannot or do not
2279 pay, interest charges, depreciation expenses based on the
2280 expected useful life of the property and equipment involved, and
2281 demographic data. The agency shall adopt nationally recognized
2282 risk adjustment methodologies or software consistent with the
2283 standards of the Agency for Healthcare Research and Quality and
2284 as selected by the agency for all data submitted as required by
2285 this section. Data may be obtained from documents such as, but
2286 not limited to: leases, contracts, debt instruments, itemized
2287 patient bills, medical record abstracts, and related diagnostic
2288 information. Reported data elements shall be reported
2289 electronically and ~~in accordance with rule 59E-7.012, Florida~~



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2290 ~~Administrative Code. Data submitted shall be~~ certified by the
2291 chief executive officer or an appropriate and duly authorized
2292 representative or employee of the licensed facility that the
2293 information submitted is true and accurate.

2294 Section 54. Subsection (1) of section 408.10, Florida
2295 Statutes, is amended to read:

2296 408.10 Consumer complaints.—The agency shall:

2297 (1) Publish and make available to the public a toll-free
2298 telephone number for the purpose of handling consumer complaints
2299 and shall serve as a liaison between consumer entities and other
2300 private entities and governmental entities for the disposition
2301 of problems identified by consumers of health care. The agency
2302 may provide staffing for this toll-free number through agency
2303 staff or other arrangements.

2304 Section 55. Subsection (11) of section 408.802, Florida
2305 Statutes, is repealed.

2306 Section 56. Effective October 1, 2010, subsection (3) is
2307 added to section 408.804, Florida Statutes, to read:

2308 408.804 License required; display.—

2309 (3) A person who knowingly alters, defaces, or falsifies
2310 any license certificate issued by the agency, or causes or
2311 procures another person to commit such an offense, commits a
2312 misdemeanor of the second degree, punishable as provided in s.
2313 775.082 or s. 775.083. Any licensee or provider who displays an
2314 altered, defaced, or falsified license certificate is subject to
2315 the penalties set forth in s. 408.815 and an administrative fine
2316 of \$1,000 for each day of illegal display.

2317 Section 57. Paragraph (d) of subsection (2) of section
2318 408.806, Florida Statutes, is amended to read:



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2319 408.806 License application process.-

2320 (2)

2321 ~~(d) The agency shall notify the licensee by mail or~~
2322 ~~electronically at least 90 days before the expiration of a~~
2323 ~~license that a renewal license is necessary to continue~~
2324 ~~operation.~~ The failure of the licensee to timely submit a
2325 renewal application and license application fee with the agency
2326 shall result in a \$50 per day late fee charged to the licensee
2327 by the agency; however, the aggregate amount of the late fee may
2328 not exceed 50 percent of the licensure fee or \$500, whichever is
2329 less. The agency shall provide a courtesy notice to the licensee
2330 by United States mail, electronically, or by any other manner at
2331 its address of record at least 90 days before the expiration of
2332 a license informing the licensee of the expiration of the
2333 license. Any failure of the agency to provide the courtesy
2334 notice or any failure of the licensee to receive the courtesy
2335 notice does not excuse the licensee from the legal obligation to
2336 timely file the renewal application and license application fee
2337 with the agency and does not mitigate the late fee. Payment of
2338 the late fee is required in order for any late application to be
2339 complete, and failure to pay the late fee is an omission from
2340 the application. ~~If an application is received after the~~
2341 ~~required filing date and exhibits a hand-canceled postmark~~
2342 ~~obtained from a United States post office dated on or before the~~
2343 ~~required filing date, no fine will be levied.~~

2344 Section 58. Subsections (6) and (9) of section 408.810,
2345 Florida Statutes, are amended to read:

2346 408.810 Minimum licensure requirements.-In addition to the
2347 licensure requirements specified in this part, authorizing



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2348 statutes, and applicable rules, each applicant and licensee must
2349 comply with the requirements of this section in order to obtain
2350 and maintain a license.

2351 (6)(a) An applicant must provide the agency with proof of
2352 the applicant's legal right to occupy the property before a
2353 license may be issued. Proof may include, but need not be
2354 limited to, copies of warranty deeds, lease or rental
2355 agreements, contracts for deeds, quitclaim deeds, or other such
2356 documentation.

2357 (b) If the property is encumbered by a mortgage or is
2358 leased, an applicant must provide the agency with proof that the
2359 mortgagor or landlord has received written notice of the
2360 applicant's intent, as mortgagee or tenant, to provide services
2361 that require licensure and with instructions that the agency
2362 must be served by certified mail with copies of any actions
2363 initiated by the mortgagor or landlord against applicant.

2364 (9) A controlling interest may not withhold from the agency
2365 any evidence of financial instability, including, but not
2366 limited to, checks returned due to insufficient funds,
2367 delinquent accounts, nonpayment of withholding taxes, unpaid
2368 utility expenses, nonpayment for essential services, or adverse
2369 court action concerning the financial viability of the provider
2370 or any other provider licensed under this part which ~~that~~ is
2371 under the control of the controlling interest. A controlling
2372 interest shall notify the agency within 10 days after a court
2373 action, including, but not limited to, the initiation of
2374 bankruptcy proceedings, foreclosure, or eviction proceedings in
2375 which the controlling interest is a petitioner or defendant. Any
2376 person who violates this subsection commits a misdemeanor of the



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2377 second degree, punishable as provided in s. 775.082 or s.
2378 775.083. Each day of continuing violation is a separate offense.

2379 Section 59. Paragraph (e) is added to subsection (2) of
2380 section 408.813, Florida Statutes, to read:

2381 408.813 Administrative fines; violations.—As a penalty for
2382 any violation of this part, authorizing statutes, or applicable
2383 rules, the agency may impose an administrative fine.

2384 (2) Violations of this part, authorizing statutes, or
2385 applicable rules shall be classified according to the nature of
2386 the violation and the gravity of its probable effect on clients.
2387 The scope of a violation may be cited as an isolated, patterned,
2388 or widespread deficiency. An isolated deficiency is a deficiency
2389 affecting one or a very limited number of clients, or involving
2390 one or a very limited number of staff, or a situation that
2391 occurred only occasionally or in a very limited number of
2392 locations. A patterned deficiency is a deficiency in which more
2393 than a very limited number of clients are affected, or more than
2394 a very limited number of staff are involved, or the situation
2395 has occurred in several locations, or the same client or clients
2396 have been affected by repeated occurrences of the same deficient
2397 practice but the effect of the deficient practice is not found
2398 to be pervasive throughout the provider. A widespread deficiency
2399 is a deficiency in which the problems causing the deficiency are
2400 pervasive in the provider or represent systemic failure that has
2401 affected or has the potential to affect a large portion of the
2402 provider's clients. This subsection does not affect the
2403 legislative determination of the amount of a fine imposed under
2404 authorizing statutes. Violations shall be classified on the
2405 written notice as follows:



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2406 (e) The agency may impose an administrative fine for
2407 violations that do not qualify as class I, class II, class III,
2408 or class IV violations. The amount of the fine may not exceed
2409 \$500 for each violation. Unclassified violations may include:
2410 1. Violating any term or condition of a license.
2411 2. Violating any provision of this part, authorizing
2412 statutes, or applicable rules.
2413 3. Exceeding licensed capacity without authorization.
2414 4. Providing services beyond the scope of the license.
2415 5. Violating a moratorium.
2416 Section 60. Subsection (5) is added to section 408.815,
2417 Florida Statutes, to read:
2418 408.815 License or application denial; revocation.—
2419 (5) In order to ensure the health, safety, and welfare of
2420 clients when a license has been denied or revoked or is set to
2421 terminate, the agency may extend the license expiration date for
2422 up to 60 days after denial, revocation, or termination for the
2423 sole purpose of allowing the safe and orderly discharge of
2424 clients. The agency may impose conditions on the extension,
2425 including, but not limited to, prohibiting or limiting
2426 admissions, expediting discharge planning, submitting required
2427 status reports, and mandatory monitoring by the agency or third
2428 parties. The agency may terminate the extension or modify the
2429 conditions at any time at its discretion. Upon the discharge of
2430 the final client, the extension shall immediately terminate and
2431 the provider shall cease operation and promptly surrender its
2432 license certificate to the agency. During the extension, the
2433 provider must continue to meet all other requirements of this
2434 part, authorizing statutes, and applicable rules. This authority



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2435 is in addition to any other authority granted to the agency
2436 under chapter 120, this part, and the authorizing statutes, but
2437 does not create any right or entitlement to an extension of a
2438 license expiration date.

2439 Section 61. Paragraph (d) is added to subsection (13) of
2440 section 409.906, Florida Statutes, to read:

2441 409.906 Optional Medicaid services.—Subject to specific
2442 appropriations, the agency may make payments for services which
2443 are optional to the state under Title XIX of the Social Security
2444 Act and are furnished by Medicaid providers to recipients who
2445 are determined to be eligible on the dates on which the services
2446 were provided. Any optional service that is provided shall be
2447 provided only when medically necessary and in accordance with
2448 state and federal law. Optional services rendered by providers
2449 in mobile units to Medicaid recipients may be restricted or
2450 prohibited by the agency. Nothing in this section shall be
2451 construed to prevent or limit the agency from adjusting fees,
2452 reimbursement rates, lengths of stay, number of visits, or
2453 number of services, or making any other adjustments necessary to
2454 comply with the availability of moneys and any limitations or
2455 directions provided for in the General Appropriations Act or
2456 chapter 216. If necessary to safeguard the state's systems of
2457 providing services to elderly and disabled persons and subject
2458 to the notice and review provisions of s. 216.177, the Governor
2459 may direct the Agency for Health Care Administration to amend
2460 the Medicaid state plan to delete the optional Medicaid service
2461 known as "Intermediate Care Facilities for the Developmentally
2462 Disabled." Optional services may include:

2463 (13) HOME AND COMMUNITY-BASED SERVICES.—



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2464 (d) The agency, in consultation with the Department of
2465 Elderly Affairs, shall phase out the adult day health care
2466 waiver program and transfer existing waiver enrollees to other
2467 appropriate home and community-based service programs. Effective
2468 July 1, 2010, the adult day health care waiver program shall
2469 cease to enroll new members. Existing enrollees in the adult day
2470 health care program shall receive counseling regarding available
2471 options and shall be offered an alternative home and community-
2472 based services program based on eligibility and personal choice.
2473 Each enrollee in the waiver program shall continue to receive
2474 home and community-based services without interruption in the
2475 enrollee's program of choice. The providers of the adult day
2476 health care waiver program, in consultation with resource
2477 centers for the aged, shall assist in the transition of
2478 enrollees and cease provision of adult day health care waiver
2479 services by December 31, 2010. The agency may seek federal
2480 waiver approval to administer this change.

2481 Section 62. Paragraph (k) of subsection (4) of section
2482 409.221, Florida Statutes, is repealed.

2483 Section 63. Paragraphs (e), (f), and (g) of subsection (15)
2484 of section 409.912, Florida Statutes, are repealed.

2485 Section 64. Section 429.07, Florida Statutes, is amended to
2486 read:

2487 429.07 License required; fee; and inspections.-

2488 (1) The requirements of part II of chapter 408 apply to the
2489 provision of services that require licensure pursuant to this
2490 part and part II of chapter 408 and to entities licensed by or
2491 applying for such licensure from the agency pursuant to this
2492 part. A license issued by the agency is required in order to



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2493 operate an assisted living facility in this state.

2494 (2) Separate licenses shall be required for facilities
2495 maintained in separate premises, even though operated under the
2496 same management. A separate license shall not be required for
2497 separate buildings on the same grounds.

2498 (3) In addition to the requirements of s. 408.806, each
2499 license granted by the agency must state the type of care for
2500 which the license is granted. Licenses shall be issued for one
2501 or more of the following categories of care: standard, extended
2502 congregate care, ~~limited nursing services~~, or limited mental
2503 health.

2504 (a) A standard license shall be issued to a facility that
2505 provides facilities providing one or more of the personal
2506 services identified in s. 429.02. Such licensee facilities may
2507 also employ or contract with a person ~~licensed under part I of~~
2508 ~~chapter 464 to administer medications and perform other tasks as~~
2509 specified in s. 429.255.

2510 (b) An extended congregate care license shall be issued to
2511 a licensee that provides facilities providing, directly or
2512 through contract, services beyond those authorized in paragraph
2513 (a), including acts performed pursuant to part I of chapter 464
2514 by persons licensed thereunder, and supportive services defined
2515 by rule to persons who otherwise would be disqualified from
2516 continued residence in a facility licensed under this part.

2517 1. In order for extended congregate care services to be
2518 provided in a facility licensed under this part, the agency must
2519 first determine that all requirements established in law and
2520 rule are met and must specifically designate, on the ~~facility's~~
2521 license, that such services may be provided and whether the



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2522 designation applies to all or part of a facility. Such
2523 designation may be made at the time of initial licensure or
2524 relicensure, or upon request in writing by a licensee under this
2525 part and part II of chapter 408. Notification of approval or
2526 denial of such request shall be made in accordance with part II
2527 of chapter 408. An existing licensee ~~facilities~~ qualifying to
2528 provide extended congregate care services must have maintained a
2529 standard license and ~~may~~ not have been subject to administrative
2530 sanctions during the previous 2 years, or since initial
2531 licensure if ~~the facility has been~~ licensed for less than 2
2532 years, for any of the following reasons:

2533 a. A class I or class II violation;

2534 b. Three or more repeat or recurring class III violations
2535 of identical or similar resident care standards as specified in
2536 rule from which a pattern of noncompliance is found by the
2537 agency;

2538 c. Three or more class III violations that were not
2539 corrected in accordance with the corrective action plan approved
2540 by the agency;

2541 d. Violation of resident care standards resulting in a
2542 requirement to employ the services of a consultant pharmacist or
2543 consultant dietitian;

2544 e. Denial, suspension, or revocation of a license for
2545 another facility under this part in which the applicant for an
2546 extended congregate care license has at least 25 percent
2547 ownership interest; or

2548 f. Imposition of a moratorium pursuant to ~~this part or~~ part
2549 II of chapter 408 or initiation of injunctive proceedings.

2550 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide



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2551 extended congregate care services shall maintain a written
2552 progress report for ~~on~~ each person who receives such services,
2553 and the which report must describe ~~describes~~ the type, amount,
2554 duration, scope, and outcome of services that are rendered and
2555 the general status of the resident's health. ~~A registered nurse,~~
2556 ~~or appropriate designee, representing the agency shall visit~~
2557 ~~such facilities at least quarterly to monitor residents who are~~
2558 ~~receiving extended congregate care services and to determine if~~
2559 ~~the facility is in compliance with this part, part II of chapter~~
2560 ~~408, and rules that relate to extended congregate care. One of~~
2561 ~~these visits may be in conjunction with the regular survey. The~~
2562 ~~monitoring visits may be provided through contractual~~
2563 ~~arrangements with appropriate community agencies. A registered~~
2564 ~~nurse shall serve as part of the team that inspects such~~
2565 ~~facility. The agency may waive one of the required yearly~~
2566 ~~monitoring visits for a facility that has been licensed for at~~
2567 ~~least 24 months to provide extended congregate care services,~~
2568 ~~if, during the inspection, the registered nurse determines that~~
2569 ~~extended congregate care services are being provided~~
2570 ~~appropriately, and if the facility has no class I or class II~~
2571 ~~violations and no uncorrected class III violations. Before such~~
2572 ~~decision is made, the agency shall consult with the long-term~~
2573 ~~care ombudsman council for the area in which the facility is~~
2574 ~~located to determine if any complaints have been made and~~
2575 ~~substantiated about the quality of services or care. The agency~~
2576 ~~may not waive one of the required yearly monitoring visits if~~
2577 ~~complaints have been made and substantiated.~~

2578 3. Licensees ~~Facilities~~ that are licensed to provide
2579 extended congregate care services shall:



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- 2580 a. Demonstrate the capability to meet unanticipated
2581 resident service needs.
- 2582 b. Offer a physical environment that promotes a homelike
2583 setting, provides for resident privacy, promotes resident
2584 independence, and allows sufficient congregate space as defined
2585 by rule.
- 2586 c. Have sufficient staff available, taking into account the
2587 physical plant and firesafety features of the building, to
2588 assist with the evacuation of residents in an emergency,~~as~~
2589 ~~necessary~~.
- 2590 d. Adopt and follow policies and procedures that maximize
2591 resident independence, dignity, choice, and decisionmaking to
2592 permit residents to age in place to the extent possible, so that
2593 moves due to changes in functional status are minimized or
2594 avoided.
- 2595 e. Allow residents or, if applicable, a resident's
2596 representative, designee, surrogate, guardian, or attorney in
2597 fact to make a variety of personal choices, participate in
2598 developing service plans, and share responsibility in
2599 decisionmaking.
- 2600 f. Implement the concept of managed risk.
- 2601 g. Provide, either directly or through contract, the
2602 services of a person licensed pursuant to part I of chapter 464.
- 2603 h. In addition to the training mandated in s. 429.52,
2604 provide specialized training as defined by rule for facility
2605 staff.
- 2606 4. Licensees ~~Facilities~~ licensed to provide extended
2607 congregate care services are exempt from the criteria for
2608 continued residency as set forth in rules adopted under s.



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2609 429.41. Licensees ~~Facilities so licensed~~ shall adopt their own
2610 requirements within guidelines for continued residency set forth
2611 by rule. However, such licensees ~~facilities~~ may not serve
2612 residents who require 24-hour nursing supervision. Licensees
2613 ~~Facilities~~ licensed to provide extended congregate care services
2614 shall provide each resident with a written copy of facility
2615 policies governing admission and retention.

2616 5. The primary purpose of extended congregate care services
2617 is to allow residents, as they become more impaired, the option
2618 of remaining in a familiar setting from which they would
2619 otherwise be disqualified for continued residency. A licensee
2620 ~~facility~~ licensed to provide extended congregate care services
2621 may also admit an individual who exceeds the admission criteria
2622 for a facility with a standard license, if the individual is
2623 determined appropriate for admission to the extended congregate
2624 care facility.

2625 6. Before admission of an individual to a facility licensed
2626 to provide extended congregate care services, the individual
2627 must undergo a medical examination as provided in s. 429.26(4)
2628 and the facility must develop a preliminary service plan for the
2629 individual.

2630 7. When a licensee ~~facility~~ can no longer provide or
2631 arrange for services in accordance with the resident's service
2632 plan and needs and the licensee ~~facility's~~ policy, the licensee
2633 ~~facility~~ shall make arrangements for relocating the person in
2634 accordance with s. 429.28(1)(k).

2635 8. Failure to provide extended congregate care services may
2636 result in denial of extended congregate care license renewal.

2637 ~~9. No later than January 1 of each year, the department, in~~



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2638 ~~consultation with the agency, shall prepare and submit to the~~
2639 ~~Governor, the President of the Senate, the Speaker of the House~~
2640 ~~of Representatives, and the chairs of appropriate legislative~~
2641 ~~committees, a report on the status of, and recommendations~~
2642 ~~related to, extended congregate care services. The status report~~
2643 ~~must include, but need not be limited to, the following~~
2644 ~~information:~~

2645 ~~a. A description of the facilities licensed to provide such~~
2646 ~~services, including total number of beds licensed under this~~
2647 ~~part.~~

2648 ~~b. The number and characteristics of residents receiving~~
2649 ~~such services.~~

2650 ~~e. The types of services rendered that could not be~~
2651 ~~provided through a standard license.~~

2652 ~~d. An analysis of deficiencies cited during licensure~~
2653 ~~inspections.~~

2654 ~~e. The number of residents who required extended congregate~~
2655 ~~care services at admission and the source of admission.~~

2656 ~~f. Recommendations for statutory or regulatory changes.~~

2657 ~~g. The availability of extended congregate care to state~~
2658 ~~clients residing in facilities licensed under this part and in~~
2659 ~~need of additional services, and recommendations for~~
2660 ~~appropriations to subsidize extended congregate care services~~
2661 ~~for such persons.~~

2662 ~~h. Such other information as the department considers~~
2663 ~~appropriate.~~

2664 ~~(c) A limited nursing services license shall be issued to a~~
2665 ~~facility that provides services beyond those authorized in~~
2666 ~~paragraph (a) and as specified in this paragraph.~~



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2667 ~~1. In order for limited nursing services to be provided in~~
2668 ~~a facility licensed under this part, the agency must first~~
2669 ~~determine that all requirements established in law and rule are~~
2670 ~~met and must specifically designate, on the facility's license,~~
2671 ~~that such services may be provided. Such designation may be made~~
2672 ~~at the time of initial licensure or relicensure, or upon request~~
2673 ~~in writing by a licensee under this part and part II of chapter~~
2674 ~~408. Notification of approval or denial of such request shall be~~
2675 ~~made in accordance with part II of chapter 408. Existing~~
2676 ~~facilities qualifying to provide limited nursing services shall~~
2677 ~~have maintained a standard license and may not have been subject~~
2678 ~~to administrative sanctions that affect the health, safety, and~~
2679 ~~welfare of residents for the previous 2 years or since initial~~
2680 ~~licensure if the facility has been licensed for less than 2~~
2681 ~~years.~~

2682 ~~2. Facilities that are licensed to provide limited nursing~~
2683 ~~services shall maintain a written progress report on each person~~
2684 ~~who receives such nursing services, which report describes the~~
2685 ~~type, amount, duration, scope, and outcome of services that are~~
2686 ~~rendered and the general status of the resident's health. A~~
2687 ~~registered nurse representing the agency shall visit such~~
2688 ~~facilities at least twice a year to monitor residents who are~~
2689 ~~receiving limited nursing services and to determine if the~~
2690 ~~facility is in compliance with applicable provisions of this~~
2691 ~~part, part II of chapter 408, and related rules. The monitoring~~
2692 ~~visits may be provided through contractual arrangements with~~
2693 ~~appropriate community agencies. A registered nurse shall also~~
2694 ~~serve as part of the team that inspects such facility.~~

2695 ~~3. A person who receives limited nursing services under~~



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2696 ~~this part must meet the admission criteria established by the~~
2697 ~~agency for assisted living facilities. When a resident no longer~~
2698 ~~meets the admission criteria for a facility licensed under this~~
2699 ~~part, arrangements for relocating the person shall be made in~~
2700 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
2701 ~~to provide extended congregate care services.~~

2702 (4) In accordance with s. 408.805, an applicant or licensee
2703 shall pay a fee for each license application submitted under
2704 this part, part II of chapter 408, and applicable rules. The
2705 amount of the fee shall be established by rule.

2706 (a) The biennial license fee required of a facility is \$356
2707 ~~\$300~~ per license, with an additional fee of \$67.50 ~~\$50~~ per
2708 resident based on the total licensed resident capacity of the
2709 facility, except that no additional fee will be assessed for
2710 beds designated for recipients of optional state supplementation
2711 payments provided for in s. 409.212. The total fee may not
2712 exceed \$18,500 ~~\$10,000~~.

2713 (b) In addition to the total fee assessed under paragraph
2714 (a), the agency shall require facilities that are licensed to
2715 provide extended congregate care services under this part to pay
2716 an additional fee per licensed facility. The amount of the
2717 biennial fee shall be \$501 ~~\$400~~ per license, with an additional
2718 fee of \$10 per resident based on the total licensed resident
2719 capacity of the facility.

2720 ~~(c) In addition to the total fee assessed under paragraph~~
2721 ~~(a), the agency shall require facilities that are licensed to~~
2722 ~~provide limited nursing services under this part to pay an~~
2723 ~~additional fee per licensed facility. The amount of the biennial~~
2724 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~



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2725 ~~resident based on the total licensed resident capacity of the~~
2726 ~~facility.~~

2727 (5) Counties or municipalities applying for licenses under
2728 this part are exempt from the payment of license fees.

2729 (6) In order to determine whether the licensee is
2730 adequately protecting residents' rights as provided in s.
2731 429.28, the biennial survey must include private, informal
2732 conversations with a sample of the residents and consultation
2733 with the ombudsman council in the planning and service area in
2734 which the facility is located to discuss residents' experiences
2735 within the facility.

2736 (7) An assisted living facility that has been cited within
2737 the previous 24-month period for a class I violation or a class
2738 II violation, regardless of the status of any enforcement or
2739 disciplinary action, is subject to periodic unannounced
2740 monitoring to determine if the facility is in compliance with
2741 this part, part II of chapter 408, and applicable rules.
2742 Monitoring may occur through a desk review or onsite. If a cited
2743 violation relates to providing or failing to provide nursing
2744 care, a registered nurse must participate in at least two onsite
2745 monitoring visits within a 12-month period.

2746 Section 65. Section 429.11, Florida Statutes, is amended to
2747 read:

2748 429.11 Initial application for license; ~~provisional~~
2749 ~~license.~~—

2750 (1) Each applicant for licensure must comply with all
2751 provisions of part II of chapter 408 and must:

2752 (a) Identify all other homes or facilities, including the
2753 addresses and the license or licenses under which they operate,



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2754 if applicable, which are currently operated by the applicant or
2755 administrator and which provide housing, meals, and personal
2756 services to residents.

2757 (b) Provide the location of the facility for which a
2758 license is sought and documentation, signed by the appropriate
2759 local government official, which states that the applicant has
2760 met local zoning requirements.

2761 (c) Provide the name, address, date of birth, social
2762 security number, education, and experience of the administrator,
2763 if different from the applicant.

2764 (2) The applicant shall provide proof of liability
2765 insurance as defined in s. 624.605.

2766 (3) If the applicant is a community residential home, the
2767 applicant must provide proof that it has met the requirements
2768 specified in chapter 419.

2769 (4) The applicant must furnish proof that the facility has
2770 received a satisfactory firesafety inspection. The local
2771 authority having jurisdiction or the State Fire Marshal must
2772 conduct the inspection within 30 days after written request by
2773 the applicant.

2774 (5) The applicant must furnish documentation of a
2775 satisfactory sanitation inspection of the facility by the county
2776 health department.

2777 ~~(6) In addition to the license categories available in s.~~
2778 ~~408.808, a provisional license may be issued to an applicant~~
2779 ~~making initial application for licensure or making application~~
2780 ~~for a change of ownership. A provisional license shall be~~
2781 ~~limited in duration to a specific period of time not to exceed 6~~
2782 ~~months, as determined by the agency.~~



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2783 (6)~~(7)~~ A county or municipality may not issue an
2784 occupational license that is being obtained for the purpose of
2785 operating a facility regulated under this part without first
2786 ascertaining that the applicant has been licensed to operate
2787 such facility at the specified location or locations by the
2788 agency. The agency shall furnish to local agencies responsible
2789 for issuing occupational licenses sufficient instruction for
2790 making such determinations.

2791 Section 66. Subsection (2) of section 429.12, Florida
2792 Statutes, is repealed.

2793 Section 67. Subsections (5) and (6) of section 429.14,
2794 Florida Statutes, are amended to read:

2795 429.14 Administrative penalties.—

2796 (5) An action taken by the agency to suspend, deny, or
2797 revoke a facility's license under this part or part II of
2798 chapter 408, in which the agency claims that the facility owner
2799 or an employee of the facility has threatened the health,
2800 safety, or welfare of a resident of the facility shall be heard
2801 by the Division of Administrative Hearings of the Department of
2802 Management Services within 120 days after receipt of the
2803 facility's request for a hearing, unless that time limitation is
2804 waived by both parties. The administrative law judge must render
2805 a decision within 30 days after receipt of a proposed
2806 recommended order.

2807 (6) The agency shall provide to the Division of Hotels and
2808 Restaurants of the Department of Business and Professional
2809 Regulation, on a monthly basis, a list of those assisted living
2810 facilities that have had their licenses denied, suspended, or
2811 revoked or that are involved in an appellate proceeding pursuant



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2812 to s. 120.60 related to the denial, suspension, or revocation of
2813 a license. This information may be provided electronically or
2814 through the agency's Internet website.

2815 Section 68. Subsections (1), (4), and (5) of section
2816 429.17, Florida Statutes, are amended to read:

2817 429.17 Expiration of license; renewal; conditional
2818 license.-

2819 (1) ~~Limited nursing~~, Extended congregate care, and limited
2820 mental health licenses shall expire at the same time as the
2821 facility's standard license, regardless of when issued.

2822 (4) In addition to the license categories available in s.
2823 408.808, a conditional license may be issued to an applicant for
2824 license renewal if the applicant fails to meet all standards and
2825 requirements for licensure. A conditional license issued under
2826 this subsection shall be limited in duration to a specific
2827 period of time not to exceed 6 months, as determined by the
2828 agency, ~~and shall be accompanied by an agency-approved plan of~~
2829 ~~correction.~~

2830 (5) When an extended congregate care ~~or limited nursing~~
2831 license is requested during a facility's biennial license
2832 period, the fee shall be prorated in order to permit the
2833 additional license to expire at the end of the biennial license
2834 period. The fee shall be calculated as of the date the
2835 additional license application is received by the agency.

2836 Section 69. Subsection (7) of section 429.19, Florida
2837 Statutes, is amended to read:

2838 429.19 Violations; imposition of administrative fines;
2839 grounds.-

2840 (7) In addition to any administrative fines imposed, the



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2841 agency may assess a survey or monitoring fee, equal to the
2842 lesser of one half of the facility's biennial license and bed
2843 fee or \$500, to cover the cost of conducting initial complaint
2844 investigations that result in the finding of a violation that
2845 was the subject of the complaint or monitoring visits ~~conducted~~
2846 ~~under s. 429.28(3)(c)~~ to verify the correction of the
2847 violations, or to monitor the health, safety, or security of
2848 residents under s. 429.07(7).

2849 Section 70. Subsection (5) of section 429.23, Florida
2850 Statutes, is repealed.

2851 Section 71. Section 429.255, Florida Statutes, is amended
2852 to read:

2853 429.255 Use of personnel; emergency care.-

2854 (1) (a) Persons under contract to the facility or facility
2855 staff, ~~or volunteers~~, who are licensed according to part I of
2856 chapter 464, ~~or~~ those persons exempt under s. 464.022(1), and
2857 others as defined by rule, may administer medications to
2858 residents, take residents' vital signs, manage individual weekly
2859 pill organizers for residents who self-administer medication,
2860 give prepackaged enemas ordered by a physician, observe
2861 residents, document observations on the appropriate resident's
2862 record, report observations to the resident's physician, and
2863 contract or allow residents or a resident's representative,
2864 designee, surrogate, guardian, or attorney in fact to contract
2865 with a third party, provided residents meet the criteria for
2866 appropriate placement as defined in s. 429.26. Persons under
2867 contract to the facility or facility staff who are licensed
2868 according to part I of chapter 464 may provide limited nursing
2869 services. Nursing assistants certified pursuant to part II of



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2870 chapter 464 may take residents' vital signs as directed by a
2871 licensed nurse or physician. The licensee is responsible for
2872 maintaining documentation of services provided under this
2873 paragraph as required by rule and ensuring that staff are
2874 adequately trained to monitor residents receiving these
2875 services.

2876 (b) All staff in facilities licensed under this part shall
2877 exercise their professional responsibility to observe residents,
2878 to document observations on the appropriate resident's record,
2879 and to report the observations to the resident's physician.
2880 However, the owner or administrator of the facility shall be
2881 responsible for determining that the resident receiving services
2882 is appropriate for residence in the facility.

2883 (c) In an emergency situation, licensed personnel may carry
2884 out their professional duties pursuant to part I of chapter 464
2885 until emergency medical personnel assume responsibility for
2886 care.

2887 (2) In facilities licensed to provide extended congregate
2888 care, persons under contract to the facility ~~or~~ facility staff,
2889 ~~or volunteers,~~ who are licensed according to part I of chapter
2890 464, ~~or~~ those persons exempt under s. 464.022(1), or those
2891 persons certified as nursing assistants pursuant to part II of
2892 chapter 464, may also perform all duties within the scope of
2893 their license or certification, as approved by the facility
2894 administrator and pursuant to this part.

2895 (3) Facility staff may withhold or withdraw cardiopulmonary
2896 resuscitation if presented with an order not to resuscitate
2897 executed pursuant to s. 401.45. The department shall adopt rules
2898 providing for the implementation of such orders. Facility staff



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2899 and facilities shall not be subject to criminal prosecution or
2900 civil liability, nor be considered to have engaged in negligent
2901 or unprofessional conduct, for withholding or withdrawing
2902 cardiopulmonary resuscitation pursuant to such an order and
2903 rules adopted by the department. The absence of an order to
2904 resuscitate executed pursuant to s. 401.45 does not preclude a
2905 physician from withholding or withdrawing cardiopulmonary
2906 resuscitation as otherwise permitted by law.

2907 Section 72. Subsection (3) of section 429.28, Florida
2908 Statutes, is repealed.

2909 Section 73. Subsection (2) of section 429.35, Florida
2910 Statutes, is amended to read:

2911 429.35 Maintenance of records; reports.—

2912 (2) Within 60 days after the date of the biennial
2913 inspection visit required under s. 408.811 or within 30 days
2914 after the date of any interim visit, the agency shall forward
2915 the results of the inspection to the local ombudsman council in
2916 whose planning and service area, as defined in part II of
2917 chapter 400, the facility is located; to at least one public
2918 library or, in the absence of a public library, the county seat
2919 in the county in which the inspected assisted living facility is
2920 located; and, when appropriate, to the district Adult Services
2921 and Mental Health Program Offices. This information may be
2922 provided electronically or through the agency's Internet site.

2923 Section 74. Paragraphs (i) and (j) of subsection (1) of
2924 section 429.41, Florida Statutes, are amended to read:

2925 429.41 Rules establishing standards.—

2926 (1) It is the intent of the Legislature that rules
2927 published and enforced pursuant to this section shall include



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2928 criteria by which a reasonable and consistent quality of
2929 resident care and quality of life may be ensured and the results
2930 of such resident care may be demonstrated. Such rules shall also
2931 ensure a safe and sanitary environment that is residential and
2932 noninstitutional in design or nature. It is further intended
2933 that reasonable efforts be made to accommodate the needs and
2934 preferences of residents to enhance the quality of life in a
2935 facility. The agency, in consultation with the department, may
2936 adopt rules to administer the requirements of part II of chapter
2937 408. In order to provide safe and sanitary facilities and the
2938 highest quality of resident care accommodating the needs and
2939 preferences of residents, the department, in consultation with
2940 the agency, the Department of Children and Family Services, and
2941 the Department of Health, shall adopt rules, policies, and
2942 procedures to administer this part, which must include
2943 reasonable and fair minimum standards in relation to:

2944 (i) Facilities holding an ~~a limited nursing,~~ extended
2945 congregate care, or limited mental health license.

2946 (j) The establishment of specific criteria to define
2947 appropriateness of resident admission and continued residency in
2948 a facility holding a standard, ~~limited nursing,~~ extended
2949 congregate care, and limited mental health license.

2950 Section 75. Section 429.53, Florida Statutes, is amended to
2951 read:

2952 429.53 Consultation by the agency.—

2953 (1) The ~~area offices of licensure and certification of the~~
2954 agency shall provide consultation to the following upon request:

2955 (a) A licensee of a facility.

2956 (b) A person interested in obtaining a license to operate a



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2957 facility under this part.

2958 (2) As used in this section, "consultation" includes:

2959 (a) An explanation of the requirements of this part and
2960 rules adopted pursuant thereto;

2961 (b) An explanation of the license application and renewal
2962 procedures; and

2963 ~~(c) The provision of a checklist of general local and state~~
2964 ~~approvals required prior to constructing or developing a~~
2965 ~~facility and a listing of the types of agencies responsible for~~
2966 ~~such approvals;~~

2967 ~~(d) An explanation of benefits and financial assistance~~
2968 ~~available to a recipient of supplemental security income~~
2969 ~~residing in a facility;~~

2970 (c) ~~(e)~~ Any other information ~~which~~ the agency deems
2971 necessary to promote compliance with the requirements of this
2972 part; ~~and~~

2973 ~~(f) A preconstruction review of a facility to ensure~~
2974 ~~compliance with agency rules and this part.~~

2975 (3) The agency may charge a fee commensurate with the cost
2976 of providing consultation under this section.

2977 Section 76. Section 429.54, Florida Statutes, is amended to
2978 read:

2979 429.54 Collection of information; local subsidy.-

2980 (1) Facilities that are licensed under this part must
2981 report electronically to the agency semiannually, or more
2982 frequently as determined by rule, data related to the facility,
2983 including, but not limited to: the total number of residents,
2984 the number of residents who are receiving limited mental health
2985 services, the number of residents who are receiving extended



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2986 congregate care services, the number of residents who are
2987 receiving limited nursing services, funding sources of the
2988 residents, and professional staffing employed by or under
2989 contract with the licensee to provide resident services. The
2990 department, in consultation with the agency, shall adopt rules
2991 to administer this subsection.

2992 (2)~~(1)~~ To enable the department to collect the information
2993 requested by the Legislature regarding the actual cost of
2994 providing room, board, and personal care in facilities, the
2995 department is authorized to conduct field visits and audits of
2996 facilities as may be necessary. The owners of randomly sampled
2997 facilities shall submit such reports, audits, and accountings of
2998 cost as the department may require by rule; provided that such
2999 reports, audits, and accountings shall be the minimum necessary
3000 to implement the provisions of this section. Any facility
3001 selected to participate in the study shall cooperate with the
3002 department by providing cost of operation information to
3003 interviewers.

3004 (3)~~(2)~~ Local governments or organizations may contribute to
3005 the cost of care of local facility residents by further
3006 subsidizing the rate of state-authorized payment to such
3007 facilities. Implementation of local subsidy shall require
3008 departmental approval and shall not result in reductions in the
3009 state supplement.

3010 Section 77. Subsections (2) and (11) of section 429.65,
3011 Florida Statutes, are amended to read:

3012 429.65 Definitions.—As used in this part, the term:

3013 (2) "Adult family-care home" means a full-time, family-type
3014 living arrangement, in a private home, under which up to two



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3015 individuals ~~a person~~ who reside in the home and own or rent ~~owns~~
3016 ~~or rents~~ the home provide ~~provides~~ room, board, and personal
3017 care, on a 24-hour basis, for no more than five disabled adults
3018 or frail elders who are not relatives. The following family-type
3019 living arrangements are not required to be licensed as an adult
3020 family-care home:

3021 (a) An arrangement whereby the person who resides in the
3022 home and owns or rents the home provides room, board, and
3023 personal services for not more than two adults who do not
3024 receive optional state supplementation under s. 409.212. The
3025 person who provides the housing, meals, and personal care must
3026 own or rent the home and reside therein.

3027 (b) An arrangement whereby the person who owns or rents the
3028 home provides room, board, and personal services only to his or
3029 her relatives.

3030 (c) An establishment that is licensed as an assisted living
3031 facility under this chapter.

3032 (11) "Provider" means up to two individuals ~~a person~~ who
3033 are ~~is~~ licensed to operate an adult family-care home.

3034 Section 78. Section 429.71, Florida Statutes, is amended to
3035 read:

3036 429.71 Classification of violations ~~deficiencies~~;
3037 administrative fines.—

3038 (1) In addition to the requirements of part II of chapter
3039 408 and in addition to any other liability or penalty provided
3040 by law, the agency may impose an administrative fine on a
3041 provider according to the following classification:

3042 (a) Class I violations are defined in s. 408.813. ~~those~~
3043 ~~conditions or practices related to the operation and maintenance~~



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3044 ~~of an adult family care home or to the care of residents which~~
3045 ~~the agency determines present an imminent danger to the~~
3046 ~~residents or guests of the facility or a substantial probability~~
3047 ~~that death or serious physical or emotional harm would result~~
3048 ~~therefrom. The condition or practice that constitutes a class I~~
3049 ~~violation must be abated or eliminated within 24 hours, unless a~~
3050 ~~fixed period, as determined by the agency, is required for~~
3051 ~~correction. A class I violation deficiency is subject to an~~
3052 ~~administrative fine in an amount not less than \$500 and not~~
3053 ~~exceeding \$1,000 for each violation. A fine may be levied~~
3054 ~~notwithstanding the correction of the violation deficiency.~~

3055 (b) Class II violations are defined in s. 408.813. ~~these~~
3056 ~~conditions or practices related to the operation and maintenance~~
3057 ~~of an adult family care home or to the care of residents which~~
3058 ~~the agency determines directly threaten the physical or~~
3059 ~~emotional health, safety, or security of the residents, other~~
3060 ~~than class I violations. A class II violation is subject to an~~
3061 ~~administrative fine in an amount not less than \$250 and not~~
3062 ~~exceeding \$500 for each violation. A citation for a class II~~
3063 ~~violation must specify the time within which the violation is~~
3064 ~~required to be corrected. If a class II violation is corrected~~
3065 ~~within the time specified, no civil penalty shall be imposed,~~
3066 ~~unless it is a repeated offense.~~

3067 (c) Class III violations are defined in s. 408.813. ~~these~~
3068 ~~conditions or practices related to the operation and maintenance~~
3069 ~~of an adult family care home or to the care of residents which~~
3070 ~~the agency determines indirectly or potentially threaten the~~
3071 ~~physical or emotional health, safety, or security of residents,~~
3072 ~~other than class I or class II violations. A class III violation~~



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3073 is subject to an administrative fine in an amount not less than
3074 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~
3075 ~~class III violation shall specify the time within which the~~
3076 ~~violation is required to be corrected. If a class III violation~~
3077 ~~is corrected within the time specified, no civil penalty shall~~
3078 ~~be imposed, unless it is a repeated offense.~~

3079 (d) Class IV violations are defined in s. 408.813. ~~those~~
3080 ~~conditions or occurrences related to the operation and~~
3081 ~~maintenance of an adult family-care home, or related to the~~
3082 ~~required reports, forms, or documents, which do not have the~~
3083 ~~potential of negatively affecting the residents. A provider that~~
3084 ~~does not correct A class IV violation within the time limit~~
3085 ~~specified by the agency is subject to an administrative fine in~~
3086 ~~an amount not less than \$50 and not exceeding \$100 for each~~
3087 ~~violation. Any class IV violation that is corrected during the~~
3088 ~~time the agency survey is conducted will be identified as an~~
3089 ~~agency finding and not as a violation.~~

3090 (2) The agency may impose an administrative fine for
3091 violations that ~~which~~ do not qualify as class I, class II, class
3092 III, or class IV violations. The amount of the fine may ~~shall~~
3093 not exceed \$250 for each violation or \$2,000 in the aggregate.
3094 Unclassified violations may include:

3095 (a) Violating any term or condition of a license.

3096 (b) Violating any provision of this part, part II of
3097 chapter 408, or applicable rules.

3098 (c) Failure to follow the criteria and procedures provided
3099 under part I of chapter 394 relating to the transportation,
3100 voluntary admission, and involuntary examination of adult
3101 family-care home residents.



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- 3102 (d) Exceeding licensed capacity.
- 3103 (e) Providing services beyond the scope of the license.
- 3104 (f) Violating a moratorium.
- 3105 (3) Each day during which a violation occurs constitutes a
- 3106 separate offense.
- 3107 (4) In determining whether a penalty is to be imposed, and
- 3108 in fixing the amount of any penalty to be imposed, the agency
- 3109 must consider:
- 3110 (a) The gravity of the violation.
- 3111 (b) Actions taken by the provider to correct a violation.
- 3112 (c) Any previous violation by the provider.
- 3113 (d) The financial benefit to the provider of committing or
- 3114 continuing the violation.
- 3115 ~~(5) As an alternative to or in conjunction with an~~
- 3116 ~~administrative action against a provider, the agency may request~~
- 3117 ~~a plan of corrective action that demonstrates a good faith~~
- 3118 ~~effort to remedy each violation by a specific date, subject to~~
- 3119 ~~the approval of the agency.~~
- 3120 (5) ~~(6)~~ The department shall set forth, by rule, notice
- 3121 requirements and procedures for correction of deficiencies.
- 3122 Section 79. Subsection (5) of section 429.901, Florida
- 3123 Statutes, is repealed.
- 3124 Section 80. Section 429.911, Florida Statutes, is repealed.
- 3125 Section 81. Section 429.915, Florida Statutes, is amended
- 3126 to read:
- 3127 429.915 Conditional license.—In addition to the license
- 3128 categories available in part II of chapter 408, the agency may
- 3129 issue a conditional license to an applicant for license renewal
- 3130 or change of ownership if the applicant fails to meet all



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3131 standards and requirements for licensure. A conditional license
3132 issued under this subsection must be limited to a specific
3133 period not exceeding 6 months, as determined by the agency, ~~and~~
3134 ~~must be accompanied by an approved plan of correction.~~

3135 Section 82. Subsection (3) of section 430.80, Florida
3136 Statutes, is amended to read:

3137 430.80 Implementation of a teaching nursing home pilot
3138 project.—

3139 (3) To be designated as a teaching nursing home, a nursing
3140 home licensee must, at a minimum:

3141 (a) Provide a comprehensive program of integrated senior
3142 services that include institutional services and community-based
3143 services;

3144 (b) Participate in a nationally recognized accreditation
3145 program and hold a valid accreditation, such as the
3146 accreditation awarded by the Joint Commission ~~on Accreditation~~
3147 ~~of Healthcare Organizations;~~

3148 (c) Have been in business in this state for a minimum of 10
3149 consecutive years;

3150 (d) Demonstrate an active program in multidisciplinary
3151 education and research that relates to gerontology;

3152 (e) Have a formalized contractual relationship with at
3153 least one accredited health profession education program located
3154 in this state;

3155 (f) Have a formalized contractual relationship with an
3156 accredited hospital that is designated by law as a teaching
3157 hospital; and

3158 (g) Have senior staff members who hold formal faculty
3159 appointments at universities, which must include at least one



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3160 accredited health profession education program.

3161 (h) Maintain insurance coverage pursuant to s.
3162 400.141(1)(q) ~~s. 400.141(1)(s)~~ or proof of financial
3163 responsibility in a minimum amount of \$750,000. Such proof of
3164 financial responsibility may include:

- 3165 1. Maintaining an escrow account consisting of cash or
3166 assets eligible for deposit in accordance with s. 625.52; or
- 3167 2. Obtaining and maintaining pursuant to chapter 675 an
3168 unexpired, irrevocable, nontransferable and nonassignable letter
3169 of credit issued by any bank or savings association organized
3170 and existing under the laws of this state or any bank or savings
3171 association organized under the laws of the United States which
3172 ~~that~~ has its principal place of business in this state or which
3173 has a branch office that ~~which~~ is authorized to receive deposits
3174 in this state. The letter of credit shall be used to satisfy the
3175 obligation of the facility to the claimant upon presentment of a
3176 final judgment indicating liability and awarding damages to be
3177 paid by the facility or upon presentment of a settlement
3178 agreement signed by all parties to the agreement when such final
3179 judgment or settlement is a result of a liability claim against
3180 the facility.

3181 Section 83. Paragraph (a) of subsection (2) of section
3182 440.13, Florida Statutes, is amended to read:

3183 440.13 Medical services and supplies; penalty for
3184 violations; limitations.—

3185 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

3186 (a) Subject to the limitations specified elsewhere in this
3187 chapter, the employer shall furnish to the employee such
3188 medically necessary remedial treatment, care, and attendance for



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3189 such period as the nature of the injury or the process of
3190 recovery may require, which is in accordance with established
3191 practice parameters and protocols of treatment as provided for
3192 in this chapter, including medicines, medical supplies, durable
3193 medical equipment, orthoses, prostheses, and other medically
3194 necessary apparatus. Remedial treatment, care, and attendance,
3195 including work-hardening programs or pain-management programs
3196 accredited by the Commission on Accreditation of Rehabilitation
3197 Facilities or Joint Commission ~~on the Accreditation of Health~~
3198 ~~Organizations~~ or pain-management programs affiliated with
3199 medical schools, shall be considered as covered treatment only
3200 when such care is given based on a referral by a physician as
3201 defined in this chapter. Medically necessary treatment, care,
3202 and attendance does not include chiropractic services in excess
3203 of 24 treatments or rendered 12 weeks beyond the date of the
3204 initial chiropractic treatment, whichever comes first, unless
3205 the carrier authorizes additional treatment or the employee is
3206 catastrophically injured.

3207
3208 Failure of the carrier to timely comply with this subsection
3209 shall be a violation of this chapter and the carrier shall be
3210 subject to penalties as provided for in s. 440.525.

3211 Section 84. Section 483.294, Florida Statutes, is amended
3212 to read:

3213 483.294 Inspection of centers.—In accordance with s.
3214 408.811, the agency shall biennially, ~~at least once annually~~,
3215 inspect the premises and operations of all centers subject to
3216 licensure under this part.

3217 Section 85. Subsection (1) of section 627.645, Florida



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3218 Statutes, is amended to read:

3219 627.645 Denial of health insurance claims restricted.—

3220 (1) A ~~No~~ claim for payment under a health insurance policy
3221 or self-insured program of health benefits for treatment, care,
3222 or services in a licensed hospital that ~~which~~ is accredited by
3223 the Joint Commission ~~on the Accreditation of Hospitals~~, the
3224 American Osteopathic Association, or the Commission on the
3225 Accreditation of Rehabilitative Facilities may not ~~shall~~ be
3226 denied because the ~~such~~ hospital lacks major surgical facilities
3227 and is primarily of a rehabilitative nature, if such
3228 rehabilitation is specifically for treatment of physical
3229 disability.

3230 Section 86. Paragraph (c) of subsection (2) of section
3231 627.668, Florida Statutes, is amended to read:

3232 627.668 Optional coverage for mental and nervous disorders
3233 required; exception.—

3234 (2) Under group policies or contracts, inpatient hospital
3235 benefits, partial hospitalization benefits, and outpatient
3236 benefits consisting of durational limits, dollar amounts,
3237 deductibles, and coinsurance factors shall not be less favorable
3238 than for physical illness generally, except that:

3239 (c) Partial hospitalization benefits shall be provided
3240 under the direction of a licensed physician. For purposes of
3241 this part, the term "partial hospitalization services" is
3242 defined as those services offered by a program accredited by the
3243 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
3244 compliance with equivalent standards. Alcohol rehabilitation
3245 programs accredited by the Joint Commission ~~on Accreditation of~~
3246 ~~Hospitals~~ or approved by the state and licensed drug abuse



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3247 rehabilitation programs shall also be qualified providers under
3248 this section. In any benefit year, if partial hospitalization
3249 services or a combination of inpatient and partial
3250 hospitalization are utilized, the total benefits paid for all
3251 such services shall not exceed the cost of 30 days of inpatient
3252 hospitalization for psychiatric services, including physician
3253 fees, which prevail in the community in which the partial
3254 hospitalization services are rendered. If partial
3255 hospitalization services benefits are provided beyond the limits
3256 set forth in this paragraph, the durational limits, dollar
3257 amounts, and coinsurance factors thereof need not be the same as
3258 those applicable to physical illness generally.

3259 Section 87. Subsection (3) of section 627.669, Florida
3260 Statutes, is amended to read:

3261 627.669 Optional coverage required for substance abuse
3262 impaired persons; exception.—

3263 (3) The benefits provided under this section shall be
3264 applicable only if treatment is provided by, or under the
3265 supervision of, or is prescribed by, a licensed physician or
3266 licensed psychologist and if services are provided in a program
3267 accredited by the Joint Commission ~~on Accreditation of Hospitals~~
3268 or approved by the state.

3269 Section 88. Subsection (1) of section 627.736, Florida
3270 Statutes, is amended to read:

3271 627.736 Required personal injury protection benefits;
3272 exclusions; priority; claims.—

3273 (1) REQUIRED BENEFITS.—Every insurance policy complying
3274 with the security requirements of s. 627.733 shall provide
3275 personal injury protection to the named insured, relatives



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3276 residing in the same household, persons operating the insured
3277 motor vehicle, passengers in such motor vehicle, and other
3278 persons struck by such motor vehicle and suffering bodily injury
3279 while not an occupant of a self-propelled vehicle, subject to
3280 the provisions of subsection (2) and paragraph (4)(e), to a
3281 limit of \$10,000 for loss sustained by any such person as a
3282 result of bodily injury, sickness, disease, or death arising out
3283 of the ownership, maintenance, or use of a motor vehicle as
3284 follows:

3285 (a) *Medical benefits.*—Eighty percent of all reasonable
3286 expenses for medically necessary medical, surgical, X-ray,
3287 dental, and rehabilitative services, including prosthetic
3288 devices, and medically necessary ambulance, hospital, and
3289 nursing services. However, the medical benefits shall provide
3290 reimbursement only for such services and care that are lawfully
3291 provided, supervised, ordered, or prescribed by a physician
3292 licensed under chapter 458 or chapter 459, a dentist licensed
3293 under chapter 466, or a chiropractic physician licensed under
3294 chapter 460 or that are provided by any of the following persons
3295 or entities:

3296 1. A hospital or ambulatory surgical center licensed under
3297 chapter 395.

3298 2. A person or entity licensed under ss. 401.2101-401.45
3299 which ~~that~~ provides emergency transportation and treatment.

3300 3. An entity wholly owned by one or more physicians
3301 licensed under chapter 458 or chapter 459, chiropractic
3302 physicians licensed under chapter 460, or dentists licensed
3303 under chapter 466 or by such practitioner or practitioners and
3304 the spouse, parent, child, or sibling of that practitioner or



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3305 those practitioners.

3306 4. An entity wholly owned, directly or indirectly, by a
3307 hospital or hospitals.

3308 5. A health care clinic licensed under ss. 400.990-400.995
3309 which ~~that~~ is:

3310 a. Accredited by the Joint Commission ~~on Accreditation of~~
3311 ~~Healthcare Organizations~~, the American Osteopathic Association,
3312 the Commission on Accreditation of Rehabilitation Facilities, or
3313 the Accreditation Association for Ambulatory Health Care, Inc.;

3314 or

3315 b. A health care clinic that:

3316 (I) Has a medical director licensed under chapter 458,
3317 chapter 459, or chapter 460;

3318 (II) Has been continuously licensed for more than 3 years
3319 or is a publicly traded corporation that issues securities
3320 traded on an exchange registered with the United States
3321 Securities and Exchange Commission as a national securities
3322 exchange; and

3323 (III) Provides at least four of the following medical
3324 specialties:

3325 (A) General medicine.

3326 (B) Radiography.

3327 (C) Orthopedic medicine.

3328 (D) Physical medicine.

3329 (E) Physical therapy.

3330 (F) Physical rehabilitation.

3331 (G) Prescribing or dispensing outpatient prescription
3332 medication.

3333 (H) Laboratory services.



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

(b) *Disability benefits.*—Sixty percent of any loss of gross income and loss of earning capacity per individual from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his or her household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) *Death benefits.*—Death benefits equal to the lesser of \$5,000 or the remainder of unused personal injury protection benefits per individual. The insurer may pay such benefits to the executor or administrator of the deceased, to any of the deceased's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and no such insurer shall require the purchase of any other motor vehicle coverage other than the purchase of property damage liability coverage as required by s. 627.7275 as a condition for



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3363 providing such required benefits. Insurers may not require that
3364 property damage liability insurance in an amount greater than
3365 \$10,000 be purchased in conjunction with personal injury
3366 protection. Such insurers shall make benefits and required
3367 property damage liability insurance coverage available through
3368 normal marketing channels. Any insurer writing motor vehicle
3369 liability insurance in this state who fails to comply with such
3370 availability requirement as a general business practice shall be
3371 deemed to have violated part IX of chapter 626, and such
3372 violation shall constitute an unfair method of competition or an
3373 unfair or deceptive act or practice involving the business of
3374 insurance; and any such insurer committing such violation shall
3375 be subject to the penalties afforded in such part, as well as
3376 those which may be afforded elsewhere in the insurance code.

3377 Section 89. Subsection (12) of section 641.495, Florida
3378 Statutes, is amended to read:

3379 641.495 Requirements for issuance and maintenance of
3380 certificate.—

3381 (12) The provisions of part I of chapter 395 do not apply
3382 to a health maintenance organization that, on or before January
3383 1, 1991, provides not more than 10 outpatient holding beds for
3384 short-term and hospice-type patients in an ambulatory care
3385 facility for its members, provided that such health maintenance
3386 organization maintains current accreditation by the Joint
3387 Commission ~~on Accreditation of Health Care Organizations~~, the
3388 Accreditation Association for Ambulatory Health Care, or the
3389 National Committee for Quality Assurance.

3390 Section 90. Subsection (2) of section 766.1015, Florida
3391 Statutes, is amended to read:



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3392 766.1015 Civil immunity for members of or consultants to
3393 certain boards, committees, or other entities.—

3394 (2) Such committee, board, group, commission, or other
3395 entity must be established in accordance with state law or in
3396 accordance with requirements of the Joint Commission ~~on~~
3397 ~~Accreditation of Healthcare Organizations~~, established and duly
3398 constituted by one or more public or licensed private hospitals
3399 or behavioral health agencies, or established by a governmental
3400 agency. To be protected by this section, the act, decision,
3401 omission, or utterance may not be made or done in bad faith or
3402 with malicious intent.

3403 Section 91. Except as otherwise expressly provided in this
3404 act, this act shall take effect July 1, 2010.

3405