1 A bill to be entitled
2 An act relating to health care; amending s. 112.0455,
3 F.S., relating to the Drug-Free Workplace Act; deleting an
4 obsolete provision; amending s. 318.21, F.S.; revising
5 distribution of funds from civil penalties imposed for
6 traffic infractions by county courts; amending s.
7 381.0072, F.S.; limiting Department of Health food service
8 inspections in nursing homes; requiring the department to
9 coordinate inspections with the Agency for Health Care
10 Administration; repealing s. 383.325, F.S., relating to
11 confidentiality of inspection reports of licensed birth
12 center facilities; amending s. 395.002, F.S.; revising and
13 deleting definitions applicable to regulation of hospitals
14 and other licensed facilities; conforming a cross-
15 reference; amending s. 395.003, F.S.; deleting an obsolete
16 provision; conforming a cross-reference; amending s.
17 395.0193, F.S.; requiring a licensed facility to report
18 certain peer review information and final disciplinary
19 actions to the Division of Medical Quality Assurance of
20 the Department of Health rather than the Division of
21 Health Quality Assurance of the Agency for Health Care
22 Administration; amending s. 395.1023, F.S.; providing for
23 the Department of Children and Family Services rather than
24 the Department of Health to perform certain functions with
25 respect to child protection cases; requiring certain
26 hospitals to notify the Department of Children and Family
27 Services of compliance; amending s. 395.1041, F.S.,
28 relating to hospital emergency services and care; deleting

29 obsolete provisions; repealing s. 395.1046, F.S., relating
30 to complaint investigation procedures; amending s.
31 395.1055, F.S.; requiring licensed facility beds to
32 conform to standards specified by the Agency for Health
33 Care Administration, the Florida Building Code, and the
34 Florida Fire Prevention Code; amending s. 395.10972, F.S.;
35 revising a reference to the Florida Society of Healthcare
36 Risk Management to conform to the current designation;
37 amending s. 395.2050, F.S.; revising a reference to the
38 federal Health Care Financing Administration to conform to
39 the current designation; amending s. 395.3036, F.S.;
40 correcting a reference; repealing s. 395.3037, F.S.,
41 relating to redundant definitions; amending ss. 154.11,
42 394.741, 395.3038, 400.925, 400.9935, 408.05, 440.13,
43 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015,
44 F.S.; revising references to the Joint Commission on
45 Accreditation of Healthcare Organizations, the Commission
46 on Accreditation of Rehabilitation Facilities, and the
47 Council on Accreditation to conform to their current
48 designations; amending s. 395.602, F.S.; revising the
49 definition of the term "rural hospital" to delete an
50 obsolete provision; amending s. 400.021, F.S.; revising
51 the definition of the term "geriatric outpatient clinic";
52 amending s. 400.0255, F.S.; correcting an obsolete cross-
53 reference to administrative rules; amending s. 400.063,
54 F.S.; deleting an obsolete provision; amending ss. 400.071
55 and 400.0712, F.S.; revising applicability of general
56 licensure requirements under part II of ch. 408, F.S., to

CODING: Words stricken are deletions; words underlined are additions.

57 applications for nursing home licensure; revising
58 provisions governing inactive licenses; amending s.
59 400.111, F.S.; providing for disclosure of controlling
60 interest of a nursing home facility upon request by the
61 Agency for Health Care Administration; amending s.
62 400.1183, F.S.; revising grievance record maintenance and
63 reporting requirements for nursing homes; amending s.
64 400.141, F.S.; providing criteria for the provision of
65 respite services by nursing homes; requiring a written
66 plan of care; requiring a contract for services; requiring
67 resident release to caregivers to be designated in
68 writing; providing an exemption to the application of
69 discharge planning rules; providing for residents' rights;
70 providing for use of personal medications; providing terms
71 of respite stay; providing for communication of patient
72 information; requiring a physician's order for care and
73 proof of a physical examination; providing for services
74 for respite patients and duties of facilities with respect
75 to such patients; conforming a cross-reference; requiring
76 facilities to maintain clinical records that meet
77 specified standards; providing a fine relating to an
78 admissions moratorium; deleting requirement for facilities
79 to submit certain information related to management
80 companies to the agency; deleting a requirement for
81 facilities to notify the agency of certain bankruptcy
82 filings to conform to changes made by the act; amending s.
83 400.142, F.S.; deleting language relating to agency
84 adoption of rules; amending 400.147, F.S.; revising

85 reporting requirements for licensed nursing home
86 facilities relating to adverse incidents; repealing s.
87 400.148, F.S., relating to the Medicaid "Up-or-Out"
88 Quality of Care Contract Management Program; amending s.
89 400.179, F.S.; deleting an obsolete provision; amending s.
90 400.19, F.S.; revising inspection requirements; amending
91 s. 400.23, F.S.; deleting an obsolete provision;
92 correcting a reference; directing the agency to adopt
93 rules for minimum staffing standards in nursing homes that
94 serve persons under 21 years of age; providing minimum
95 staffing standards; amending s. 400.275, F.S.; revising
96 agency duties with regard to training nursing home
97 surveyor teams; revising requirements for team members;
98 amending s. 400.484, F.S.; revising the schedule of home
99 health agency inspection violations; amending s. 400.606,
100 F.S.; revising the content requirements of the plan
101 accompanying an initial or change-of-ownership application
102 for licensure of a hospice; revising requirements relating
103 to certificates of need for certain hospice facilities;
104 amending s. 400.607, F.S.; revising grounds for agency
105 action against a hospice; amending s. 400.915, F.S.;
106 correcting an obsolete cross-reference to administrative
107 rules; amending s. 400.931, F.S.; deleting a requirement
108 that an applicant for a home medical equipment provider
109 license submit a surety bond to the agency; amending s.
110 400.932, F.S.; revising grounds for the imposition of
111 administrative penalties for certain violations by an
112 employee of a home medical equipment provider; amending s.

113 400.967, F.S.; revising the schedule of inspection
114 violations for intermediate care facilities for the
115 developmentally disabled; providing a penalty for certain
116 violations; amending s. 400.9905, F.S.; revising the
117 definitions of the terms "clinic" and "portable equipment
118 provider"; providing that part X of ch, 400, F.S., the
119 Health Care Clinic Act, does not apply to certain clinical
120 facilities, an entity owned by a corporation with a
121 specified amount of annual sales of health care services
122 under certain circumstances, or an entity owned or
123 controlled by a publicly traded entity with a specified
124 amount of annual revenues; amending s. 400.991, F.S.;
125 conforming terminology; revising application requirements
126 relating to documentation of financial ability to operate
127 a mobile clinic; amending s. 408.034, F.S.; revising
128 agency authority relating to licensing of intermediate
129 care facilities for the developmentally disabled; amending
130 s. 408.036, F.S.; deleting an exemption from certain
131 certificate-of-need review requirements for a hospice or a
132 hospice inpatient facility; amending s. 408.043, F.S.;
133 revising requirements for certain freestanding inpatient
134 hospice care facilities to obtain a certificate of need;
135 amending s. 408.061, F.S.; revising health care facility
136 data reporting requirements; amending s. 408.10, F.S.;
137 removing agency authority to investigate certain consumer
138 complaints; amending s. 408.802, F.S.; removing
139 applicability of part II of ch. 408, F.S., relating to
140 general licensure requirements, to private review agents;

141 amending s. 408.804, F.S.; providing penalties for
142 altering, defacing, or falsifying a license certificate
143 issued by the agency or displaying such an altered,
144 defaced, or falsified certificate; amending s. 408.806,
145 F.S.; revising agency responsibilities for notification of
146 licensees of impending expiration of a license; requiring
147 payment of a late fee for a license application to be
148 considered complete under certain circumstances; amending
149 s. 408.810, F.S.; revising provisions relating to
150 information required for licensure; requiring proof of
151 submission of notice to a mortgagor or landlord regarding
152 provision of services requiring licensure; requiring
153 disclosure of information by a controlling interest of
154 certain court actions relating to financial instability
155 within a specified time period; amending s. 408.813, F.S.;
156 authorizing the agency to impose fines for unclassified
157 violations of part II of ch. 408, F.S.; amending s.
158 408.815, F.S.; authorizing the agency to extend a license
159 expiration date under certain circumstances; conforming a
160 cross-reference; amending s. 408.820, F.S.; conforming a
161 cross-reference; amending s. 409.91196, F.S.; conforming a
162 cross-reference; amending s. 409.912, F.S.; revising
163 procedures for implementation of a Medicaid prescribed-
164 drug spending-control program; amending s. 409.91255,
165 F.S.; transferring administrative responsibility for the
166 application procedure for federally qualified health
167 centers from the Department of Health to the Agency for
168 Health Care Administration; requiring the Florida

169 Association of Community Health Centers, Inc., to provide
170 support and assume administrative costs for the program;
171 amending s. 429.07, F.S.; deleting the requirement for an
172 assisted living facility to obtain an additional license
173 in order to provide limited nursing services; deleting the
174 requirement for the agency to conduct quarterly monitoring
175 visits of facilities that hold a license to provide
176 extended congregate care services; deleting the
177 requirement for the department to report annually on the
178 status of and recommendations related to extended
179 congregate care; deleting the requirement for the agency
180 to conduct monitoring visits at least twice a year to
181 facilities providing limited nursing services; increasing
182 the licensure fees and the maximum fee required for the
183 standard license; increasing the licensure fees for the
184 extended congregate care license; eliminating the license
185 fee for the limited nursing services license; transferring
186 from another provision of law the requirement that a
187 biennial survey of an assisted living facility include
188 specific actions to determine whether the facility is
189 adequately protecting residents' rights; providing that
190 under specified conditions an assisted living facility
191 that has a class I or class II violation is subject to
192 periodic unannounced monitoring; requiring a registered
193 nurse to participate in certain monitoring visits;
194 amending s. 429.11, F.S.; revising licensure application
195 requirements for assisted living facilities to eliminate
196 provisional licenses; amending s. 429.12, F.S.; deleting a

197 requirement that a transferor of an assisted living
198 facility advise the transferee to submit a plan for
199 correction of certain deficiencies to the Agency for
200 Health Care Administration before ownership of the
201 facility is transferred; amending s. 429.14, F.S.;
202 removing a ground for the imposition of an administrative
203 penalty; clarifying provisions relating to a facility's
204 request for a hearing under certain circumstances;
205 authorizing the agency to provide certain information
206 relating to the licensure status of assisted living
207 facilities electronically or through the agency's Internet
208 website; amending s. 429.17, F.S.; deleting provisions
209 relating to the limited nursing services license; revising
210 agency responsibilities regarding the issuance of
211 conditional licenses; amending s. 429.19, F.S.; clarifying
212 that a monitoring fee may be assessed in addition to an
213 administrative fine; amending s. 429.23, F.S.; deleting
214 reporting requirements for assisted living facilities
215 relating to liability claims; amending s. 429.255, F.S.;
216 eliminating provisions authorizing the use of volunteers
217 to provide certain health-care-related services in
218 assisted living facilities; authorizing assisted living
219 facilities to provide limited nursing services; requiring
220 an assisted living facility to be responsible for certain
221 recordkeeping and staff to be trained to monitor residents
222 receiving certain health-care-related services; amending
223 s. 429.28, F.S.; deleting a requirement for a biennial
224 survey of an assisted living facility, to conform to

225 changes made by the act; conforming a cross-reference;
226 amending s. 429.35, F.S.; authorizing the agency to
227 provide certain information relating to the inspections of
228 assisted living facilities electronically or through the
229 agency's Internet website; amending s. 429.41, F.S.,
230 relating to rulemaking; conforming provisions to changes
231 made by the act; amending s. 429.53, F.S.; revising
232 provisions relating to consultation by the agency;
233 revising a definition; amending s. 429.54, F.S.; requiring
234 licensed assisted living facilities to electronically
235 report certain data semiannually to the agency in
236 accordance with rules adopted by the department; amending
237 s. 429.71, F.S.; revising schedule of inspection
238 violations for adult family-care homes; amending s.
239 429.911, F.S.; deleting a ground for agency action against
240 an adult day care center; amending s. 429.915, F.S.;
241 revising agency responsibilities regarding the issuance of
242 conditional licenses; amending s. 483.294, F.S.; revising
243 frequency of agency inspections of multiphasic health
244 testing centers; amending s. 626.9541, F.S.; authorizing
245 an insurer offering a group or individual health benefit
246 plan to offer a wellness program; authorizing rewards or
247 incentives; providing for verification of a member's
248 inability to participate for medical reasons; providing
249 that such rewards or incentives are not insurance
250 benefits; amending s. 633.081, F.S.; limiting State Fire
251 Marshal inspections of nursing homes to once a year;
252 providing for additional inspections based on complaints

253 and violations identified in the course of orientation or
254 training activities; amending s. 766.202, F.S.; adding
255 persons licensed under part XIV of ch. 468, F.S., to the
256 definition of "health care provider"; amending ss.
257 394.4787, 400.0239, 408.07, 430.80, and 651.118, F.S.;
258 conforming terminology and references to changes made by
259 the act; revising a reference; providing an effective
260 date.
261
262 Be It Enacted by the Legislature of the State of Florida:
263
264 Section 1. Paragraphs (f) through (k) of subsection (10)
265 of section 112.045, Florida Statutes, are redesignated as
266 paragraphs (e) through (j), respectively, and present paragraph
267 (e) of subsection (10) and paragraph (e) of subsection (14) of
268 that section are amended to read:
269 112.0455 Drug-Free Workplace Act.—
270 (10) EMPLOYER PROTECTION.—
271 ~~(e) Nothing in this section shall be construed to operate~~
272 ~~retroactively, and nothing in this section shall abrogate the~~
273 ~~right of an employer under state law to conduct drug tests prior~~
274 ~~to January 1, 1990. A drug test conducted by an employer prior~~
275 ~~to January 1, 1990, is not subject to this section.~~
276 (14) DISCIPLINE REMEDIES.—
277 (e) Upon resolving an appeal filed pursuant to paragraph
278 (c), and finding a violation of this section, the commission may
279 order the following relief:

280 1. Rescind the disciplinary action, expunge related
281 records from the personnel file of the employee or job applicant
282 and reinstate the employee.
283 2. Order compliance with paragraph (10)(f) ~~(g)~~.
284 3. Award back pay and benefits.
285 4. Award the prevailing employee or job applicant the
286 necessary costs of the appeal, reasonable attorney's fees, and
287 expert witness fees.
288 Section 2. Paragraph (n) of subsection (1) of section
289 154.11, Florida Statutes, is amended to read:
290 154.11 Powers of board of trustees.—
291 (1) The board of trustees of each public health trust
292 shall be deemed to exercise a public and essential governmental
293 function of both the state and the county and in furtherance
294 thereof it shall, subject to limitation by the governing body of
295 the county in which such board is located, have all of the
296 powers necessary or convenient to carry out the operation and
297 governance of designated health care facilities, including, but
298 without limiting the generality of, the foregoing:
299 (n) To appoint originally the staff of physicians to
300 practice in any designated facility owned or operated by the
301 board and to approve the bylaws and rules to be adopted by the
302 medical staff of any designated facility owned and operated by
303 the board, such governing regulations to be in accordance with
304 the standards of the Joint Commission ~~on the Accreditation of~~
305 ~~Hospitals~~ which provide, among other things, for the method of
306 appointing additional staff members and for the removal of staff
307 members.

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

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

(15) Of the additional fine assessed under s. 318.18(3)(e) for a violation of s. 316.1893, 50 percent of the moneys received from the fines shall be remitted to the Department of Revenue and deposited into the Brain and Spinal Cord Injury Trust Fund of Department of Health and shall be appropriated to the Department of Health ~~Agency for Health Care Administration~~ as general revenue to ~~provide an enhanced Medicaid payment to nursing homes that~~ serve Medicaid recipients with ~~brain and~~ spinal cord injuries that are medically complex and who are technologically and respiratory dependent. The remaining 50 percent of the moneys received from the enhanced fine imposed under s. 318.18(3)(e) shall be remitted to the Department of Revenue and deposited into the Department of Health Emergency Medical Services Trust Fund to provide financial support to certified trauma centers in the counties where enhanced penalty zones are established to ensure the availability and accessibility of trauma services. Funds deposited into the Emergency Medical Services Trust Fund under this subsection shall be allocated as follows:

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

336 (b) Fifty percent shall be allocated among Level I, Level
337 II, and pediatric trauma centers based on each center's relative
338 volume of trauma cases as reported in the Department of Health
339 Trauma Registry.
340 Section 4. Paragraph (f) is added to subsection (2) of
341 section 381.0072, Florida Statutes, to read:
342 381.0072 Food service protection.—It shall be the duty of
343 the Department of Health to adopt and enforce sanitation rules
344 consistent with law to ensure the protection of the public from
345 food-borne illness. These rules shall provide the standards and
346 requirements for the storage, preparation, serving, or display
347 of food in food service establishments as defined in this
348 section and which are not permitted or licensed under chapter
349 500 or chapter 509.
350 (2) DUTIES.—
351 (f) The department shall inspect food service
352 establishments in nursing homes licensed under part II of
353 chapter 400 twice each year. The department may make additional
354 inspections only in response to complaints. The department shall
355 coordinate inspections with the Agency for Health Care
356 Administration, such that the department's inspection is at
357 least 60 days after a recertification visit by the Agency for
358 Health Care Administration.
359 Section 5. Section 383.325, Florida Statutes, is repealed.
360 Section 6. Subsection (7) of section 394.4787, Florida
361 Statutes, is amended to read:

362 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
363 and 394.4789.—As used in this section and ss. 394.4786,
364 394.4788, and 394.4789:
365 (7) "Specialty psychiatric hospital" means a hospital
366 licensed by the agency pursuant to s. 395.002(26) (28) and part
367 II of chapter 408 as a specialty psychiatric hospital.
368 Section 7. Subsection (2) of section 394.741, Florida
369 Statutes, is amended to read:
370 394.741 Accreditation requirements for providers of
371 behavioral health care services.—
372 (2) Notwithstanding any provision of law to the contrary,
373 accreditation shall be accepted by the agency and department in
374 lieu of the agency's and department's facility licensure onsite
375 review requirements and shall be accepted as a substitute for
376 the department's administrative and program monitoring
377 requirements, except as required by subsections (3) and (4),
378 for:
379 (a) Any organization from which the department purchases
380 behavioral health care services that is accredited by the Joint
381 Commission on Accreditation of Healthcare Organizations or the
382 Council on Accreditation for Children and Family Services, or
383 has those services that are being purchased by the department
384 accredited by the Commission on Accreditation of Rehabilitation
385 Facilities CARF—the Rehabilitation Accreditation Commission.
386 (b) Any mental health facility licensed by the agency or
387 any substance abuse component licensed by the department that is
388 accredited by the Joint Commission on Accreditation of
389 Healthcare Organizations, the Commission on Accreditation of

390 Rehabilitation Facilities ~~CARF—the Rehabilitation Accreditation~~
391 ~~Commission~~, or the Council on Accreditation ~~of Children and~~
392 ~~Family Services~~.
393 (c) Any network of providers from which the department or
394 the agency purchases behavioral health care services accredited
395 by the Joint Commission ~~on Accreditation of Healthcare~~
396 ~~Organizations~~, the Commission on Accreditation of Rehabilitation
397 Facilities ~~CARF—the Rehabilitation Accreditation Commission~~, the
398 Council on Accreditation ~~of Children and Family Services~~, or the
399 National Committee for Quality Assurance. A provider
400 organization, which is part of an accredited network, is
401 afforded the same rights under this part.
402 Section 8. Present subsections (15) through (32) of
403 section 395.002, Florida Statutes, are renumbered as subsections
404 (14) through (28), respectively, and present subsections (1),
405 (14), (24), (30), and (31) and paragraph (c) of present
406 subsection (28) of that section are amended to read:
407 395.002 Definitions.—As used in this chapter:
408 (1) "Accrediting organizations" means nationally
409 recognized or approved accrediting organizations whose standards
410 incorporate comparable licensure requirements as determined by
411 the agency ~~the Joint Commission on Accreditation of Healthcare~~
412 ~~Organizations, the American Osteopathic Association, the~~
413 ~~Commission on Accreditation of Rehabilitation Facilities, and~~
414 ~~the Accreditation Association for Ambulatory Health Care, Inc~~.
415 ~~(14) "Initial denial determination" means a determination~~
416 ~~by a private review agent that the health care services~~

417 ~~furnished or proposed to be furnished to a patient are~~
418 ~~inappropriate, not medically necessary, or not reasonable.~~
419 ~~(24) "Private review agent" means any person or entity~~
420 ~~which performs utilization review services for third-party~~
421 ~~payors on a contractual basis for outpatient or inpatient~~
422 ~~services. However, the term shall not include full-time~~
423 ~~employees, personnel, or staff of health insurers, health~~
424 ~~maintenance organizations, or hospitals, or wholly owned~~
425 ~~subsidiaries thereof or affiliates under common ownership, when~~
426 ~~performing utilization review for their respective hospitals,~~
427 ~~health maintenance organizations, or insureds of the same~~
428 ~~insurance group. For this purpose, health insurers, health~~
429 ~~maintenance organizations, and hospitals, or wholly owned~~
430 ~~subsidiaries thereof or affiliates under common ownership,~~
431 ~~include such entities engaged as administrators of self-~~
432 ~~insurance as defined in s. 624.031.~~
433 (26) ~~(28)~~ "Specialty hospital" means any facility which
434 meets the provisions of subsection (12), and which regularly
435 makes available either:
436 (c) Intensive residential treatment programs for children
437 and adolescents as defined in subsection (14) ~~(15)~~.
438 ~~(30) "Utilization review" means a system for reviewing the~~
439 ~~medical necessity or appropriateness in the allocation of health~~
440 ~~care resources of hospital services given or proposed to be~~
441 ~~given to a patient or group of patients.~~
442 ~~(31) "Utilization review plan" means a description of the~~
443 ~~policies and procedures governing utilization review activities~~
444 ~~performed by a private review agent.~~

445 Section 9. Paragraph (c) of subsection (1) and paragraph
446 (b) of subsection (2) of section 395.003, Florida Statutes, are
447 amended to read:
448 395.003 Licensure; denial, suspension, and revocation.—
449 (1)
450 ~~(c) Until July 1, 2006, additional emergency departments~~
451 ~~located off the premises of licensed hospitals may not be~~
452 ~~authorized by the agency.~~
453 (2)
454 (b) The agency shall, at the request of a licensee that is
455 a teaching hospital as defined in s. 408.07(45), issue a single
456 license to a licensee for facilities that have been previously
457 licensed as separate premises, provided such separately licensed
458 facilities, taken together, constitute the same premises as
459 defined in s. 395.002(22) ~~(23)~~. Such license for the single
460 premises shall include all of the beds, services, and programs
461 that were previously included on the licenses for the separate
462 premises. The granting of a single license under this paragraph
463 shall not in any manner reduce the number of beds, services, or
464 programs operated by the licensee.
465 Section 10. Paragraph (e) of subsection (2) and subsection
466 (4) of section 395.0193, Florida Statutes, are amended to read:
467 395.0193 Licensed facilities; peer review; disciplinary
468 powers; agency or partnership with physicians.—
469 (2) Each licensed facility, as a condition of licensure,
470 shall provide for peer review of physicians who deliver health
471 care services at the facility. Each licensed facility shall

472 develop written, binding procedures by which such peer review
473 shall be conducted. Such procedures shall include:
474 (e) Recording of agendas and minutes which do not contain
475 confidential material, for review by the Division of Medical
476 Quality Assurance of the department ~~Health Quality Assurance of~~
477 ~~the agency~~.
478 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
479 actions taken under subsection (3) shall be reported in writing
480 to the Division of Medical Quality Assurance of the department
481 ~~Health Quality Assurance of the agency~~ within 30 working days
482 after its initial occurrence, regardless of the pendency of
483 appeals to the governing board of the hospital. The notification
484 shall identify the disciplined practitioner, the action taken,
485 and the reason for such action. All final disciplinary actions
486 taken under subsection (3), if different from those which were
487 reported to the department ~~agency~~ within 30 days after the
488 initial occurrence, shall be reported within 10 working days to
489 the Division of Medical Quality Assurance of the department
490 ~~Health Quality Assurance of the agency~~ in writing and shall
491 specify the disciplinary action taken and the specific grounds
492 therefor. The division shall review each report and determine
493 whether it potentially involved conduct by the licensee that is
494 subject to disciplinary action, in which case s. 456.073 shall
495 apply. The reports are not subject to inspection under s.
496 119.07(1) even if the division's investigation results in a
497 finding of probable cause.
498 Section 11. Section 395.1023, Florida Statutes, is amended
499 to read:

500 395.1023 Child abuse and neglect cases; duties.—Each
501 licensed facility shall adopt a protocol that, at a minimum,
502 requires the facility to:
503 (1) Incorporate a facility policy that every staff member
504 has an affirmative duty to report, pursuant to chapter 39, any
505 actual or suspected case of child abuse, abandonment, or
506 neglect; and
507 (2) In any case involving suspected child abuse,
508 abandonment, or neglect, designate, at the request of the
509 Department of Children and Family Services, a staff physician to
510 act as a liaison between the hospital and the Department of
511 Children and Family Services office which is investigating the
512 suspected abuse, abandonment, or neglect, and the child
513 protection team, as defined in s. 39.01, when the case is
514 referred to such a team.
515
516 Each general hospital and appropriate specialty hospital shall
517 comply with the provisions of this section and shall notify the
518 agency and the Department of Children and Family Services of its
519 compliance by sending a copy of its policy to the agency and the
520 Department of Children and Family Services as required by rule.
521 The failure by a general hospital or appropriate specialty
522 hospital to comply shall be punished by a fine not exceeding
523 $1,000, to be fixed, imposed, and collected by the agency. Each
524 day in violation is considered a separate offense.
525 Section 12. Subsection (2) and paragraph (d) of subsection
526 (3) of section 395.1041, Florida Statutes, are amended to read:
527 395.1041 Access to emergency services and care.—

528 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency
529 shall establish and maintain an inventory of hospitals with
530 emergency services. The inventory shall list all services within
531 the service capability of the hospital, and such services shall
532 appear on the face of the hospital license. Each hospital having
533 emergency services shall notify the agency of its service
534 capability in the manner and form prescribed by the agency. The
535 agency shall use the inventory to assist emergency medical
536 services providers and others in locating appropriate emergency
537 medical care. The inventory shall also be made available to the
538 general public. ~~On or before August 1, 1992, the agency shall~~
539 ~~request that each hospital identify the services which are~~
540 ~~within its service capability. On or before November 1, 1992,~~
541 ~~the agency shall notify each hospital of the service capability~~
542 ~~to be included in the inventory. The hospital has 15 days from~~
543 ~~the date of receipt to respond to the notice. By December 1,~~
544 ~~1992, the agency shall publish a final inventory.~~ Each hospital
545 shall reaffirm its service capability when its license is
546 renewed and shall notify the agency of the addition of a new
547 service or the termination of a service prior to a change in its
548 service capability.
549 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
550 FACILITY OR HEALTH CARE PERSONNEL.—
551 (d)1. Every hospital shall ensure the provision of
552 services within the service capability of the hospital, at all
553 times, either directly or indirectly through an arrangement with
554 another hospital, through an arrangement with one or more
555 physicians, or as otherwise made through prior arrangements. A

556 hospital may enter into an agreement with another hospital for
557 purposes of meeting its service capability requirement, and
558 appropriate compensation or other reasonable conditions may be
559 negotiated for these backup services.
560 2. If any arrangement requires the provision of emergency
561 medical transportation, such arrangement must be made in
562 consultation with the applicable provider and may not require
563 the emergency medical service provider to provide transportation
564 that is outside the routine service area of that provider or in
565 a manner that impairs the ability of the emergency medical
566 service provider to timely respond to prehospital emergency
567 calls.
568 3. A hospital shall not be required to ensure service
569 capability at all times as required in subparagraph 1. if, prior
570 to the receiving of any patient needing such service capability,
571 such hospital has demonstrated to the agency that it lacks the
572 ability to ensure such capability and it has exhausted all
573 reasonable efforts to ensure such capability through backup
574 arrangements. In reviewing a hospital's demonstration of lack of
575 ability to ensure service capability, the agency shall consider
576 factors relevant to the particular case, including the
577 following:
578 a. Number and proximity of hospitals with the same service
579 capability.
580 b. Number, type, credentials, and privileges of
581 specialists.
582 c. Frequency of procedures.
583 d. Size of hospital.

584 4. The agency shall publish ~~proposed~~ rules implementing a
585 reasonable exemption procedure ~~by November 1, 1992~~. ~~Subparagraph~~
586 ~~1. shall become effective upon the effective date of said rules~~
587 ~~or January 31, 1993, whichever is earlier. For a period not to~~
588 ~~exceed 1 year from the effective date of subparagraph 1., a~~
589 ~~hospital requesting an exemption shall be deemed to be exempt~~
590 ~~from offering the service until the agency initially acts to~~
591 ~~deny or grant the original request.~~ The agency has 45 days after
592 ~~from~~ the date of receipt of the request to approve or deny the
593 request. ~~After the first year from the effective date of~~
594 ~~subparagraph 1.,~~ If the agency fails to initially act within
595 that ~~the~~ time period, the hospital is deemed to be exempt from
596 offering the service until the agency initially acts to deny the
597 request.
598 Section 13. Section 395.1046, Florida Statutes, is
599 repealed.
600 Section 14. Paragraph (e) of subsection (1) of section
601 395.1055, Florida Statutes, is amended to read:
602 395.1055 Rules and enforcement.—
603 (1) The agency shall adopt rules pursuant to ss.
604 120.536(1) and 120.54 to implement the provisions of this part,
605 which shall include reasonable and fair minimum standards for
606 ensuring that:
607 (e) Licensed facility beds conform to minimum space,
608 equipment, and furnishings standards as specified by the agency,
609 the Florida Building Code, and the Florida Fire Prevention Code
610 ~~department~~.

611 Section 15. Subsection (1) of section 395.10972, Florida
612 Statutes, is amended to read:
613 395.10972 Health Care Risk Manager Advisory Council.—The
614 Secretary of Health Care Administration may appoint a seven-
615 member advisory council to advise the agency on matters
616 pertaining to health care risk managers. The members of the
617 council shall serve at the pleasure of the secretary. The
618 council shall designate a chair. The council shall meet at the
619 call of the secretary or at those times as may be required by
620 rule of the agency. The members of the advisory council shall
621 receive no compensation for their services, but shall be
622 reimbursed for travel expenses as provided in s. 112.061. The
623 council shall consist of individuals representing the following
624 areas:
625 (1) Two shall be active health care risk managers,
626 including one risk manager who is recommended by and a member of
627 the Florida Society <u>for</u> ~~of~~ Healthcare Risk Management <u>and</u>
628 <u>Patient Safety</u>.
629 Section 16. Subsection (3) of section 395.2050, Florida
630 Statutes, is amended to read:
631 395.2050 Routine inquiry for organ and tissue donation;
632 certification for procurement activities; death records review.—
633 (3) Each organ procurement organization designated by the
634 federal <u>Centers for Medicare and Medicaid Services</u> ~~Health Care~~
635 ~~Financing Administration~~ and licensed by the state shall conduct
636 an annual death records review in the organ procurement
637 organization's affiliated donor hospitals. The organ procurement
638 organization shall enlist the services of every Florida licensed

639 tissue bank and eye bank affiliated with or providing service to
640 the donor hospital and operating in the same service area to
641 participate in the death records review.
642 Section 17. Subsection (2) of section 395.3036, Florida
643 Statutes, is amended to read:
644 395.3036 Confidentiality of records and meetings of
645 corporations that lease public hospitals or other public health
646 care facilities.—The records of a private corporation that
647 leases a public hospital or other public health care facility
648 are confidential and exempt from the provisions of s. 119.07(1)
649 and s. 24(a), Art. I of the State Constitution, and the meetings
650 of the governing board of a private corporation are exempt from
651 s. 286.011 and s. 24(b), Art. I of the State Constitution when
652 the public lessor complies with the public finance
653 accountability provisions of s. 155.40(5) with respect to the
654 transfer of any public funds to the private lessee and when the
655 private lessee meets at least three of the five following
656 criteria:
657 (2) The public lessor and the private lessee do not
658 commingle any of their funds in any account maintained by either
659 of them, other than the payment of the rent and administrative
660 fees or the transfer of funds pursuant to s. 155.40 ~~subsection~~
661 ~~(2)~~.
662 Section 18. Section 395.3037, Florida Statutes, is
663 repealed.
664 Section 19. Subsections (1), (4), and (5) of section
665 395.3038, Florida Statutes, are amended to read:

666 395.3038 State-listed primary stroke centers and
667 comprehensive stroke centers; notification of hospitals.—
668 (1) The agency shall make available on its website and to
669 the department a list of the name and address of each hospital
670 that meets the criteria for a primary stroke center and the name
671 and address of each hospital that meets the criteria for a
672 comprehensive stroke center. The list of primary and
673 comprehensive stroke centers shall include only those hospitals
674 that attest in an affidavit submitted to the agency that the
675 hospital meets the named criteria, or those hospitals that
676 attest in an affidavit submitted to the agency that the hospital
677 is certified as a primary or a comprehensive stroke center by
678 the Joint Commission ~~on Accreditation of Healthcare~~
679 ~~Organizations~~.
680 (4) The agency shall adopt by rule criteria for a primary
681 stroke center which are substantially similar to the
682 certification standards for primary stroke centers of the Joint
683 Commission ~~on Accreditation of Healthcare Organizations~~.
684 (5) The agency shall adopt by rule criteria for a
685 comprehensive stroke center. However, if the Joint Commission ~~on~~
686 ~~Accreditation of Healthcare Organizations~~ establishes criteria
687 for a comprehensive stroke center, the agency shall establish
688 criteria for a comprehensive stroke center which are
689 substantially similar to those criteria established by the Joint
690 Commission ~~on Accreditation of Healthcare Organizations~~.
691 Section 20. Paragraph (e) of subsection (2) of section
692 395.602, Florida Statutes, is amended to read:
693 395.602 Rural hospitals.—

694 (2) DEFINITIONS.—As used in this part:
695 (e) "Rural hospital" means an acute care hospital licensed
696 under this chapter, having 100 or fewer licensed beds and an
697 emergency room, which is:
698 1. The sole provider within a county with a population
699 density of no greater than 100 persons per square mile;
700 2. An acute care hospital, in a county with a population
701 density of no greater than 100 persons per square mile, which is
702 at least 30 minutes of travel time, on normally traveled roads
703 under normal traffic conditions, from any other acute care
704 hospital within the same county;
705 3. A hospital supported by a tax district or subdistrict
706 whose boundaries encompass a population of 100 persons or fewer
707 per square mile;
708 ~~4. A hospital in a constitutional charter county with a~~
709 ~~population of over 1 million persons that has imposed a local~~
710 ~~option health service tax pursuant to law and in an area that~~
711 ~~was directly impacted by a catastrophic event on August 24,~~
712 ~~1992, for which the Governor of Florida declared a state of~~
713 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
714 ~~serves an agricultural community with an emergency room~~
715 ~~utilization of no less than 20,000 visits and a Medicaid~~
716 ~~inpatient utilization rate greater than 15 percent;~~
717 4.~~5.~~ A hospital with a service area that has a population
718 of 100 persons or fewer per square mile. As used in this
719 subparagraph, the term "service area" means the fewest number of
720 zip codes that account for 75 percent of the hospital's
721 discharges for the most recent 5-year period, based on

722 information available from the hospital inpatient discharge
723 database in the Florida Center for Health Information and Policy
724 Analysis at the Agency for Health Care Administration; or
725 5.~~6.~~ A hospital designated as a critical access hospital,
726 as defined in s. 408.07(15).
727
728 Population densities used in this paragraph must be based upon
729 the most recently completed United States census. A hospital
730 that received funds under s. 409.9116 for a quarter beginning no
731 later than July 1, 2002, is deemed to have been and shall
732 continue to be a rural hospital from that date through June 30,
733 2015, if the hospital continues to have 100 or fewer licensed
734 beds and an emergency room~~, or meets the criteria of~~
735 ~~subparagraph 4~~. An acute care hospital that has not previously
736 been designated as a rural hospital and that meets the criteria
737 of this paragraph shall be granted such designation upon
738 application, including supporting documentation to the Agency
739 for Health Care Administration.
740 Section 21. Subsection (8) of section 400.021, Florida
741 Statutes, is amended to read:
742 400.021 Definitions.—When used in this part, unless the
743 context otherwise requires, the term:
744 (8) "Geriatric outpatient clinic" means a site for
745 providing outpatient health care to persons 60 years of age or
746 older, which is staffed by a registered nurse or a physician
747 assistant, or a licensed practical nurse under the direct
748 supervision of a registered nurse, advanced registered nurse
749 practitioner, or physician.

750 Section 22. Paragraph (g) of subsection (2) of section
751 400.0239, Florida Statutes, is amended to read:
752 400.0239 Quality of Long-Term Care Facility Improvement
753 Trust Fund.—
754 (2) Expenditures from the trust fund shall be allowable
755 for direct support of the following:
756 (g) Other initiatives authorized by the Centers for
757 Medicare and Medicaid Services for the use of federal civil
758 monetary penalties~~, including projects recommended through the~~
759 ~~Medicaid "Up-or-Out" Quality of Care Contract Management Program~~
760 ~~pursuant to s. 400.148~~.
761 Section 23. Subsection (15) of section 400.0255, Florida
762 Statutes, is amended to read
763 400.0255 Resident transfer or discharge; requirements and
764 procedures; hearings.—
765 (15)(a) The department's Office of Appeals Hearings shall
766 conduct hearings under this section. The office shall notify the
767 facility of a resident's request for a hearing.
768 (b) The department shall, by rule, establish procedures to
769 be used for fair hearings requested by residents. These
770 procedures shall be equivalent to the procedures used for fair
771 hearings for other Medicaid cases <u>appearing in s. 409.285 and</u>
772 <u>applicable rules</u>~~, chapter 10-2, part VI, Florida Administrative~~
773 ~~Code~~. The burden of proof must be clear and convincing evidence.
774 A hearing decision must be rendered within 90 days after receipt
775 of the request for hearing.

776 (c) If the hearing decision is favorable to the resident
777 who has been transferred or discharged, the resident must be
778 readmitted to the facility's first available bed.
779 (d) The decision of the hearing officer shall be final.
780 Any aggrieved party may appeal the decision to the district
781 court of appeal in the appellate district where the facility is
782 located. Review procedures shall be conducted in accordance with
783 the Florida Rules of Appellate Procedure.
784 Section 24. Subsection (2) of section 400.063, Florida
785 Statutes, is amended to read:
786 400.063 Resident protection.—
787 (2) The agency is authorized to establish for each
788 facility, subject to intervention by the agency, a separate bank
789 account for the deposit to the credit of the agency of any
790 moneys received from the Health Care Trust Fund or any other
791 moneys received for the maintenance and care of residents in the
792 facility, and the agency is authorized to disburse moneys from
793 such account to pay obligations incurred for the purposes of
794 this section. The agency is authorized to requisition moneys
795 from the Health Care Trust Fund in advance of an actual need for
796 cash on the basis of an estimate by the agency of moneys to be
797 spent under the authority of this section. Any bank account
798 established under this section need not be approved in advance
799 of its creation as required by s. 17.58, but shall be secured by
800 depository insurance equal to or greater than the balance of
801 such account or by the pledge of collateral security ~~in~~
802 ~~conformance with criteria established in s. 18.11~~. The agency
803 shall notify the Chief Financial Officer of any such account so

804 established and shall make a quarterly accounting to the Chief
805 Financial Officer for all moneys deposited in such account.
806 Section 25. Subsections (1) and (5) of section 400.071,
807 Florida Statutes, are amended to read:
808 400.071 Application for license.—
809 (1) In addition to the requirements of part II of chapter
810 408, the application for a license shall be under oath and must
811 contain the following:
812 (a) The location of the facility for which a license is
813 sought and an indication, as in the original application, that
814 such location conforms to the local zoning ordinances.
815 ~~(b) A signed affidavit disclosing any financial or~~
816 ~~ownership interest that a controlling interest as defined in~~
817 ~~part II of chapter 408 has held in the last 5 years in any~~
818 ~~entity licensed by this state or any other state to provide~~
819 ~~health or residential care which has closed voluntarily or~~
820 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
821 ~~appointed; has had a license denied, suspended, or revoked; or~~
822 ~~has had an injunction issued against it which was initiated by a~~
823 ~~regulatory agency. The affidavit must disclose the reason any~~
824 ~~such entity was closed, whether voluntarily or involuntarily.~~
825 ~~(c) The total number of beds and the total number of~~
826 ~~Medicare and Medicaid certified beds.~~
827 (b) ~~(d)~~ Information relating to the applicant and employees
828 which the agency requires by rule. The applicant must
829 demonstrate that sufficient numbers of qualified staff, by
830 training or experience, will be employed to properly care for

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831 the type and number of residents who will reside in the
832 facility.
833 (c) ~~(e)~~ Copies of any civil verdict or judgment involving
834 the applicant rendered within the 10 years preceding the
835 application, relating to medical negligence, violation of
836 residents' rights, or wrongful death. As a condition of
837 licensure, the licensee agrees to provide to the agency copies
838 of any new verdict or judgment involving the applicant, relating
839 to such matters, within 30 days after filing with the clerk of
840 the court. The information required in this paragraph shall be
841 maintained in the facility's licensure file and in an agency
842 database which is available as a public record.
843 (5) As a condition of licensure, each facility must
844 establish ~~and submit with its application~~ a plan for quality
845 assurance and for conducting risk management.
846 Section 26. Section 400.0712, Florida Statutes, is amended
847 to read:
848 400.0712 Application for inactive license.—
849 ~~(1) As specified in this section, the agency may issue an~~
850 ~~inactive license to a nursing home facility for all or a portion~~
851 ~~of its beds. Any request by a licensee that a nursing home or~~
852 ~~portion of a nursing home become inactive must be submitted to~~
853 ~~the agency in the approved format. The facility may not initiate~~
854 ~~any suspension of services, notify residents, or initiate~~
855 ~~inactivity before receiving approval from the agency; and a~~
856 ~~licensee that violates this provision may not be issued an~~
857 ~~inactive license.~~

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858 (1) ~~(2)~~ In addition to the powers granted under part II of
859 chapter 408, the agency may issue an inactive license for a
860 portion of the total beds to a nursing home that chooses to use
861 an unoccupied contiguous portion of the facility for an
862 alternative use to meet the needs of elderly persons through the
863 use of less restrictive, less institutional services.
864 (a) An inactive license issued under this subsection may
865 be granted for a period not to exceed the current licensure
866 expiration date but may be renewed by the agency at the time of
867 licensure renewal.
868 (b) A request to extend the inactive license must be
869 submitted to the agency in the approved format and approved by
870 the agency in writing.
871 (c) Nursing homes that receive an inactive license to
872 provide alternative services shall not receive preference for
873 participation in the Assisted Living for the Elderly Medicaid
874 waiver.
875 (2) ~~(3)~~ The agency shall adopt rules pursuant to ss.
876 120.536(1) and 120.54 necessary to implement this section.
877 Section 27. Section 400.111, Florida Statutes, is amended
878 to read:
879 400.111 Disclosure of controlling interest.—In addition to
880 the requirements of part II of chapter 408, when requested by
881 the agency, the licensee shall submit a signed affidavit
882 disclosing any financial or ownership interest that a
883 controlling interest has held within the last 5 years in any
884 entity licensed by the state or any other state to provide
885 health or residential care which entity has closed voluntarily

886 or involuntarily; has filed for bankruptcy; has had a receiver
887 appointed; has had a license denied, suspended, or revoked; or
888 has had an injunction issued against it which was initiated by a
889 regulatory agency. The affidavit must disclose the reason such
890 entity was closed, whether voluntarily or involuntarily.
891 Section 28. Subsection (2) of section 400.1183, Florida
892 Statutes, is amended to read:
893 400.1183 Resident grievance procedures.—
894 (2) Each facility shall maintain records of all grievances
895 and shall retain a log for agency inspection of ~~report to the~~
896 ~~agency at the time of relicensure~~ the total number of grievances
897 handled ~~during the prior licensure period~~, a categorization of
898 the cases underlying the grievances, and the final disposition
899 of the grievances.
900 Section 29. Paragraphs (o) through (w) of subsection (1)
901 of section 400.141, Florida Statutes, are redesignated as
902 paragraphs (n) through (u), respectively, and present paragraphs
903 (f), (g), (j), (n), (o), and (r) of that subsection are amended,
904 to read:
905 400.141 Administration and management of nursing home
906 facilities.—
907 (1) Every licensed facility shall comply with all
908 applicable standards and rules of the agency and shall:
909 (f) Be allowed and encouraged by the agency to provide
910 other needed services under certain conditions. If the facility
911 has a standard licensure status~~, and has had no class I or class~~
912 ~~II deficiencies during the past 2 years~~ or has been awarded a
913 Gold Seal under the program established in s. 400.235, it may ~~be~~

914 ~~encouraged by the agency to~~ provide services, including, but not
915 limited to, respite and adult day services, which enable
916 individuals to move in and out of the facility. A facility is
917 not subject to any additional licensure requirements for
918 providing these services, under the following conditions:~~.~~
919 1. Respite care may be offered to persons in need of
920 short-term or temporary nursing home services. For each person
921 admitted under the respite care program, the facility licensee
922 must:
923 a. Have a written abbreviated plan of care that, at a
924 minimum, includes nutritional requirements, medication orders,
925 physician orders, nursing assessments, and dietary preferences.
926 The nursing or physician assessments may take the place of all
927 other assessments required for full-time residents.
928 b. Have a contract that, at a minimum, specifies the
929 services to be provided to the respite resident, including
930 charges for services, activities, equipment, emergency medical
931 services, and the administration of medications. If multiple
932 respite admissions for a single person are anticipated, the
933 original contract is valid for 1 year after the date of
934 execution.
935 c. Ensure that each resident is released to his or her
936 caregiver or an individual designated in writing by the
937 caregiver.
938 2. A person admitted under the respite care program is:
939 a. Exempt from requirements in rule related to discharge
940 planning.

941 b. Covered by the residents' rights set forth in s.
942 400.022(1)(a)-(o) and (r)-(t). Funds or property of the resident
943 shall not be considered trust funds subject to the requirements
944 of s. 400.022(1)(h) until the resident has been in the facility
945 for more than 14 consecutive days.
946 c. Allowed to use his or her personal medications for the
947 respite stay if permitted by facility policy. The facility must
948 obtain a physician's order for the medications. The caregiver
949 may provide information regarding the medications as part of the
950 nursing assessment and that information must agree with the
951 physician's order. Medications shall be released with the
952 resident upon discharge in accordance with current physician's
953 orders.
954 3. A person receiving respite care is entitled to reside
955 in the facility for a total of 60 days within a contract year or
956 within a calendar year if the contract is for less than 12
957 months. However, each single stay may not exceed 14 days. If a
958 stay exceeds 14 consecutive days, the facility must comply with
959 all assessment and care planning requirements applicable to
960 nursing home residents.
961 4. A person receiving respite care must reside in a
962 licensed nursing home bed.
963 5. A prospective respite resident must provide medical
964 information from a physician, a physician assistant, or a nurse
965 practitioner and other information from the primary caregiver as
966 may be required by the facility prior to or at the time of
967 admission to receive respite care. The medical information must
968 include a physician's order for respite care and proof of a

969 physical examination by a licensed physician, physician
970 assistant, or nurse practitioner. The physician's order and
971 physical examination may be used to provide intermittent respite
972 care for up to 12 months after the date the order is written.
973 6. The facility must assume the duties of the primary
974 caregiver. To ensure continuity of care and services, the
975 resident is entitled to retain his or her personal physician and
976 must have access to medically necessary services such as
977 physical therapy, occupational therapy, or speech therapy, as
978 needed. The facility must arrange for transportation to these
979 services if necessary. Respite care must be provided in
980 accordance with this part and rules adopted by the agency.
981 However, the agency shall, by rule, adopt modified requirements
982 for resident assessment, resident care plans, resident
983 contracts, physician orders, and other provisions, as
984 appropriate, for short-term or temporary nursing home services.
985 7. The agency shall allow for shared programming and staff
986 in a facility which meets minimum standards and offers services
987 pursuant to this paragraph, but, if the facility is cited for
988 deficiencies in patient care, may require additional staff and
989 programs appropriate to the needs of service recipients. A
990 person who receives respite care may not be counted as a
991 resident of the facility for purposes of the facility's licensed
992 capacity unless that person receives 24-hour respite care. A
993 person receiving either respite care for 24 hours or longer or
994 adult day services must be included when calculating minimum
995 staffing for the facility. Any costs and revenues generated by a
996 nursing home facility from nonresidential programs or services

997 shall be excluded from the calculations of Medicaid per diems
998 for nursing home institutional care reimbursement.
999 (g) If the facility has a standard license or is a Gold
1000 Seal facility, exceeds the minimum required hours of licensed
1001 nursing and certified nursing assistant direct care per resident
1002 per day, and is part of a continuing care facility licensed
1003 under chapter 651 or a retirement community that offers other
1004 services pursuant to part III of this chapter or part I or part
1005 III of chapter 429 on a single campus, be allowed to share
1006 programming and staff. At the time of inspection and in the
1007 semiannual report required pursuant to paragraph (n) ~~(o)~~, a
1008 continuing care facility or retirement community that uses this
1009 option must demonstrate through staffing records that minimum
1010 staffing requirements for the facility were met. Licensed nurses
1011 and certified nursing assistants who work in the nursing home
1012 facility may be used to provide services elsewhere on campus if
1013 the facility exceeds the minimum number of direct care hours
1014 required per resident per day and the total number of residents
1015 receiving direct care services from a licensed nurse or a
1016 certified nursing assistant does not cause the facility to
1017 violate the staffing ratios required under s. 400.23(3)(a).
1018 Compliance with the minimum staffing ratios shall be based on
1019 total number of residents receiving direct care services,
1020 regardless of where they reside on campus. If the facility
1021 receives a conditional license, it may not share staff until the
1022 conditional license status ends. This paragraph does not
1023 restrict the agency's authority under federal or state law to
1024 require additional staff if a facility is cited for deficiencies

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1025 in care which are caused by an insufficient number of certified
1026 nursing assistants or licensed nurses. The agency may adopt
1027 rules for the documentation necessary to determine compliance
1028 with this provision.

1029 (j) Keep full records of resident admissions and
1030 discharges; medical and general health status, including medical
1031 records, personal and social history, and identity and address
1032 of next of kin or other persons who may have responsibility for
1033 the affairs of the residents; and individual resident care plans
1034 including, but not limited to, prescribed services, service
1035 frequency and duration, and service goals. The records shall be
1036 open to inspection by the agency. The facility must maintain
1037 clinical records on each resident in accordance with accepted
1038 professional standards and practices that are complete,
1039 accurately documented, readily accessible, and systematically
1040 organized.

1041 ~~(n) Submit to the agency the information specified in s.~~
1042 ~~400.071(1)(b) for a management company within 30 days after the~~
1043 ~~effective date of the management agreement.~~

1044 (n) ~~(o)~~1. ~~Submit semiannually to the agency, or more~~
1045 ~~frequently if requested by the agency, information regarding~~
1046 ~~facility staff-to-resident ratios, staff turnover, and staff~~
1047 ~~stability, including information regarding certified nursing~~
1048 ~~assistants, licensed nurses, the director of nursing, and the~~
1049 ~~facility administrator. For purposes of this reporting:~~

1050 ~~a. Staff-to-resident ratios must be reported in the~~
1051 ~~categories specified in s. 400.23(3)(a) and applicable rules.~~

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1052 ~~The ratio must be reported as an average for the most recent~~
1053 ~~calendar quarter.~~
1054 ~~b. Staff turnover must be reported for the most recent 12-~~
1055 ~~month period ending on the last workday of the most recent~~
1056 ~~calendar quarter prior to the date the information is submitted.~~
1057 ~~The turnover rate must be computed quarterly, with the annual~~
1058 ~~rate being the cumulative sum of the quarterly rates. The~~
1059 ~~turnover rate is the total number of terminations or separations~~
1060 ~~experienced during the quarter, excluding any employee~~
1061 ~~terminated during a probationary period of 3 months or less,~~
1062 ~~divided by the total number of staff employed at the end of the~~
1063 ~~period for which the rate is computed, and expressed as a~~
1064 ~~percentage.~~
1065 ~~c. The formula for determining staff stability is the~~
1066 ~~total number of employees that have been employed for more than~~
1067 ~~12 months, divided by the total number of employees employed at~~
1068 ~~the end of the most recent calendar quarter, and expressed as a~~
1069 ~~percentage.~~
1070 ~~d.~~ A nursing facility that has failed to comply with state
1071 minimum-staffing requirements for 2 consecutive days is
1072 prohibited from accepting new admissions until the facility has
1073 achieved the minimum-staffing requirements for a period of 6
1074 consecutive days. For the purposes of this sub-subparagraph, any
1075 person who was a resident of the facility and was absent from
1076 the facility for the purpose of receiving medical care at a
1077 separate location or was on a leave of absence is not considered
1078 a new admission. Failure to impose such an admissions moratorium
1079 is subject to a $1,000 fine ~~constitutes a class II deficiency~~.

1080 2.~~e.~~ A nursing facility which does not have a conditional
1081 license may be cited for failure to comply with the standards in
1082 s. 400.23(3)(a)1.b. and c. only if it has failed to meet those
1083 standards on 2 consecutive days or if it has failed to meet at
1084 least 97 percent of those standards on any one day.
1085 3.~~f.~~ A facility which has a conditional license must be in
1086 compliance with the standards in s. 400.23(3)(a) at all times.
1087 (r)~~2.~~ This subsection ~~paragraph~~ does not limit the
1088 agency's ability to impose a deficiency or take other actions if
1089 a facility does not have enough staff to meet the residents'
1090 needs.
1091 ~~(r) Report to the agency any filing for bankruptcy~~
1092 ~~protection by the facility or its parent corporation,~~
1093 ~~divestiture or spin-off of its assets, or corporate~~
1094 ~~reorganization within 30 days after the completion of such~~
1095 ~~activity.~~
1096 Section 30. Subsection (3) of section 400.142, Florida
1097 Statutes, is amended to read:
1098 400.142 Emergency medication kits; orders not to
1099 resuscitate.—
1100 (3) Facility staff may withhold or withdraw
1101 cardiopulmonary resuscitation if presented with an order not to
1102 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
1103 ~~adopt rules providing for the implementation of such orders.~~
1104 Facility staff and facilities shall not be subject to criminal
1105 prosecution or civil liability, nor be considered to have
1106 engaged in negligent or unprofessional conduct, for withholding
1107 or withdrawing cardiopulmonary resuscitation pursuant to such an

1108 order and rules adopted by the agency. The absence of an order
1109 not to resuscitate executed pursuant to s. 401.45 does not
1110 preclude a physician from withholding or withdrawing
1111 cardiopulmonary resuscitation as otherwise permitted by law.
1112 Section 31. Subsections (11) through (15) of section
1113 400.147, Florida Statutes, are renumbered as subsections (10)
1114 through (14), respectively, and present subsection (10) is
1115 amended to read:
1116 400.147 Internal risk management and quality assurance
1117 program.—
1118 ~~(10) By the 10th of each month, each facility subject to~~
1119 ~~this section shall report any notice received pursuant to s.~~
1120 ~~400.0233(2) and each initial complaint that was filed with the~~
1121 ~~clerk of the court and served on the facility during the~~
1122 ~~previous month by a resident or a resident's family member,~~
1123 ~~guardian, conservator, or personal legal representative. The~~
1124 ~~report must include the name of the resident, the resident's~~
1125 ~~date of birth and social security number, the Medicaid~~
1126 ~~identification number for Medicaid-eligible persons, the date or~~
1127 ~~dates of the incident leading to the claim or dates of~~
1128 ~~residency, if applicable, and the type of injury or violation of~~
1129 ~~rights alleged to have occurred. Each facility shall also submit~~
1130 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~
1131 ~~complaints filed with the clerk of the court. This report is~~
1132 ~~confidential as provided by law and is not discoverable or~~
1133 ~~admissible in any civil or administrative action, except in such~~
1134 ~~actions brought by the agency to enforce the provisions of this~~
1135 ~~part.~~

1136 Section 32. Section 400.148, Florida Statutes, is
1137 repealed.
1138 Section 33. Paragraph (e) of subsection (2) of section
1139 400.179, Florida Statutes, is amended to read:
1140 400.179 Liability for Medicaid underpayments and
1141 overpayments.—
1142 (2) Because any transfer of a nursing facility may expose
1143 the fact that Medicaid may have underpaid or overpaid the
1144 transferor, and because in most instances, any such underpayment
1145 or overpayment can only be determined following a formal field
1146 audit, the liabilities for any such underpayments or
1147 overpayments shall be as follows:
1148 ~~(e) For the 2009-2010 fiscal year only, the provisions of~~
1149 ~~paragraph (d) shall not apply. This paragraph expires July 1,~~
1150 ~~2010.~~
1151 Section 34. Subsection (3) of section 400.19, Florida
1152 Statutes, is amended to read:
1153 400.19 Right of entry and inspection.—
1154 (3) The agency shall every 15 months conduct at least one
1155 unannounced inspection to determine compliance by the licensee
1156 with statutes, and with rules promulgated under the provisions
1157 of those statutes, governing minimum standards of construction,
1158 quality and adequacy of care, and rights of residents. The
1159 survey shall be conducted every 6 months for the next 2-year
1160 period if the facility has been cited for a class I deficiency,
1161 has been cited for two or more class II deficiencies arising
1162 from separate surveys or investigations within a 60-day period,
1163 or has had three or more substantiated complaints within a 6-

1164 month period, each resulting in at least one class I or class II
1165 deficiency. In addition to any other fees or fines in this part,
1166 the agency shall assess a fine for each facility that is subject
1167 to the 6-month survey cycle. The fine for the 2-year period
1168 shall be $6,000, one-half to be paid at the completion of each
1169 survey. The agency may adjust this fine by the change in the
1170 Consumer Price Index, based on the 12 months immediately
1171 preceding the increase, to cover the cost of the additional
1172 surveys. The agency shall verify through subsequent inspection
1173 that any deficiency identified during inspection is corrected.
1174 However, the agency may verify the correction of a class III or
1175 class IV deficiency ~~unrelated to resident rights or resident~~
1176 ~~care~~ without reinspecting the facility if adequate written
1177 documentation has been received from the facility, which
1178 provides assurance that the deficiency has been corrected. The
1179 giving or causing to be given of advance notice of such
1180 unannounced inspections by an employee of the agency to any
1181 unauthorized person shall constitute cause for suspension of not
1182 fewer than 5 working days according to the provisions of chapter
1183 110.
1184 Section 35. Subsection (5) of section 400.23, Florida
1185 Statutes, is amended to read:
1186 400.23 Rules; evaluation and deficiencies; licensure
1187 status.—
1188 (5)(a) The agency, in collaboration with the Division of
1189 Children's Medical Services Network of the Department of Health,
1190 must~~, no later than December 31, 1993,~~ adopt rules for minimum
1191 standards of care for persons under 21 years of age who reside

1192 in nursing home facilities. The rules must include a methodology
1193 for reviewing a nursing home facility under ss. 408.031-408.045
1194 which serves only persons under 21 years of age. A facility may
1195 be exempt from these standards for specific persons between 18
1196 and 21 years of age, if the person's physician agrees that
1197 minimum standards of care based on age are not necessary.
1198 (b) The agency, in collaboration with the Division of
1199 Children's Medical Services Network, shall adopt rules for
1200 minimum staffing requirements for nursing home facilities that
1201 serve persons under 21 years of age, which shall apply in lieu
1202 of the standards contained in subsection (3).
1203 1. For persons under 21 years of age who require skilled
1204 care, the requirements shall include a minimum combined average
1205 of licensed nurses, respiratory therapists, respiratory care
1206 practitioners, and certified nursing assistants of 3.9 hours of
1207 direct care per resident per day for each nursing home facility.
1208 2. For persons under 21 years of age who are fragile, the
1209 requirements shall include a minimum combined average of
1210 licensed nurses, respiratory therapists, respiratory care
1211 practitioners, and certified nursing assistants of 5 hours of
1212 direct care per resident per day for each nursing home facility.
1213 Section 36. Subsection (1) of section 400.275, Florida
1214 Statutes, is amended to read:
1215 400.275 Agency duties.—
1216 (1) ~~The agency shall ensure that each newly hired nursing~~
1217 ~~home surveyor, as a part of basic training, is assigned full-~~
1218 ~~time to a licensed nursing home for at least 2 days within a 7-~~
1219 ~~day period to observe facility operations outside of the survey~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1220 ~~process before the surveyor begins survey responsibilities. Such~~
1221 ~~observations may not be the sole basis of a deficiency citation~~
1222 ~~against the facility.~~ The agency may not assign an individual to
1223 be a member of a survey team for purposes of a survey,
1224 evaluation, or consultation visit at a nursing home facility in
1225 which the surveyor was an employee within the preceding 2 ~~5~~
1226 years.
1227 Section 37. Subsection (2) of section 400.484, Florida
1228 Statutes, is amended to read:
1229 400.484 Right of inspection; violations ~~deficiencies~~;
1230 fines.—
1231 (2) The agency shall impose fines for various classes of
1232 violations ~~deficiencies~~ in accordance with the following
1233 schedule:
1234 (a) Class I violations are defined in s. 408.813. ~~A class~~
1235 ~~I deficiency is any act, omission, or practice that results in a~~
1236 ~~patient's death, disablement, or permanent injury, or places a~~
1237 ~~patient at imminent risk of death, disablement, or permanent~~
1238 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
1239 shall impose an administrative fine in the amount of $15,000 for
1240 each occurrence and each day that the violation ~~deficiency~~
1241 exists.
1242 (b) Class II violations are defined in s. 408.813. ~~A class~~
1243 ~~II deficiency is any act, omission, or practice that has a~~
1244 ~~direct adverse effect on the health, safety, or security of a~~
1245 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1246 agency shall impose an administrative fine in the amount of

1247 $5,000 for each occurrence and each day that the <u>violation</u>
1248 ~~deficiency~~ exists.
1249 (c) <u>Class III violations are defined in s. 408.813.</u> ~~A~~
1250 ~~class III deficiency is any act, omission, or practice that has~~
1251 ~~an indirect, adverse effect on the health, safety, or security~~
1252 ~~of a patient.~~ Upon finding an uncorrected or repeated class III
1253 <u>violation</u> ~~deficiency~~, the agency shall impose an administrative
1254 fine not to exceed $1,000 for each occurrence and each day that
1255 the uncorrected or repeated <u>violation</u> ~~deficiency~~ exists.
1256 (d) <u>Class IV violations are defined in s. 408.813.</u> ~~A class~~
1257 ~~IV deficiency is any act, omission, or practice related to~~
1258 ~~required reports, forms, or documents which does not have the~~
1259 ~~potential of negatively affecting patients. These violations are~~
1260 ~~of a type that the agency determines do not threaten the health,~~
1261 ~~safety, or security of patients.~~ Upon finding an uncorrected or
1262 repeated class IV <u>violation</u> ~~deficiency~~, the agency shall impose
1263 an administrative fine not to exceed $500 for each occurrence
1264 and each day that the uncorrected or repeated <u>violation</u>
1265 ~~deficiency~~ exists.
1266 Section 38. Paragraph (i) of subsection (1) and subsection
1267 (4) of section 400.606, Florida Statutes, are amended to read:
1268 400.606 License; application; renewal; conditional license
1269 or permit; certificate of need.—
1270 (1) In addition to the requirements of part II of chapter
1271 408, the initial application and change of ownership application
1272 must be accompanied by a plan for the delivery of home,
1273 residential, and homelike inpatient hospice services to

1274 terminally ill persons and their families. Such plan must
1275 contain, but need not be limited to:
1276 ~~(i) The projected annual operating cost of the hospice.~~
1277
1278 If the applicant is an existing licensed health care provider,
1279 the application must be accompanied by a copy of the most recent
1280 profit-loss statement and, if applicable, the most recent
1281 licensure inspection report.
1282 (4) A freestanding hospice facility that is ~~primarily~~
1283 engaged in providing inpatient and related services and that is
1284 not otherwise licensed as a health care facility shall be
1285 required to obtain a certificate of need. However, a
1286 freestanding hospice facility with six or fewer beds shall not
1287 be required to comply with institutional standards such as, but
1288 not limited to, standards requiring sprinkler systems, emergency
1289 electrical systems, or special lavatory devices.
1290 Section 39. Subsection (2) of section 400.607, Florida
1291 Statutes, is amended to read:
1292 400.607 Denial, suspension, revocation of license;
1293 emergency actions; imposition of administrative fine; grounds.—
1294 (2) <u>A violation of this part, part II of chapter 408, or</u>
1295 <u>applicable rules</u> ~~Any of the following actions~~ by a licensed
1296 hospice or any of its employees shall be grounds for
1297 <u>administrative</u> action by the agency against a hospice<u>.</u>~~:~~
1298 ~~(a) A violation of the provisions of this part, part II of~~
1299 ~~chapter 408, or applicable rules.~~
1300 ~~(b) An intentional or negligent act materially affecting~~
1301 ~~the health or safety of a patient.~~

1302 Section 40. Section 400.915, Florida Statutes, is amended
1303 to read:
1304 400.915 Construction and renovation; requirements.—The
1305 requirements for the construction or renovation of a PPEC center
1306 shall comply with:
1307 (1) The provisions of chapter 553, which pertain to
1308 building construction standards, including plumbing, electrical
1309 code, glass, manufactured buildings, accessibility for the
1310 physically disabled;
1311 (2) The provisions of s. 633.022 and applicable rules
1312 pertaining to physical ~~minimum~~ standards for nonresidential
1313 child care ~~physical~~ facilities ~~in rule 10M-12.003, Florida~~
1314 ~~Administrative Code, Child Care Standards~~; and
1315 (3) The standards or rules adopted pursuant to this part
1316 and part II of chapter 408.
1317 Section 41. Subsection (1) of section 400.925, Florida
1318 Statutes, is amended to read:
1319 400.925 Definitions.—As used in this part, the term:
1320 (1) "Accrediting organizations" means the Joint Commission
1321 ~~on Accreditation of Healthcare Organizations~~ or other national
1322 accreditation agencies whose standards for accreditation are
1323 comparable to those required by this part for licensure.
1324 Section 42. Subsections (3) through (6) of section
1325 400.931, Florida Statutes, are renumbered as subsections (2)
1326 through (5), respectively, and present subsection (2) of that
1327 section is amended to read:
1328 400.931 Application for license; fee~~; provisional license;~~
1329 ~~temporary permit~~.—

1330 ~~(2) As an alternative to submitting proof of financial~~
1331 ~~ability to operate as required in s. 408.810(8), the applicant~~
1332 ~~may submit a $50,000 surety bond to the agency.~~
1333 Section 43. Subsection (2) of section 400.932, Florida
1334 Statutes, is amended to read:
1335 400.932 Administrative penalties.—
1336 (2) A violation of this part, part II of chapter 408, or
1337 applicable rules ~~Any of the following actions~~ by an employee of
1338 a home medical equipment provider shall be ~~are~~ grounds for
1339 administrative action or penalties by the agency. ~~:~~
1340 ~~(a) Violation of this part, part II of chapter 408, or~~
1341 ~~applicable rules.~~
1342 ~~(b) An intentional, reckless, or negligent act that~~
1343 ~~materially affects the health or safety of a patient.~~
1344 Section 44. Subsection (3) of section 400.967, Florida
1345 Statutes, is amended to read:
1346 400.967 Rules and classification of violations
1347 ~~deficiencies~~.—
1348 (3) The agency shall adopt rules to provide that, when the
1349 criteria established under this part and part II of chapter 408
1350 are not met, such violations ~~deficiencies~~ shall be classified
1351 according to the nature of the violation ~~deficiency~~. The agency
1352 shall indicate the classification on the face of the notice of
1353 deficiencies as follows:
1354 (a) Class I violations ~~deficiencies~~ are defined in s.
1355 408.813 ~~those which the agency determines present an imminent~~
1356 ~~danger to the residents or guests of the facility or a~~
1357 ~~substantial probability that death or serious physical harm~~

1358 ~~would result therefrom~~. ~~The condition or practice constituting a~~
1359 ~~class I violation must be abated or eliminated immediately,~~
1360 ~~unless a fixed period of time, as determined by the agency, is~~
1361 ~~required for correction.~~ A class I violation ~~deficiency~~ is
1362 subject to a civil penalty in an amount not less than $5,000 and
1363 not exceeding $10,000 for each violation ~~deficiency~~. A fine may
1364 be levied notwithstanding the correction of the violation
1365 ~~deficiency~~.
1366 (b) Class II violations ~~deficiencies~~ are defined in s.
1367 408.813 ~~those which the agency determines have a direct or~~
1368 ~~immediate relationship to the health, safety, or security of the~~
1369 ~~facility residents, other than class I deficiencies~~. A class II
1370 violation ~~deficiency~~ is subject to a civil penalty in an amount
1371 not less than $1,000 and not exceeding $5,000 for each violation
1372 ~~deficiency~~. A citation for a class II violation ~~deficiency~~ shall
1373 specify the time within which the violation ~~deficiency~~ must be
1374 corrected. If a class II violation ~~deficiency~~ is corrected
1375 within the time specified, no civil penalty shall be imposed,
1376 unless it is a repeated offense.
1377 (c) Class III violations ~~deficiencies~~ are defined in s.
1378 408.813 ~~those which the agency determines to have an indirect or~~
1379 ~~potential relationship to the health, safety, or security of the~~
1380 ~~facility residents, other than class I or class II deficiencies~~.
1381 A class III violation ~~deficiency~~ is subject to a civil penalty
1382 of not less than $500 and not exceeding $1,000 for each
1383 deficiency. A citation for a class III violation ~~deficiency~~
1384 shall specify the time within which the violation ~~deficiency~~
1385 must be corrected. If a class III violation ~~deficiency~~ is

1386 corrected within the time specified, no civil penalty shall be
1387 imposed, unless it is a repeated offense.
1388 (d) Class IV violations are defined in s. 408.813. Upon
1389 finding an uncorrected or repeated class IV violation, the
1390 agency shall impose an administrative fine not to exceed $500
1391 for each occurrence and each day that the uncorrected or
1392 repeated violation exists.
1393 Section 45. Subsections (4) and (7) of section 400.9905,
1394 Florida Statutes, are amended to read:
1395 400.9905 Definitions.—
1396 (4) "Clinic" means an entity at which health care services
1397 are provided to individuals and which tenders charges for
1398 reimbursement for such services, including a mobile clinic and a
1399 portable health service or equipment provider. For purposes of
1400 this part, the term does not include and the licensure
1401 requirements of this part do not apply to:
1402 (a) Entities licensed or registered by the state under
1403 chapter 395; or entities licensed or registered by the state and
1404 providing only health care services within the scope of services
1405 authorized under their respective licenses granted under ss.
1406 383.30-383.335, chapter 390, chapter 394, chapter 397, this
1407 chapter except part X, chapter 429, chapter 463, chapter 465,
1408 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
1409 chapter 651; end-stage renal disease providers authorized under
1410 42 C.F.R. part 405, subpart U; or providers certified under 42
1411 C.F.R. part 485, subpart B or subpart H; or any entity that
1412 provides neonatal or pediatric hospital-based health care

1413 services or other health care services by licensed practitioners
1414 solely within a hospital licensed under chapter 395.
1415 (b) Entities that own, directly or indirectly, entities
1416 licensed or registered by the state pursuant to chapter 395; or
1417 entities that own, directly or indirectly, entities licensed or
1418 registered by the state and providing only health care services
1419 within the scope of services authorized pursuant to their
1420 respective licenses granted under ss. 383.30-383.335, chapter
1421 390, chapter 394, chapter 397, this chapter except part X,
1422 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1423 part I of chapter 483, chapter 484, chapter 651; end-stage renal
1424 disease providers authorized under 42 C.F.R. part 405, subpart
1425 U; or providers certified under 42 C.F.R. part 485, subpart B or
1426 subpart H; or any entity that provides neonatal or pediatric
1427 hospital-based health care services by licensed practitioners
1428 solely within a hospital licensed under chapter 395.
1429 (c) Entities that are owned, directly or indirectly, by an
1430 entity licensed or registered by the state pursuant to chapter
1431 395; or entities that are owned, directly or indirectly, by an
1432 entity licensed or registered by the state and providing only
1433 health care services within the scope of services authorized
1434 pursuant to their respective licenses granted under ss. 383.30-
1435 383.335, chapter 390, chapter 394, chapter 397, this chapter
1436 except part X, chapter 429, chapter 463, chapter 465, chapter
1437 466, chapter 478, part I of chapter 483, chapter 484, or chapter
1438 651; end-stage renal disease providers authorized under 42
1439 C.F.R. part 405, subpart U; or providers certified under 42
1440 C.F.R. part 485, subpart B or subpart H; or any entity that

1441 provides neonatal or pediatric hospital-based health care
1442 services by licensed practitioners solely within a hospital
1443 under chapter 395.
1444 (d) Entities that are under common ownership, directly or
1445 indirectly, with an entity licensed or registered by the state
1446 pursuant to chapter 395; or entities that are under common
1447 ownership, directly or indirectly, with an entity licensed or
1448 registered by the state and providing only health care services
1449 within the scope of services authorized pursuant to their
1450 respective licenses granted under ss. 383.30-383.335, chapter
1451 390, chapter 394, chapter 397, this chapter except part X,
1452 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1453 part I of chapter 483, chapter 484, or chapter 651; end-stage
1454 renal disease providers authorized under 42 C.F.R. part 405,
1455 subpart U; or providers certified under 42 C.F.R. part 485,
1456 subpart B or subpart H; or any entity that provides neonatal or
1457 pediatric hospital-based health care services by licensed
1458 practitioners solely within a hospital licensed under chapter
1459 395.
1460 (e) An entity that is exempt from federal taxation under
1461 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
1462 under 26 U.S.C. s. 409 that has a board of trustees not less
1463 than two-thirds of which are Florida-licensed health care
1464 practitioners and provides only physical therapy services under
1465 physician orders, any community college or university clinic,
1466 and any entity owned or operated by the federal or state
1467 government, including agencies, subdivisions, or municipalities
1468 thereof.

1469 (f) A sole proprietorship, group practice, partnership, or
1470 corporation that provides health care services by physicians
1471 covered by s. 627.419, that is directly supervised by one or
1472 more of such physicians, and that is wholly owned by one or more
1473 of those physicians or by a physician and the spouse, parent,
1474 child, or sibling of that physician.
1475 (g) A sole proprietorship, group practice, partnership, or
1476 corporation that provides health care services by licensed
1477 health care practitioners under chapter 457, chapter 458,
1478 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
1479 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
1480 chapter 490, chapter 491, or part I, part III, part X, part
1481 XIII, or part XIV of chapter 468, or s. 464.012, which are
1482 wholly owned by one or more licensed health care practitioners,
1483 or the licensed health care practitioners set forth in this
1484 paragraph and the spouse, parent, child, or sibling of a
1485 licensed health care practitioner, so long as one of the owners
1486 who is a licensed health care practitioner is supervising the
1487 business activities and is legally responsible for the entity's
1488 compliance with all federal and state laws. However, a health
1489 care practitioner may not supervise services beyond the scope of
1490 the practitioner's license, except that, for the purposes of
1491 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
1492 provides only services authorized pursuant to s. 456.053(3)(b)
1493 may be supervised by a licensee specified in s. 456.053(3)(b).
1494 (h) Clinical facilities affiliated with an accredited
1495 medical school at which training is provided for medical
1496 students, residents, or fellows.

1497 (i) Entities that provide only oncology or radiation
1498 therapy services by physicians licensed under chapter 458 or
1499 chapter 459 or entities that provide oncology or radiation
1500 therapy services by physicians licensed under chapter 458 or
1501 chapter 459 which are owned by a corporation whose shares are
1502 publicly traded on a recognized stock exchange.
1503 (j) Clinical facilities affiliated with a college of
1504 chiropractic accredited by the Council on Chiropractic Education
1505 at which training is provided for chiropractic students.
1506 (k) Entities that provide licensed practitioners to staff
1507 emergency departments or to deliver anesthesia services in
1508 facilities licensed under chapter 395 and that derive at least
1509 90 percent of their gross annual revenues from the provision of
1510 such services. Entities claiming an exemption from licensure
1511 under this paragraph must provide documentation demonstrating
1512 compliance.
1513 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or
1514 perinatology clinical facilities that are a publicly traded
1515 corporation or that are wholly owned, directly or indirectly, by
1516 a publicly traded corporation. As used in this paragraph, a
1517 publicly traded corporation is a corporation that issues
1518 securities traded on an exchange registered with the United
1519 States Securities and Exchange Commission as a national
1520 securities exchange.
1521 (m) Entities that are owned by a corporation that has $250
1522 million or more in total annual sales of health care services
1523 provided by licensed health care practitioners if one or more of
1524 the owners of the entity is a health care practitioner who is

1525 licensed in this state, is responsible for supervising the
1526 business activities of the entity, and is legally responsible
1527 for the entity's compliance with state law for purposes of this
1528 section.
1529 (n) Entities that are owned or controlled, directly or
1530 indirectly, by a publicly traded entity with $100 million or
1531 more, in the aggregate, in total annual revenues derived from
1532 providing health care services by licensed health care
1533 practitioners that are employed or contracted by an entity
1534 described in this paragraph.
1535 (7) "Portable health service or equipment provider" means
1536 an entity that contracts with or employs persons to provide
1537 portable health care services or equipment to multiple locations
1538 ~~performing treatment or diagnostic testing of individuals~~, that
1539 bills third-party payors for those services, and that otherwise
1540 meets the definition of a clinic in subsection (4).
1541 Section 46. Paragraph (b) of subsection (1) and paragraph
1542 (c) of subsection (4) of section 400.991, Florida Statutes, are
1543 amended to read:
1544 400.991 License requirements; background screenings;
1545 prohibitions.—
1546 (1)
1547 (b) Each mobile clinic must obtain a separate health care
1548 clinic license and must provide to the agency, at least
1549 quarterly, its projected street location to enable the agency to
1550 locate and inspect such clinic. A portable health service or
1551 equipment provider must obtain a health care clinic license for

1552 a single administrative office and is not required to submit
1553 quarterly projected street locations.
1554 (4) In addition to the requirements of part II of chapter
1555 408, the applicant must file with the application satisfactory
1556 proof that the clinic is in compliance with this part and
1557 applicable rules, including:
1558 (c) Proof of financial ability to operate as required
1559 under ss. ~~s.~~ 408.810(8) and 408.8065. ~~As an alternative to~~
1560 ~~submitting proof of financial ability to operate as required~~
1561 ~~under s. 408.810(8), the applicant may file a surety bond of at~~
1562 ~~least $500,000 which guarantees that the clinic will act in full~~
1563 ~~conformity with all legal requirements for operating a clinic,~~
1564 ~~payable to the agency. The agency may adopt rules to specify~~
1565 ~~related requirements for such surety bond.~~
1566 Section 47. Paragraph (g) of subsection (1) and paragraph
1567 (a) of subsection (7) of section 400.9935, Florida Statutes, are
1568 amended to read:
1569 400.9935 Clinic responsibilities.—
1570 (1) Each clinic shall appoint a medical director or clinic
1571 director who shall agree in writing to accept legal
1572 responsibility for the following activities on behalf of the
1573 clinic. The medical director or the clinic director shall:
1574 (g) Conduct systematic reviews of clinic billings to
1575 ensure that the billings are not fraudulent or unlawful. Upon
1576 discovery of an unlawful charge, the medical director or clinic
1577 director shall take immediate corrective action. If the clinic
1578 performs only the technical component of magnetic resonance
1579 imaging, static radiographs, computed tomography, or positron

1580 emission tomography, and provides the professional
1581 interpretation of such services, in a fixed facility that is
1582 accredited by the Joint Commission ~~on Accreditation of~~
1583 ~~Healthcare Organizations~~ or the Accreditation Association for
1584 Ambulatory Health Care, and the American College of Radiology;
1585 and if, in the preceding quarter, the percentage of scans
1586 performed by that clinic which was billed to all personal injury
1587 protection insurance carriers was less than 15 percent, the
1588 chief financial officer of the clinic may, in a written
1589 acknowledgment provided to the agency, assume the responsibility
1590 for the conduct of the systematic reviews of clinic billings to
1591 ensure that the billings are not fraudulent or unlawful.
1592 (7)(a) Each clinic engaged in magnetic resonance imaging
1593 services must be accredited by the Joint Commission ~~on~~
1594 ~~Accreditation of Healthcare Organizations~~, the American College
1595 of Radiology, or the Accreditation Association for Ambulatory
1596 Health Care, within 1 year after licensure. A clinic that is
1597 accredited by the American College of Radiology or is within the
1598 original 1-year period after licensure and replaces its core
1599 magnetic resonance imaging equipment shall be given 1 year after
1600 the date on which the equipment is replaced to attain
1601 accreditation. However, a clinic may request a single, 6-month
1602 extension if it provides evidence to the agency establishing
1603 that, for good cause shown, such clinic cannot be accredited
1604 within 1 year after licensure, and that such accreditation will
1605 be completed within the 6-month extension. After obtaining
1606 accreditation as required by this subsection, each such clinic
1607 must maintain accreditation as a condition of renewal of its

1608 license. A clinic that files a change of ownership application
1609 must comply with the original accreditation timeframe
1610 requirements of the transferor. The agency shall deny a change
1611 of ownership application if the clinic is not in compliance with
1612 the accreditation requirements. When a clinic adds, replaces, or
1613 modifies magnetic resonance imaging equipment and the
1614 accreditation agency requires new accreditation, the clinic must
1615 be accredited within 1 year after the date of the addition,
1616 replacement, or modification but may request a single, 6-month
1617 extension if the clinic provides evidence of good cause to the
1618 agency.
1619 Section 48. Subsection (2) of section 408.034, Florida
1620 Statutes, is amended to read:
1621 408.034 Duties and responsibilities of agency; rules.—
1622 (2) In the exercise of its authority to issue licenses to
1623 health care facilities and health service providers, as provided
1624 under chapters 393 and 395 and parts II, ~~and~~ IV, and VIII of
1625 chapter 400, the agency may not issue a license to any health
1626 care facility or health service provider that fails to receive a
1627 certificate of need or an exemption for the licensed facility or
1628 service.
1629 Section 49. Paragraph (d) of subsection (1) of section
1630 408.036, Florida Statutes, is amended to read:
1631 408.036 Projects subject to review; exemptions.—
1632 (1) APPLICABILITY.—Unless exempt under subsection (3), all
1633 health-care-related projects, as described in paragraphs (a)-
1634 (g), are subject to review and must file an application for a
1635 certificate of need with the agency. The agency is exclusively

1636 responsible for determining whether a health-care-related
1637 project is subject to review under ss. 408.031-408.045.
1638 (d) The establishment of a hospice or hospice inpatient
1639 facility~~, except as provided in s. 408.043~~.
1640 Section 50. Subsection (2) of section 408.043, Florida
1641 Statutes, is amended to read:
1642 408.043 Special provisions.—
1643 (2) HOSPICES.—When an application is made for a
1644 certificate of need to establish or to expand a hospice, the
1645 need for such hospice shall be determined on the basis of the
1646 need for and availability of hospice services in the community.
1647 The formula on which the certificate of need is based shall
1648 discourage regional monopolies and promote competition. The
1649 inpatient hospice care component of a hospice which is a
1650 freestanding facility, or a part of a facility, ~~which is~~
1651 ~~primarily engaged in providing inpatient care and related~~
1652 ~~services~~ and is not licensed as a health care facility shall
1653 also be required to obtain a certificate of need. Provision of
1654 hospice care by any current provider of health care is a
1655 significant change in service and therefore requires a
1656 certificate of need for such services.
1657 Section 51. Paragraph (k) of subsection (3) of section
1658 408.05, Florida Statutes, is amended to read:
1659 408.05 Florida Center for Health Information and Policy
1660 Analysis.—
1661 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
1662 produce comparable and uniform health information and statistics
1663 for the development of policy recommendations, the agency shall

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1664 perform the following functions:
1665 (k) Develop, in conjunction with the State Consumer Health
1666 Information and Policy Advisory Council, and implement a long-
1667 range plan for making available health care quality measures and
1668 financial data that will allow consumers to compare health care
1669 services. The health care quality measures and financial data
1670 the agency must make available shall include, but is not limited
1671 to, pharmaceuticals, physicians, health care facilities, and
1672 health plans and managed care entities. The agency shall update
1673 the plan and report on the status of its implementation
1674 annually. The agency shall also make the plan and status report
1675 available to the public on its Internet website. As part of the
1676 plan, the agency shall identify the process and timeframes for
1677 implementation, any barriers to implementation, and
1678 recommendations of changes in the law that may be enacted by the
1679 Legislature to eliminate the barriers. As preliminary elements
1680 of the plan, the agency shall:
1681 1. Make available patient-safety indicators, inpatient
1682 quality indicators, and performance outcome and patient charge
1683 data collected from health care facilities pursuant to s.
1684 408.061(1)(a) and (2). The terms "patient-safety indicators" and
1685 "inpatient quality indicators" shall be as defined by the
1686 Centers for Medicare and Medicaid Services, the National Quality
1687 Forum, the Joint Commission ~~on Accreditation of Healthcare~~
1688 ~~Organizations~~, the Agency for Healthcare Research and Quality,
1689 the Centers for Disease Control and Prevention, or a similar
1690 national entity that establishes standards to measure the
1691 performance of health care providers, or by other states. The

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1692 agency shall determine which conditions, procedures, health care
1693 quality measures, and patient charge data to disclose based upon
1694 input from the council. When determining which conditions and
1695 procedures are to be disclosed, the council and the agency shall
1696 consider variation in costs, variation in outcomes, and
1697 magnitude of variations and other relevant information. When
1698 determining which health care quality measures to disclose, the
1699 agency:
1700 a. Shall consider such factors as volume of cases; average
1701 patient charges; average length of stay; complication rates;
1702 mortality rates; and infection rates, among others, which shall
1703 be adjusted for case mix and severity, if applicable.
1704 b. May consider such additional measures that are adopted
1705 by the Centers for Medicare and Medicaid Studies, National
1706 Quality Forum, the Joint Commission ~~on Accreditation of~~
1707 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
1708 Quality, Centers for Disease Control and Prevention, or a
1709 similar national entity that establishes standards to measure
1710 the performance of health care providers, or by other states.
1711
1712 When determining which patient charge data to disclose, the
1713 agency shall include such measures as the average of
1714 undiscounted charges on frequently performed procedures and
1715 preventive diagnostic procedures, the range of procedure charges
1716 from highest to lowest, average net revenue per adjusted patient
1717 day, average cost per adjusted patient day, and average cost per
1718 admission, among others.
1719 2. Make available performance measures, benefit design,

1720 and premium cost data from health plans licensed pursuant to
1721 chapter 627 or chapter 641. The agency shall determine which
1722 health care quality measures and member and subscriber cost data
1723 to disclose, based upon input from the council. When determining
1724 which data to disclose, the agency shall consider information
1725 that may be required by either individual or group purchasers to
1726 assess the value of the product, which may include membership
1727 satisfaction, quality of care, current enrollment or membership,
1728 coverage areas, accreditation status, premium costs, plan costs,
1729 premium increases, range of benefits, copayments and
1730 deductibles, accuracy and speed of claims payment, credentials
1731 of physicians, number of providers, names of network providers,
1732 and hospitals in the network. Health plans shall make available
1733 to the agency any such data or information that is not currently
1734 reported to the agency or the office.
1735 3. Determine the method and format for public disclosure
1736 of data reported pursuant to this paragraph. The agency shall
1737 make its determination based upon input from the State Consumer
1738 Health Information and Policy Advisory Council. At a minimum,
1739 the data shall be made available on the agency's Internet
1740 website in a manner that allows consumers to conduct an
1741 interactive search that allows them to view and compare the
1742 information for specific providers. The website must include
1743 such additional information as is determined necessary to ensure
1744 that the website enhances informed decisionmaking among
1745 consumers and health care purchasers, which shall include, at a
1746 minimum, appropriate guidance on how to use the data and an
1747 explanation of why the data may vary from provider to provider.

1748 4. Publish on its website undiscounted charges for no
1749 fewer than 150 of the most commonly performed adult and
1750 pediatric procedures, including outpatient, inpatient,
1751 diagnostic, and preventative procedures.
1752 Section 52. Paragraph (a) of subsection (1) of section
1753 408.061, Florida Statutes, is amended to read:
1754 408.061 Data collection; uniform systems of financial
1755 reporting; information relating to physician charges;
1756 confidential information; immunity.—
1757 (1) The agency shall require the submission by health care
1758 facilities, health care providers, and health insurers of data
1759 necessary to carry out the agency's duties. Specifications for
1760 data to be collected under this section shall be developed by
1761 the agency with the assistance of technical advisory panels
1762 including representatives of affected entities, consumers,
1763 purchasers, and such other interested parties as may be
1764 determined by the agency.
1765 (a) Data submitted by health care facilities, including
1766 the facilities as defined in chapter 395, shall include, but are
1767 not limited to: case-mix data, patient admission and discharge
1768 data, hospital emergency department data which shall include the
1769 number of patients treated in the emergency department of a
1770 licensed hospital reported by patient acuity level, data on
1771 hospital-acquired infections as specified by rule, data on
1772 complications as specified by rule, data on readmissions as
1773 specified by rule, with patient and provider-specific
1774 identifiers included, actual charge data by diagnostic groups,
1775 financial data, accounting data, operating expenses, expenses

1776 incurred for rendering services to patients who cannot or do not
1777 pay, interest charges, depreciation expenses based on the
1778 expected useful life of the property and equipment involved, and
1779 demographic data. The agency shall adopt nationally recognized
1780 risk adjustment methodologies or software consistent with the
1781 standards of the Agency for Healthcare Research and Quality and
1782 as selected by the agency for all data submitted as required by
1783 this section. Data may be obtained from documents such as, but
1784 not limited to: leases, contracts, debt instruments, itemized
1785 patient bills, medical record abstracts, and related diagnostic
1786 information. Reported data elements shall be reported
1787 electronically and ~~in accordance with rule 59E-7.012, Florida~~
1788 ~~Administrative Code. Data submitted shall be~~ certified by the
1789 chief executive officer or an appropriate and duly authorized
1790 representative or employee of the licensed facility that the
1791 information submitted is true and accurate.
1792 Section 53. Subsection (43) of section 408.07, Florida
1793 Statutes, is amended to read:
1794 408.07 Definitions.—As used in this chapter, with the
1795 exception of ss. 408.031-408.045, the term:
1796 (43) "Rural hospital" means an acute care hospital
1797 licensed under chapter 395, having 100 or fewer licensed beds
1798 and an emergency room, and which is:
1799 (a) The sole provider within a county with a population
1800 density of no greater than 100 persons per square mile;
1801 (b) An acute care hospital, in a county with a population
1802 density of no greater than 100 persons per square mile, which is
1803 at least 30 minutes of travel time, on normally traveled roads

1804 under normal traffic conditions, from another acute care
1805 hospital within the same county;
1806 (c) A hospital supported by a tax district or subdistrict
1807 whose boundaries encompass a population of 100 persons or fewer
1808 per square mile;
1809 (d) A hospital with a service area that has a population
1810 of 100 persons or fewer per square mile. As used in this
1811 paragraph, the term "service area" means the fewest number of
1812 zip codes that account for 75 percent of the hospital's
1813 discharges for the most recent 5-year period, based on
1814 information available from the hospital inpatient discharge
1815 database in the Florida Center for Health Information and Policy
1816 Analysis at the Agency for Health Care Administration; or
1817 (e) A critical access hospital.
1818
1819 Population densities used in this subsection must be based upon
1820 the most recently completed United States census. A hospital
1821 that received funds under s. 409.9116 for a quarter beginning no
1822 later than July 1, 2002, is deemed to have been and shall
1823 continue to be a rural hospital from that date through June 30,
1824 2015, if the hospital continues to have 100 or fewer licensed
1825 beds and an emergency room~~, or meets the criteria of s.~~
1826 ~~395.602(2)(e)4~~. An acute care hospital that has not previously
1827 been designated as a rural hospital and that meets the criteria
1828 of this subsection shall be granted such designation upon
1829 application, including supporting documentation, to the Agency
1830 for Health Care Administration.

1831 Section 54. Section 408.10, Florida Statutes, is amended
1832 to read:
1833 408.10 Consumer complaints.—The agency shall:
1834 (1) publish and make available to the public a toll-free
1835 telephone number for the purpose of handling consumer complaints
1836 and shall serve as a liaison between consumer entities and other
1837 private entities and governmental entities for the disposition
1838 of problems identified by consumers of health care.
1839 (2) Be empowered to investigate consumer complaints
1840 relating to problems with health care facilities' billing
1841 practices and issue reports to be made public in any cases where
1842 the agency determines the health care facility has engaged in
1843 billing practices which are unreasonable and unfair to the
1844 consumer.
1845 Section 55. Subsections (12) through (30) of section
1846 408.802, Florida Statutes, are renumbered as subsections (11)
1847 through (29), respectively, and present subsection (11) of that
1848 section is amended to read:
1849 408.802 Applicability.—The provisions of this part apply
1850 to the provision of services that require licensure as defined
1851 in this part and to the following entities licensed, registered,
1852 or certified by the agency, as described in chapters 112, 383,
1853 390, 394, 395, 400, 429, 440, 483, and 765:
1854 (11) Private review agents, as provided under part I of
1855 chapter 395.
1856 Section 56. Subsection (3) is added to section 408.804,
1857 Florida Statutes, to read:
1858 408.804 License required; display.—

1859 (3) Any person who knowingly alters, defaces, or falsifies
1860 a license certificate issued by the agency, or causes or
1861 procures any person to commit such an offense, commits a
1862 misdemeanor of the second degree, punishable as provided in s.
1863 775.082 or s 775.083. Any licensee or provider who displays an
1864 altered, defaced, or falsified license certificate is subject to
1865 the penalties set forth in s. 408.815 and an administrative fine
1866 of $1,000 for each day of illegal display.
1867 Section 57. Paragraph (d) of subsection (2) of section
1868 408.806, Florida Statutes, is amended, present subsections (3)
1869 through (8) are renumbered as subsections (4) through (9),
1870 respectively, and a new subsection (3) is added to that section,
1871 to read:
1872 408.806 License application process.—
1873 (2)
1874 (d) The agency shall notify the licensee by mail or
1875 electronically at least 90 days before the expiration of a
1876 license that a renewal license is necessary to continue
1877 operation. The licensee's failure to timely file submit a
1878 renewal application and license application fee with the agency
1879 shall result in a $50 per day late fee charged to the licensee
1880 by the agency; however, the aggregate amount of the late fee may
1881 not exceed 50 percent of the licensure fee or $500, whichever is
1882 less. The agency shall provide a courtesy notice to the licensee
1883 by United States mail, electronically, or by any other manner at
1884 its address of record or mailing address, if provided, at least
1885 90 days prior to the expiration of a license informing the
1886 licensee of the expiration of the license. If the agency does

1887 not provide the courtesy notice or the licensee does not receive
1888 the courtesy notice, the licensee continues to be legally
1889 obligated to timely file the renewal application and license
1890 application fee with the agency and is not excused from the
1891 payment of a late fee. If an application is received after the
1892 required filing date and exhibits a hand-canceled postmark
1893 obtained from a United States post office dated on or before the
1894 required filing date, no fine will be levied.
1895 (3) Payment of the late fee is required to consider any
1896 late application complete, and failure to pay the late fee is
1897 considered an omission from the application.
1898 Section 58. Subsections (6) and (9) of section 408.810,
1899 Florida Statutes, are amended to read:
1900 408.810 Minimum licensure requirements.—In addition to the
1901 licensure requirements specified in this part, authorizing
1902 statutes, and applicable rules, each applicant and licensee must
1903 comply with the requirements of this section in order to obtain
1904 and maintain a license.
1905 (6)(a) An applicant must provide the agency with proof of
1906 the applicant's legal right to occupy the property before a
1907 license may be issued. Proof may include, but need not be
1908 limited to, copies of warranty deeds, lease or rental
1909 agreements, contracts for deeds, quitclaim deeds, or other such
1910 documentation.
1911 (b) In the event the property is encumbered by a mortgage
1912 or is leased, an applicant must provide the agency with proof
1913 that the mortgagor or landlord has been provided written notice
1914 of the applicant's intent as mortgagee or tenant to provide

1915 services that require licensure and instruct the mortgagor or
1916 landlord to serve the agency by certified mail with copies of
1917 any foreclosure or eviction actions initiated by the mortgagor
1918 or landlord against the applicant.
1919 (9) A controlling interest may not withhold from the
1920 agency any evidence of financial instability, including, but not
1921 limited to, checks returned due to insufficient funds,
1922 delinquent accounts, nonpayment of withholding taxes, unpaid
1923 utility expenses, nonpayment for essential services, or adverse
1924 court action concerning the financial viability of the provider
1925 or any other provider licensed under this part that is under the
1926 control of the controlling interest. A controlling interest
1927 shall notify the agency within 10 days after a court action to
1928 initiate bankruptcy, foreclosure, or eviction proceedings
1929 concerning the provider, in which the controlling interest is a
1930 petitioner or defendant. Any person who violates this subsection
1931 commits a misdemeanor of the second degree, punishable as
1932 provided in s. 775.082 or s. 775.083. Each day of continuing
1933 violation is a separate offense.
1934 Section 59. Subsection (3) is added to section 408.813,
1935 Florida Statutes, to read:
1936 408.813 Administrative fines; violations.—As a penalty for
1937 any violation of this part, authorizing statutes, or applicable
1938 rules, the agency may impose an administrative fine.
1939 (3) The agency may impose an administrative fine for a
1940 violation that does not qualify as a class I, class II, class
1941 III, or class IV violation. Unless otherwise specified by law,

1942 the amount of the fine shall not exceed $500 for each violation.
1943 Unclassified violations may include:
1944 (a) Violating any term or condition of a license.
1945 (b) Violating any provision of this part, authorizing
1946 statutes, or applicable rules.
1947 (c) Exceeding licensed capacity.
1948 (d) Providing services beyond the scope of the license.
1949 (e) Violating a moratorium imposed pursuant to s. 408.814.
1950 Section 60. Subsection (2) of section 408.815, Florida
1951 Statutes, is amended, and subsection (5) is added to that
1952 section, to read:
1953 408.815 License or application denial; revocation.—
1954 (2) If a licensee lawfully continues to operate while a
1955 denial or revocation is pending in litigation, the licensee must
1956 continue to meet all other requirements of this part,
1957 authorizing statutes, and applicable rules and must file
1958 subsequent renewal applications for licensure and pay all
1959 licensure fees. The provisions of ss. 120.60(1) and 408.806(4)
1960 ~~(3)~~(c) shall not apply to renewal applications filed during the
1961 time period in which the litigation of the denial or revocation
1962 is pending until that litigation is final.
1963 (5) In order to ensure the health, safety, and welfare of
1964 clients when a license has been denied, revoked, or is set to
1965 terminate, the agency may extend the license expiration date for
1966 a period of up to 30 days for the sole purpose of allowing the
1967 safe and orderly discharge of clients. The agency may impose
1968 conditions on the extension, including, but not limited to,
1969 prohibiting or limiting admissions, expedited discharge

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1970 planning, required status reports, and mandatory monitoring by
1971 the agency or third parties. When imposing these conditions, the
1972 agency shall take into consideration the nature and number of
1973 clients, the availability and location of acceptable alternative
1974 placements, and the ability of the licensee to continue
1975 providing care to the clients. The agency may terminate the
1976 extension or modify the conditions at any time. This authority
1977 is in addition to any other authority granted to the agency
1978 under chapter 120, this part, and authorizing statutes but
1979 creates no right or entitlement to an extension of a license
1980 expiration date.
1981 Section 61. Subsection (11) of section 408.820, Florida
1982 Statutes, is amended to read:
1983 408.820 Exemptions.—Except as prescribed in authorizing
1984 statutes, the following exemptions shall apply to specified
1985 requirements of this part:
1986 (11) Health care risk managers, as provided under part I
1987 of chapter 395, are exempt from ss. 408.806(8) ~~(7)~~, 408.810(4)-
1988 (10), and 408.811.
1989 Section 62. Subsection (1) of section 409.91196, Florida
1990 Statutes, is amended to read:
1991 409.91196 Supplemental rebate agreements; public records
1992 and public meetings exemption.—
1993 (1) The rebate amount, percent of rebate, manufacturer's
1994 pricing, and supplemental rebate, and other trade secrets as
1995 defined in s. 688.002 that the agency has identified for use in
1996 negotiations, held by the Agency for Health Care Administration

1997 under s. 409.912(39)(a)8. ~~7.~~ are confidential and exempt from s.
1998 119.07(1) and s. 24(a), Art. I of the State Constitution.
1999 Section 63. Paragraph (a) of subsection (39) of section
2000 409.912, Florida Statutes, is amended to read:
2001 409.912 Cost-effective purchasing of health care.—The
2002 agency shall purchase goods and services for Medicaid recipients
2003 in the most cost-effective manner consistent with the delivery
2004 of quality medical care. To ensure that medical services are
2005 effectively utilized, the agency may, in any case, require a
2006 confirmation or second physician's opinion of the correct
2007 diagnosis for purposes of authorizing future services under the
2008 Medicaid program. This section does not restrict access to
2009 emergency services or poststabilization care services as defined
2010 in 42 C.F.R. part 438.114. Such confirmation or second opinion
2011 shall be rendered in a manner approved by the agency. The agency
2012 shall maximize the use of prepaid per capita and prepaid
2013 aggregate fixed-sum basis services when appropriate and other
2014 alternative service delivery and reimbursement methodologies,
2015 including competitive bidding pursuant to s. 287.057, designed
2016 to facilitate the cost-effective purchase of a case-managed
2017 continuum of care. The agency shall also require providers to
2018 minimize the exposure of recipients to the need for acute
2019 inpatient, custodial, and other institutional care and the
2020 inappropriate or unnecessary use of high-cost services. The
2021 agency shall contract with a vendor to monitor and evaluate the
2022 clinical practice patterns of providers in order to identify
2023 trends that are outside the normal practice patterns of a
2024 provider's professional peers or the national guidelines of a

2025 provider's professional association. The vendor must be able to
2026 provide information and counseling to a provider whose practice
2027 patterns are outside the norms, in consultation with the agency,
2028 to improve patient care and reduce inappropriate utilization.
2029 The agency may mandate prior authorization, drug therapy
2030 management, or disease management participation for certain
2031 populations of Medicaid beneficiaries, certain drug classes, or
2032 particular drugs to prevent fraud, abuse, overuse, and possible
2033 dangerous drug interactions. The Pharmaceutical and Therapeutics
2034 Committee shall make recommendations to the agency on drugs for
2035 which prior authorization is required. The agency shall inform
2036 the Pharmaceutical and Therapeutics Committee of its decisions
2037 regarding drugs subject to prior authorization. The agency is
2038 authorized to limit the entities it contracts with or enrolls as
2039 Medicaid providers by developing a provider network through
2040 provider credentialing. The agency may competitively bid single-
2041 source-provider contracts if procurement of goods or services
2042 results in demonstrated cost savings to the state without
2043 limiting access to care. The agency may limit its network based
2044 on the assessment of beneficiary access to care, provider
2045 availability, provider quality standards, time and distance
2046 standards for access to care, the cultural competence of the
2047 provider network, demographic characteristics of Medicaid
2048 beneficiaries, practice and provider-to-beneficiary standards,
2049 appointment wait times, beneficiary use of services, provider
2050 turnover, provider profiling, provider licensure history,
2051 previous program integrity investigations and findings, peer
2052 review, provider Medicaid policy and billing compliance records,

2053 clinical and medical record audits, and other factors. Providers
2054 shall not be entitled to enrollment in the Medicaid provider
2055 network. The agency shall determine instances in which allowing
2056 Medicaid beneficiaries to purchase durable medical equipment and
2057 other goods is less expensive to the Medicaid program than long-
2058 term rental of the equipment or goods. The agency may establish
2059 rules to facilitate purchases in lieu of long-term rentals in
2060 order to protect against fraud and abuse in the Medicaid program
2061 as defined in s. 409.913. The agency may seek federal waivers
2062 necessary to administer these policies.

2063 (39)(a) The agency shall implement a Medicaid prescribed-
2064 drug spending-control program that includes the following
2065 components:

2066 1. A Medicaid preferred drug list, which shall be a
2067 listing of cost-effective therapeutic options recommended by the
2068 Medicaid Pharmacy and Therapeutics Committee established
2069 pursuant to s. 409.91195 and adopted by the agency for each
2070 therapeutic class on the preferred drug list. At the discretion
2071 of the committee, and when feasible, the preferred drug list
2072 should include at least two products in a therapeutic class. The
2073 agency may post the preferred drug list and updates to the
2074 preferred drug list on an Internet website without following the
2075 rulemaking procedures of chapter 120. Antiretroviral agents are
2076 excluded from the preferred drug list. The agency shall also
2077 limit the amount of a prescribed drug dispensed to no more than
2078 a 34-day supply unless the drug products' smallest marketed
2079 package is greater than a 34-day supply, or the drug is
2080 determined by the agency to be a maintenance drug in which case

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2081 a 100-day maximum supply may be authorized. The agency is
2082 authorized to seek any federal waivers necessary to implement
2083 these cost-control programs and to continue participation in the
2084 federal Medicaid rebate program, or alternatively to negotiate
2085 state-only manufacturer rebates. The agency may adopt rules to
2086 implement this subparagraph. The agency shall continue to
2087 provide unlimited contraceptive drugs and items. The agency must
2088 establish procedures to ensure that:
2089 a. There is a response to a request for prior consultation
2090 by telephone or other telecommunication device within 24 hours
2091 after receipt of a request for prior consultation; and
2092 b. A 72-hour supply of the drug prescribed is provided in
2093 an emergency or when the agency does not provide a response
2094 within 24 hours as required by sub-subparagraph a.
2095 2. Reimbursement to pharmacies for Medicaid prescribed
2096 drugs shall be set at the lesser of: the average wholesale price
2097 (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC)
2098 plus 4.75 percent, the federal upper limit (FUL), the state
2099 maximum allowable cost (SMAC), or the usual and customary (UAC)
2100 charge billed by the provider.
2101 3. For a prescribed drug billed as a 340B prescribed
2102 medication, the claim must meet the requirements of the Deficit
2103 Reduction Act of 2005 and the federal 340B program, contain a
2104 national drug code, and be billed at the actual acquisition cost
2105 or payment shall be denied.
2106 4.~~3.~~ The agency shall develop and implement a process for
2107 managing the drug therapies of Medicaid recipients who are using
2108 significant numbers of prescribed drugs each month. The

2109 management process may include, but is not limited to,
2110 comprehensive, physician-directed medical-record reviews, claims
2111 analyses, and case evaluations to determine the medical
2112 necessity and appropriateness of a patient's treatment plan and
2113 drug therapies. The agency may contract with a private
2114 organization to provide drug-program-management services. The
2115 Medicaid drug benefit management program shall include
2116 initiatives to manage drug therapies for HIV/AIDS patients,
2117 patients using 20 or more unique prescriptions in a 180-day
2118 period, and the top 1,000 patients in annual spending. The
2119 agency shall enroll any Medicaid recipient in the drug benefit
2120 management program if he or she meets the specifications of this
2121 provision and is not enrolled in a Medicaid health maintenance
2122 organization.

2123 5.~~4.~~ The agency may limit the size of its pharmacy network
2124 based on need, competitive bidding, price negotiations,
2125 credentialing, or similar criteria. The agency shall give
2126 special consideration to rural areas in determining the size and
2127 location of pharmacies included in the Medicaid pharmacy
2128 network. A pharmacy credentialing process may include criteria
2129 such as a pharmacy's full-service status, location, size,
2130 patient educational programs, patient consultation, disease
2131 management services, and other characteristics. The agency may
2132 impose a moratorium on Medicaid pharmacy enrollment when it is
2133 determined that it has a sufficient number of Medicaid-
2134 participating providers. The agency must allow dispensing
2135 practitioners to participate as a part of the Medicaid pharmacy
2136 network regardless of the practitioner's proximity to any other

2137 entity that is dispensing prescription drugs under the Medicaid
2138 program. A dispensing practitioner must meet all credentialing
2139 requirements applicable to his or her practice, as determined by
2140 the agency.
2141 6.~~5.~~ The agency shall develop and implement a program that
2142 requires Medicaid practitioners who prescribe drugs to use a
2143 counterfeit-proof prescription pad for Medicaid prescriptions.
2144 The agency shall require the use of standardized counterfeit-
2145 proof prescription pads by Medicaid-participating prescribers or
2146 prescribers who write prescriptions for Medicaid recipients. The
2147 agency may implement the program in targeted geographic areas or
2148 statewide.
2149 7.~~6.~~ The agency may enter into arrangements that require
2150 manufacturers of generic drugs prescribed to Medicaid recipients
2151 to provide rebates of at least 15.1 percent of the average
2152 manufacturer price for the manufacturer's generic products.
2153 These arrangements shall require that if a generic-drug
2154 manufacturer pays federal rebates for Medicaid-reimbursed drugs
2155 at a level below 15.1 percent, the manufacturer must provide a
2156 supplemental rebate to the state in an amount necessary to
2157 achieve a 15.1-percent rebate level.
2158 8.~~7.~~ The agency may establish a preferred drug list as
2159 described in this subsection, and, pursuant to the establishment
2160 of such preferred drug list, it is authorized to negotiate
2161 supplemental rebates from manufacturers that are in addition to
2162 those required by Title XIX of the Social Security Act and at no
2163 less than 14 percent of the average manufacturer price as
2164 defined in 42 U.S.C. s. 1936 on the last day of a quarter unless

2165 the federal or supplemental rebate, or both, equals or exceeds
2166 29 percent. There is no upper limit on the supplemental rebates
2167 the agency may negotiate. The agency may determine that specific
2168 products, brand-name or generic, are competitive at lower rebate
2169 percentages. Agreement to pay the minimum supplemental rebate
2170 percentage will guarantee a manufacturer that the Medicaid
2171 Pharmaceutical and Therapeutics Committee will consider a
2172 product for inclusion on the preferred drug list. However, a
2173 pharmaceutical manufacturer is not guaranteed placement on the
2174 preferred drug list by simply paying the minimum supplemental
2175 rebate. Agency decisions will be made on the clinical efficacy
2176 of a drug and recommendations of the Medicaid Pharmaceutical and
2177 Therapeutics Committee, as well as the price of competing
2178 products minus federal and state rebates. The agency is
2179 authorized to contract with an outside agency or contractor to
2180 conduct negotiations for supplemental rebates. For the purposes
2181 of this section, the term "supplemental rebates" means cash
2182 rebates. Effective July 1, 2004, value-added programs as a
2183 substitution for supplemental rebates are prohibited. The agency
2184 is authorized to seek any federal waivers to implement this
2185 initiative.

2186 <u>9.</u>~~8.~~ The Agency for Health Care Administration shall
2187 expand home delivery of pharmacy products. To assist Medicaid
2188 patients in securing their prescriptions and reduce program
2189 costs, the agency shall expand its current mail-order-pharmacy
2190 diabetes-supply program to include all generic and brand-name
2191 drugs used by Medicaid patients with diabetes. Medicaid
2192 recipients in the current program may obtain nondiabetes drugs

2193 on a voluntary basis. This initiative is limited to the
2194 geographic area covered by the current contract. The agency may
2195 seek and implement any federal waivers necessary to implement
2196 this subparagraph.
2197 10.~~9.~~ The agency shall limit to one dose per month any
2198 drug prescribed to treat erectile dysfunction.
2199 11.~~10.~~a. The agency may implement a Medicaid behavioral
2200 drug management system. The agency may contract with a vendor
2201 that has experience in operating behavioral drug management
2202 systems to implement this program. The agency is authorized to
2203 seek federal waivers to implement this program.
2204 b. The agency, in conjunction with the Department of
2205 Children and Family Services, may implement the Medicaid
2206 behavioral drug management system that is designed to improve
2207 the quality of care and behavioral health prescribing practices
2208 based on best practice guidelines, improve patient adherence to
2209 medication plans, reduce clinical risk, and lower prescribed
2210 drug costs and the rate of inappropriate spending on Medicaid
2211 behavioral drugs. The program may include the following
2212 elements:
2213 (I) Provide for the development and adoption of best
2214 practice guidelines for behavioral health-related drugs such as
2215 antipsychotics, antidepressants, and medications for treating
2216 bipolar disorders and other behavioral conditions; translate
2217 them into practice; review behavioral health prescribers and
2218 compare their prescribing patterns to a number of indicators
2219 that are based on national standards; and determine deviations
2220 from best practice guidelines.

2221 (II) Implement processes for providing feedback to and
2222 educating prescribers using best practice educational materials
2223 and peer-to-peer consultation.
2224 (III) Assess Medicaid beneficiaries who are outliers in
2225 their use of behavioral health drugs with regard to the numbers
2226 and types of drugs taken, drug dosages, combination drug
2227 therapies, and other indicators of improper use of behavioral
2228 health drugs.
2229 (IV) Alert prescribers to patients who fail to refill
2230 prescriptions in a timely fashion, are prescribed multiple same-
2231 class behavioral health drugs, and may have other potential
2232 medication problems.
2233 (V) Track spending trends for behavioral health drugs and
2234 deviation from best practice guidelines.
2235 (VI) Use educational and technological approaches to
2236 promote best practices, educate consumers, and train prescribers
2237 in the use of practice guidelines.
2238 (VII) Disseminate electronic and published materials.
2239 (VIII) Hold statewide and regional conferences.
2240 (IX) Implement a disease management program with a model
2241 quality-based medication component for severely mentally ill
2242 individuals and emotionally disturbed children who are high
2243 users of care.
2244 12.~~11.~~a. The agency shall implement a Medicaid
2245 prescription drug management system. The agency may contract
2246 with a vendor that has experience in operating prescription drug
2247 management systems in order to implement this system. Any
2248 management system that is implemented in accordance with this

2249 subparagraph must rely on cooperation between physicians and
2250 pharmacists to determine appropriate practice patterns and
2251 clinical guidelines to improve the prescribing, dispensing, and
2252 use of drugs in the Medicaid program. The agency may seek
2253 federal waivers to implement this program.
2254 b. The drug management system must be designed to improve
2255 the quality of care and prescribing practices based on best
2256 practice guidelines, improve patient adherence to medication
2257 plans, reduce clinical risk, and lower prescribed drug costs and
2258 the rate of inappropriate spending on Medicaid prescription
2259 drugs. The program must:
2260 (I) Provide for the development and adoption of best
2261 practice guidelines for the prescribing and use of drugs in the
2262 Medicaid program, including translating best practice guidelines
2263 into practice; reviewing prescriber patterns and comparing them
2264 to indicators that are based on national standards and practice
2265 patterns of clinical peers in their community, statewide, and
2266 nationally; and determine deviations from best practice
2267 guidelines.
2268 (II) Implement processes for providing feedback to and
2269 educating prescribers using best practice educational materials
2270 and peer-to-peer consultation.
2271 (III) Assess Medicaid recipients who are outliers in their
2272 use of a single or multiple prescription drugs with regard to
2273 the numbers and types of drugs taken, drug dosages, combination
2274 drug therapies, and other indicators of improper use of
2275 prescription drugs.

2276 (IV) Alert prescribers to patients who fail to refill
2277 prescriptions in a timely fashion, are prescribed multiple drugs
2278 that may be redundant or contraindicated, or may have other
2279 potential medication problems.
2280 (V) Track spending trends for prescription drugs and
2281 deviation from best practice guidelines.
2282 (VI) Use educational and technological approaches to
2283 promote best practices, educate consumers, and train prescribers
2284 in the use of practice guidelines.
2285 (VII) Disseminate electronic and published materials.
2286 (VIII) Hold statewide and regional conferences.
2287 (IX) Implement disease management programs in cooperation
2288 with physicians and pharmacists, along with a model quality-
2289 based medication component for individuals having chronic
2290 medical conditions.
2291 13.~~12.~~ The agency is authorized to contract for drug
2292 rebate administration, including, but not limited to,
2293 calculating rebate amounts, invoicing manufacturers, negotiating
2294 disputes with manufacturers, and maintaining a database of
2295 rebate collections.
2296 14.~~13.~~ The agency may specify the preferred daily dosing
2297 form or strength for the purpose of promoting best practices
2298 with regard to the prescribing of certain drugs as specified in
2299 the General Appropriations Act and ensuring cost-effective
2300 prescribing practices.
2301 15.~~14.~~ The agency may require prior authorization for
2302 Medicaid-covered prescribed drugs. The agency may, but is not
2303 required to, prior-authorize the use of a product:

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2304 a. For an indication not approved in labeling;
2305 b. To comply with certain clinical guidelines; or
2306 c. If the product has the potential for overuse, misuse,
2307 or abuse.
2308
2309 The agency may require the prescribing professional to provide
2310 information about the rationale and supporting medical evidence
2311 for the use of a drug. The agency may post prior authorization
2312 criteria and protocol and updates to the list of drugs that are
2313 subject to prior authorization on an Internet website without
2314 amending its rule or engaging in additional rulemaking.
2315 16.~~15.~~ The agency, in conjunction with the Pharmaceutical
2316 and Therapeutics Committee, may require age-related prior
2317 authorizations for certain prescribed drugs. The agency may
2318 preauthorize the use of a drug for a recipient who may not meet
2319 the age requirement or may exceed the length of therapy for use
2320 of this product as recommended by the manufacturer and approved
2321 by the Food and Drug Administration. Prior authorization may
2322 require the prescribing professional to provide information
2323 about the rationale and supporting medical evidence for the use
2324 of a drug.
2325 17.~~16.~~ The agency shall implement a step-therapy prior
2326 authorization approval process for medications excluded from the
2327 preferred drug list. Medications listed on the preferred drug
2328 list must be used within the previous 12 months prior to the
2329 alternative medications that are not listed. The step-therapy
2330 prior authorization may require the prescriber to use the
2331 medications of a similar drug class or for a similar medical

2332 indication unless contraindicated in the Food and Drug
2333 Administration labeling. The trial period between the specified
2334 steps may vary according to the medical indication. The step-
2335 therapy approval process shall be developed in accordance with
2336 the committee as stated in s. 409.91195(7) and (8). A drug
2337 product may be approved without meeting the step-therapy prior
2338 authorization criteria if the prescribing physician provides the
2339 agency with additional written medical or clinical documentation
2340 that the product is medically necessary because:
2341 a. There is not a drug on the preferred drug list to treat
2342 the disease or medical condition which is an acceptable clinical
2343 alternative;
2344 b. The alternatives have been ineffective in the treatment
2345 of the beneficiary's disease; or
2346 c. Based on historic evidence and known characteristics of
2347 the patient and the drug, the drug is likely to be ineffective,
2348 or the number of doses have been ineffective.
2349
2350 The agency shall work with the physician to determine the best
2351 alternative for the patient. The agency may adopt rules waiving
2352 the requirements for written clinical documentation for specific
2353 drugs in limited clinical situations.
2354 18.~~17.~~ The agency shall implement a return and reuse
2355 program for drugs dispensed by pharmacies to institutional
2356 recipients, which includes payment of a $5 restocking fee for
2357 the implementation and operation of the program. The return and
2358 reuse program shall be implemented electronically and in a
2359 manner that promotes efficiency. The program must permit a

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2360 pharmacy to exclude drugs from the program if it is not
2361 practical or cost-effective for the drug to be included and must
2362 provide for the return to inventory of drugs that cannot be
2363 credited or returned in a cost-effective manner. The agency
2364 shall determine if the program has reduced the amount of
2365 Medicaid prescription drugs which are destroyed on an annual
2366 basis and if there are additional ways to ensure more
2367 prescription drugs are not destroyed which could safely be
2368 reused. The agency's conclusion and recommendations shall be
2369 reported to the Legislature by December 1, 2005.
2370 Section 64. Section 409.91255, Florida Statutes, is
2371 amended to read:
2372 409.91255 Federally qualified health center access
2373 program.—
2374 (1) SHORT TITLE.—This section may be cited as the
2375 "Community Health Center Access Program Act."
2376 (2) LEGISLATIVE FINDINGS AND INTENT.—
2377 (a) The Legislature finds that, despite significant
2378 investments in health care programs, nearly 6 ~~more than 2~~
2379 million low-income Floridians, primarily the working poor and
2380 minority populations, continue to lack access to basic health
2381 care services. Further, the Legislature recognizes that
2382 federally qualified health centers have a proven record of
2383 providing cost-effective, comprehensive primary and preventive
2384 health care and are uniquely qualified to address the lack of
2385 adequate health care services for the uninsured.
2386 (b) It is the intent of the Legislature to recognize the
2387 significance of increased federal investments in federally

2388 qualified health centers and to leverage that investment through
2389 the creation of a program to provide for the expansion of the
2390 primary and preventive health care services offered by federally
2391 qualified health centers. Further, such a program will support
2392 the coordination of federal, state, and local resources to
2393 assist such health centers in developing an expanded community-
2394 based primary care delivery system.
2395 (3) ASSISTANCE TO FEDERALLY QUALIFIED HEALTH CENTERS.—The
2396 agency shall administer ~~Department of Health shall develop~~ a
2397 program for the expansion of federally qualified health centers
2398 for the purpose of providing comprehensive primary and
2399 preventive health care and urgent care services that may reduce
2400 the morbidity, mortality, and cost of care among the uninsured
2401 population of the state. The program shall provide for
2402 distribution of financial assistance to federally qualified
2403 health centers that apply and demonstrate a need for such
2404 assistance in order to sustain or expand the delivery of primary
2405 and preventive health care services. In selecting centers to
2406 receive this financial assistance, the program:
2407 (a) Shall give preference to communities that have few or
2408 no community-based primary care services or in which the current
2409 services are unable to meet the community's needs. To assist in
2410 the assessment and identification of areas of critical need, the
2411 Florida Association of Community Health Centers, Inc., shall
2412 develop, every 5 years, beginning January 1, 2012, a federally
2413 qualified health center based statewide assessment and strategic
2414 plan.
2415 (b) Shall require that primary care services be provided

2416 to the medically indigent using a sliding fee schedule based on
2417 income.
2418 (c) Shall promote ~~allow~~ innovative and creative uses of
2419 federal, state, and local health care resources.
2420 (d) Shall require that the funds provided be used to pay
2421 for operating costs of a projected expansion in patient
2422 caseloads or services or for capital improvement projects.
2423 Capital improvement projects may include renovations to existing
2424 facilities or construction of new facilities, provided that an
2425 expansion in patient caseloads or services to a new patient
2426 population will occur as a result of the capital expenditures.
2427 The agency ~~department~~ shall include in its standard contract
2428 document a requirement that any state funds provided for the
2429 purchase of or improvements to real property are contingent upon
2430 the contractor granting to the state a security interest in the
2431 property at least to the amount of the state funds provided for
2432 at least 5 years from the date of purchase or the completion of
2433 the improvements or as further required by law. The contract
2434 must include a provision that, as a condition of receipt of
2435 state funding for this purpose, the contractor agrees that, if
2436 it disposes of the property before the agency's ~~department's~~
2437 interest is vacated, the contractor will refund the
2438 proportionate share of the state's initial investment, as
2439 adjusted by depreciation.
2440 (e) Shall ~~May~~ require in-kind support from other sources.
2441 (f) Shall promote ~~May encourage~~ coordination among
2442 federally qualified health centers, other private sector
2443 providers, and publicly supported programs.

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2444 (g) Shall <u>promote</u> ~~allow~~ the development of community
2445 emergency room diversion programs in conjunction with local
2446 resources, providing extended hours of operation to urgent care
2447 patients. Diversion programs shall include case management for
2448 emergency room followup care.
2449 (4) EVALUATION OF APPLICATIONS.—A review panel shall be
2450 established, consisting of four persons appointed by the
2451 <u>Secretary of Health Care Administration</u> ~~State Surgeon General~~
2452 and three persons appointed by the chief executive officer of
2453 the Florida Association of Community Health Centers, Inc., to
2454 review all applications for financial assistance under the
2455 program. Applicants shall specify in the application whether the
2456 program funds will be used for the expansion of patient
2457 caseloads or services or for capital improvement projects to
2458 expand and improve patient facilities. The panel shall use the
2459 following elements in reviewing application proposals and shall
2460 determine the relative weight for scoring and evaluating these
2461 elements:
2462 (a) The target population to be served.
2463 (b) The health benefits to be provided.
2464 (c) The methods that will be used to measure cost-
2465 effectiveness.
2466 (d) How patient satisfaction will be measured.
2467 (e) The proposed internal quality assurance process.
2468 (f) Projected health status outcomes.
2469 (g) How data will be collected to measure cost-
2470 effectiveness, health status outcomes, and overall achievement
2471 of the goals of the proposal.

2472 (h) All resources, including cash, in-kind, voluntary, or
2473 other resources that will be dedicated to the proposal.
2474 (5) ADMINISTRATION AND TECHNICAL ASSISTANCE.—The agency
2475 shall ~~Department of Health may~~ contract with the Florida
2476 Association of Community Health Centers, Inc., to develop and
2477 coordinate ~~administer~~ the program and provide technical
2478 assistance to the federally qualified health centers selected to
2479 receive financial assistance. The contracted entity shall be
2480 responsible for program support and assume all costs related to
2481 administration of this program.
2482 Section 65. Subsections (3) and (4) of section 429.07,
2483 Florida Statutes, are amended, and subsections (6) and (7) are
2484 added to that section, to read:
2485 429.07 License required; fee; inspections.—
2486 (3) In addition to the requirements of s. 408.806, each
2487 license granted by the agency must state the type of care for
2488 which the license is granted. Licenses shall be issued for one
2489 or more of the following categories of care: standard, extended
2490 congregate care, ~~limited nursing services,~~ or limited mental
2491 health.
2492 (a) A standard license shall be issued to a facility
2493 ~~facilities~~ providing one or more of the personal services
2494 identified in s. 429.02. Such licensee ~~facilities~~ may also
2495 employ or contract with a person ~~licensed under part I of~~
2496 ~~chapter 464~~ to ~~administer medications and~~ perform other tasks as
2497 specified in s. 429.255.
2498 (b) An extended congregate care license shall be issued to
2499 a licensee ~~facilities~~ providing, directly or through contract,

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2500 services beyond those authorized in paragraph (a), including
2501 services performed by persons licensed under part I of chapter
2502 464 and supportive services, as defined by rule, to persons who
2503 would otherwise be disqualified from continued residence in a
2504 facility licensed under this part.
2505 1. In order for extended congregate care services to be
2506 provided, the agency must first determine that all requirements
2507 established in law and rule are met and must specifically
2508 designate, on the ~~facility's~~ license, that such services may be
2509 provided and whether the designation applies to all or part of
2510 the facility. Such designation may be made at the time of
2511 initial licensure or relicensure, or upon request in writing by
2512 a licensee under this part and part II of chapter 408. The
2513 notification of approval or the denial of the request shall be
2514 made in accordance with part II of chapter 408. <u>An</u> existing
2515 <u>licensee</u> ~~facilities~~ qualifying to provide extended congregate
2516 care services must have maintained a standard license and ~~may~~
2517 not ~~have~~ been subject to administrative sanctions during the
2518 previous 2 years, or since initial licensure if ~~the facility has~~
2519 ~~been~~ licensed for less than 2 years, for any of the following
2520 reasons:
2521 a. A class I or class II violation;
2522 b. Three or more repeat or recurring class III violations
2523 of identical or similar resident care standards from which a
2524 pattern of noncompliance is found by the agency;
2525 c. Three or more class III violations that were not
2526 corrected in accordance with the corrective action plan approved
2527 by the agency;

2528 d. Violation of resident care standards which results in
2529 requiring the facility to employ the services of a consultant
2530 pharmacist or consultant dietitian;
2531 e. Denial, suspension, or revocation of a license for
2532 another facility licensed under this part in which the applicant
2533 for an extended congregate care license has at least 25 percent
2534 ownership interest; or
2535 f. Imposition of a moratorium pursuant to this part or
2536 part II of chapter 408 or initiation of injunctive proceedings.
2537 2. A facility that is licensed to provide extended
2538 congregate care services shall maintain a written progress
2539 report for ~~on~~ each person who receives services which describes
2540 the type, amount, duration, scope, and outcome of services that
2541 are rendered and the general status of the resident's health. ~~A~~
2542 ~~registered nurse, or appropriate designee, representing the~~
2543 ~~agency shall visit the facility at least quarterly to monitor~~
2544 ~~residents who are receiving extended congregate care services~~
2545 ~~and to determine if the facility is in compliance with this~~
2546 ~~part, part II of chapter 408, and relevant rules. One of the~~
2547 ~~visits may be in conjunction with the regular survey. The~~
2548 ~~monitoring visits may be provided through contractual~~
2549 ~~arrangements with appropriate community agencies. A registered~~
2550 ~~nurse shall serve as part of the team that inspects the~~
2551 ~~facility. The agency may waive one of the required yearly~~
2552 ~~monitoring visits for a facility that has been licensed for at~~
2553 ~~least 24 months to provide extended congregate care services,~~
2554 ~~if, during the inspection, the registered nurse determines that~~
2555 ~~extended congregate care services are being provided~~

2556 ~~appropriately, and if the facility has no class I or class II~~
2557 ~~violations and no uncorrected class III violations. The agency~~
2558 ~~must first consult with the long-term care ombudsman council for~~
2559 ~~the area in which the facility is located to determine if any~~
2560 ~~complaints have been made and substantiated about the quality of~~
2561 ~~services or care. The agency may not waive one of the required~~
2562 ~~yearly monitoring visits if complaints have been made and~~
2563 ~~substantiated.~~
2564 3. A facility that is licensed to provide extended
2565 congregate care services must:
2566 a. Demonstrate the capability to meet unanticipated
2567 resident service needs.
2568 b. Offer a physical environment that promotes a homelike
2569 setting, provides for resident privacy, promotes resident
2570 independence, and allows sufficient congregate space as defined
2571 by rule.
2572 c. Have sufficient staff available, taking into account
2573 the physical plant and firesafety features of the building, to
2574 assist with the evacuation of residents in an emergency.
2575 d. Adopt and follow policies and procedures that maximize
2576 resident independence, dignity, choice, and decisionmaking to
2577 permit residents to age in place, so that moves due to changes
2578 in functional status are minimized or avoided.
2579 e. Allow residents or, if applicable, a resident's
2580 representative, designee, surrogate, guardian, or attorney in
2581 fact to make a variety of personal choices, participate in
2582 developing service plans, and share responsibility in
2583 decisionmaking.

2584 f. Implement the concept of managed risk.
2585 g. Provide, directly or through contract, the services of
2586 a person licensed under part I of chapter 464.
2587 h. In addition to the training mandated in s. 429.52,
2588 provide specialized training as defined by rule for facility
2589 staff.
2590 4. A facility that is licensed to provide extended
2591 congregate care services is exempt from the criteria for
2592 continued residency set forth in rules adopted under s. 429.41.
2593 A licensed facility must adopt its own requirements within
2594 guidelines for continued residency set forth by rule. However,
2595 the facility may not serve residents who require 24-hour nursing
2596 supervision. A licensed facility that provides extended
2597 congregate care services must also provide each resident with a
2598 written copy of facility policies governing admission and
2599 retention.
2600 5. The primary purpose of extended congregate care
2601 services is to allow residents, as they become more impaired,
2602 the option of remaining in a familiar setting from which they
2603 would otherwise be disqualified for continued residency. A
2604 facility licensed to provide extended congregate care services
2605 may also admit an individual who exceeds the admission criteria
2606 for a facility with a standard license, if the individual is
2607 determined appropriate for admission to the extended congregate
2608 care facility.
2609 6. Before the admission of an individual to a facility
2610 licensed to provide extended congregate care services, the
2611 individual must undergo a medical examination as provided in s.

2612 429.26(4) and the facility must develop a preliminary service
2613 plan for the individual.
2614 7. When a licensee ~~facility~~ can no longer provide or
2615 arrange for services in accordance with the resident's service
2616 plan and needs and the licensee's ~~facility's~~ policy, the
2617 licensee ~~facility~~ shall make arrangements for relocating the
2618 person in accordance with s. 429.28(1)(k).
2619 8. Failure to provide extended congregate care services
2620 may result in denial of extended congregate care license
2621 renewal.
2622 ~~(c) A limited nursing services license shall be issued to~~
2623 ~~a facility that provides services beyond those authorized in~~
2624 ~~paragraph (a) and as specified in this paragraph.~~
2625 ~~1. In order for limited nursing services to be provided in~~
2626 ~~a facility licensed under this part, the agency must first~~
2627 ~~determine that all requirements established in law and rule are~~
2628 ~~met and must specifically designate, on the facility's license,~~
2629 ~~that such services may be provided. Such designation may be made~~
2630 ~~at the time of initial licensure or relicensure, or upon request~~
2631 ~~in writing by a licensee under this part and part II of chapter~~
2632 ~~408. Notification of approval or denial of such request shall be~~
2633 ~~made in accordance with part II of chapter 408. Existing~~
2634 ~~facilities qualifying to provide limited nursing services shall~~
2635 ~~have maintained a standard license and may not have been subject~~
2636 ~~to administrative sanctions that affect the health, safety, and~~
2637 ~~welfare of residents for the previous 2 years or since initial~~
2638 ~~licensure if the facility has been licensed for less than 2~~
2639 ~~years.~~

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2640 ~~2. Facilities that are licensed to provide limited nursing~~
2641 ~~services shall maintain a written progress report on each person~~
2642 ~~who receives such nursing services, which report describes the~~
2643 ~~type, amount, duration, scope, and outcome of services that are~~
2644 ~~rendered and the general status of the resident's health. A~~
2645 ~~registered nurse representing the agency shall visit such~~
2646 ~~facilities at least twice a year to monitor residents who are~~
2647 ~~receiving limited nursing services and to determine if the~~
2648 ~~facility is in compliance with applicable provisions of this~~
2649 ~~part, part II of chapter 408, and related rules. The monitoring~~
2650 ~~visits may be provided through contractual arrangements with~~
2651 ~~appropriate community agencies. A registered nurse shall also~~
2652 ~~serve as part of the team that inspects such facility.~~
2653 ~~3. A person who receives limited nursing services under~~
2654 ~~this part must meet the admission criteria established by the~~
2655 ~~agency for assisted living facilities. When a resident no longer~~
2656 ~~meets the admission criteria for a facility licensed under this~~
2657 ~~part, arrangements for relocating the person shall be made in~~
2658 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
2659 ~~to provide extended congregate care services.~~
2660 (4) In accordance with s. 408.805, an applicant or
2661 licensee shall pay a fee for each license application submitted
2662 under this part, part II of chapter 408, and applicable rules.
2663 The amount of the fee shall be established by rule.
2664 (a) The biennial license fee required of a facility is
2665 $356 ~~$300~~ per license, with an additional fee of $67.50 ~~$50~~ per
2666 resident based on the total licensed resident capacity of the
2667 facility, except that no additional fee will be assessed for

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2668 beds designated for recipients of optional state supplementation
2669 payments provided for in s. 409.212. The total fee may not
2670 exceed $18,000 ~~$10,000~~.

2671 (b) In addition to the total fee assessed under paragraph
2672 (a), the agency shall require facilities that are licensed to
2673 provide extended congregate care services under this part to pay
2674 an additional fee per licensed facility. The amount of the
2675 biennial fee shall be $501 ~~$400~~ per license, with an additional
2676 fee of $10 per resident based on the total licensed resident
2677 capacity of the facility.

2678 ~~(c) In addition to the total fee assessed under paragraph~~
2679 ~~(a), the agency shall require facilities that are licensed to~~
2680 ~~provide limited nursing services under this part to pay an~~
2681 ~~additional fee per licensed facility. The amount of the biennial~~
2682 ~~fee shall be $250 per license, with an additional fee of $10 per~~
2683 ~~resident based on the total licensed resident capacity of the~~
2684 ~~facility.~~

2685 (6) In order to determine whether the facility is
2686 adequately protecting residents' rights as provided in s.
2687 429.28, the agency shall conduct a biennial survey, which shall
2688 include private informal conversations with a sample of
2689 residents and consultation with the ombudsman council in the
2690 planning and service area in which the facility is located to
2691 discuss residents' experiences within the facility.

2692 (7) An assisted living facility that has been cited within
2693 the previous 24-month period for a class I or class II
2694 violation, regardless of the status of any enforcement or
2695 disciplinary action, is subject to periodic unannounced

2696 monitoring to determine if the facility is in compliance with
2697 this part, part II of chapter 408, and applicable rules.
2698 Monitoring may occur through a desk review or an onsite
2699 assessment. If the class I or class II violation relates to
2700 providing or failing to provide nursing care, a registered nurse
2701 must participate in at least two onsite monitoring visits within
2702 a 12-month period.
2703 Section 66. Subsection (7) of section 429.11, Florida
2704 Statutes, is renumbered as subsection (6), and present
2705 subsection (6) of that section is amended to read:
2706 429.11 Initial application for license~~; provisional~~
2707 ~~license~~.—
2708 ~~(6) In addition to the license categories available in s.~~
2709 ~~408.808, a provisional license may be issued to an applicant~~
2710 ~~making initial application for licensure or making application~~
2711 ~~for a change of ownership. A provisional license shall be~~
2712 ~~limited in duration to a specific period of time not to exceed 6~~
2713 ~~months, as determined by the agency.~~
2714 Section 67. Section 429.12, Florida Statutes, is amended
2715 to read:
2716 429.12 Sale or transfer of ownership of a facility.—It is
2717 the intent of the Legislature to protect the rights of the
2718 residents of an assisted living facility when the facility is
2719 sold or the ownership thereof is transferred. Therefore, in
2720 addition to the requirements of part II of chapter 408, whenever
2721 a facility is sold or the ownership thereof is transferred,
2722 including leasing,~~:~~

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2723 ~~(1)~~ the transferee shall notify the residents, in writing,
2724 of the change of ownership within 7 days after receipt of the
2725 new license.
2726 ~~(2) The transferor of a facility the license of which is~~
2727 ~~denied pending an administrative hearing shall, as a part of the~~
2728 ~~written change-of-ownership contract, advise the transferee that~~
2729 ~~a plan of correction must be submitted by the transferee and~~
2730 ~~approved by the agency at least 7 days before the change of~~
2731 ~~ownership and that failure to correct the condition which~~
2732 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~
2733 ~~denial of licensure is grounds for denial of the transferee's~~
2734 ~~license.~~
2735 Section 68. Paragraphs (b) through (l) of subsection (1)
2736 of section 429.14, Florida Statutes, are redesignated as
2737 paragraphs (a) through (k), respectively, and present paragraph
2738 (a) of subsection (1) and subsections (5) and (6) of that
2739 section are amended to read:
2740 429.14 Administrative penalties.—
2741 (1) In addition to the requirements of part II of chapter
2742 408, the agency may deny, revoke, and suspend any license issued
2743 under this part and impose an administrative fine in the manner
2744 provided in chapter 120 against a licensee for a violation of
2745 any provision of this part, part II of chapter 408, or
2746 applicable rules, or for any of the following actions by a
2747 licensee, for the actions of any person subject to level 2
2748 background screening under s. 408.809, or for the actions of any
2749 facility employee:

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2750 ~~(a) An intentional or negligent act seriously affecting~~
2751 ~~the health, safety, or welfare of a resident of the facility.~~
2752 (5) An action taken by the agency to suspend, deny, or
2753 revoke a facility's license under this part or part II of
2754 chapter 408, in which the agency claims that the facility owner
2755 or an employee of the facility has threatened the health,
2756 safety, or welfare of a resident of the facility shall be heard
2757 by the Division of Administrative Hearings of the Department of
2758 Management Services within 120 days after receipt of the
2759 facility's request for a hearing, unless that time limitation is
2760 waived by both parties. The administrative law judge must render
2761 a decision within 30 days after receipt of a proposed
2762 recommended order.
2763 (6) The agency shall provide to the Division of Hotels and
2764 Restaurants of the Department of Business and Professional
2765 Regulation, on a monthly basis, a list of those assisted living
2766 facilities that have had their licenses denied, suspended, or
2767 revoked or that are involved in an appellate proceeding pursuant
2768 to s. 120.60 related to the denial, suspension, or revocation of
2769 a license. This information may be provided electronically or
2770 through the agency's Internet website.
2771 Section 69. Subsections (1), (4), and (5) of section
2772 429.17, Florida Statutes, are amended to read:
2773 429.17 Expiration of license; renewal; conditional
2774 license.—
2775 (1) ~~Limited nursing,~~ Extended congregate care~~,~~ and limited
2776 mental health licenses shall expire at the same time as the
2777 facility's standard license, regardless of when issued.

2778 (4) In addition to the license categories available in s.
2779 408.808, a conditional license may be issued to an applicant for
2780 license renewal if the applicant fails to meet all standards and
2781 requirements for licensure. A conditional license issued under
2782 this subsection shall be limited in duration to a specific
2783 period of time not to exceed 6 months, as determined by the
2784 agency~~, and shall be accompanied by an agency-approved plan of~~
2785 ~~correction~~.
2786 (5) When an extended congregate care ~~or limited nursing~~
2787 ~~license~~ is requested during a facility's biennial license
2788 period, the fee shall be prorated in order to permit the
2789 additional license to expire at the end of the biennial license
2790 period. The fee shall be calculated as of the date the
2791 additional license application is received by the agency.
2792 Section 70. Subsection (7) of section 429.19, Florida
2793 Statutes, is amended to read:
2794 429.19 Violations; imposition of administrative fines;
2795 grounds.—
2796 (7) In addition to any administrative fines imposed, the
2797 agency may assess a survey or monitoring fee, equal to the
2798 lesser of one half of the facility's biennial license and bed
2799 fee or $500, to cover the cost of conducting initial complaint
2800 investigations that result in the finding of a violation that
2801 was the subject of the complaint or to monitor the health,
2802 safety, or security of residents under s. 429.07(7) ~~monitoring~~
2803 ~~visits conducted under s. 429.28(3)(c) to verify the correction~~
2804 ~~of the violations~~.

2805 Section 71. Subsections (6) through (10) of section
2806 429.23, Florida Statutes, are renumbered as subsections (5)
2807 through (9), respectively, and present subsection (5) of that
2808 section is amended to read:
2809 429.23 Internal risk management and quality assurance
2810 program; adverse incidents and reporting requirements.—
2811 ~~(5) Each facility shall report monthly to the agency any~~
2812 ~~liability claim filed against it. The report must include the~~
2813 ~~name of the resident, the dates of the incident leading to the~~
2814 ~~claim, if applicable, and the type of injury or violation of~~
2815 ~~rights alleged to have occurred. This report is not discoverable~~
2816 ~~in any civil or administrative action, except in such actions~~
2817 ~~brought by the agency to enforce the provisions of this part.~~
2818 Section 72. Paragraph (a) of subsection (1) and subsection
2819 (2) of section 429.255, Florida Statutes, are amended to read:
2820 429.255 Use of personnel; emergency care.—
2821 (1)(a) Persons under contract to the facility or~~,~~ facility
2822 staff~~, or volunteers,~~ who are licensed according to part I of
2823 chapter 464, or those persons exempt under s. 464.022(1), and
2824 others as defined by rule, may administer medications to
2825 residents, take residents' vital signs, manage individual weekly
2826 pill organizers for residents who self-administer medication,
2827 give prepackaged enemas ordered by a physician, observe
2828 residents, document observations on the appropriate resident's
2829 record, report observations to the resident's physician, and
2830 contract or allow residents or a resident's representative,
2831 designee, surrogate, guardian, or attorney in fact to contract
2832 with a third party, provided residents meet the criteria for

appropriate placement as defined in s. 429.26. Persons under contract to the facility or facility staff who are licensed according to part I of chapter 464 may provide limited nursing services. Nursing assistants certified pursuant to part II of chapter 464 may take residents' vital signs as directed by a licensed nurse or physician. The facility is responsible for maintaining documentation of services provided under this paragraph as required by rule and ensuring that staff are adequately trained to monitor residents receiving these services.

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

Section 73. Subsections (4), (5), (6), and (7) of section 429.28, Florida Statutes, are renumbered as subsections (3), (4), (5), and (6), respectively, and present subsections (3) and (6) of that section are amended to read:

429.28 Resident bill of rights.—

~~(3)(a) The agency shall conduct a survey to determine general compliance with facility standards and compliance with residents' rights as a prerequisite to initial licensure or licensure renewal.~~

2860 ~~(b) In order to determine whether the facility is~~
2861 ~~adequately protecting residents' rights, the biennial survey~~
2862 ~~shall include private informal conversations with a sample of~~
2863 ~~residents and consultation with the ombudsman council in the~~
2864 ~~planning and service area in which the facility is located to~~
2865 ~~discuss residents' experiences within the facility.~~
2866 ~~(c) During any calendar year in which no survey is~~
2867 ~~conducted, the agency shall conduct at least one monitoring~~
2868 ~~visit of each facility cited in the previous year for a class I~~
2869 ~~or class II violation, or more than three uncorrected class III~~
2870 ~~violations.~~
2871 ~~(d) The agency may conduct periodic followup inspections~~
2872 ~~as necessary to monitor the compliance of facilities with a~~
2873 ~~history of any class I, class II, or class III violations that~~
2874 ~~threaten the health, safety, or security of residents.~~
2875 ~~(e) The agency may conduct complaint investigations as~~
2876 ~~warranted to investigate any allegations of noncompliance with~~
2877 ~~requirements required under this part or rules adopted under~~
2878 ~~this part.~~
2879 (5) ~~(6)~~ Any facility which terminates the residency of an
2880 individual who participated in activities specified in
2881 subsection (4) ~~(5)~~ shall show good cause in a court of competent
2882 jurisdiction.
2883 Section 74. Subsection (2) of section 429.35, Florida
2884 Statutes, is amended to read:
2885 429.35 Maintenance of records; reports.—
2886 (2) Within 60 days after the date of the biennial
2887 inspection visit required under s. 408.811 or within 30 days

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2888 after the date of any interim visit, the agency shall forward
2889 the results of the inspection to the local ombudsman council in
2890 whose planning and service area, as defined in part II of
2891 chapter 400, the facility is located; to at least one public
2892 library or, in the absence of a public library, the county seat
2893 in the county in which the inspected assisted living facility is
2894 located; and, when appropriate, to the district Adult Services
2895 and Mental Health Program Offices. This information may be
2896 provided electronically or through the agency's Internet
2897 website.
2898 Section 75. Paragraphs (i) and (j) of subsection (1) of
2899 section 429.41, Florida Statutes, are amended to read:
2900 429.41 Rules establishing standards.—
2901 (1) It is the intent of the Legislature that rules
2902 published and enforced pursuant to this section shall include
2903 criteria by which a reasonable and consistent quality of
2904 resident care and quality of life may be ensured and the results
2905 of such resident care may be demonstrated. Such rules shall also
2906 ensure a safe and sanitary environment that is residential and
2907 noninstitutional in design or nature. It is further intended
2908 that reasonable efforts be made to accommodate the needs and
2909 preferences of residents to enhance the quality of life in a
2910 facility. The agency, in consultation with the department, may
2911 adopt rules to administer the requirements of part II of chapter
2912 408. In order to provide safe and sanitary facilities and the
2913 highest quality of resident care accommodating the needs and
2914 preferences of residents, the department, in consultation with
2915 the agency, the Department of Children and Family Services, and

2916 the Department of Health, shall adopt rules, policies, and
2917 procedures to administer this part, which must include
2918 reasonable and fair minimum standards in relation to:
2919 (i) Facilities holding an ~~a limited nursing,~~ extended
2920 congregate care~~,~~ or limited mental health license.
2921 (j) The establishment of specific criteria to define
2922 appropriateness of resident admission and continued residency in
2923 a facility holding a standard, ~~limited nursing,~~ extended
2924 congregate care, and limited mental health license.
2925 Section 76. Subsections (1) and (2) of section 429.53,
2926 Florida Statutes, are amended to read:
2927 429.53 Consultation by the agency.—
2928 (1) The ~~area offices of licensure and certification of the~~
2929 agency shall provide consultation to the following upon request:
2930 (a) A licensee of a facility.
2931 (b) A person interested in obtaining a license to operate
2932 a facility under this part.
2933 (2) As used in this section, "consultation" includes:
2934 (a) An explanation of the requirements of this part and
2935 rules adopted pursuant thereto;
2936 (b) An explanation of the license application and renewal
2937 procedures; and
2938 ~~(c) The provision of a checklist of general local and~~
2939 ~~state approvals required prior to constructing or developing a~~
2940 ~~facility and a listing of the types of agencies responsible for~~
2941 ~~such approvals;~~

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2942 (d) An explanation of benefits and financial assistance
2943 available to a recipient of supplemental security income
2944 residing in a facility;
2945 (c)(e) Any other information which the agency deems
2946 necessary to promote compliance with the requirements of this
2947 part; and
2948 (f) A preconstruction review of a facility to ensure
2949 compliance with agency rules and this part.
2950 Section 77. Subsections (1) and (2) of section 429.54,
2951 Florida Statutes, are renumbered as subsections (2) and (3),
2952 respectively, and a new subsection (1) is added to that section
2953 to read:
2954 429.54 Collection of information; local subsidy.—
2955 (1) A facility that is licensed under this part must
2956 report electronically to the agency semiannually data related to
2957 the facility, including, but not limited to, the total number of
2958 residents, the number of residents who are receiving limited
2959 mental health services, the number of residents who are
2960 receiving extended congregate care services, the number of
2961 residents who are receiving limited nursing services, and
2962 professional staffing employed by or under contract with the
2963 licensee to provide resident services. The department, in
2964 consultation with the agency, shall adopt rules to administer
2965 this subsection.
2966 Section 78. Subsections (1) and (5) of section 429.71,
2967 Florida Statutes, are amended to read:
2968 429.71 Classification of violations deficiencies;
2969 administrative fines.—

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2970 (1) In addition to the requirements of part II of chapter
2971 408 and in addition to any other liability or penalty provided
2972 by law, the agency may impose an administrative fine on a
2973 provider according to the following classification:
2974 (a) Class I violations are defined in s. 408.813 ~~those~~
2975 ~~conditions or practices related to the operation and maintenance~~
2976 ~~of an adult family-care home or to the care of residents which~~
2977 ~~the agency determines present an imminent danger to the~~
2978 ~~residents or guests of the facility or a substantial probability~~
2979 ~~that death or serious physical or emotional harm would result~~
2980 ~~therefrom. The condition or practice that constitutes a class I~~
2981 ~~violation must be abated or eliminated within 24 hours, unless a~~
2982 ~~fixed period, as determined by the agency, is required for~~
2983 ~~correction~~. A class I violation ~~deficiency~~ is subject to an
2984 administrative fine in an amount not less than $500 and not
2985 exceeding $1,000 for each violation. ~~A fine may be levied~~
2986 ~~notwithstanding the correction of the deficiency.~~
2987 (b) Class II violations are defined in s. 408.813 ~~those~~
2988 ~~conditions or practices related to the operation and maintenance~~
2989 ~~of an adult family-care home or to the care of residents which~~
2990 ~~the agency determines directly threaten the physical or~~
2991 ~~emotional health, safety, or security of the residents, other~~
2992 ~~than class I violations~~. A class II violation is subject to an
2993 administrative fine in an amount not less than $250 and not
2994 exceeding $500 for each violation. ~~A citation for a class II~~
2995 ~~violation must specify the time within which the violation is~~
2996 ~~required to be corrected. If a class II violation is corrected~~

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2997 ~~within the time specified, no civil penalty shall be imposed,~~
2998 ~~unless it is a repeated offense.~~
2999 (c) Class III violations are defined in s. 408.813 ~~those~~
3000 ~~conditions or practices related to the operation and maintenance~~
3001 ~~of an adult family-care home or to the care of residents which~~
3002 ~~the agency determines indirectly or potentially threaten the~~
3003 ~~physical or emotional health, safety, or security of residents,~~
3004 ~~other than class I or class II violations~~. A class III violation
3005 is subject to an administrative fine in an amount not less than
3006 $100 and not exceeding $250 for each violation. ~~A citation for a~~
3007 ~~class III violation shall specify the time within which the~~
3008 ~~violation is required to be corrected.~~ If a class III violation
3009 is corrected within the time specified, no civil penalty shall
3010 be imposed, unless it is a repeated violation ~~offense~~.
3011 (d) Class IV violations are defined in s. 408.813 ~~those~~
3012 ~~conditions or occurrences related to the operation and~~
3013 ~~maintenance of an adult family-care home, or related to the~~
3014 ~~required reports, forms, or documents, which do not have the~~
3015 ~~potential of negatively affecting the residents~~. ~~A provider that~~
3016 ~~does not correct~~ A class IV violation ~~within the time limit~~
3017 ~~specified by the agency~~ is subject to an administrative fine in
3018 an amount not less than $50 and not exceeding $100 for each
3019 violation. Any class IV violation that is corrected during the
3020 time the agency survey is conducted will be identified as an
3021 agency finding and not as a violation, unless it is a repeat
3022 violation.
3023 ~~(5) As an alternative to or in conjunction with an~~
3024 ~~administrative action against a provider, the agency may request~~

3025 ~~a plan of corrective action that demonstrates a good faith~~
3026 ~~effort to remedy each violation by a specific date, subject to~~
3027 ~~the approval of the agency.~~
3028 Section 79. Paragraphs (b) through (e) of subsection (2)
3029 of section 429.911, Florida Statutes, are redesignated as
3030 paragraphs (a) through (d), respectively, and present paragraph
3031 (a) of that subsection is amended to read:
3032 429.911 Denial, suspension, revocation of license;
3033 emergency action; administrative fines; investigations and
3034 inspections.—
3035 (2) Each of the following actions by the owner of an adult
3036 day care center or by its operator or employee is a ground for
3037 action by the agency against the owner of the center or its
3038 operator or employee:
3039 ~~(a) An intentional or negligent act materially affecting~~
3040 ~~the health or safety of center participants.~~
3041 Section 80. Section 429.915, Florida Statutes, is amended
3042 to read:
3043 429.915 Conditional license.—In addition to the license
3044 categories available in part II of chapter 408, the agency may
3045 issue a conditional license to an applicant for license renewal
3046 or change of ownership if the applicant fails to meet all
3047 standards and requirements for licensure. A conditional license
3048 issued under this subsection must be limited to a specific
3049 period not exceeding 6 months, as determined by the agency~~, and~~
3050 ~~must be accompanied by an approved plan of correction~~.
3051 Section 81. Paragraphs (b) and (g) of subsection (3) of
3052 section 430.80, Florida Statutes, are amended to read:

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3053 430.80 Implementation of a teaching nursing home pilot
3054 project.—
3055 (3) To be designated as a teaching nursing home, a nursing
3056 home licensee must, at a minimum:
3057 (b) Participate in a nationally recognized accreditation
3058 program and hold a valid accreditation, such as the
3059 accreditation awarded by the Joint Commission ~~on Accreditation~~
3060 ~~of Healthcare Organizations~~, or, at the time of initial
3061 designation, possess a Gold Seal Award as conferred by the state
3062 on its licensed nursing home;
3063 (g) Maintain insurance coverage pursuant to s.
3064 400.141(1)(q) ~~(s)~~ or proof of financial responsibility in a
3065 minimum amount of $750,000. Such proof of financial
3066 responsibility may include:
3067 1. Maintaining an escrow account consisting of cash or
3068 assets eligible for deposit in accordance with s. 625.52; or
3069 2. Obtaining and maintaining pursuant to chapter 675 an
3070 unexpired, irrevocable, nontransferable and nonassignable letter
3071 of credit issued by any bank or savings association organized
3072 and existing under the laws of this state or any bank or savings
3073 association organized under the laws of the United States that
3074 has its principal place of business in this state or has a
3075 branch office which is authorized to receive deposits in this
3076 state. The letter of credit shall be used to satisfy the
3077 obligation of the facility to the claimant upon presentment of a
3078 final judgment indicating liability and awarding damages to be
3079 paid by the facility or upon presentment of a settlement
3080 agreement signed by all parties to the agreement when such final

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3081 judgment or settlement is a result of a liability claim against
3082 the facility.
3083 Section 82. Paragraph (a) of subsection (2) of section
3084 440.13, Florida Statutes, is amended to read:
3085 440.13 Medical services and supplies; penalty for
3086 violations; limitations.—
3087 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—
3088 (a) Subject to the limitations specified elsewhere in this
3089 chapter, the employer shall furnish to the employee such
3090 medically necessary remedial treatment, care, and attendance for
3091 such period as the nature of the injury or the process of
3092 recovery may require, which is in accordance with established
3093 practice parameters and protocols of treatment as provided for
3094 in this chapter, including medicines, medical supplies, durable
3095 medical equipment, orthoses, prostheses, and other medically
3096 necessary apparatus. Remedial treatment, care, and attendance,
3097 including work-hardening programs or pain-management programs
3098 accredited by the Commission on Accreditation of Rehabilitation
3099 Facilities or the Joint Commission ~~on the Accreditation of~~
3100 ~~Health Organizations~~ or pain-management programs affiliated with
3101 medical schools, shall be considered as covered treatment only
3102 when such care is given based on a referral by a physician as
3103 defined in this chapter. Medically necessary treatment, care,
3104 and attendance does not include chiropractic services in excess
3105 of 24 treatments or rendered 12 weeks beyond the date of the
3106 initial chiropractic treatment, whichever comes first, unless
3107 the carrier authorizes additional treatment or the employee is
3108 catastrophically injured.

3109

3110 Failure of the carrier to timely comply with this subsection
3111 shall be a violation of this chapter and the carrier shall be
3112 subject to penalties as provided for in s. 440.525.
3113 Section 83. Section 483.294, Florida Statutes, is amended
3114 to read:
3115 483.294 Inspection of centers.—In accordance with s.
3116 408.811, the agency shall biennially, at least once annually,
3117 inspect the premises and operations of all centers subject to
3118 licensure under this part.
3119 Section 84. Subsection (4) is added to section 626.9541,
3120 Florida Statutes, to read:
3121 626.9541 Unfair methods of competition and unfair or
3122 deceptive acts or practices defined; alternative rates of
3123 payment; wellness programs.—
3124 (4) WELLNESS PROGRAMS.—An insurer issuing a group or
3125 individual health benefit plan may offer a voluntary wellness or
3126 health-improvement program that allows for rewards or
3127 incentives, including, but not limited to, merchandise, gift
3128 cards, debit cards, premium discounts or rebates, contributions
3129 towards a member's health savings account, modifications to
3130 copayment, deductible, or coinsurance amounts, or any
3131 combination of these incentives, to encourage or reward
3132 participation in the program. The health plan member may be
3133 required to provide verification, such as a statement from his
3134 or her physician, that a medical condition makes it unreasonably
3135 difficult or medically inadvisable for the individual to
3136 participate in the wellness program. Any reward or incentive

3137 established under this subsection is not an insurance benefit
3138 and does not violate this section. This subsection does not
3139 prohibit an insurer from offering incentives or rewards to
3140 members for adherence to wellness or health improvement programs
3141 if otherwise allowed by state or federal law. Notwithstanding
3142 any provision of this subsection, no insurer, nor its agent, may
3143 use any incentive authorized by this subsection for the purpose
3144 of redirecting patients from one health care insurance plan to
3145 another.
3146 Section 85. Subsection (1) of section 627.645, Florida
3147 Statutes, is amended to read:
3148 627.645 Denial of health insurance claims restricted.—
3149 (1) No claim for payment under a health insurance policy
3150 or self-insured program of health benefits for treatment, care,
3151 or services in a licensed hospital which is accredited by the
3152 Joint Commission ~~on the Accreditation of Hospitals~~, the American
3153 Osteopathic Association, or the Commission on the Accreditation
3154 of Rehabilitative Facilities shall be denied because such
3155 hospital lacks major surgical facilities and is primarily of a
3156 rehabilitative nature, if such rehabilitation is specifically
3157 for treatment of physical disability.
3158 Section 86. Paragraph (c) of subsection (2) of section
3159 627.668, Florida Statutes, is amended to read:
3160 627.668 Optional coverage for mental and nervous disorders
3161 required; exception.—
3162 (2) Under group policies or contracts, inpatient hospital
3163 benefits, partial hospitalization benefits, and outpatient
3164 benefits consisting of durational limits, dollar amounts,

3165 deductibles, and coinsurance factors shall not be less favorable
3166 than for physical illness generally, except that:
3167 (c) Partial hospitalization benefits shall be provided
3168 under the direction of a licensed physician. For purposes of
3169 this part, the term "partial hospitalization services" is
3170 defined as those services offered by a program accredited by the
3171 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
3172 compliance with equivalent standards. Alcohol rehabilitation
3173 programs accredited by the Joint Commission ~~on Accreditation of~~
3174 ~~Hospitals~~ or approved by the state and licensed drug abuse
3175 rehabilitation programs shall also be qualified providers under
3176 this section. In any benefit year, if partial hospitalization
3177 services or a combination of inpatient and partial
3178 hospitalization are utilized, the total benefits paid for all
3179 such services shall not exceed the cost of 30 days of inpatient
3180 hospitalization for psychiatric services, including physician
3181 fees, which prevail in the community in which the partial
3182 hospitalization services are rendered. If partial
3183 hospitalization services benefits are provided beyond the limits
3184 set forth in this paragraph, the durational limits, dollar
3185 amounts, and coinsurance factors thereof need not be the same as
3186 those applicable to physical illness generally.
3187 Section 87. Subsection (3) of section 627.669, Florida
3188 Statutes, is amended to read:
3189 627.669 Optional coverage required for substance abuse
3190 impaired persons; exception.—
3191 (3) The benefits provided under this section shall be
3192 applicable only if treatment is provided by, or under the

3193 supervision of, or is prescribed by, a licensed physician or
3194 licensed psychologist and if services are provided in a program
3195 accredited by the Joint Commission ~~on Accreditation of Hospitals~~
3196 or approved by the state.
3197 Section 88. Paragraph (a) of subsection (1) of section
3198 627.736, Florida Statutes, is amended to read:
3199 627.736 Required personal injury protection benefits;
3200 exclusions; priority; claims.—
3201 (1) REQUIRED BENEFITS.—Every insurance policy complying
3202 with the security requirements of s. 627.733 shall provide
3203 personal injury protection to the named insured, relatives
3204 residing in the same household, persons operating the insured
3205 motor vehicle, passengers in such motor vehicle, and other
3206 persons struck by such motor vehicle and suffering bodily injury
3207 while not an occupant of a self-propelled vehicle, subject to
3208 the provisions of subsection (2) and paragraph (4)(e), to a
3209 limit of $10,000 for loss sustained by any such person as a
3210 result of bodily injury, sickness, disease, or death arising out
3211 of the ownership, maintenance, or use of a motor vehicle as
3212 follows:
3213 (a) *Medical benefits.*—Eighty percent of all reasonable
3214 expenses for medically necessary medical, surgical, X-ray,
3215 dental, and rehabilitative services, including prosthetic
3216 devices, and medically necessary ambulance, hospital, and
3217 nursing services. However, the medical benefits shall provide
3218 reimbursement only for such services and care that are lawfully
3219 provided, supervised, ordered, or prescribed by a physician
3220 licensed under chapter 458 or chapter 459, a dentist licensed

3221 under chapter 466, or a chiropractic physician licensed under
3222 chapter 460 or that are provided by any of the following persons
3223 or entities:
3224 1. A hospital or ambulatory surgical center licensed under
3225 chapter 395.
3226 2. A person or entity licensed under ss. 401.2101-401.45
3227 that provides emergency transportation and treatment.
3228 3. An entity wholly owned by one or more physicians
3229 licensed under chapter 458 or chapter 459, chiropractic
3230 physicians licensed under chapter 460, or dentists licensed
3231 under chapter 466 or by such practitioner or practitioners and
3232 the spouse, parent, child, or sibling of that practitioner or
3233 those practitioners.
3234 4. An entity wholly owned, directly or indirectly, by a
3235 hospital or hospitals.
3236 5. A health care clinic licensed under ss. 400.990-400.995
3237 that is:
3238 a. Accredited by the Joint Commission ~~on Accreditation of~~
3239 ~~Healthcare Organizations~~, the American Osteopathic Association,
3240 the Commission on Accreditation of Rehabilitation Facilities, or
3241 the Accreditation Association for Ambulatory Health Care, Inc.;
3242 or
3243 b. A health care clinic that:
3244 (I) Has a medical director licensed under chapter 458,
3245 chapter 459, or chapter 460;
3246 (II) Has been continuously licensed for more than 3 years
3247 or is a publicly traded corporation that issues securities
3248 traded on an exchange registered with the United States

3249 Securities and Exchange Commission as a national securities
3250 exchange; and
3251 (III) Provides at least four of the following medical
3252 specialties:
3253 (A) General medicine.
3254 (B) Radiography.
3255 (C) Orthopedic medicine.
3256 (D) Physical medicine.
3257 (E) Physical therapy.
3258 (F) Physical rehabilitation.
3259 (G) Prescribing or dispensing outpatient prescription
3260 medication.
3261 (H) Laboratory services.
3262
3263 The Financial Services Commission shall adopt by rule the form
3264 that must be used by an insurer and a health care provider
3265 specified in subparagraph 3., subparagraph 4., or subparagraph
3266 5. to document that the health care provider meets the criteria
3267 of this paragraph, which rule must include a requirement for a
3268 sworn statement or affidavit.
3269
3270 Only insurers writing motor vehicle liability insurance in this
3271 state may provide the required benefits of this section, and no
3272 such insurer shall require the purchase of any other motor
3273 vehicle coverage other than the purchase of property damage
3274 liability coverage as required by s. 627.7275 as a condition for
3275 providing such required benefits. Insurers may not require that
3276 property damage liability insurance in an amount greater than

3277 $10,000 be purchased in conjunction with personal injury
3278 protection. Such insurers shall make benefits and required
3279 property damage liability insurance coverage available through
3280 normal marketing channels. Any insurer writing motor vehicle
3281 liability insurance in this state who fails to comply with such
3282 availability requirement as a general business practice shall be
3283 deemed to have violated part IX of chapter 626, and such
3284 violation shall constitute an unfair method of competition or an
3285 unfair or deceptive act or practice involving the business of
3286 insurance; and any such insurer committing such violation shall
3287 be subject to the penalties afforded in such part, as well as
3288 those which may be afforded elsewhere in the insurance code.
3289 Section 89. Section 633.081, Florida Statutes, is amended
3290 to read:
3291 633.081 Inspection of buildings and equipment; orders;
3292 firesafety inspection training requirements; certification;
3293 disciplinary action.—The State Fire Marshal and her or his
3294 agents shall, at any reasonable hour, when the State Fire
3295 Marshal has reasonable cause to believe that a violation of this
3296 chapter or s. 509.215, or a rule promulgated thereunder, or a
3297 minimum firesafety code adopted by a local authority, may exist,
3298 inspect any and all buildings and structures which are subject
3299 to the requirements of this chapter or s. 509.215 and rules
3300 promulgated thereunder. The authority to inspect shall extend to
3301 all equipment, vehicles, and chemicals which are located within
3302 the premises of any such building or structure. The State Fire
3303 Marshal and her or his agents shall inspect nursing homes
3304 licensed under part II of chapter 400 only once every calendar

3305 year and upon receiving a complaint forming the basis of a
3306 reasonable cause to believe that a violation of this chapter or
3307 s. 509.215, or a rule promulgated thereunder, or a minimum
3308 firesafety code adopted by a local authority may exist and upon
3309 identifying such a violation in the course of conducting
3310 orientation or training activities within a nursing home.
3311 (1) Each county, municipality, and special district that
3312 has firesafety enforcement responsibilities shall employ or
3313 contract with a firesafety inspector. Except as provided in s.
3314 633.082(2), the firesafety inspector must conduct all firesafety
3315 inspections that are required by law. The governing body of a
3316 county, municipality, or special district that has firesafety
3317 enforcement responsibilities may provide a schedule of fees to
3318 pay only the costs of inspections conducted pursuant to this
3319 subsection and related administrative expenses. Two or more
3320 counties, municipalities, or special districts that have
3321 firesafety enforcement responsibilities may jointly employ or
3322 contract with a firesafety inspector.
3323 (2) Except as provided in s. 633.082(2), every firesafety
3324 inspection conducted pursuant to state or local firesafety
3325 requirements shall be by a person certified as having met the
3326 inspection training requirements set by the State Fire Marshal.
3327 Such person shall:
3328 (a) Be a high school graduate or the equivalent as
3329 determined by the department;
3330 (b) Not have been found guilty of, or having pleaded
3331 guilty or nolo contendere to, a felony or a crime punishable by
3332 imprisonment of 1 year or more under the law of the United

3333 States, or of any state thereof, which involves moral turpitude,
3334 without regard to whether a judgment of conviction has been
3335 entered by the court having jurisdiction of such cases;
3336 (c) Have her or his fingerprints on file with the
3337 department or with an agency designated by the department;
3338 (d) Have good moral character as determined by the
3339 department;
3340 (e) Be at least 18 years of age;
3341 (f) Have satisfactorily completed the firesafety inspector
3342 certification examination as prescribed by the department; and
3343 (g)1. Have satisfactorily completed, as determined by the
3344 department, a firesafety inspector training program of not less
3345 than 200 hours established by the department and administered by
3346 agencies and institutions approved by the department for the
3347 purpose of providing basic certification training for firesafety
3348 inspectors; or
3349 2. Have received in another state training which is
3350 determined by the department to be at least equivalent to that
3351 required by the department for approved firesafety inspector
3352 education and training programs in this state.
3353 (3) Each special state firesafety inspection which is
3354 required by law and is conducted by or on behalf of an agency of
3355 the state must be performed by an individual who has met the
3356 provision of subsection (2), except that the duration of the
3357 training program shall not exceed 120 hours of specific training
3358 for the type of property that such special state firesafety
3359 inspectors are assigned to inspect.
3360 (4) A firefighter certified pursuant to s. 633.35 may

3361 conduct firesafety inspections, under the supervision of a
3362 certified firesafety inspector, while on duty as a member of a
3363 fire department company conducting inservice firesafety
3364 inspections without being certified as a firesafety inspector,
3365 if such firefighter has satisfactorily completed an inservice
3366 fire department company inspector training program of at least
3367 24 hours' duration as provided by rule of the department.
3368 (5) Every firesafety inspector or special state firesafety
3369 inspector certificate is valid for a period of 3 years from the
3370 date of issuance. Renewal of certification shall be subject to
3371 the affected person's completing proper application for renewal
3372 and meeting all of the requirements for renewal as established
3373 under this chapter or by rule promulgated thereunder, which
3374 shall include completion of at least 40 hours during the
3375 preceding 3-year period of continuing education as required by
3376 the rule of the department or, in lieu thereof, successful
3377 passage of an examination as established by the department.
3378 (6) The State Fire Marshal may deny, refuse to renew,
3379 suspend, or revoke the certificate of a firesafety inspector or
3380 special state firesafety inspector if it finds that any of the
3381 following grounds exist:
3382 (a) Any cause for which issuance of a certificate could
3383 have been refused had it then existed and been known to the
3384 State Fire Marshal.
3385 (b) Violation of this chapter or any rule or order of the
3386 State Fire Marshal.
3387 (c) Falsification of records relating to the certificate.
3388 (d) Having been found guilty of or having pleaded guilty

3389 or nolo contendere to a felony, whether or not a judgment of
3390 conviction has been entered.
3391 (e) Failure to meet any of the renewal requirements.
3392 (f) Having been convicted of a crime in any jurisdiction
3393 which directly relates to the practice of fire code inspection,
3394 plan review, or administration.
3395 (g) Making or filing a report or record that the
3396 certificateholder knows to be false, or knowingly inducing
3397 another to file a false report or record, or knowingly failing
3398 to file a report or record required by state or local law, or
3399 knowingly impeding or obstructing such filing, or knowingly
3400 inducing another person to impede or obstruct such filing.
3401 (h) Failing to properly enforce applicable fire codes or
3402 permit requirements within this state which the
3403 certificateholder knows are applicable by committing willful
3404 misconduct, gross negligence, gross misconduct, repeated
3405 negligence, or negligence resulting in a significant danger to
3406 life or property.
3407 (i) Accepting labor, services, or materials at no charge
3408 or at a noncompetitive rate from any person who performs work
3409 that is under the enforcement authority of the certificateholder
3410 and who is not an immediate family member of the
3411 certificateholder. For the purpose of this paragraph, the term
3412 "immediate family member" means a spouse, child, parent,
3413 sibling, grandparent, aunt, uncle, or first cousin of the person
3414 or the person's spouse or any person who resides in the primary
3415 residence of the certificateholder.
3416 (7) The Division of State Fire Marshal and the Florida

3417 Building Code Administrators and Inspectors Board, established
3418 pursuant to s. 468.605, shall enter into a reciprocity agreement
3419 to facilitate joint recognition of continuing education
3420 recertification hours for certificateholders licensed under s.
3421 468.609 and firesafety inspectors certified under subsection
3422 (2).
3423 (8) The State Fire Marshal shall develop by rule an
3424 advanced training and certification program for firesafety
3425 inspectors having fire code management responsibilities. The
3426 program must be consistent with the appropriate provisions of
3427 NFPA 1037, or similar standards adopted by the division, and
3428 establish minimum training, education, and experience levels for
3429 firesafety inspectors having fire code management
3430 responsibilities.
3431 (9) The department shall provide by rule for the
3432 certification of firesafety inspectors.
3433 Section 90. Subsection (12) of section 641.495, Florida
3434 Statutes, is amended to read:
3435 641.495 Requirements for issuance and maintenance of
3436 certificate.—
3437 (12) The provisions of part I of chapter 395 do not apply
3438 to a health maintenance organization that, on or before January
3439 1, 1991, provides not more than 10 outpatient holding beds for
3440 short-term and hospice-type patients in an ambulatory care
3441 facility for its members, provided that such health maintenance
3442 organization maintains current accreditation by the Joint
3443 Commission ~~on Accreditation of Health Care Organizations~~, the

3444 Accreditation Association for Ambulatory Health Care, or the
3445 National Committee for Quality Assurance.
3446 Section 91. Subsection (13) of section 651.118, Florida
3447 Statutes, is amended to read:
3448 651.118 Agency for Health Care Administration;
3449 certificates of need; sheltered beds; community beds.—
3450 (13) Residents, as defined in this chapter, are not
3451 considered new admissions for the purpose of s.
3452 400.141(1)<u>(n)</u>~~(o)~~1.d.
3453 Section 92. Subsection (2) of section 766.1015, Florida
3454 Statutes, is amended to read:
3455 766.1015 Civil immunity for members of or consultants to
3456 certain boards, committees, or other entities.—
3457 (2) Such committee, board, group, commission, or other
3458 entity must be established in accordance with state law or in
3459 accordance with requirements of the Joint Commission ~~on~~
3460 ~~Accreditation of Healthcare Organizations~~, established and duly
3461 constituted by one or more public or licensed private hospitals
3462 or behavioral health agencies, or established by a governmental
3463 agency. To be protected by this section, the act, decision,
3464 omission, or utterance may not be made or done in bad faith or
3465 with malicious intent.
3466 Section 93. Subsection (4) of section 766.202, Florida
3467 Statutes, is amended to read:
3468 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
3469 766.201-766.212, the term:
3470 (4) "Health care provider" means any hospital, ambulatory
3471 surgical center, or mobile surgical facility as defined and

3472 licensed under chapter 395; a birth center licensed under
3473 chapter 383; any person licensed under chapter 458, chapter 459,
3474 chapter 460, chapter 461, chapter 462, chapter 463, part I of
3475 chapter 464, chapter 466, chapter 467, part XIV of chapter 468,
3476 or chapter 486; a clinical lab licensed under chapter 483; a
3477 health maintenance organization certificated under part I of
3478 chapter 641; a blood bank; a plasma center; an industrial
3479 clinic; a renal dialysis facility; or a professional association
3480 partnership, corporation, joint venture, or other association
3481 for professional activity by health care providers.
3482 Section 94. This act shall take effect July 1, 2011.