



LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 1/AD/2R	.	Floor: SEN1/C
03/09/2012 10:57 PM	.	03/10/2012 12:02 AM
	.	

Senator Bogdanoff moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (8) and (16) of section 400.021,
Florida Statutes, are amended, and subsection (19) is added to
that section, to read:

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

(8) "Geriatric outpatient clinic" means a site for
providing outpatient health care to persons 60 years of age or
older, which is staffed by a registered nurse, ~~or~~ a physician
assistant, or a licensed practical nurse under the direct



109490

14 supervision of a registered nurse, advanced registered nurse
15 practitioner, physician assistant, or physician.

16 (16) "Resident care plan" means a written plan developed,
17 maintained, and reviewed not less than quarterly by a registered
18 nurse, with participation from other facility staff and the
19 resident or his or her designee or legal representative, which
20 includes a comprehensive assessment of the needs of an
21 individual resident; the type and frequency of services required
22 to provide the necessary care for the resident to attain or
23 maintain the highest practicable physical, mental, and
24 psychosocial well-being; a listing of services provided within
25 or outside the facility to meet those needs; and an explanation
26 of service goals. ~~The resident care plan must be signed by the~~
27 ~~director of nursing or another registered nurse employed by the~~
28 ~~facility to whom institutional responsibilities have been~~
29 ~~delegated and by the resident, the resident's designee, or the~~
30 ~~resident's legal representative. The facility may not use an~~
31 ~~agency or temporary registered nurse to satisfy the foregoing~~
32 ~~requirement and must document the institutional responsibilities~~
33 ~~that have been delegated to the registered nurse.~~

34 (19) "Therapeutic spa services" means bathing, nail, and
35 hair care services and other similar services related to
36 personal hygiene.

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

39 400.1183 Resident grievance procedures.—

40 (2) Each nursing home facility shall maintain records of
41 all grievances and a shall report, subject to agency inspection,
42 of to the agency at the time of relicensure the total number of



109490

43 grievances handled ~~during the prior licensure period~~, a
44 categorization of the cases underlying the grievances, and the
45 final disposition of the grievances.

46 Section 3. Paragraphs (p), (q), (s), (t), (u), (v), (w) of
47 subsection (1) of section 400.141, Florida Statutes, are
48 redesignated as paragraphs (o), (p), (q), (r), (s), (t), and
49 (u), respectively, and present paragraphs (f), (g), (j), (n),
50 (o), (p), (q), (r), and (s) of that subsection are amended, to
51 read:

52 400.141 Administration and management of nursing home
53 facilities.-

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

56 (f) Be allowed and encouraged by the agency to provide
57 other needed services under certain conditions. If the facility
58 has a standard licensure status, ~~and has had no class I or class~~
59 ~~II deficiencies during the past 2 years or has been awarded a~~
60 ~~Gold Seal under the program established in s. 400.235,~~ it may be
61 ~~encouraged by the agency to~~ provide services, including, but not
62 limited to, respite, therapeutic spa, and adult day services to
63 nonresidents, ~~which enable individuals to move in and out of the~~
64 facility. A facility is not subject to any additional licensure
65 requirements for providing these services. Respite care may be
66 offered to persons in need of short-term or temporary nursing
67 home services. Respite care must be provided in accordance with
68 this part ~~and rules adopted by the agency. However, the agency~~
69 ~~shall, by rule, adopt modified requirements for resident~~
70 ~~assessment, resident care plans, resident contracts, physician~~
71 ~~orders, and other provisions, as appropriate, for short-term or~~



109490

72 ~~temporary nursing home services.~~ Providers of adult day services
73 must comply with the requirements of s. 429.905(2). The agency
74 shall allow for shared programming and staff in a facility which
75 meets minimum standards and offers services pursuant to this
76 paragraph, but, if the facility is cited for deficiencies in
77 patient care, may require additional staff and programs
78 appropriate to the needs of service recipients. A person who
79 receives respite care may not be counted as a resident of the
80 facility for purposes of the facility's licensed capacity unless
81 that person receives 24-hour respite care. A person receiving
82 either respite care for 24 hours or longer or adult day services
83 must be included when calculating minimum staffing for the
84 facility. Any costs and revenues generated by a nursing home
85 facility from nonresidential programs or services shall be
86 excluded from the calculations of Medicaid per diems for nursing
87 home institutional care reimbursement.

88 (g) If the facility has a standard license ~~or is a Gold~~
89 ~~Seal facility,~~ exceeds the minimum required hours of licensed
90 nursing and certified nursing assistant direct care per resident
91 per day, and is part of a continuing care facility licensed
92 under chapter 651 or a retirement community that offers other
93 services pursuant to part III of this chapter or part I or part
94 III of chapter 429 on a single campus, be allowed to share
95 programming and staff. At the time of inspection ~~and in the~~
96 ~~semiannual report required pursuant to paragraph (e),~~ a
97 continuing care facility or retirement community that uses this
98 option must demonstrate through staffing records that minimum
99 staffing requirements for the facility were met. Licensed nurses
100 and certified nursing assistants who work in the ~~nursing home~~



109490

101 facility may be used to provide services elsewhere on campus if
102 the facility exceeds the minimum number of direct care hours
103 required per resident per day and the total number of residents
104 receiving direct care services from a licensed nurse or a
105 certified nursing assistant does not cause the facility to
106 violate the staffing ratios required under s. 400.23(3)(a).
107 Compliance with the minimum staffing ratios must ~~shall~~ be based
108 on the total number of residents receiving direct care services,
109 regardless of where they reside on campus. If the facility
110 receives a conditional license, it may not share staff until the
111 conditional license status ends. This paragraph does not
112 restrict the agency's authority under federal or state law to
113 require additional staff if a facility is cited for deficiencies
114 in care which are caused by an insufficient number of certified
115 nursing assistants or licensed nurses. The agency may adopt
116 rules for the documentation necessary to determine compliance
117 with this provision.

118 (j) Keep full records of resident admissions and
119 discharges; medical and general health status, including medical
120 records, personal and social history, and identity and address
121 of next of kin or other persons who may have responsibility for
122 the affairs of the resident ~~residents~~; and individual resident
123 care plans, including, but not limited to, prescribed services,
124 service frequency and duration, and service goals. The records
125 must ~~shall~~ be open to agency inspection ~~by the agency~~. The
126 licensee shall maintain clinical records on each resident in
127 accordance with accepted professional standards and practices,
128 which must be complete, accurately documented, readily
129 accessible, and systematically organized.



109490

130 ~~(n) Submit to the agency the information specified in s.~~
131 ~~400.071(1)(b) for a management company within 30 days after the~~
132 ~~effective date of the management agreement.~~

133 ~~(o)1. Submit semiannually to the agency, or more frequently~~
134 ~~if requested by the agency, information regarding facility~~
135 ~~staff-to-resident ratios, staff turnover, and staff stability,~~
136 ~~including information regarding certified nursing assistants,~~
137 ~~licensed nurses, the director of nursing, and the facility~~
138 ~~administrator. For purposes of this reporting:~~

139 ~~a. Staff-to-resident ratios must be reported in the~~
140 ~~categories specified in s. 400.23(3)(a) and applicable rules.~~
141 ~~The ratio must be reported as an average for the most recent~~
142 ~~calendar quarter.~~

143 ~~b. Staff turnover must be reported for the most recent 12-~~
144 ~~month period ending on the last workday of the most recent~~
145 ~~calendar quarter prior to the date the information is submitted.~~
146 ~~The turnover rate must be computed quarterly, with the annual~~
147 ~~rate being the cumulative sum of the quarterly rates. The~~
148 ~~turnover rate is the total number of terminations or separations~~
149 ~~experienced during the quarter, excluding any employee~~
150 ~~terminated during a probationary period of 3 months or less,~~
151 ~~divided by the total number of staff employed at the end of the~~
152 ~~period for which the rate is computed, and expressed as a~~
153 ~~percentage.~~

154 ~~e. The formula for determining staff stability is the total~~
155 ~~number of employees that have been employed for more than 12~~
156 ~~months, divided by the total number of employees employed at the~~
157 ~~end of the most recent calendar quarter, and expressed as a~~
158 ~~percentage.~~



109490

159 (n) Comply with state minimum-staffing requirements:
160 ~~1.d.~~ A ~~nursing~~ facility that has failed to comply with
161 state minimum-staffing requirements for 2 consecutive days is
162 prohibited from accepting new admissions until the facility has
163 achieved the minimum-staffing requirements for ~~a period of 6~~
164 consecutive days. For the purposes of this subparagraph ~~sub-~~
165 ~~subparagraph~~, any person who was a resident of the facility and
166 was absent from the facility for the purpose of receiving
167 medical care at a separate location or was on a leave of absence
168 is not considered a new admission. Failure by the facility to
169 impose such an admissions moratorium is subject to a \$1,000 fine
170 ~~constitutes a class II deficiency.~~
171 ~~2.e.~~ A ~~nursing~~ facility that ~~which~~ does not have a
172 conditional license may be cited for failure to comply with the
173 standards in s. 400.23(3)(a)1.b. and c. only if it has failed to
174 meet those standards on 2 consecutive days or if it has failed
175 to meet at least 97 percent of those standards on any one day.
176 ~~3.f.~~ A facility that ~~which~~ has a conditional license must
177 be in compliance with the standards in s. 400.23(3)(a) at all
178 times.
179 ~~2. This paragraph does not limit the agency's ability to~~
180 ~~impose a deficiency or take other actions if a facility does not~~
181 ~~have enough staff to meet the residents' needs.~~
182 (o) ~~(p)~~ Notify a licensed physician when a resident exhibits
183 signs of dementia or cognitive impairment or has a change of
184 condition in order to rule out the presence of an underlying
185 physiological condition that may be contributing to such
186 dementia or impairment. The notification must occur within 30
187 days after the acknowledgment of such signs by facility staff.



109490

188 If an underlying condition is determined to exist, the facility
189 shall ~~arrange~~, with the appropriate health care provider,
190 arrange for the necessary care and services to treat the
191 condition.

192 ~~(p)(q)~~ If the facility implements a dining and hospitality
193 attendant program, ensure that the program is developed and
194 implemented under the supervision of the facility director of
195 nursing. A licensed nurse, licensed speech or occupational
196 therapist, or a registered dietitian must conduct training of
197 dining and hospitality attendants. A person employed by a
198 facility as a dining and hospitality attendant must perform
199 tasks under the direct supervision of a licensed nurse.

200 ~~(r) Report to the agency any filing for bankruptcy~~
201 ~~protection by the facility or its parent corporation,~~
202 ~~divestiture or spin-off of its assets, or corporate~~
203 ~~reorganization within 30 days after the completion of such~~
204 ~~activity.~~

205 ~~(q)(s)~~ Maintain general and professional liability
206 insurance coverage that is in force at all times. In lieu of
207 such ~~general and professional liability insurance~~ coverage, a
208 state-designated teaching nursing home and its affiliated
209 assisted living facilities created under s. 430.80 may
210 demonstrate proof of financial responsibility as provided in s.
211 430.80(3)(g).

212 Section 4. Subsection (3) of section 400.142, Florida
213 Statutes, is amended to read:

214 400.142 Emergency medication kits; orders not to
215 resuscitate.-

216 (3) Facility staff may withhold or withdraw cardiopulmonary



109490

217 resuscitation if presented with an order not to resuscitate
218 executed pursuant to s. 401.45. ~~The agency shall adopt rules~~
219 ~~providing for the implementation of such orders.~~ Facility staff
220 and facilities are ~~shall~~ not ~~be~~ subject to criminal prosecution
221 or civil liability, or ~~nor~~ ~~be~~ considered to have engaged in
222 negligent or unprofessional conduct, for withholding or
223 withdrawing cardiopulmonary resuscitation pursuant to such ~~an~~
224 order ~~and rules adopted by the agency.~~ The absence of an order
225 not to resuscitate executed pursuant to s. 401.45 does not
226 preclude a physician from withholding or withdrawing
227 cardiopulmonary resuscitation as otherwise permitted by law.

228 Section 5. Subsections (9) through (15) of section 400.147,
229 Florida Statutes, are renumbered as subsections (8) through
230 (13), respectively, and present subsections (7), (8), and (10)
231 of that section are amended to read:

232 400.147 Internal risk management and quality assurance
233 program.—

234 (7) The nursing home facility shall initiate an
235 investigation ~~and shall notify the agency~~ within 1 business day
236 after the risk manager or his or her designee has received a
237 report pursuant to paragraph (1)(d). The facility must complete
238 the investigation and submit a report to the agency within 15
239 calendar days after the adverse incident occurred. ~~The~~
240 ~~notification must be made in writing and be provided~~
241 ~~electronically, by facsimile device or overnight mail delivery.~~
242 The agency shall develop a form for the report which
243 ~~notification~~ must include the name of the risk manager,
244 information regarding the identity of the affected resident, the
245 type of adverse incident, the initiation of an investigation by



246 the facility, and whether the events causing or resulting in the
247 adverse incident represent a potential risk to any other
248 resident. The report notification is confidential as provided by
249 law and is not discoverable or admissible in any civil or
250 administrative action, except in disciplinary proceedings by the
251 agency or the appropriate regulatory board. The agency may
252 investigate, as it deems appropriate, any such incident and
253 prescribe measures that must or may be taken in response to the
254 incident. The agency shall review each report incident and
255 determine whether it potentially involved conduct by the health
256 care professional who is subject to disciplinary action, in
257 which case the provisions of s. 456.073 shall apply.

258 ~~(8)(a) Each facility shall complete the investigation and~~
259 ~~submit an adverse incident report to the agency for each adverse~~
260 ~~incident within 15 calendar days after its occurrence. If, after~~
261 ~~a complete investigation, the risk manager determines that the~~
262 ~~incident was not an adverse incident as defined in subsection~~
263 ~~(5), the facility shall include this information in the report.~~
264 ~~The agency shall develop a form for reporting this information.~~

265 ~~(b) The information reported to the agency pursuant to~~
266 ~~paragraph (a) which relates to persons licensed under chapter~~
267 ~~458, chapter 459, chapter 461, or chapter 466 shall be reviewed~~
268 ~~by the agency. The agency shall determine whether any of the~~
269 ~~incidents potentially involved conduct by a health care~~
270 ~~professional who is subject to disciplinary action, in which~~
271 ~~case the provisions of s. 456.073 shall apply.~~

272 ~~(c) The report submitted to the agency must also contain~~
273 ~~the name of the risk manager of the facility.~~

274 ~~(d) The adverse incident report is confidential as provided~~



109490

275 ~~by law and is not discoverable or admissible in any civil or~~
276 ~~administrative action, except in disciplinary proceedings by the~~
277 ~~agency or the appropriate regulatory board.~~

278 ~~(10) By the 10th of each month, each facility subject to~~
279 ~~this section shall report any notice received pursuant to s.~~
280 ~~400.0233(2) and each initial complaint that was filed with the~~
281 ~~clerk of the court and served on the facility during the~~
282 ~~previous month by a resident or a resident's family member,~~
283 ~~guardian, conservator, or personal legal representative. The~~
284 ~~report must include the name of the resident, the resident's~~
285 ~~date of birth and social security number, the Medicaid~~
286 ~~identification number for Medicaid-eligible persons, the date or~~
287 ~~dates of the incident leading to the claim or dates of~~
288 ~~residency, if applicable, and the type of injury or violation of~~
289 ~~rights alleged to have occurred. Each facility shall also submit~~
290 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~
291 ~~complaints filed with the clerk of the court. This report is~~
292 ~~confidential as provided by law and is not discoverable or~~
293 ~~admissible in any civil or administrative action, except in such~~
294 ~~actions brought by the agency to enforce the provisions of this~~
295 ~~part.~~

296 Section 6. Section 400.172, Florida Statutes, is created to
297 read:

298 400.172 Respite care provided in nursing home facilities.-

299 (1) For each person admitted for respite care as authorized
300 under s. 400.141(1)(f), a nursing home facility operated by a
301 licensee must:

302 (a) Have a written abbreviated plan of care that, at a
303 minimum, includes nutritional requirements, medication orders,



109490

304 physician orders, nursing assessments, and dietary preferences.
305 The nursing or physician assessments may take the place of all
306 other assessments required for full-time residents.

307 (b) Have a contract that, at a minimum, specifies the
308 services to be provided to a resident receiving respite care,
309 including charges for services, activities, equipment, emergency
310 medical services, and the administration of medications. If
311 multiple admissions for a single person for respite care are
312 anticipated, the original contract is valid for 1 year after the
313 date the contract is executed.

314 (c) Ensure that each resident is released to his or her
315 caregiver or an individual designated in writing by the
316 caregiver.

317 (2) A person admitted under the respite care program shall:

318 (a) Be exempt from department rules relating to the
319 discharge planning process.

320 (b) Be covered by the residents' rights specified in s.
321 400.022(1)(a)-(o) and (r)-(t). Funds or property of the resident
322 are not be considered trust funds subject to the requirements of
323 s. 400.022(1)(h) until the resident has been in the facility for
324 more than 14 consecutive days.

325 (c) Be allowed to use his or her personal medications
326 during the respite stay if permitted by facility policy. The
327 facility must obtain a physician's order for the medications.
328 The caregiver may provide information regarding the medications
329 as part of the nursing assessment and that information must
330 agree with the physician's order. Medications shall be released
331 with the resident upon discharge in accordance with current
332 physician's orders.



109490

333 (d) Be entitled to reside in the facility for a total of 60
334 days within a contract year or for a total of 60 days within a
335 calendar year if the contract is for less than 12 months.
336 However, each single stay may not exceed 14 days. If a stay
337 exceeds 14 consecutive days, the facility must comply with all
338 assessment and care planning requirements applicable to nursing
339 home residents.

340 (e) Reside in a licensed nursing home bed.

341 (3) A prospective respite care resident must provide
342 medical information from a physician, physician assistant, or
343 nurse practitioner and any other information provided by the
344 primary caregiver required by the facility before or when the
345 person is admitted to receive respite care. The medical
346 information must include a physician's order for respite care
347 and proof of a physical examination by a licensed physician,
348 physician assistant, or nurse practitioner. The physician's
349 order and physical examination may be used to provide
350 intermittent respite care for up to 12 months after the date the
351 order is written.

352 (4) The facility shall assume the duties of the primary
353 caregiver. To ensure continuity of care and services, the
354 resident may retain his or her personal physician and shall have
355 access to medically necessary services such as physical therapy,
356 occupational therapy, or speech therapy, as needed. The facility
357 shall arrange for transportation of the resident to these
358 services, if necessary.

359 Section 7. Subsection (5) of section 400.23, Florida
360 Statutes, is amended to read:

361 400.23 Rules; evaluation and deficiencies; licensure



109490

362 status.-

363 (5) The agency, in collaboration with the Division of
364 Children's Medical Services of the Department of Health, must,
365 ~~no later than December 31, 1993,~~ adopt rules for:

366 (a) Minimum standards of care for persons under 21 years of
367 age who reside in nursing home facilities. ~~The rules must~~
368 ~~include a methodology for reviewing a nursing home facility~~
369 ~~under ss. 408.031-408.045 which serves only persons under 21~~
370 ~~years of age.~~ A facility may be exempted ~~exempt~~ from these
371 standards for specific persons between 18 and 21 years of age,
372 if the person's physician agrees that minimum standards of care
373 based on age are not necessary.

374 (b) Minimum staffing requirements for persons under 21
375 years of age who reside in nursing home facilities, which apply
376 in lieu of the requirements contained in subsection (3).

377 1. For persons under 21 years of age who require skilled
378 care:

379 a. A minimum combined average of 3.9 hours of direct care
380 per resident per day must be provided by licensed nurses,
381 respiratory therapists, respiratory care practitioners, and
382 certified nursing assistants.

383 b. A minimum licensed nursing staffing of 1.0 hour of
384 direct care per resident per day must be provided.

385 c. No more than 1.5 hours of certified nursing assistant
386 care per resident per day may be counted in determining the
387 minimum direct care hours required.

388 d. One registered nurse must be on duty on the site 24
389 hours per day on the unit where children reside.

390 2. For persons under 21 years of age who are medically



109490

391 fragile:

392 a. A minimum combined average of 5.0 hours of direct care
393 per resident per day must be provided by licensed nurses,
394 respiratory therapists, respiratory care practitioners, and
395 certified nursing assistants.

396 b. A minimum licensed nursing staffing of 1.7 hours of
397 direct care per resident per day must be provided.

398 c. No more than 1.5 hours of certified nursing assistant
399 care per resident per day may be counted in determining the
400 minimum direct care hours required.

401 d. One registered nurse must be on duty on the site 24
402 hours per day on the unit where children reside.

403 Section 8. Subsection (1) of section 400.275, Florida
404 Statutes, is amended to read:

405 400.275 Agency duties.—

406 ~~(1) The agency shall ensure that each newly hired nursing~~
407 ~~home surveyor, as a part of basic training, is assigned full-~~
408 ~~time to a licensed nursing home for at least 2 days within a 7-~~
409 ~~day period to observe facility operations outside of the survey~~
410 ~~process before the surveyor begins survey responsibilities. Such~~
411 ~~observations may not be the sole basis of a deficiency citation~~
412 ~~against the facility. The agency may not assign an individual to~~
413 ~~be a member of a survey team for purposes of a survey,~~
414 ~~evaluation, or consultation visit at a nursing home facility in~~
415 ~~which the surveyor was an employee within the preceding 2 ~~5~~~~
416 ~~years.~~

417 Section 9. For the purpose of incorporating the amendment
418 made by this act to section 400.509, Florida Statutes, in a
419 reference thereto, paragraph (a) of subsection (6) of section



109490

420 400.506, Florida Statutes, is reenacted, and subsection (18) is
421 added to that section, to read:

422 400.506 Licensure of nurse registries; requirements;
423 penalties.—

424 (6) (a) A nurse registry may refer for contract in private
425 residences registered nurses and licensed practical nurses
426 registered and licensed under part I of chapter 464, certified
427 nursing assistants certified under part II of chapter 464, home
428 health aides who present documented proof of successful
429 completion of the training required by rule of the agency, and
430 companions or homemakers for the purposes of providing those
431 services authorized under s. 400.509(1). A licensed nurse
432 registry shall ensure that each certified nursing assistant
433 referred for contract by the nurse registry and each home health
434 aide referred for contract by the nurse registry is adequately
435 trained to perform the tasks of a home health aide in the home
436 setting. Each person referred by a nurse registry must provide
437 current documentation that he or she is free from communicable
438 diseases.

439 (18) An administrator may manage only one nurse registry,
440 except that an administrator may manage up to five registries if
441 all five registries have identical controlling interests as
442 defined in s. 408.803 and are located within one agency
443 geographic service area or within an immediately contiguous
444 county. An administrator shall designate, in writing, for each
445 licensed entity, a qualified alternate administrator to serve
446 during the administrator's absence.

447 Section 10. Subsection (1) of section 400.509, Florida
448 Statutes, is amended to read:



449 400.509 Registration of particular service providers exempt
450 from licensure; certificate of registration; regulation of
451 registrants.—

452 (1) Any organization that provides companion services or
453 homemaker services and does not provide a home health service to
454 a person is exempt from licensure under this part. However, any
455 organization that provides companion services or homemaker
456 services must register with the agency. An organization under
457 contract with the Agency for Persons with Disabilities which
458 provides companion services only for persons with a
459 developmental disability, as defined in s. 393.063, is exempt
460 from registration.

461 Section 11. Paragraph (i) of subsection (1) and subsection
462 (4) of section 400.606, Florida Statutes, are amended to read:

463 400.606 License; application; renewal; conditional license
464 or permit; certificate of need.—

465 (1) In addition to the requirements of part II of chapter
466 408, the initial application and change of ownership application
467 must be accompanied by a plan for the delivery of home,
468 residential, and homelike inpatient hospice services to
469 terminally ill persons and their families. Such plan must
470 contain, but need not be limited to:

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

472
473 If the applicant is an existing licensed health care provider,
474 the application must be accompanied by a copy of the most recent
475 profit-loss statement and, if applicable, the most recent
476 licensure inspection report.

477 (4) A freestanding hospice facility that is primarily



109490

478 engaged in providing inpatient and related services and that is
479 not otherwise licensed as a health care facility shall ~~be~~
480 ~~required to~~ obtain a certificate of need. However, a
481 freestanding hospice facility that has ~~with~~ six or fewer beds is
482 ~~shall~~ not ~~be~~ required to comply with institutional standards
483 such as, but not limited to, standards requiring sprinkler
484 systems, emergency electrical systems, or special lavatory
485 devices.

486 Section 12. Section 400.915, Florida Statutes, is amended
487 to read:

488 400.915 Construction and renovation; requirements.—The
489 requirements for the construction or renovation of a PPEC center
490 shall comply with:

491 (1) The provisions of chapter 553, which pertain to
492 building construction standards, including plumbing, electrical
493 code, glass, manufactured buildings, accessibility for the
494 physically disabled;

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

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

501 Section 13. Section 400.931, Florida Statutes, is amended
502 to read:

503 400.931 Application for license; ~~fee; provisional license;~~
504 ~~temporary permit.~~—

505 (1) In addition to the requirements of part II of chapter
506 408, the applicant must file with the application satisfactory



109490

507 proof that the home medical equipment provider is in compliance
508 with this part and applicable rules, including:

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

512 Categories of equipment include:

- 513 1. Respiratory modalities.
- 514 2. Ambulation aids.
- 515 3. Mobility aids.
- 516 4. Sickroom setup.
- 517 5. Disposables.

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

521 Categories of services include:

- 522 1. Intake.
- 523 2. Equipment selection.
- 524 3. Delivery.
- 525 4. Setup and installation.
- 526 5. Patient training.
- 527 6. Ongoing service and maintenance.
- 528 7. Retrieval.

529 (c) A listing of those with whom the applicant contracts,
530 both the providers the applicant uses to provide equipment or
531 services to its consumers and the providers for whom the
532 applicant provides services or equipment.

533 (2) An applicant for initial licensure, change of
534 ownership, or license renewal to operate a licensed home medical
535 equipment provider at a location outside the state must submit



109490

536 documentation of accreditation or an application for
537 accreditation from an accrediting organization that is
538 recognized by the agency. An applicant that has applied for
539 accreditation must provide proof of accreditation that is not
540 conditional or provisional within 120 days after the date the
541 agency receives the application for licensure or the application
542 shall be withdrawn from further consideration. Such
543 accreditation must be maintained by the home medical equipment
544 provider in order to maintain licensure. ~~As an alternative to~~
545 ~~submitting proof of financial ability to operate as required in~~
546 ~~s. 408.810(8), the applicant may submit a \$50,000 surety bond to~~
547 ~~the agency.~~

548 (3) As specified in part II of chapter 408, the home
549 medical equipment provider must also obtain and maintain
550 professional and commercial liability insurance. Proof of
551 liability insurance, as defined in s. 624.605, must be submitted
552 with the application. The agency shall set the required amounts
553 of liability insurance by rule, but the required amount must not
554 be less than \$250,000 per claim. In the case of contracted
555 services, it is required that the contractor have liability
556 insurance not less than \$250,000 per claim.

557 (4) When a change of the general manager of a home medical
558 equipment provider occurs, the licensee must notify the agency
559 of the change within 45 days.

560 (5) In accordance with s. 408.805, an applicant or a
561 licensee shall pay a fee for each license application submitted
562 under this part, part II of chapter 408, and applicable rules.
563 The amount of the fee shall be established by rule and may not
564 exceed \$300 per biennium. The agency shall set the fees in an



109490

565 amount that is sufficient to cover its costs in carrying out its
566 responsibilities under this part. However, state, county, or
567 municipal governments applying for licenses under this part are
568 exempt from the payment of license fees.

569 (6) An applicant for initial licensure, renewal, or change
570 of ownership shall also pay an inspection fee not to exceed
571 \$400, which shall be paid by all applicants except those not
572 subject to licensure inspection by the agency as described in s.
573 400.933.

574 Section 14. Paragraph (a) of subsection (2) of section
575 408.033, Florida Statutes, is amended to read:

576 408.033 Local and state health planning.—

577 (2) FUNDING.—

578 (a) The Legislature intends that the cost of local health
579 councils be borne by assessments on selected health care
580 facilities subject to facility licensure by the Agency for
581 Health Care Administration, including abortion clinics, assisted
582 living facilities, ambulatory surgical centers, birthing
583 centers, clinical laboratories except community nonprofit blood
584 banks and clinical laboratories operated by practitioners for
585 exclusive use regulated under s. 483.035, home health agencies,
586 hospices, hospitals, intermediate care facilities for the
587 developmentally disabled, nursing homes, health care clinics,
588 and multiphasic testing centers and by assessments on
589 organizations subject to certification by the agency pursuant to
590 chapter 641, part III, including health maintenance
591 organizations and prepaid health clinics. Fees assessed may be
592 collected prospectively at the time of licensure renewal and
593 prorated for the licensure period.



109490

594 Section 15. Subsection (2) of section 408.034, Florida
595 Statutes, is amended to read:

596 408.034 Duties and responsibilities of agency; rules.—

597 (2) In the exercise of its authority to issue licenses to
598 health care facilities and health service providers, as provided
599 under chapters 393 and 395 and parts II, ~~and~~ IV, and VIII of
600 chapter 400, the agency may not issue a license to any health
601 care facility or health service provider that fails to receive a
602 certificate of need or an exemption for the licensed facility or
603 service.

604 Section 16. Paragraph (n) of subsection (3) of section
605 408.036, Florida Statutes, is amended to read:

606 408.036 Projects subject to review; exemptions.—

607 (3) EXEMPTIONS.—Upon request, the following projects are
608 subject to exemption from the provisions of subsection (1):

609 (n) For the provision of percutaneous coronary intervention
610 for patients presenting with emergency myocardial infarctions in
611 a hospital without an approved adult open-heart-surgery program.
612 In addition to any other documentation required by the agency, a
613 request for an exemption submitted under this paragraph must
614 comply with the following:

615 1. The applicant must certify that it will meet and
616 continuously maintain the requirements adopted by the agency for
617 the provision of these services. These licensure requirements
618 shall be adopted by rule ~~pursuant to ss. 120.536(1) and 120.54~~
619 and must be consistent with the guidelines published by the
620 American College of Cardiology and the American Heart
621 Association for the provision of percutaneous coronary
622 interventions in hospitals without adult open-heart services. At



109490

623 a minimum, the rules must ~~shall~~ require the following:

624 a. Cardiologists must be experienced interventionalists who
625 have performed a minimum of 75 interventions within the previous
626 12 months.

627 b. The hospital must provide a minimum of 36 emergency
628 interventions annually in order to continue to provide the
629 service.

630 c. The hospital must offer sufficient physician, nursing,
631 and laboratory staff to provide the services 24 hours a day, 7
632 days a week.

633 d. Nursing and technical staff must have demonstrated
634 experience in handling acutely ill patients requiring
635 intervention based on previous experience in dedicated
636 interventional laboratories or surgical centers.

637 e. Cardiac care nursing staff must be adept in hemodynamic
638 monitoring and Intra-aortic Balloon Pump (IABP) management.

639 f. Formalized written transfer agreements must be developed
640 with a hospital with an adult open-heart-surgery program, and
641 written transport protocols must be in place to ensure safe and
642 efficient transfer of a patient within 60 minutes. Transfer and
643 transport agreements must be reviewed and tested, with
644 appropriate documentation maintained at least every 3 months.

645 However, a hospital located more than 100 road miles from the
646 closest Level II adult cardiovascular services program does not
647 need to meet the 60-minute transfer time protocol if the
648 hospital demonstrates that it has a formalized, written transfer
649 agreement with a hospital that has a Level II program. The
650 agreement must include written transport protocols that ensure
651 the safe and efficient transfer of a patient, taking into



109490

652 consideration the patient's clinical and physical
653 characteristics, road and weather conditions, and viability of
654 ground and air ambulance service to transfer the patient.

655 g. Hospitals implementing the service must first undertake
656 a training program of 3 to 6 months' duration, which includes
657 establishing standards and testing logistics, creating quality
658 assessment and error management practices, and formalizing
659 patient-selection criteria.

660 2. The applicant must certify that it will use at all times
661 the patient-selection criteria for the performance of primary
662 angioplasty at hospitals without adult open-heart-surgery
663 programs issued by the American College of Cardiology and the
664 American Heart Association. At a minimum, these criteria would
665 provide for the following:

666 a. Avoidance of interventions in hemodynamically stable
667 patients who have identified symptoms or medical histories.

668 b. Transfer of patients who have a history of coronary
669 disease and clinical presentation of hemodynamic instability.

670 3. The applicant must agree to submit a quarterly report to
671 the agency detailing patient characteristics, treatment, and
672 outcomes for all patients receiving emergency percutaneous
673 coronary interventions pursuant to this paragraph. This report
674 must be submitted within 15 days after the close of each
675 calendar quarter.

676 4. The exemption provided by this paragraph does not apply
677 unless the agency determines that the hospital has taken all
678 necessary steps to be in compliance with all requirements of
679 this paragraph, including the training program required under
680 sub-subparagraph 1.g.



109490

681 5. Failure of the hospital to continuously comply with the
682 requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.
683 and 3. will result in the immediate expiration of this
684 exemption.

685 6. Failure of the hospital to meet the volume requirements
686 of sub-subparagraphs 1.a. and b. within 18 months after the
687 program begins offering the service will result in the immediate
688 expiration of the exemption.

689
690 If the exemption for this service expires under subparagraph 5.
691 or subparagraph 6., the agency may not grant another exemption
692 for this service to the same hospital for 2 years and then only
693 upon a showing that the hospital will remain in compliance with
694 the requirements of this paragraph through a demonstration of
695 corrections to the deficiencies that caused expiration of the
696 exemption. Compliance with the requirements of this paragraph
697 includes compliance with the rules adopted pursuant to this
698 paragraph.

699 Section 17. Paragraph (b) of subsection (3) of section
700 408.0361, Florida Statutes, is amended to read:

701 408.0361 Cardiovascular services and burn unit licensure.-

702 (3) In establishing rules for adult cardiovascular
703 services, the agency shall include provisions that allow for:

704 (b) For a hospital seeking a Level I program, demonstration
705 that, for the most recent 12-month period as reported to the
706 agency, it has provided a minimum of 300 adult inpatient and
707 outpatient diagnostic cardiac catheterizations or, for the most
708 recent 12-month period, has discharged or transferred at least
709 300 inpatients with the principal diagnosis of ischemic heart



109490

710 disease and that it has a formalized, written transfer agreement
711 with a hospital that has a Level II program, including written
712 transport protocols to ensure safe and efficient transfer of a
713 patient within 60 minutes. However, a hospital located more than
714 100 road miles from the closest Level II adult cardiovascular
715 services program does not need to meet the 60-minute transfer
716 time protocol if the hospital demonstrates that it has a
717 formalized, written transfer agreement with a hospital that has
718 a Level II program. The agreement must include written transport
719 protocols to ensure the safe and efficient transfer of a
720 patient, taking into consideration the patient's clinical and
721 physical characteristics, road and weather conditions, and
722 viability of ground and air ambulance service to transfer the
723 patient.

724 Section 18. Section 408.10, Florida Statutes, is amended to
725 read:

726 408.10 Consumer complaints.—The agency shall÷

727 ~~(1) publish and make available to the public a toll-free~~
728 ~~telephone number for the purpose of handling consumer complaints~~
729 ~~and shall serve as a liaison between consumer entities and other~~
730 ~~private entities and governmental entities for the disposition~~
731 ~~of problems identified by consumers of health care.~~

732 ~~(2) Be empowered to investigate consumer complaints~~
733 ~~relating to problems with health care facilities' billing~~
734 ~~practices and issue reports to be made public in any cases where~~
735 ~~the agency determines the health care facility has engaged in~~
736 ~~billing practices which are unreasonable and unfair to the~~
737 ~~consumer.~~

738 Section 19. Subsection (11) of section 408.802, Florida



109490

739 Statutes, is repealed.

740 Section 20. Subsection (3) is added to section 408.804,
741 Florida Statutes, to read:

742 408.804 License required; display.—

743 (3) Any person who knowingly alters, defaces, or falsifies
744 a license certificate issued by the agency, or causes or
745 procures any person to commit such an offense, commits a
746 misdemeanor of the second degree, punishable as provided in s.
747 775.082 or s. 775.083. Any licensee or provider who displays an
748 altered, defaced, or falsified license certificate is subject to
749 the penalties set forth in s. 408.815 and an administrative fine
750 of \$1,000 for each day of illegal display.

751 Section 21. Paragraph (d) of subsection (2) of section
752 408.806, Florida Statutes, is amended, and paragraph (e) is
753 added to that subsection, to read:

754 408.806 License application process.—

755 (2)

756 ~~(d) The agency shall notify the licensee by mail or~~
757 ~~electronically at least 90 days before the expiration of a~~
758 ~~license that a renewal license is necessary to continue~~
759 ~~operation. The licensee's failure to timely file submit a~~
760 ~~renewal application and license application fee with the agency~~
761 ~~shall result in a \$50 per day late fee charged to the licensee~~
762 ~~by the agency; however, the aggregate amount of the late fee may~~
763 ~~not exceed 50 percent of the licensure fee or \$500, whichever is~~
764 ~~less. The agency shall provide a courtesy notice to the licensee~~
765 ~~by United States mail, electronically, or by any other manner at~~
766 ~~its address of record or mailing address, if provided, at least~~
767 ~~90 days before the expiration of a license. This courtesy notice~~



109490

768 must inform the licensee of the expiration of the license. If
769 the agency does not provide the courtesy notice or the licensee
770 does not receive the courtesy notice, the licensee continues to
771 be legally obligated to timely file the renewal application and
772 license application fee with the agency and is not excused from
773 the payment of a late fee. If an application is received after
774 the required filing date and exhibits a hand-canceled postmark
775 obtained from a United States post office dated on or before the
776 required filing date, no fine will be levied.

777 (e) The applicant must pay the late fee before a late
778 application is considered complete and failure to pay the late
779 fee is considered an omission from the application for licensure
780 pursuant to paragraph (3) (b).

781 Section 22. Paragraph (b) of subsection (1) of section
782 408.8065, Florida Statutes, is amended to read:

783 408.8065 Additional licensure requirements for home health
784 agencies, home medical equipment providers, and health care
785 clinics.—

786 (1) An applicant for initial licensure, or initial
787 licensure due to a change of ownership, as a home health agency,
788 home medical equipment provider, or health care clinic shall:

789 (b) Submit projected ~~pro forma~~ financial statements,
790 including a balance sheet, income and expense statement, and a
791 statement of cash flows for the first 2 years of operation which
792 provide evidence that the applicant has sufficient assets,
793 credit, and projected revenues to cover liabilities and
794 expenses.

795
796 All documents required under this subsection must be prepared in



797 accordance with generally accepted accounting principles and may
798 be in a compilation form. The financial statements must be
799 signed by a certified public accountant.

800 Section 23. Subsection (9) of section 408.810, Florida
801 Statutes, is amended to read:

802 408.810 Minimum licensure requirements.—In addition to the
803 licensure requirements specified in this part, authorizing
804 statutes, and applicable rules, each applicant and licensee must
805 comply with the requirements of this section in order to obtain
806 and maintain a license.

807 (9) A controlling interest may not withhold from the agency
808 any evidence of financial instability, including, but not
809 limited to, checks returned due to insufficient funds,
810 delinquent accounts, nonpayment of withholding taxes, unpaid
811 utility expenses, nonpayment for essential services, or adverse
812 court action concerning the financial viability of the provider
813 or any other provider licensed under this part that is under the
814 control of the controlling interest. A controlling interest
815 shall notify the agency within 10 days after a court action to
816 initiate bankruptcy, foreclosure, or eviction proceedings
817 concerning the provider in which the controlling interest is a
818 petitioner or defendant. Any person who violates this subsection
819 commits a misdemeanor of the second degree, punishable as
820 provided in s. 775.082 or s. 775.083. Each day of continuing
821 violation is a separate offense.

822 Section 24. Subsection (3) is added to section 408.813,
823 Florida Statutes, to read:

824 408.813 Administrative fines; violations.—As a penalty for
825 any violation of this part, authorizing statutes, or applicable



109490

826 rules, the agency may impose an administrative fine.

827 (3) The agency may impose an administrative fine for a
828 violation that is not designated as a class I, class II, class
829 III, or class IV violation. Unless otherwise specified by law,
830 the amount of the fine may not exceed \$500 for each violation.

831 Unclassified violations include:

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

833 (b) Violating any provision of this part, authorizing
834 statutes, or applicable rules.

835 (c) Exceeding licensed capacity.

836 (d) Providing services beyond the scope of the license.

837 (e) Violating a moratorium imposed pursuant to s. 408.814.

838 Section 25. Section 429.195, Florida Statutes, is amended
839 to read:

840 429.195 Rebates prohibited; penalties.—

841 (1) ~~An It is unlawful for any~~ assisted living facility
842 licensed under this part may not ~~to~~ contract or promise to pay
843 or receive any commission, bonus, kickback, or rebate or engage
844 in any split-fee arrangement in any form whatsoever with any
845 person, health care provider, or health care facility as
846 provided under s. 817.505 ~~physician, surgeon, organization,~~
847 ~~agency, or person, either directly or indirectly, for residents~~
848 ~~referred to an assisted living facility licensed under this~~
849 ~~part. A facility may employ or contract with persons to market~~
850 ~~the facility, provided the employee or contract provider clearly~~
851 ~~indicates that he or she represents the facility. A person or~~
852 ~~agency independent of the facility may provide placement or~~
853 ~~referral services for a fee to individuals seeking assistance in~~
854 ~~finding a suitable facility; however, any fee paid for placement~~



855 ~~or referral services must be paid by the individual looking for~~
856 ~~a facility, not by the facility.~~

857 (2) This section does not apply to:

858 (a) An individual employed by the assisted living facility,
859 or with whom the facility contracts to provide marketing
860 services for the facility, if the individual clearly indicates
861 that he or she works with or for the facility.

862 (b) Payments by an assisted living facility to a referral
863 service that provides information, consultation, or referrals to
864 consumers to assist them in finding appropriate care or housing
865 options for seniors or disabled adults if the referred consumers
866 are not Medicaid recipients.

867 (c) A resident of an assisted living facility who refers a
868 friend, family members, or other individuals with whom the
869 resident has a personal relationship to the assisted living
870 facility, in which case the assisted living facility may provide
871 a monetary reward to the resident for making such referral.

872 ~~(3)-(2)~~ A violation of this section is ~~shall be considered~~
873 patient brokering and is punishable as provided in s. 817.505.

874 Section 26. Subsection (2) of section 429.905, Florida
875 Statutes, is amended to read:

876 429.905 Exemptions; monitoring of adult day care center
877 programs colocated with assisted living facilities or licensed
878 nursing home facilities.—

879 (2) A licensed assisted living facility, a licensed
880 hospital, or a licensed nursing home facility may provide
881 services during the day which include, but are not limited to,
882 social, health, therapeutic, recreational, nutritional, and
883 respite services, to adults who are not residents. Such a



109490

884 facility need not be licensed as an adult day care center;
885 however, the agency must monitor the facility during the regular
886 inspection and at least biennially to ensure adequate space and
887 sufficient staff. If an assisted living facility, a hospital, or
888 a nursing home holds itself out to the public as an adult day
889 care center, it must be licensed as such and meet all standards
890 prescribed by statute and rule. For the purpose of this
891 subsection, the term "day" means any portion of a 24-hour day.

892 Section 27. Present paragraphs (a), (c), and (d) of
893 subsection (1), paragraph (a) of subsection (2), and paragraph
894 (e) of subsection (3) of section 456.44, Florida Statutes, are
895 amended, and a new paragraph (d) is added to subsection (1) of
896 that section, to read:

897 456.44 Controlled substance prescribing.—

898 (1) DEFINITIONS.—

899 (a) "Addiction medicine specialist" means a board-certified
900 psychiatrist ~~psychiatrist~~ with a subspecialty certification in
901 addiction medicine or who is eligible for such subspecialty
902 certification in addiction medicine, an addiction medicine
903 physician certified or eligible for certification by the
904 American Society of Addiction Medicine, or an osteopathic
905 physician who holds a certificate of added qualification in
906 Addiction Medicine through the American Osteopathic Association.

907 (c) "Board-certified pain management physician" means a
908 physician who possesses board certification in pain medicine by
909 the American Board of Pain Medicine, board certification by the
910 American Board of Interventional Pain Physicians, or board
911 certification or subcertification in pain management or pain
912 medicine by a specialty board recognized by the American



109490

913 Association of Physician Specialists or the American Board of
914 Medical Specialties or an osteopathic physician who holds a
915 certificate in Pain Management by the American Osteopathic
916 Association.

917 (d) "Board eligible" means successful completion of an
918 anesthesia, physical medicine and rehabilitation, rheumatology,
919 or neurology residency program approved by the Accreditation
920 Council for Graduate Medical Education or the American
921 Osteopathic Association for a period of 6 years from successful
922 completion of such residency program.

923 (e) ~~(d)~~ "Chronic nonmalignant pain" means pain unrelated to
924 cancer ~~or rheumatoid arthritis~~ which persists beyond the usual
925 course of disease or the injury that is the cause of the pain or
926 more than 90 days after surgery.

927 (2) REGISTRATION.—Effective January 1, 2012, a physician
928 licensed under chapter 458, chapter 459, chapter 461, or chapter
929 466 who prescribes any controlled substance, listed in Schedule
930 II, Schedule III, or Schedule IV as defined in s. 893.03, for
931 the treatment of chronic nonmalignant pain, must:

932 (a) Designate himself or herself as a controlled substance
933 prescribing practitioner on the physician's practitioner
934 profile.

935 (3) STANDARDS OF PRACTICE.—The standards of practice in
936 this section do not supersede the level of care, skill, and
937 treatment recognized in general law related to health care
938 licensure.

939 (e) The physician shall refer the patient as necessary for
940 additional evaluation and treatment in order to achieve
941 treatment objectives. Special attention shall be given to those



109490

942 patients who are at risk for misusing their medications and
943 those whose living arrangements pose a risk for medication
944 misuse or diversion. The management of pain in patients with a
945 history of substance abuse or with a comorbid psychiatric
946 disorder requires extra care, monitoring, and documentation and
947 requires consultation with or referral to an addiction medicine
948 specialist or psychiatrist ~~addictionologist or psychiatrist~~.

949
950 This subsection does not apply to a board-eligible or board-
951 certified anesthesiologist, psychiatrist, rheumatologist, or
952 neurologist, or to a board-certified physician who has surgical
953 privileges at a hospital or ambulatory surgery center and
954 primarily provides surgical services. This subsection does not
955 apply to a board-eligible or board-certified medical specialist
956 who has also completed a fellowship in pain medicine approved by
957 the Accreditation Council for Graduate Medical Education or the
958 American Osteopathic Association, or who is board eligible or
959 board certified in pain medicine by the American Board of Pain
960 Medicine or a board approved by the American Board of Medical
961 Specialties or the American Osteopathic Association and performs
962 interventional pain procedures of the type routinely billed
963 using surgical codes. This subsection does not apply to a
964 physician who prescribes medically necessary controlled
965 substances for a patient during an inpatient stay in a hospital
966 licensed under chapter 395.

967 Section 28. Paragraph (a) of subsection (1) of section
968 458.3265, Florida Statutes, is amended to read:

969 458.3265 Pain-management clinics.-

970 (1) REGISTRATION.-



109490

- 971 (a)1. As used in this section, the term:
- 972 a. "Board eligible" means successful completion of an
- 973 anesthesia, physical medicine and rehabilitation, rheumatology,
- 974 or neurology residency program approved by the Accreditation
- 975 Council for Graduate Medical Education or the American
- 976 Osteopathic Association for a period of 6 years from successful
- 977 completion of such residency program.
- 978 ~~b.a.~~ "Chronic nonmalignant pain" means pain unrelated to
- 979 cancer ~~or rheumatoid arthritis~~ which persists beyond the usual
- 980 course of disease or the injury that is the cause of the pain or
- 981 more than 90 days after surgery.
- 982 ~~c.b.~~ "Pain-management clinic" or "clinic" means any
- 983 publicly or privately owned facility:
- 984 (I) That advertises in any medium for any type of pain-
- 985 management services; or
- 986 (II) Where in any month a majority of patients are
- 987 prescribed opioids, benzodiazepines, barbiturates, or
- 988 carisoprodol for the treatment of chronic nonmalignant pain.
- 989 2. Each pain-management clinic must register with the
- 990 department unless:
- 991 a. That clinic is licensed as a facility pursuant to
- 992 chapter 395;
- 993 b. The majority of the physicians who provide services in
- 994 the clinic primarily provide surgical services;
- 995 c. The clinic is owned by a publicly held corporation whose
- 996 shares are traded on a national exchange or on the over-the-
- 997 counter market and whose total assets at the end of the
- 998 corporation's most recent fiscal quarter exceeded \$50 million;
- 999 d. The clinic is affiliated with an accredited medical



109490

1000 school at which training is provided for medical students,
1001 residents, or fellows;

1002 e. The clinic does not prescribe controlled substances for
1003 the treatment of pain;

1004 f. The clinic is owned by a corporate entity exempt from
1005 federal taxation under 26 U.S.C. s. 501(c)(3);

1006 g. The clinic is wholly owned and operated by one or more
1007 board-eligible or board-certified anesthesiologists,
1008 physiatrists, rheumatologists, or neurologists; or

1009 h. The clinic is wholly owned and operated by a physician
1010 multispecialty practice where one or more board-eligible or
1011 board-certified medical specialists who have also completed
1012 fellowships in pain medicine approved by the Accreditation
1013 Council for Graduate Medical Education, or who are also board-
1014 certified in pain medicine by the American Board of Pain
1015 Medicine or a board approved by the American Board of Medical
1016 Specialties, the American Association of Physician Specialists,
1017 or the American Osteopathic Association and perform
1018 interventional pain procedures of the type routinely billed
1019 using surgical codes.

1020 Section 29. Paragraph (a) of subsection (1) of section
1021 459.0137, Florida Statutes, is amended to read:

1022 459.0137 Pain-management clinics.-

1023 (1) REGISTRATION.-

1024 (a)1. As used in this section, the term:

1025 a. "Board eligible" means successful completion of an
1026 anesthesia, physical medicine and rehabilitation, rheumatology,
1027 or neurology residency program approved by the Accreditation
1028 Council for Graduate Medical Education or the American



109490

1029 Osteopathic Association for a period of 6 years from successful
1030 completion of such residency program.

1031 b.a. "Chronic nonmalignant pain" means pain unrelated to
1032 cancer ~~or rheumatoid arthritis~~ which persists beyond the usual
1033 course of disease or the injury that is the cause of the pain or
1034 more than 90 days after surgery.

1035 c.b. "Pain-management clinic" or "clinic" means any
1036 publicly or privately owned facility:

1037 (I) That advertises in any medium for any type of pain-
1038 management services; or

1039 (II) Where in any month a majority of patients are
1040 prescribed opioids, benzodiazepines, barbiturates, or
1041 carisoprodol for the treatment of chronic nonmalignant pain.

1042 2. Each pain-management clinic must register with the
1043 department unless:

1044 a. That clinic is licensed as a facility pursuant to
1045 chapter 395;

1046 b. The majority of the physicians who provide services in
1047 the clinic primarily provide surgical services;

1048 c. The clinic is owned by a publicly held corporation whose
1049 shares are traded on a national exchange or on the over-the-
1050 counter market and whose total assets at the end of the
1051 corporation's most recent fiscal quarter exceeded \$50 million;

1052 d. The clinic is affiliated with an accredited medical
1053 school at which training is provided for medical students,
1054 residents, or fellows;

1055 e. The clinic does not prescribe controlled substances for
1056 the treatment of pain;

1057 f. The clinic is owned by a corporate entity exempt from



1058 federal taxation under 26 U.S.C. s. 501(c)(3);
1059 g. The clinic is wholly owned and operated by one or more
1060 board-eligible or board-certified anesthesiologists,
1061 physiatrists, rheumatologists, or neurologists; or
1062 h. The clinic is wholly owned and operated by a physician
1063 multispecialty practice where one or more board-eligible or
1064 board-certified medical specialists who have also completed
1065 fellowships in pain medicine approved by the Accreditation
1066 Council for Graduate Medical Education or the American
1067 Osteopathic Association, or who are also board-certified in pain
1068 medicine by the American Board of Pain Medicine or a board
1069 approved by the American Board of Medical Specialties, the
1070 American Association of Physician Specialists, or the American
1071 Osteopathic Association and perform interventional pain
1072 procedures of the type routinely billed using surgical codes.
1073 Section 30. Paragraph (b) of subsection (1) of section
1074 483.23, Florida Statutes, is amended to read:
1075 483.23 Offenses; criminal penalties.-
1076 (1)
1077 (b) The performance of any act specified in paragraph (a)
1078 shall be referred by the agency to the local law enforcement
1079 agency and constitutes a misdemeanor of the second degree,
1080 punishable as provided in s. 775.082 or s. 775.083.
1081 Additionally, the agency may issue and deliver a notice to cease
1082 and desist from such act and may impose by citation an
1083 administrative penalty not to exceed \$5,000 per act. Each day
1084 that unlicensed activity continues after issuance of a notice to
1085 cease and desist constitutes a separate act.
1086 Section 31. Subsection (1) of section 483.245, Florida



1087 Statutes, is amended, and subsection (3) is added to that
1088 section, to read:
1089 483.245 Rebates prohibited; penalties.—
1090 (1) It is unlawful for any person to pay or receive any
1091 commission, bonus, kickback, or rebate or engage in any split-
1092 fee arrangement in any form whatsoever with any dialysis
1093 facility, physician, surgeon, organization, agency, or person,
1094 either directly or indirectly, for patients referred to a
1095 clinical laboratory licensed under this part. A clinical
1096 laboratory is prohibited from, directly or indirectly, providing
1097 through employees, contractors, an independent staffing company,
1098 lease agreement, or otherwise, personnel to perform any
1099 functions or duties in a physician's office, or any part of a
1100 physician's office, for any purpose whatsoever, including for
1101 the collection or handling of specimens, unless the laboratory
1102 and the physician's office are wholly owned and operated by the
1103 same entity. A clinical laboratory is prohibited from leasing
1104 space within any part of a physician's office for any purpose,
1105 including for the purpose of establishing a collection station.
1106 (3) The agency shall promptly investigate all complaints of
1107 noncompliance with subsection (1). The agency shall impose a
1108 fine of \$5,000 for each separate violation of subsection (1). In
1109 addition, the agency shall deny an application for a license or
1110 license renewal if the applicant, or any other entity with one
1111 or more common controlling interests in the applicant,
1112 demonstrates a pattern of violating subsection (1). A pattern
1113 may be demonstrated by a showing of at least two such
1114 violations.
1115 Section 32. Subsection (8) of section 651.118, Florida



1116 Statutes, is amended to read:
1117 651.118 Agency for Health Care Administration; certificates
1118 of need; sheltered beds; community beds.—

1119 (8) A provider may petition the Agency for Health Care
1120 Administration to use a designated number of sheltered nursing
1121 home beds to provide assisted living ~~extended congregate care as~~
1122 ~~defined in s. 429.02~~ if the beds are in a distinct area of the
1123 nursing home which can be adapted to meet the requirements for
1124 an assisted living facility as defined in s. 429.02 ~~extended~~
1125 ~~congregate care~~. The provider may subsequently use such beds as
1126 sheltered beds after notifying the agency of the intended
1127 change. Any sheltered beds used to provide assisted living
1128 ~~extended congregate care~~ pursuant to this subsection may not
1129 qualify for funding under the Medicaid waiver. Any sheltered
1130 beds used to provide assisted living ~~extended congregate care~~
1131 pursuant to this subsection may share common areas, services,
1132 and staff with beds designated for nursing home care, provided
1133 that all of the beds are under common ownership. For the
1134 purposes of this subsection, fire and life safety codes
1135 applicable to nursing home facilities shall apply.

1136 Section 33. Paragraph (j) is added to subsection (3) of
1137 section 817.505, Florida Statutes, to read:

1138 817.505 Patient brokering prohibited; exceptions;
1139 penalties.—

1140 (3) This section shall not apply to:

1141 (j) Any activity permitted under s. 429.195(2).

1142 Section 34. This act shall take effect July 1, 2012.

1143
1144 ===== T I T L E A M E N D M E N T =====



109490

1145 And the title is amended as follows:

1146 Delete everything before the enacting clause
1147 and insert:

1148 A bill to be entitled

1149 An act relating to health care facilities; amending s.
1150 400.021, F.S.; revising definitions of the terms
1151 "geriatric outpatient clinic" and "resident care plan"
1152 and defining the term "therapeutic spa services";
1153 amending s. 400.1183, F.S.; revising requirements
1154 relating to nursing home facility grievance reports;
1155 amending s. 400.141, F.S.; revising provisions
1156 relating to other needed services provided by licensed
1157 nursing home facilities, including respite care, adult
1158 day, and therapeutic spa services; revising provisions
1159 relating to facilities eligible to share programming
1160 and staff; deleting requirements for the submission of
1161 certain reports to the Agency for Health Care
1162 Administration; amending s. 400.142, F.S.; deleting
1163 the agency's authority to adopt rules relating to
1164 orders not to resuscitate; amending s. 400.147, F.S.;
1165 revising provisions relating to adverse incident
1166 reports; deleting certain reporting requirements;
1167 creating s. 400.172, F.S.; providing requirements for
1168 a nursing home facility operated by a licensee that
1169 provides respite care services; providing for rights
1170 of persons receiving respite care in nursing home
1171 facilities; requiring a prospective respite care
1172 recipient to provide certain information to the
1173 nursing home facility; 400.23, F.S.; specifying the



109490

1174 content of rules relating to nursing home facility
1175 staffing requirements for residents under 21 years of
1176 age; amending s. 400.275, F.S.; revising agency duties
1177 with regard to training nursing home surveyor teams;
1178 revising requirements for team members; reenacting s.
1179 400.506(6)(a), F.S., relating to licensure of nurse
1180 registries, respectively, to incorporate the amendment
1181 made to s. 400.509, F.S., in references thereto;
1182 authorizing an administrator to manage up to five
1183 nurse registries under certain circumstances;
1184 requiring an administrator to designate, in writing,
1185 for each licensed entity, a qualified alternate
1186 administrator to serve during the administrator's
1187 absence; amending s. 400.509, F.S.; providing that
1188 organizations that provide companion or homemaker
1189 services only to persons with developmental
1190 disabilities, under contract with the Agency for
1191 Persons with Disabilities, are exempt from
1192 registration with the Agency for Health Care
1193 Administration; amending s. 400.606, F.S.; revising
1194 the content requirements of the plan accompanying an
1195 initial or change-of-ownership application for
1196 licensure of a hospice; revising requirements relating
1197 to certificates of need for certain hospice
1198 facilities; amending s. 400.915, F.S.; correcting an
1199 obsolete cross-reference to administrative rules;
1200 amending s. 400.931, F.S.; requiring each applicant
1201 for initial licensure, change of ownership, or license
1202 renewal to operate a licensed home medical equipment



1203 provider at a location outside the state to submit
1204 documentation of accreditation, or an application for
1205 accreditation, from an accrediting organization that
1206 is recognized by the Agency for Health Care
1207 Administration; requiring an applicant that has
1208 applied for accreditation to provide proof of
1209 accreditation within a specified time; deleting a
1210 requirement that an applicant for a home medical
1211 equipment provider license submit a surety bond to the
1212 agency; amending s. 408.033, F.S.; providing that fees
1213 assessed on selected health care facilities and
1214 organizations may be collected prospectively at the
1215 time of licensure renewal and prorated for the
1216 licensing period; amending s. 408.034, F.S.; revising
1217 agency authority relating to licensing of intermediate
1218 care facilities for the developmentally disabled;
1219 amending s. 408.036, F.S.; providing an exception from
1220 certain requirement for exemption from certificate-of-
1221 need review for hospitals providing percutaneous
1222 coronary intervention for certain patients; amending
1223 s. 408.0361, F.S.; revising the criteria for
1224 qualifying for an exemption from certificate-of-need
1225 review for hospitals providing cardiovascular
1226 services; amending s. 408.10, F.S.; removing agency
1227 authority to investigate certain consumer complaints;
1228 repealing s. 408.802(11), F.S., removing applicability
1229 of part II of ch. 408, F.S., relating to general
1230 licensure requirements, to private review agents;
1231 amending s. 408.804, F.S.; providing penalties for



109490

1232 altering, defacing, or falsifying a license
1233 certificate issued by the agency or displaying such an
1234 altered, defaced, or falsified certificate; amending
1235 s. 408.806, F.S.; revising agency responsibilities for
1236 notification of licensees of impending expiration of a
1237 license; requiring payment of a late fee for a license
1238 application to be considered complete under certain
1239 circumstances; amending s. 408.8065, F.S.; revising
1240 the requirements for becoming licensed as a home
1241 health agency, home medical equipment provider, or
1242 health care clinic; amending s. 408.810, F.S.;
1243 requiring that the controlling interest of a health
1244 care licensee notify the agency of certain court
1245 proceedings; providing a penalty; amending s. 408.813,
1246 F.S.; authorizing the agency to impose fines for
1247 unclassified violations of part II of ch. 408, F.S.;
1248 amending s. 429.195, F.S.; revising provisions
1249 prohibiting certain rebates relating to assisted
1250 living facilities; amending s. 429.905, F.S.; defining
1251 the term "day" for purposes of day care services
1252 provided to adults who are not residents; amending s.
1253 456.44, F.S.; revising the definition of the term
1254 "addiction medicine specialist" to include board-
1255 certified psychiatrists; defining the term "board
1256 eligible"; excluding a board-certified psychiatrist as
1257 an addiction medicine specialist; including the
1258 American Board of Medical Specialties as a recognized
1259 certification entity; revising the definition of the
1260 term "chronic nonmalignant pain" to exclude reference



109490

1261 to rheumatoid arthritis; exempting specified board-
1262 eligible health care providers from application of
1263 certain provisions; adding the American Board of Pain
1264 Medicine as a recognized board-certification entity
1265 for purposes of exemption from application of certain
1266 provisions; amending s. 458.3265, F.S.; defining the
1267 term "board eligible"; revising the definition of the
1268 term "chronic nonmalignant pain" to exclude reference
1269 to rheumatoid arthritis; permitting specified board-
1270 eligible physicians to own a pain-management clinic
1271 without registering the clinic; permitting a
1272 rheumatologist to own a pain-management clinic without
1273 registering the clinic; including a physician
1274 multispecialty practice to permitted ownership forms
1275 of pain-management clinics; requiring at least one
1276 specialist in multispecialty practice to be board-
1277 eligible; recognizing the American Board of Pain
1278 Medicine, the American Association of Physician
1279 Specialists, and the American Osteopathic Association
1280 as board-certification organizations for purposes of
1281 determining a board-certified pain medicine specialist
1282 as an owner of a pain-management clinic; amending s.
1283 459.0137, F.S.; defining the term "board eligible";
1284 revising the definition of the term "chronic
1285 nonmalignant pain" to exclude reference to rheumatoid
1286 arthritis; permitting a board-eligible rheumatologist
1287 to own a pain-management clinic; including a physician
1288 multispecialty practice to permitted ownership forms
1289 of pain-management clinics; permitting specified



1290 board-eligible physicians to own a pain-management
1291 clinic without registering the clinic; permitting a
1292 rheumatologist to own a pain-management clinic without
1293 registering the clinic; adding multispecialty practice
1294 to permitted ownership forms of pain-management
1295 clinics; requiring at least one specialist in
1296 multispecialty practice to be board eligible;
1297 recognizing the American Board of Pain Medicine and
1298 the American Association of Physician Specialists as
1299 board-certification organizations for purposes of
1300 determining a board-certified pain medicine specialist
1301 as owner of a pain-management clinic; amending s.
1302 483.23, F.S.; requiring the agency to refer criminal
1303 acts regarding the operation of a clinical laboratory
1304 to a local law enforcement agency; authorizing the
1305 agency to issue and deliver notice to cease and desist
1306 and impose an administrative penalty for each act;
1307 amending s. 483.245, F.S.; providing that a clinical
1308 laboratory is prohibited from providing personnel to
1309 perform functions or duties in a physician's office
1310 unless the laboratory and the physician's office are
1311 owned and operated by the same entity; prohibiting a
1312 clinical laboratory from leasing space in a
1313 physician's office; requiring the agency to
1314 investigate complaints, impose fines, and deny an
1315 application for a license or license renewal under
1316 certain circumstances; amending s. 651.118, F.S.;

1317 providing a funding limitation on sheltered nursing
1318 home beds used to provide assisted living, rather than



109490

1319 extended congregate care services; authorizing certain
1320 sharing of areas, services, and staff between such
1321 sheltered beds and nursing home beds in those
1322 facilities; amending s. 817.505, F.S.; conforming
1323 provisions to changes made by the act; providing an
1324 effective date.