

By the Committees on Appropriations; and Health Policy; and  
Senator Bean

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1                                   A bill to be entitled  
2       An act relating to health care; amending s. 112.0455,  
3       F.S.; deleting a monthly reporting requirement for  
4       laboratories; amending s. 154.11, F.S.; revising  
5       references to certain accrediting organizations to  
6       conform to changes made by the act; amending s.  
7       322.142, F.S.; allowing the Department of Highway  
8       Safety and Motor Vehicles to share driver license  
9       photographs with the Agency for Health Care  
10      Administration pursuant to an interagency agreement;  
11      revising references to certain accrediting  
12      organizations to conform to changes made by the act;  
13      amending s. 381.745, F.S.; revising a definition;  
14      amending s. 381.75, F.S.; revising the duties of the  
15      Department of Health as they relate to transitional  
16      living facilities; amending s. 381.78, F.S.;  
17      conforming provisions to changes made by the act;  
18      creating s. 385.2035, F.S.; designating the Florida  
19      Hospital Sanford-Burnham Translational Research  
20      Institute for Metabolism and Diabetes as a resource  
21      for diabetes research in this state; amending s.  
22      394.4574, F.S.; providing that Medicaid prepaid  
23      behavioral health plans are responsible for enrolled  
24      mental health residents; providing that managing  
25      entities under contract with the Department of  
26      Children and Families are responsible for mental  
27      health residents who are not enrolled with a Medicaid  
28      prepaid behavioral health plan; deleting a provision  
29      to conform to changes made by the act; requiring that

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30 the community living support plan be completed and  
31 provided to the administrator of a facility upon the  
32 mental health resident's admission; requiring the  
33 community living support plan to be updated when there  
34 is a significant change to the mental health  
35 resident's behavioral health; requiring the case  
36 manager assigned to a mental health resident of an  
37 assisted living facility that holds a limited mental  
38 health license to keep a record of the date and time  
39 of face-to-face interactions with the resident and to  
40 make the record available to the responsible entity  
41 for inspection; requiring that the record be  
42 maintained for a specified time; requiring the  
43 responsible entity to ensure that there is adequate  
44 and consistent monitoring and enforcement of community  
45 living support plans and cooperative agreements and  
46 that concerns are reported to the appropriate  
47 regulatory oversight organization under certain  
48 circumstances; amending s. 394.741, F.S.; revising  
49 references to certain accrediting organizations to  
50 conform to changes made by the act; amending s.  
51 395.0161, F.S.; deleting a requirement that hospitals  
52 pay certain inspection fees at the time of the  
53 inspection; repealing s. 395.1046, F.S., relating to  
54 the investigation by the Agency for Health Care  
55 Administration of certain complaints against  
56 hospitals; amending s. 395.3038, F.S.; deleting an  
57 obsolete provision relating to stroke centers;  
58 revising references to certain accrediting

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59 organizations to conform; repealing s. 395.40, F.S.;

60 amending s. 395.4001, F.S.; revising the definition of

61 the terms "level II trauma center" and "trauma

62 center"; amending s. 395.401, F.S.; revising the

63 components of plans for local and regional trauma

64 services systems; amending s. 395.4015, F.S.;

65 requiring regional trauma plans to recognize trauma

66 service areas that reflect well established patient

67 flow patterns; amending s. 395.402, F.S., repealing

68 provisions relating to the Department of Health's

69 assignment of counties to trauma service areas;

70 repealing outdated provisions requiring the Department

71 of Health to conduct a study; repealing provisions

72 requiring the Department of Health to annually review

73 the assignment of counties to trauma service centers;

74 repealing provisions regarding the number of trauma

75 centers in each trauma service area and in the state;

76 amending s. 395.4025, F.S.; establishing criteria for

77 designating Level II trauma centers in areas with

78 limited access to trauma center services; retaining

79 trauma center designation for centers designated or

80 provisionally approved as of July 1, 2013; amending s.

81 395.405, F.S., removing rulemaking authority for s.

82 395.402, F.S.; amending s. 395.701, F.S.; revising the

83 definition of the term "hospital" for purposes of

84 annual assessments on net operating revenues for

85 inpatient and outpatient services to fund public

86 medical assistance; repealing s. 395.7015, F.S.,

87 relating to annual assessments on health care

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88 entities; amending s. 395.7016, F.S.; revising a  
89 cross-reference to conform to changes made by the act;  
90 amending ss. 397.403, F.S.; amending s. 400.0074,  
91 F.S.; providing that an administrative assessment  
92 conducted by a local council be comprehensive in  
93 nature and focus on factors affecting the rights,  
94 health, safety, and welfare of the residents of a  
95 nursing home; requiring a local council to conduct an  
96 exit consultation with the facility administrator or  
97 administrator designee to discuss issues and concerns  
98 in areas affecting rights, health, safety, and welfare  
99 of residents and make recommendations for improvement;  
100 revising references to certain accrediting  
101 organizations to conform to changes made by the act;  
102 amending s. 400.0078, F.S.; requiring that residents  
103 of long-term care facilities be informed that  
104 retaliatory action cannot be taken against a resident  
105 for presenting grievances or for exercising any other  
106 resident right; amending s. 400.462, F.S.; defining  
107 the term "home health agency" to include a Nurse  
108 Registry under certain circumstances; amending s.  
109 400.464, F.S.; exempting the delivery of certain home  
110 dialysis services from licensure requirements;  
111 repealing s. 400.805, F.S.; relating to transitional  
112 living facilities; providing that every transitional  
113 living facility licensed under s. 400.805, F.S., on or  
114 before a specified date is licensed under the  
115 provisions of the act; amending s. 400.925, F.S.;  
116 revising references to certain accrediting

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117 organizations to conform to changes made by the act;  
118 amending s. 400.93, F.S.; providing that transitional  
119 living facilities licensed under part XI of ch. 400,  
120 F.S., are exempt from home medical equipment provider  
121 licensure; amending s. 400.9905, F.S.; revising a  
122 definition; amending s. 400.9935, F.S.; revising  
123 references to certain accrediting organizations to  
124 conform to changes made by the act; creating part XI  
125 of ch. 400, F.S., entitled "Transitional Living  
126 Facilities"; creating s. 400.9970, F.S.; providing  
127 legislative intent; creating s. 400.9971, F.S.;  
128 providing definitions; creating s. 400.9972, F.S.;  
129 requiring the licensure of transitional living  
130 facilities; providing fees; providing license  
131 application requirements; creating s. 400.9973, F.S.;  
132 providing requirements for transitional living  
133 facilities relating to client admission, transfer, and  
134 discharge; creating s. 400.9974, F.S.; requiring a  
135 comprehensive treatment plan to be developed for each  
136 client; providing plan requirements; creating s.  
137 400.9975, F.S.; providing licensee responsibilities;  
138 providing notice requirements; prohibiting a licensee  
139 or employee of a facility from serving notice upon a  
140 client to leave the premises or take other retaliatory  
141 action; requiring the client and client's  
142 representative to be provided with certain  
143 information; requiring the licensee to develop and  
144 implement certain policies and procedures; creating s.  
145 400.9976, F.S.; providing licensee requirements

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146 relating to medication practices; creating s.  
147 400.9977, F.S.; providing requirements for the  
148 screening of potential employees and monitoring of  
149 employees for the protection of clients; requiring  
150 licensees to implement certain procedures; creating s.  
151 400.9978, F.S.; requiring a facility to provide a  
152 therapeutic milieu that supports a culture of  
153 individual empowerment and responsibility; providing  
154 that the health and safety of the client is the  
155 primary concern of the facility; providing  
156 requirements and limitations for the use of physical  
157 restraints, seclusion, and chemical restraint  
158 medication on clients; requiring the Agency for Health  
159 Care Administration to adopt rules; creating s.  
160 400.9979, F.S.; providing background screening  
161 requirements; requiring the licensee to maintain  
162 certain personnel records; providing administrative  
163 responsibilities for licensees; providing  
164 recordkeeping requirements; creating s. 400.9980,  
165 F.S.; providing requirements relating to property and  
166 personal affairs of clients; providing requirements  
167 for a licensee with respect to obtaining surety bonds;  
168 providing recordkeeping requirements relating to the  
169 safekeeping of personal effects; providing  
170 requirements for trust funds received by licensee and  
171 credited to the client; providing a penalty for  
172 certain misuse of a resident's personal needs  
173 allowance; providing criminal penalties for  
174 violations; providing for the disposition of property

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175 in the event of the death of a client; authorizing the  
176 Agency for Health Care Administration to adopt rules;  
177 creating s. 400.9981, F.S.; authorizing the agency to  
178 adopt and enforce certain rules; creating s. 400.9982,  
179 F.S.; providing procedures relating to violations and  
180 penalties; providing administrative fines for  
181 specified classes of violations; creating s. 400.9983,  
182 F.S.; authorizing the agency to apply certain  
183 provisions with regard to receivership proceedings;  
184 creating s. 400.9984, F.S.; requiring the Agency for  
185 Health Care Administration, the Department of Health,  
186 the Agency for Persons with Disabilities, and the  
187 Department of Children and Families to develop  
188 electronic systems for certain purposes; amending s.  
189 402.7306, F.S.; revising a reference to certain  
190 accrediting organizations to conform to changes made  
191 by the act; amending s. 408.061, F.S.; exempting  
192 hospitals operated by state agencies from certain  
193 annual fiscal experience reporting requirements;  
194 amending s. 408.20, F.S.; exempting hospitals operated  
195 by state agencies from certain assessments; amending  
196 ss. 408.802 and 408.820, F.S.; conforming a provision  
197 to changes made by the act; amending s. 408.809, F.S.;  
198 adding additional disqualifying offenses to background  
199 screening provisions; amending s. 409.9122, F.S.;  
200 deleting a requirement that Medicaid recipients with  
201 HIV/AIDS be referred to a Health Maintenance  
202 Organization under contract with the agency; requiring  
203 Medicaid recipients diagnosed with HIV/AIDS be

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204 assigned to a managed care plan that is a health  
205 maintenance organization under ch. 641, F.S., that is  
206 under contract with the agency, and that offers a  
207 delivery system through a university-based teaching  
208 and research-oriented organization specializing in  
209 treating individuals with HIV/AIDS; amending s.  
210 409.966; F.S.; revising references to certain  
211 accrediting organizations to conform to changes made  
212 by the act; amending s. 409.967, F.S.; requiring a  
213 managed care plan to permit enrollees to continue  
214 receiving certain drugs that are removed from the  
215 plan's formulary; revising references to certain  
216 accrediting organizations to conform to changes made  
217 by the act; amending s. 429.07, F.S.; providing that  
218 an extended congregate care license is issued to  
219 certain facilities that have been licensed as assisted  
220 living facilities under certain circumstances;  
221 providing the purpose of an extended congregate care  
222 license; providing that the initial extended  
223 congregate care license of an assisted living facility  
224 is provisional under certain circumstances; requiring  
225 the licensee to notify the Agency for Health Care  
226 Administration whenever it accepts a resident who  
227 qualifies for extended congregate care services;  
228 requiring the agency to inspect the facility for  
229 compliance with the requirements of an extended  
230 congregate care license; authorizing the agency to  
231 waive one of the required yearly monitoring visits  
232 under certain circumstances; authorizing the agency to



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233 deny or revoke a facility's extended congregate care  
234 license for certain reasons or on certain grounds;  
235 requiring a registered nurse representing the agency  
236 to visit the facility at least annually, rather than  
237 twice a year, to monitor residents who are receiving  
238 limited nursing services; providing that the agency's  
239 monitoring visits may be in conjunction with other  
240 agency inspections; authorizing the agency to waive  
241 one of the required yearly monitoring visits for  
242 certain facilities; amending s. 429.075, F.S.;

243 requiring an assisted living facility that serves one  
244 or more mental health residents to obtain a limited  
245 mental health license; amending s. 429.14, F.S.;

246 revising the actions in which the agency may deny,  
247 revoke, or suspend the license of an assisted living  
248 facility and impose an administrative fine; revising  
249 the criteria upon which the agency must deny or revoke  
250 the license of an assisted living facility; requiring  
251 the agency to impose an immediate moratorium on the  
252 license of an assisted living facility under certain  
253 circumstances; deleting a provision requiring the  
254 agency to provide a list of facilities with denied,  
255 suspended, or revoked licenses to the Department of  
256 Business and Professional Regulation; exempting a  
257 facility from the 45-day notice requirement if it is  
258 required to relocate some or all of its residents;  
259 amending s. 429.178, F.S.; conforming cross-  
260 references; amending s. 429.19, F.S.; revising the  
261 amounts and uses of administrative fines; requiring

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262 the agency to levy a fine for violations that are  
263 corrected before an inspection if noncompliance  
264 occurred within a specified period of time; deleting  
265 factors that the agency is required to consider to  
266 determine penalties and fines; amending s. 429.26,  
267 F.S.; providing that certain residents may be admitted  
268 to a standard licensed assisted living facility under  
269 certain circumstances; amending s. 429.28, F.S.;  
270 requiring that residents of facilities be informed  
271 that the identity of the resident and complainant in a  
272 complaint made to the State Long-Term Care Ombudsman  
273 Program is confidential and that retaliatory action  
274 cannot be taken against a resident for presenting  
275 grievances or for exercising any other resident right;  
276 providing that a facility that terminates an  
277 individual's residency is fined if good cause is not  
278 shown in court; amending s. 429.34, F.S.; requiring  
279 certain persons to report elder abuse in assisted  
280 living facilities; requiring the agency to regularly  
281 inspect every licensed assisted living facility;  
282 requiring the agency to conduct more frequent  
283 inspections under certain circumstances; requiring the  
284 licensee to pay a fee for the cost of additional  
285 inspections; requiring the agency to adjust the fee;  
286 amending s. 429.52, F.S.; requiring each newly hired  
287 employee of an assisted living facility to attend a  
288 preservice orientation provided by the assisted living  
289 facility; requiring the employee and administrator to  
290 sign an affidavit upon completion of the preservice

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291 orientation; requiring the assisted living facility to  
292 maintain the signed affidavit in each employee's work  
293 file; conforming a cross-reference; requiring the  
294 Agency for Health Care Administration to study the  
295 reliability of facility surveys and submit to the  
296 Governor and the Legislature its findings and  
297 recommendations; requiring the agency to propose a  
298 rating system of assisted living facilities for  
299 consumers and create content for the agency's website  
300 that makes available to consumers information  
301 regarding assisted living facilities; providing  
302 criteria for the content; amending s. 430.80, F.S.;  
303 revising references to certain accrediting  
304 organizations to conform to changes made by the act;  
305 amending s. 435.04, F.S.; revising information to be  
306 submitted for a background screening; adding  
307 additional disqualifying offenses; amending s. 435.07,  
308 F.S.; revising terminology; requiring that individuals  
309 seeking an exemption from disqualification have  
310 completed all nonmonetary conditions imposed by the  
311 court for the disqualifying felony; requiring that all  
312 persons seeking an exemption from disqualification pay  
313 any court-ordered monetary penalty in full before  
314 being eligible to apply; amending s. 435.12, F.S.;  
315 requiring that a photograph of the person taken at the  
316 time the fingerprints are processed be submitted to  
317 the Care Provider Background Screening Clearinghouse  
318 before submission of the electronic fingerprints;  
319 requiring specified information to be included with

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320 the initiation of the screening registration within  
321 the clearinghouse; amending s. 440.102, F.S.; revising  
322 certain drug-testing standards for laboratories;  
323 deleting a requirement that a laboratory comply with  
324 certain criteria to conduct an initial analysis of  
325 test specimens; deleting a monthly reporting  
326 requirement for laboratories; amending s. 440.13,  
327 F.S.; revising references to certain accrediting  
328 organizations to conform to changes made by the act;  
329 creating s. 465.1902, F.S.; providing that regulation  
330 of the licensure, activity, and operation of  
331 pharmacies and pharmacists is preempted to the state;  
332 prohibiting a local government or political  
333 subdivision of the state from enacting or enforcing an  
334 ordinance that imposes a levy, charge, or fee upon, or  
335 that otherwise regulates, pharmacies and pharmacists,  
336 except for ordinances regarding local business taxes  
337 and land development; amending s. 499.003, F.S.;  
338 exempting prescription drugs transferred either  
339 directly or through a hospital's or health care  
340 entity's supplier or the manufacturer for the purpose  
341 of repackaging from the definition of the term  
342 "wholesale distribution"; amending s. 499.01, F.S.;  
343 requiring a permit for prescription drug repackagers  
344 located in other states who repackage and distribute  
345 drugs for limited purposes into this state; amending  
346 s. 499.01212, F.S.; requiring pedigree papers for  
347 transfers pursuant to s. 499.003(54)(b)7., F.S., to  
348 include specified information; amending 499.041, F.S.;

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349 assessing an onsite inspection fee on a prescription  
350 drug repackager applicant or licensee located out of  
351 the state; amending ss. 627.645, 627.668, 627.669,  
352 627.736, 641.495, and 766.1015, F.S.; revising  
353 references to certain accrediting organizations to  
354 conform to changes made by the act; creating s.  
355 893.0552, F.S.; providing that regulation of the  
356 licensure, activity, and operation of pain-management  
357 clinics is preempted to the state under certain  
358 circumstances; authorizing a local government or  
359 political subdivision of the state to enact certain  
360 ordinances regarding local business taxes and land  
361 development; providing an effective date.

362  
363

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

365

366 Section 1. Paragraphs (d) and (e) of subsection (12) of  
367 section 112.0455, Florida Statutes, are amended to read:

368 112.0455 Drug-Free Workplace Act.—

369 (12) DRUG-TESTING STANDARDS; LABORATORIES.—

370 ~~(d) The laboratory shall submit to the Agency for Health~~  
371 ~~Care Administration a monthly report with statistical~~  
372 ~~information regarding the testing of employees and job~~  
373 ~~applicants. The reports shall include information on the methods~~  
374 ~~of analyses conducted, the drugs tested for, the number of~~  
375 ~~positive and negative results for both initial and confirmation~~  
376 ~~tests, and any other information deemed appropriate by the~~  
377 ~~Agency for Health Care Administration. No monthly report shall~~

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378 ~~identify specific employees or job applicants.~~

379 ~~(d)(e)~~ Laboratories shall provide technical assistance to  
380 the employer, employee, or job applicant for the purpose of  
381 interpreting any positive confirmed test results which could  
382 have been caused by prescription or nonprescription medication  
383 taken by the employee or job applicant.

384 Section 2. Paragraph (n) of subsection (1) of section  
385 154.11, Florida Statutes, is amended to read:

386 154.11 Powers of board of trustees.—

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

395 (n) To appoint originally the staff of physicians to  
396 practice in a any designated facility owned or operated by the  
397 board and to approve the bylaws and rules to be adopted by the  
398 medical staff of a any designated facility owned and operated by  
399 the board, such governing regulations to be in accordance with  
400 the standards of the Joint Commission, the American Osteopathic  
401 Association/Healthcare Facilities Accreditation Program, or a  
402 national accrediting organization that is approved by the  
403 Centers for Medicare and Medicaid Services and whose standards  
404 incorporate comparable licensure regulations required by the  
405 state ~~on the Accreditation of Hospitals~~ which provide, among  
406 other things, for the method of appointing additional staff

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407 members and for the removal of staff members.

408 Section 3. Subsection (4) of section 322.142, Florida  
409 Statutes, is amended to read:

410 322.142 Color photographic or digital imaged licenses.—

411 (4) The department may maintain a film negative or print  
412 file. The department shall maintain a record of the digital  
413 image and signature of the licensees, together with other data  
414 required by the department for identification and retrieval.  
415 Reproductions from the file or digital record are exempt from  
416 the provisions of s. 119.07(1) and shall be made and issued only  
417 for departmental administrative purposes; for the issuance of  
418 duplicate licenses; in response to law enforcement agency  
419 requests; to the Department of Business and Professional  
420 Regulation pursuant to an interagency agreement for the purpose  
421 of accessing digital images for reproduction of licenses issued  
422 by the Department of Business and Professional Regulation; to  
423 the Department of State pursuant to an interagency agreement to  
424 facilitate determinations of eligibility of voter registration  
425 applicants and registered voters in accordance with ss. 98.045  
426 and 98.075; to the Department of Revenue pursuant to an  
427 interagency agreement for use in establishing paternity and  
428 establishing, modifying, or enforcing support obligations in  
429 Title IV-D cases; to the Department of Children and Family  
430 Services pursuant to an interagency agreement to conduct  
431 protective investigations under part III of chapter 39 and  
432 chapter 415; to the Department of Children and Family Services  
433 pursuant to an interagency agreement specifying the number of  
434 employees in each of that department's regions to be granted  
435 access to the records for use as verification of identity to

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436 expedite the determination of eligibility for public assistance  
437 and for use in public assistance fraud investigations; to the  
438 Agency for Health Care Administration pursuant to an interagency  
439 agreement for the purpose of verifying photographs in the Care  
440 Provider Background Screening Clearinghouse authorized in s.  
441 435.12; to the Department of Financial Services pursuant to an  
442 interagency agreement to facilitate the location of owners of  
443 unclaimed property, the validation of unclaimed property claims,  
444 and the identification of fraudulent or false claims; or to  
445 district medical examiners pursuant to an interagency agreement  
446 for the purpose of identifying a deceased individual,  
447 determining cause of death, and notifying next of kin of any  
448 investigations, including autopsies and other laboratory  
449 examinations, authorized in s. 406.011.

450 Section 4. Subsection (9) of section 381.745, Florida  
451 Statutes, is amended to read:

452 381.745 Definitions; ss. 381.739-381.79.—As used in ss.  
453 381.739-381.79, the term:

454 (9) “Transitional living facility,” for the purpose of this  
455 part, means a state-approved facility, as defined and licensed  
456 under chapter 400 ~~or chapter 429, or a facility approved by the~~  
457 ~~brain and spinal cord injury program in accordance with this~~  
458 ~~chapter.~~

459 Section 5. Section 381.75, Florida Statutes, is amended to  
460 read:

461 381.75 Duties and responsibilities of the department, ~~of~~  
462 ~~transitional living facilities, and of residents.~~—Consistent  
463 with the mandate of s. 381.7395, the department shall develop  
464 and administer a multilevel treatment program for individuals



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465 who sustain brain or spinal cord injuries and who are referred  
466 to the brain and spinal cord injury program.

467 (1) Within 15 days after any report of an individual who  
468 has sustained a brain or spinal cord injury, the department  
469 shall notify the individual or the most immediate available  
470 family members of their right to assistance from the state, the  
471 services available, and the eligibility requirements.

472 (2) The department shall refer individuals who have brain  
473 or spinal cord injuries to other state agencies to assure that  
474 rehabilitative services, if desired, are obtained by that  
475 individual.

476 (3) The department, in consultation with emergency medical  
477 service, shall develop standards for an emergency medical  
478 evacuation system that will ensure that all individuals who  
479 sustain traumatic brain or spinal cord injuries are transported  
480 to a department-approved trauma center that meets the standards  
481 and criteria established by the emergency medical service and  
482 the acute-care standards of the brain and spinal cord injury  
483 program.

484 (4) The department shall develop standards for designation  
485 of rehabilitation centers to provide rehabilitation services for  
486 individuals who have brain or spinal cord injuries.

487 (5) The department shall determine the appropriate number  
488 of designated acute-care facilities, inpatient rehabilitation  
489 centers, and outpatient rehabilitation centers, needed based on  
490 incidence, volume of admissions, and other appropriate criteria.

491 (6) The department shall develop standards for designation  
492 of transitional living facilities to provide transitional living  
493 services for individuals who participate in the brain and spinal

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494 cord injury program ~~the opportunity to adjust to their~~  
495 ~~disabilities and to develop physical and functional skills in a~~  
496 ~~supported living environment.~~

497 ~~(a) The Agency for Health Care Administration, in~~  
498 ~~consultation with the department, shall develop rules for the~~  
499 ~~licensure of transitional living facilities for individuals who~~  
500 ~~have brain or spinal cord injuries.~~

501 ~~(b) The goal of a transitional living program for~~  
502 ~~individuals who have brain or spinal cord injuries is to assist~~  
503 ~~each individual who has such a disability to achieve a higher~~  
504 ~~level of independent functioning and to enable that person to~~  
505 ~~reenter the community. The program shall be focused on preparing~~  
506 ~~participants to return to community living.~~

507 ~~(c) A transitional living facility for an individual who~~  
508 ~~has a brain or spinal cord injury shall provide to such~~  
509 ~~individual, in a residential setting, a goal-oriented treatment~~  
510 ~~program designed to improve the individual's physical,~~  
511 ~~cognitive, communicative, behavioral, psychological, and social~~  
512 ~~functioning, as well as to provide necessary support and~~  
513 ~~supervision. A transitional living facility shall offer at least~~  
514 ~~the following therapies: physical, occupational, speech,~~  
515 ~~neuropsychology, independent living skills training, behavior~~  
516 ~~analysis for programs serving brain-injured individuals, health~~  
517 ~~education, and recreation.~~

518 ~~(d) All residents shall use the transitional living~~  
519 ~~facility as a temporary measure and not as a permanent home or~~  
520 ~~domicile. The transitional living facility shall develop an~~  
521 ~~initial treatment plan for each resident within 3 days after the~~  
522 ~~resident's admission. The transitional living facility shall~~

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523 ~~develop a comprehensive plan of treatment and a discharge plan~~  
524 ~~for each resident as soon as practical, but no later than 30~~  
525 ~~days after the resident's admission. Each comprehensive~~  
526 ~~treatment plan and discharge plan must be reviewed and updated~~  
527 ~~as necessary, but no less often than quarterly. This subsection~~  
528 ~~does not require the discharge of an individual who continues to~~  
529 ~~require any of the specialized services described in paragraph~~  
530 ~~(c) or who is making measurable progress in accordance with that~~  
531 ~~individual's comprehensive treatment plan. The transitional~~  
532 ~~living facility shall discharge any individual who has an~~  
533 ~~appropriate discharge site and who has achieved the goals of his~~  
534 ~~or her discharge plan or who is no longer making progress toward~~  
535 ~~the goals established in the comprehensive treatment plan and~~  
536 ~~the discharge plan. The discharge location must be the least~~  
537 ~~restrictive environment in which an individual's health, well-~~  
538 ~~being, and safety is preserved.~~

539 ~~(7) Recipients of services, under this section, from any of~~  
540 ~~the facilities referred to in this section shall pay a fee based~~  
541 ~~on ability to pay.~~

542 Section 6. Subsection (4) of section 381.78, Florida  
543 Statutes, is amended to read:

544 381.78 Advisory council on brain and spinal cord injuries.-

545 (4) The council shall:

546 ~~(a)~~ provide advice and expertise to the department in the  
547 preparation, implementation, and periodic review of the brain  
548 and spinal cord injury program.

549 ~~(b) Annually appoint a five-member committee composed of~~  
550 ~~one individual who has a brain injury or has a family member~~  
551 ~~with a brain injury, one individual who has a spinal cord injury~~

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552 ~~or has a family member with a spinal cord injury, and three~~  
553 ~~members who shall be chosen from among these representative~~  
554 ~~groups: physicians, other allied health professionals,~~  
555 ~~administrators of brain and spinal cord injury programs, and~~  
556 ~~representatives from support groups with expertise in areas~~  
557 ~~related to the rehabilitation of individuals who have brain or~~  
558 ~~spinal cord injuries, except that one and only one member of the~~  
559 ~~committee shall be an administrator of a transitional living~~  
560 ~~facility. Membership on the council is not a prerequisite for~~  
561 ~~membership on this committee.~~

562 ~~1. The committee shall perform onsite visits to those~~  
563 ~~transitional living facilities identified by the Agency for~~  
564 ~~Health Care Administration as being in possible violation of the~~  
565 ~~statutes and rules regulating such facilities. The committee~~  
566 ~~members have the same rights of entry and inspection granted~~  
567 ~~under s. 400.805(4) to designated representatives of the agency.~~

568 ~~2. Factual findings of the committee resulting from an~~  
569 ~~onsite investigation of a facility pursuant to subparagraph 1.~~  
570 ~~shall be adopted by the agency in developing its administrative~~  
571 ~~response regarding enforcement of statutes and rules regulating~~  
572 ~~the operation of the facility.~~

573 ~~3. Onsite investigations by the committee shall be funded~~  
574 ~~by the Health Care Trust Fund.~~

575 ~~4. Travel expenses for committee members shall be~~  
576 ~~reimbursed in accordance with s. 112.061.~~

577 ~~5. Members of the committee shall recuse themselves from~~  
578 ~~participating in any investigation that would create a conflict~~  
579 ~~of interest under state law, and the council shall replace the~~  
580 ~~member, either temporarily or permanently.~~

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581 Section 7. Section 385.2035, Florida Statutes, is created  
582 to read:

583 385.2035 Resource for research in the prevention and  
584 treatment of diabetes.—The Florida Hospital Sanford-Burnham  
585 Translational Research Institute for Metabolism and Diabetes is  
586 designated as a resource in this state for research in the  
587 prevention and treatment of diabetes.

588 Section 8. Section 394.4574, Florida Statutes, is amended  
589 to read:

590 394.4574 ~~Department~~ Responsibilities for coordination of  
591 services for a mental health resident who resides in an assisted  
592 living facility that holds a limited mental health license.—

593 (1) As used in this section, the term "mental health  
594 resident" ~~"mental health resident," for purposes of this~~  
595 ~~section,~~ means an individual who receives social security  
596 disability income due to a mental disorder as determined by the  
597 Social Security Administration or receives supplemental security  
598 income due to a mental disorder as determined by the Social  
599 Security Administration and receives optional state  
600 supplementation.

601 (2) Medicaid prepaid behavioral health plans are  
602 responsible for enrolled mental health residents, and managing  
603 entities under contract with the department are responsible for  
604 mental health residents who are not enrolled with a Medicaid  
605 prepaid behavioral health plan. Each responsible entity shall  
606 ~~The department must~~ ensure that:

607 (a) A mental health resident has been assessed by a  
608 psychiatrist, clinical psychologist, clinical social worker, or  
609 psychiatric nurse, or an individual who is supervised by one of

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610 these professionals, and determined to be appropriate to reside  
611 in an assisted living facility. The documentation must be  
612 provided to the administrator of the facility within 30 days  
613 after the mental health resident has been admitted to the  
614 facility. An evaluation completed upon discharge from a state  
615 mental hospital meets the requirements of this subsection  
616 related to appropriateness for placement as a mental health  
617 resident if it was completed within 90 days before ~~prior to~~  
618 admission to the facility.

619 (b) A cooperative agreement, as required in s. 429.075, is  
620 developed between the mental health care services provider that  
621 serves a mental health resident and the administrator of the  
622 assisted living facility with a limited mental health license in  
623 which the mental health resident is living. ~~Any entity that~~  
624 ~~provides Medicaid prepaid health plan services shall ensure the~~  
625 ~~appropriate coordination of health care services with an~~  
626 ~~assisted living facility in cases where a Medicaid recipient is~~  
627 ~~both a member of the entity's prepaid health plan and a resident~~  
628 ~~of the assisted living facility. If the entity is at risk for~~  
629 ~~Medicaid targeted case management and behavioral health~~  
630 ~~services, the entity shall inform the assisted living facility~~  
631 ~~of the procedures to follow should an emergent condition arise.~~

632 (c) The community living support plan, as defined in s.  
633 429.02, has been prepared by a mental health resident and a  
634 mental health case manager of that resident in consultation with  
635 the administrator of the facility or the administrator's  
636 designee. The plan must be completed and provided to the  
637 administrator of the assisted living facility with a limited  
638 mental health license in which the mental health resident lives

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639 upon the resident's admission. The support plan and the  
640 agreement may be in one document.

641 (d) The assisted living facility with a limited mental  
642 health license is provided with documentation that the  
643 individual meets the definition of a mental health resident.

644 (e) The mental health services provider assigns a case  
645 manager to each mental health resident for whom the entity is  
646 responsible ~~who lives in an assisted living facility with a~~  
647 ~~limited mental health license.~~ The case manager is responsible  
648 for coordinating the development of and implementation of the  
649 community living support plan defined in s. 429.02. The plan  
650 must be updated at least annually, or when there is a  
651 significant change to the resident's behavioral health status,  
652 such as an inpatient admission or a change in behavioral status,  
653 medications, level of service, or residence. Each case manager  
654 shall keep a record of the date and time of any face-to-face  
655 interaction with the resident and make the record available to  
656 the responsible entity for inspection. The record must be  
657 retained for at least 2 years after the date of the most recent  
658 interaction.

659 (f) Adequate and consistent monitoring and enforcement of  
660 community living support plans and cooperative agreements are  
661 conducted by the resident's case manager.

662 (g) Concerns are reported to the appropriate regulatory  
663 oversight organization if a regulated provider fails to deliver  
664 appropriate services or otherwise acts in a manner that has the  
665 potential to result in harm to the resident.

666 (3) The Secretary of Children and Family Services, in  
667 consultation with the Agency for Health Care Administration,

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668 shall ~~annually~~ require each district administrator to develop,  
669 with community input, a detailed annual plan that demonstrates  
670 ~~detailed plans that demonstrate~~ how the district will ensure the  
671 provision of state-funded mental health and substance abuse  
672 treatment services to residents of assisted living facilities  
673 that hold a limited mental health license. These plans must be  
674 consistent with the substance abuse and mental health district  
675 plan developed pursuant to s. 394.75 and must address case  
676 management services; access to consumer-operated drop-in  
677 centers; access to services during evenings, weekends, and  
678 holidays; supervision of the clinical needs of the residents;  
679 and access to emergency psychiatric care.

680 Section 9. Subsection (2) of section 394.741, Florida  
681 Statutes, is amended to read:

682 394.741 Accreditation requirements for providers of  
683 behavioral health care services.—

684 (2) Notwithstanding any provision of law to the contrary,  
685 accreditation shall be accepted by the agency and department in  
686 lieu of the agency's and department's facility licensure onsite  
687 review requirements and shall be accepted as a substitute for  
688 the department's administrative and program monitoring  
689 requirements, except as required by subsections (3) and (4),  
690 for:

691 (a) An ~~Any~~ organization from which the department purchases  
692 behavioral health care services which ~~that~~ is accredited by the  
693 Joint Commission, American Osteopathic Association/the  
694 Healthcare Facilities Accreditation Program, a national  
695 accrediting organization that is approved by the Centers for  
696 Medicare and Medicaid Services and whose standards incorporate



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697 comparable licensure regulations required by the state, ~~on~~  
698 ~~Accreditation of Healthcare Organizations~~ or the Council on  
699 ~~Accreditation for Children and Family Services~~, or CARF  
700 International for the ~~has those~~ services that are being  
701 purchased by the department ~~accredited by CARF~~ the  
702 ~~Rehabilitation Accreditation Commission~~.

703 (b) A ~~Any~~ mental health facility licensed by the agency or  
704 a ~~any~~ substance abuse component licensed by the department which  
705 ~~that~~ is accredited by the Joint Commission, the American  
706 Osteopathic Association/Healthcare Facilities Accreditation  
707 Program, a national accrediting organization that is approved by  
708 the Centers for Medicare and Medicaid Services and whose  
709 standards incorporate comparable licensure regulations required  
710 by the state, CARF International ~~on Accreditation of Healthcare~~  
711 ~~Organizations, CARF the Rehabilitation Accreditation Commission,~~  
712 or the Council on Accreditation ~~of Children and Family Services~~.

713 (c) A ~~Any~~ network of providers from which the department or  
714 the agency purchases behavioral health care services accredited  
715 by the Joint Commission, the American Osteopathic  
716 Association/Healthcare Facilities Accreditation Program, a  
717 national accrediting organization that is approved by the  
718 Centers for Medicare and Medicaid Services and whose standards  
719 incorporate comparable licensure regulations required by the  
720 state, CARF International ~~on Accreditation of Healthcare~~  
721 ~~Organizations, CARF the Rehabilitation Accreditation Commission,~~  
722 the Council on Accreditation ~~of Children and Family Services~~, or  
723 the National Committee for Quality Assurance. A provider  
724 organization that, which is part of an accredited network, is  
725 afforded the same rights under this part.

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726 Section 10. Subsection (3) of section 395.0161, Florida  
727 Statutes, is amended to read:

728 395.0161 Licensure inspection.—

729 (3) In accordance with s. 408.805, an applicant or licensee  
730 shall pay a fee for each license application submitted under  
731 this part, part II of chapter 408, and applicable rules. With  
732 the exception of state-operated licensed facilities, each  
733 facility licensed under this part shall pay to the agency, ~~at~~  
734 ~~the time of inspection,~~ the following fees:

735 (a) *Inspection for licensure.*—A fee shall be paid which is  
736 not less than \$8 per hospital bed, nor more than \$12 per  
737 hospital bed, except that the minimum fee shall be \$400 per  
738 facility.

739 (b) *Inspection for lifesafety only.*—A fee shall be paid  
740 which is not less than 75 cents per hospital bed, nor more than  
741 \$1.50 per hospital bed, except that the minimum fee shall be \$40  
742 per facility.

743 Section 11. Section 395.1046, Florida Statutes, is  
744 repealed.

745 Section 12. Section 395.3038, Florida Statutes, is amended  
746 to read:

747 395.3038 State-listed primary stroke centers and  
748 comprehensive stroke centers; notification of hospitals.—

749 (1) The agency shall make available on its website and to  
750 the department a list of the name and address of each hospital  
751 that meets the criteria for a primary stroke center and the name  
752 and address of each hospital that meets the criteria for a  
753 comprehensive stroke center. The list of primary and  
754 comprehensive stroke centers must ~~shall~~ include only those

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755 hospitals that attest in an affidavit submitted to the agency  
756 that the hospital meets the named criteria, or those hospitals  
757 that attest in an affidavit submitted to the agency that the  
758 hospital is certified as a primary or a comprehensive stroke  
759 center by the Joint Commission, the American Osteopathic  
760 Association/Healthcare Facilities Accreditation Program, or a  
761 national accrediting organization that is approved by the  
762 Centers for Medicare and Medicaid Services and whose standards  
763 incorporate comparable licensure regulations required by the  
764 state on Accreditation of Healthcare Organizations.

765 (2) (a) If a hospital no longer chooses to meet the criteria  
766 for a primary or comprehensive stroke center, the hospital shall  
767 notify the agency and the agency shall immediately remove the  
768 hospital from the list.

769 (b)1. This subsection does not apply if the hospital is  
770 unable to provide stroke treatment services for a period of time  
771 not to exceed 2 months. The hospital shall immediately notify  
772 all local emergency medical services providers when the  
773 temporary unavailability of stroke treatment services begins and  
774 when the services resume.

775 2. If stroke treatment services are unavailable for more  
776 than 2 months, the agency shall remove the hospital from the  
777 list of primary or comprehensive stroke centers until the  
778 hospital notifies the agency that stroke treatment services have  
779 been resumed.

780 ~~(3) The agency shall notify all hospitals in this state by~~  
781 ~~February 15, 2005, that the agency is compiling a list of~~  
782 ~~primary stroke centers and comprehensive stroke centers in this~~  
783 ~~state. The notice shall include an explanation of the criteria~~

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784 ~~necessary for designation as a primary stroke center and the~~  
785 ~~criteria necessary for designation as a comprehensive stroke~~  
786 ~~center. The notice shall also advise hospitals of the process by~~  
787 ~~which a hospital might be added to the list of primary or~~  
788 ~~comprehensive stroke centers.~~

789 (3)~~(4)~~ The agency shall adopt by rule criteria for a  
790 primary stroke center which are substantially similar to the  
791 certification standards for primary stroke centers of the Joint  
792 Commission, the American Osteopathic Association/Healthcare  
793 Facilities Accreditation Program, or a national accrediting  
794 organization that is approved by the Centers for Medicare and  
795 Medicaid Services and whose standards incorporate comparable  
796 licensure regulations required by the state ~~on Accreditation of~~  
797 ~~Healthcare Organizations.~~

798 (4)~~(5)~~ The agency shall adopt by rule criteria for a  
799 comprehensive stroke center. However, if the Joint Commission,  
800 the American Osteopathic Association/Healthcare Facilities  
801 Accreditation Program, or a national accrediting organization  
802 that is approved by the Centers for Medicare and Medicaid  
803 Services and whose standards incorporate comparable licensure  
804 regulations required by the state ~~on Accreditation of Healthcare~~  
805 ~~Organizations~~ establishes criteria for a comprehensive stroke  
806 center, the agency shall establish criteria for a comprehensive  
807 stroke center which are substantially similar to those criteria  
808 established by the Joint Commission, the American Osteopathic  
809 Association/Healthcare Facilities Accreditation Program, or such  
810 national accrediting organization ~~on Accreditation of Healthcare~~  
811 ~~Organizations.~~

812 (5)~~(6)~~ This act is not a medical practice guideline and may

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813 not be used to restrict the authority of a hospital to provide  
814 services for which it is licensed ~~has received a license~~ under  
815 chapter 395. The Legislature intends that all patients be  
816 treated individually based on each patient's needs and  
817 circumstances.

818 Section 13. Section 395.40, Florida Statutes, is repealed.

819 Section 14. Paragraph (a) of subsection (7) and subsection  
820 (14) of section 395.4001, Florida Statutes, are amended to read:

821 395.4001 Definitions.—As used in this part, the term:

822 (7) "Level II trauma center" means a trauma center that:

823 (a) Is verified by the department to be in substantial  
824 compliance with Level II trauma center standards and has been  
825 approved by the department to operate as a Level II trauma  
826 center or is designated pursuant to s. 395.4025(14).

827 (14) "Trauma center" means a hospital that has been  
828 verified by the department to be in substantial compliance with  
829 the requirements in s. 395.4025 and has been approved by the  
830 department to operate as a Level I trauma center, Level II  
831 trauma center, or pediatric trauma center, or is designated by  
832 the department as a Level II trauma center pursuant to  
833 s. 395.4025(14).

834 Section 15. Paragraph (b) of subsection (1) and paragraph  
835 (3) of section 395.401, Florida Statutes, are amended to read:

836 395.401 Trauma services system plans; approval of trauma  
837 centers and pediatric trauma centers; procedures; renewal.—

838 (1)

839 (b) The local and regional trauma agencies shall develop  
840 and submit to the department plans for local and regional trauma  
841 services systems. The plans must include, at a minimum, the

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842 following components:

843 1. The organizational structure of the trauma system.

844 2. Prehospital care management guidelines for triage and  
845 transportation of trauma cases.

846 3. Flow patterns of trauma cases and transportation system  
847 design and resources, including air transportation services,  
848 provision for interfacility trauma transfer, and the prehospital  
849 transportation of trauma victims. The trauma agency shall plan  
850 for the development of a system of transportation of trauma  
851 alert victims to trauma centers where the distance or time to a  
852 trauma center or transportation resources diminish access by  
853 trauma alert victims.

854 ~~4. The number and location of needed trauma centers based~~  
855 ~~on local needs, population, and location and distribution of~~  
856 ~~resources.~~

857 4.5. Data collection regarding system operation and patient  
858 outcome.

859 5.6. Periodic performance evaluation of the trauma system  
860 and its components.

861 6.7. The use of air transport services within the  
862 jurisdiction of the local trauma agency.

863 7.8. Public information and education about the trauma  
864 system.

865 8.9. Emergency medical services communication system usage  
866 and dispatching.

867 9.10. The coordination and integration between the trauma  
868 center and other acute care hospitals.

869 10.11. Medical control and accountability.

870 11.12. Quality control and system evaluation.

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871 (3) The department may withdraw local or regional agency  
872 authority, prescribe corrective actions, or use the  
873 administrative remedies as provided in s. 395.1065 for the  
874 violation of any provision of this section and ss. 395.4015,  
875 ~~395.402~~, 395.4025, 395.403, 395.404, and 395.4045 or rules  
876 adopted thereunder. All amounts collected pursuant to this  
877 subsection shall be deposited into the Emergency Medical  
878 Services Trust Fund provided in s. 401.34.

879 Section 16. Subsection (1) of section 395.4015, Florida  
880 Statutes, is amended to read:

881 395.4015 State regional trauma planning; trauma regions.—

882 (1) The department shall establish a state trauma system  
883 plan. As part of the state trauma system plan, the department  
884 shall establish trauma regions that cover all geographical areas  
885 of the state and have boundaries that are coterminous with the  
886 boundaries of the regional domestic security task forces  
887 established under s. 943.0312. These regions may serve as the  
888 basis for the development of department-approved local or  
889 regional trauma plans. However, such regional plans shall  
890 recognize trauma service areas that reflect well established  
891 patient flow patterns. The delivery of trauma services by or in  
892 coordination with a trauma agency established before July 1,  
893 2004, may continue in accordance with public and private  
894 agreements and operational procedures entered into as provided  
895 in s. 395.401.

896 Section 17. Section 395.402, Florida Statutes, is amended  
897 to read:

898 395.402 Trauma service areas; ~~number and location of trauma~~  
899 ~~centers.~~—

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900       ~~(1) The Legislature recognizes the need for a statewide,~~  
901 ~~cohesive, uniform, and integrated trauma system. Within the~~  
902 ~~trauma service areas, Level I and Level II trauma centers shall~~  
903 ~~each be capable of annually treating a minimum of 1,000 and 500~~  
904 ~~patients, respectively, with an injury severity score (ISS) of 9~~  
905 ~~or greater. Level II trauma centers in counties with a~~  
906 ~~population of more than 500,000 shall have the capacity to care~~  
907 ~~for 1,000 patients per year.~~

908       ~~(2) Trauma service areas as defined in this section are to~~  
909 ~~be utilized until the Department of Health completes an~~  
910 ~~assessment of the trauma system and reports its finding to the~~  
911 ~~Governor, the President of the Senate, the Speaker of the House~~  
912 ~~of Representatives, and the substantive legislative committees.~~  
913 ~~The report shall be submitted by February 1, 2005. The~~  
914 ~~department shall review the existing trauma system and determine~~  
915 ~~whether it is effective in providing trauma care uniformly~~  
916 ~~throughout the state. The assessment shall:~~

917           ~~(a) Consider aligning trauma service areas within the~~  
918 ~~trauma region boundaries as established in July 2004.~~

919           ~~(b) Review the number and level of trauma centers needed~~  
920 ~~for each trauma service area to provide a statewide integrated~~  
921 ~~trauma system.~~

922           ~~(c) Establish criteria for determining the number and level~~  
923 ~~of trauma centers needed to serve the population in a defined~~  
924 ~~trauma service area or region.~~

925           ~~(d) Consider including criteria within trauma center~~  
926 ~~approval standards based upon the number of trauma victims~~  
927 ~~served within a service area.~~

928           ~~(e) Review the Regional Domestic Security Task Force~~



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929 ~~structure and determine whether integrating the trauma system~~  
930 ~~planning with interagency regional emergency and disaster~~  
931 ~~planning efforts is feasible and identify any duplication of~~  
932 ~~efforts between the two entities.~~

933 ~~(f) Make recommendations regarding a continued revenue~~  
934 ~~source which shall include a local participation requirement.~~

935 ~~(g) Make recommendations regarding a formula for the~~  
936 ~~distribution of funds identified for trauma centers which shall~~  
937 ~~address incentives for new centers where needed and the need to~~  
938 ~~maintain effective trauma care in areas served by existing~~  
939 ~~centers, with consideration for the volume of trauma patients~~  
940 ~~served, and the amount of charity care provided.~~

941 ~~(3) In conducting such assessment and subsequent annual~~  
942 ~~reviews, the department shall consider:~~

943 ~~(a) The recommendations made as part of the regional trauma~~  
944 ~~system plans submitted by regional trauma agencies.~~

945 ~~(b) Stakeholder recommendations.~~

946 ~~(c) The geographical composition of an area to ensure rapid~~  
947 ~~access to trauma care by patients.~~

948 ~~(d) Historical patterns of patient referral and transfer in~~  
949 ~~an area.~~

950 ~~(e) Inventories of available trauma care resources,~~  
951 ~~including professional medical staff.~~

952 ~~(f) Population growth characteristics.~~

953 ~~(g) Transportation capabilities, including ground and air~~  
954 ~~transport.~~

955 ~~(h) Medically appropriate ground and air travel times.~~

956 ~~(i) Recommendations of the Regional Domestic Security Task~~  
957 ~~Force.~~

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958       ~~(j) The actual number of trauma victims currently being~~  
959 ~~served by each trauma center.~~

960       ~~(k) Other appropriate criteria.~~

961       ~~(4) Annually thereafter, the department shall review the~~  
962 ~~assignment of the 67 counties to trauma service areas, in~~  
963 ~~addition to the requirements of paragraphs (2) (b) - (g) and~~  
964 ~~subsection (3). County assignments are made for the purpose of~~  
965 ~~developing a system of trauma centers. Revisions made by the~~  
966 ~~department shall take into consideration the recommendations~~  
967 ~~made as part of the regional trauma system plans approved by the~~  
968 ~~department and the recommendations made as part of the state~~  
969 ~~trauma system plan. In cases where a trauma service area is~~  
970 ~~located within the boundaries of more than one trauma region,~~  
971 ~~the trauma service area's needs, response capability, and system~~  
972 ~~requirements shall be considered by each trauma region served by~~  
973 ~~that trauma service area in its regional system plan. Until the~~  
974 ~~department completes the February 2005 assessment, the~~  
975 ~~assignment of counties shall remain as established in this~~  
976 ~~section.~~

977       ~~(a)~~The following trauma service areas are hereby  
978 established:

979       (1)~~1.~~ Trauma service area 1 shall consist of Escambia,  
980 Okaloosa, Santa Rosa, and Walton Counties.

981       (2)~~2.~~ Trauma service area 2 shall consist of Bay, Gulf,  
982 Holmes, and Washington Counties.

983       (3)~~3.~~ Trauma service area 3 shall consist of Calhoun,  
984 Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison,  
985 Taylor, and Wakulla Counties.

986       (4)~~4.~~ Trauma service area 4 shall consist of Alachua,

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987 Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy,  
988 Putnam, Suwannee, and Union Counties.

989 (5)~~5~~. Trauma service area 5 shall consist of Baker, Clay,  
990 Duval, Nassau, and St. Johns Counties.

991 (6)~~6~~. Trauma service area 6 shall consist of Citrus,  
992 Hernando, and Marion Counties.

993 (7)~~7~~. Trauma service area 7 shall consist of Flagler and  
994 Volusia Counties.

995 (8)~~8~~. Trauma service area 8 shall consist of Lake, Orange,  
996 Osceola, Seminole, and Sumter Counties.

997 (9)~~9~~. Trauma service area 9 shall consist of Pasco and  
998 Pinellas Counties.

999 (10)~~10~~. Trauma service area 10 shall consist of  
1000 Hillsborough County.

1001 (11)~~11~~. Trauma service area 11 shall consist of Hardee,  
1002 Highlands, and Polk Counties.

1003 (12)~~12~~. Trauma service area 12 shall consist of Brevard and  
1004 Indian River Counties.

1005 (13)~~13~~. Trauma service area 13 shall consist of DeSoto,  
1006 Manatee, and Sarasota Counties.

1007 (14)~~14~~. Trauma service area 14 shall consist of Martin,  
1008 Okeechobee, and St. Lucie Counties.

1009 (15)~~15~~. Trauma service area 15 shall consist of Charlotte,  
1010 Glades, Hendry, and Lee Counties.

1011 (16)~~16~~. Trauma service area 16 shall consist of Palm Beach  
1012 County.

1013 (17)~~17~~. Trauma service area 17 shall consist of Collier  
1014 County.

1015 (18)~~18~~. Trauma service area 18 shall consist of Broward

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1016 County.

1017 ~~(19)~~<sup>19</sup>. Trauma service area 19 shall consist of Miami-Dade  
1018 and Monroe Counties.

1019 ~~(b) Each trauma service area should have at least one Level  
1020 I or Level II trauma center. The department shall allocate, by  
1021 rule, the number of trauma centers needed for each trauma  
1022 service area.~~

1023 ~~(c) There shall be no more than a total of 44 trauma  
1024 centers in the state.~~

1025 Section 18. Subsections (12) and (14) of section 395.4025,  
1026 Florida Statutes, are amended and subsection (15) is added to  
1027 that section to read:

1028 395.4025 Trauma centers; selection; quality assurance;  
1029 records.—

1030 (12) Patient care, transport, or treatment records or  
1031 reports, or patient care quality assurance proceedings, records,  
1032 or reports obtained or made pursuant to this section, s.  
1033 395.3025(4)(f), s. 395.401, s. 395.4015, ~~s. 395.402~~, s. 395.403,  
1034 s. 395.404, s. 395.4045, s. 395.405, s. 395.50, or s. 395.51  
1035 must be held confidential by the department or its agent and are  
1036 exempt from the provisions of s. 119.07(1). Patient care quality  
1037 assurance proceedings, records, or reports obtained or made  
1038 pursuant to these sections are not subject to discovery or  
1039 introduction into evidence in any civil or administrative  
1040 action.

1041 (14) Notwithstanding the procedures established pursuant to  
1042 subsections (1) through (13) in this section, hospitals located  
1043 in areas with limited access to trauma center services shall be  
1044 designated by the department as a Level II trauma center based

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1045 on documentation of a valid certificate of trauma center  
1046 verification from the American College of Surgeons. Areas with  
1047 limited access to trauma center services are defined by the  
1048 following criteria:

1049 (a) The hospital is located in a trauma service area with a  
1050 population greater than 600,000 persons but a population density  
1051 of less than 300 persons per square mile; and,

1052 (b) The hospital is located in a county with no designated  
1053 or provisional trauma center; and,

1054 (c) The hospital is located at least 15 miles or 20 minutes  
1055 travel time by ground transport from the nearest trauma center.

1056 ~~any other provisions of this section and rules adopted~~  
1057 ~~pursuant to this section, until the department has conducted the~~  
1058 ~~review provided under s. 395.402, only hospitals located in~~  
1059 ~~trauma services areas where there is no existing trauma center~~  
1060 ~~may apply.~~

1061 (15) Trauma centers designated as Level I, Level II, or  
1062 pediatric trauma centers as of July 1, 2013 shall retain such  
1063 designation unless the department determines the hospital is no  
1064 longer able to comply with the adopted standards for such  
1065 centers. A trauma center provisionally approved as a Level II  
1066 trauma center as of July 1, 2013 may complete the application  
1067 process through verification by the department as a Level II  
1068 Trauma Center.

1069 Section 19. Section 395.405, Florida Statutes, is amended  
1070 to read

1071 395.405 Rulemaking.—The department shall adopt and enforce  
1072 all rules necessary to administer ss. 395.401, 395.4015,  
1073 ~~395.402~~, 395.4025, 395.403, 395.404, and 395.4045.

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1074 Section 20. Paragraph (c) of subsection (1) of section  
1075 395.701, Florida Statutes, is amended to read:

1076 395.701 Annual assessments on net operating revenues for  
1077 inpatient and outpatient services to fund public medical  
1078 assistance; administrative fines for failure to pay assessments  
1079 when due; exemption.—

1080 (1) For the purposes of this section, the term:

1081 (c) "Hospital" means a health care institution as defined  
1082 in s. 395.002(12), but does not include any hospital operated by  
1083 a state ~~the agency or the Department of Corrections.~~

1084 Section 21. Section 395.7015, Florida Statutes, is  
1085 repealed.

1086 Section 22. Section 395.7016, Florida Statutes, is amended  
1087 to read:

1088 395.7016 Annual appropriation.—The Legislature shall  
1089 appropriate each fiscal year from either the General Revenue  
1090 Fund or the Agency for Health Care Administration Tobacco  
1091 Settlement Trust Fund an amount sufficient to replace the funds  
1092 lost due to ~~reduction by chapter 2000-256, Laws of Florida, of~~  
1093 ~~the assessment on other health care entities under s. 395.7015,~~  
1094 ~~and~~ the reduction by chapter 2000-256 in the assessment on  
1095 hospitals under s. 395.701, and to maintain federal approval of  
1096 the reduced amount of funds deposited into the Public Medical  
1097 Assistance Trust Fund under s. 395.701, as state match for the  
1098 state's Medicaid program.

1099 Section 23. Subsection (3) of section 397.403, Florida  
1100 Statutes, is amended to read:

1101 397.403 License application.—

1102 (3) The department shall accept proof of accreditation by

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1103 CARF International, the Commission on Accreditation of  
 1104 Rehabilitation Facilities (CARF) or the Joint Commission, the  
 1105 American Osteopathic Association/Healthcare Facilities  
 1106 Accreditation Program, or a national accrediting organization  
 1107 that is approved by the Centers for Medicare and Medicaid  
 1108 Services and whose standards incorporate comparable licensure  
 1109 regulations required by the state; or through another any other  
 1110 nationally recognized certification process that is acceptable  
 1111 to the department and meets the minimum licensure requirements  
 1112 under this chapter, in lieu of requiring the applicant to submit  
 1113 the information required by paragraphs (1)(a)-(c).

1114 Section 24. Subsection (1) of section 400.0074, Florida  
 1115 Statutes, is amended, and paragraph (h) is added to subsection  
 1116 (2) of that section, to read:

1117 400.0074 Local ombudsman council onsite administrative  
 1118 assessments.—

1119 (1) In addition to any specific investigation conducted  
 1120 pursuant to a complaint, the local council shall conduct, at  
 1121 least annually, an onsite administrative assessment of each  
 1122 nursing home, assisted living facility, and adult family-care  
 1123 home within its jurisdiction. This administrative assessment  
 1124 must be comprehensive in nature and must ~~shall~~ focus on factors  
 1125 affecting the rights, health, safety, and welfare of the  
 1126 residents. Each local council is encouraged to conduct a similar  
 1127 onsite administrative assessment of each additional long-term  
 1128 care facility within its jurisdiction.

1129 (2) An onsite administrative assessment conducted by a  
 1130 local council shall be subject to the following conditions:

1131 (h) The local council shall conduct an exit consultation

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1132 with the facility administrator or administrator designee to  
1133 discuss issues and concerns in areas affecting the rights,  
1134 health, safety, and welfare of the residents and make  
1135 recommendations for improvement, if any.

1136 Section 25. Subsection (2) of section 400.0078, Florida  
1137 Statutes, is amended to read:

1138 400.0078 Citizen access to State Long-Term Care Ombudsman  
1139 Program services.—

1140 (2) ~~Every resident or representative of a resident shall~~  
1141 ~~receive,~~ Upon admission to a long-term care facility, each  
1142 resident or representative of a resident must receive  
1143 information regarding the purpose of the State Long-Term Care  
1144 Ombudsman Program, the statewide toll-free telephone number for  
1145 receiving complaints, information that retaliatory action cannot  
1146 be taken against a resident for presenting grievances or for  
1147 exercising any other resident right, and other relevant  
1148 information regarding how to contact the program. Residents or  
1149 their representatives must be furnished additional copies of  
1150 this information upon request.

1151 Section 26. Subsection (21) of section 400.462, Florida  
1152 Statutes, is amended to read:

1153 400.462 Definitions.—As used in this part, the term:

1154 (21) "Nurse registry" means any person that procures,  
1155 offers, promises, or attempts to secure health-care-related  
1156 contracts for registered nurses, licensed practical nurses,  
1157 certified nursing assistants, home health aides, companions, or  
1158 homemakers, who are compensated by fees as independent  
1159 contractors, including, but not limited to, contracts for the  
1160 provision of services to patients and contracts to provide



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1161 private duty or staffing services to health care facilities  
1162 licensed under chapter 395, this chapter, or chapter 429 or  
1163 other business entities. For the purposes of the delivery of  
1164 services under s. 627.94071(5), a nurse registry may be  
1165 considered a "home health agency" as defined in s. 400.462(12).

1166 Section 27. Present paragraphs (b) through (n) of  
1167 subsection (5) of section 400.464, Florida Statutes, are  
1168 redesignated as paragraphs (c) through (o), respectively, and a  
1169 new paragraph (b) is added to that subsection, to read:

1170 400.464 Home health agencies to be licensed; expiration of  
1171 license; exemptions; unlawful acts; penalties.—

1172 (5) The following are exempt from the licensure  
1173 requirements of this part:

1174 (b) The delivery of home dialysis services provided  
1175 directly, or through a subcontract, by an end-stage renal  
1176 disease provider certified under 42 C.F.R. part 405, subpart U.

1177 Section 28. Section 400.805, Florida Statutes, is repealed.

1178 Section 29. Subsection (1) of section 400.925, Florida  
1179 Statutes, is amended to read:

1180 400.925 Definitions.—As used in this part, the term:

1181 (1) "Accrediting organizations" means the Joint Commission,  
1182 the American Osteopathic Association/Healthcare Facilities  
1183 Accreditation Program, a national accrediting organization that  
1184 is approved by the Centers for Medicare and Medicaid Services  
1185 and whose standards incorporate comparable licensure regulations  
1186 required by the state, ~~on Accreditation of Healthcare~~  
1187 ~~Organizations~~ or other national accrediting accreditation  
1188 agencies whose standards for accreditation are comparable to  
1189 those required by this part for licensure.

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1190 Section 30. Subsection (5) of section 400.93, Florida  
1191 Statutes, is amended to read:

1192 400.93 Licensure required; exemptions; unlawful acts;  
1193 penalties.—

1194 (5) The following are exempt from home medical equipment  
1195 provider licensure, unless they have a separate company,  
1196 corporation, or division that is in the business of providing  
1197 home medical equipment and services for sale or rent to  
1198 consumers at their regular or temporary place of residence  
1199 pursuant to the provisions of this part:

1200 (a) Providers operated by the Department of Health or  
1201 Federal Government.

1202 (b) Nursing homes licensed under part II.

1203 (c) Assisted living facilities licensed under chapter 429,  
1204 when serving their residents.

1205 (d) Home health agencies licensed under part III.

1206 (e) Hospices licensed under part IV.

1207 (f) Intermediate care facilities, homes for special  
1208 services, and transitional living facilities licensed under part  
1209 V.

1210 (g) Transitional living facilities licensed under part XI.

1211 (h)~~(g)~~ Hospitals and ambulatory surgical centers licensed  
1212 under chapter 395.

1213 (i)~~(h)~~ Manufacturers and wholesale distributors when not  
1214 selling directly to consumers.

1215 (j)~~(i)~~ Licensed health care practitioners who utilize home  
1216 medical equipment in the course of their practice, but do not  
1217 sell or rent home medical equipment to their patients.

1218 (k)~~(j)~~ Pharmacies licensed under chapter 465.

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1219 Section 31. Paragraphs (l) and (m) of subsection (4) of  
1220 section 400.9905, Florida Statutes, is amended to read:

1221 400.9905 Definitions.—

1222 (4) "Clinic" means an entity where health care services are  
1223 provided to individuals and which tenders charges for  
1224 reimbursement for such services, including a mobile clinic and a  
1225 portable equipment provider. As used in this part, the term does  
1226 not include and the licensure requirements of this part do not  
1227 apply to:

1228 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or  
1229 perinatology clinical facilities or anesthesia clinical  
1230 facilities that are not otherwise exempt under paragraph (a) or  
1231 paragraph (k) and that are a publicly traded corporation or ~~that~~  
1232 are wholly owned, directly or indirectly, by a publicly traded  
1233 corporation. As used in this paragraph, a publicly traded  
1234 corporation is a corporation that issues securities traded on an  
1235 exchange registered with the United States Securities and  
1236 Exchange Commission as a national securities exchange.

1237 (m) Entities that are owned by a corporation that has \$250  
1238 million or more in total annual sales of health care services  
1239 provided by licensed health care practitioners where one or more  
1240 of the persons responsible for the operations of the entity  
1241 ~~owners~~ is a health care practitioner who is licensed in this  
1242 state and who is responsible for supervising the business  
1243 activities of the entity and is ~~legally~~ responsible for the  
1244 entity's compliance with state law for purposes of this part.

1245  
1246 Notwithstanding this subsection, an entity shall be deemed a  
1247 clinic and must be licensed under this part in order to receive

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1248 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.  
1249 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1250 Section 32. Paragraph (g) of subsection (1) and subsection  
1251 (7) of section 400.9935, Florida Statutes, are amended to read:  
1252 400.9935 Clinic responsibilities.—

1253 (1) Each clinic shall appoint a medical director or clinic  
1254 director who shall agree in writing to accept legal  
1255 responsibility for the following activities on behalf of the  
1256 clinic. The medical director or the clinic director shall:

1257 (g) Conduct systematic reviews of clinic billings to ensure  
1258 that the billings are not fraudulent or unlawful. Upon discovery  
1259 of an unlawful charge, the medical director or clinic director  
1260 shall take immediate corrective action. If the clinic performs  
1261 only the technical component of magnetic resonance imaging,  
1262 static radiographs, computed tomography, or positron emission  
1263 tomography, and provides the professional interpretation of such  
1264 services, in a fixed facility that is accredited by the Joint  
1265 Commission, the American Osteopathic Association/Healthcare  
1266 Facilities Accreditation Program, ~~on Accreditation of Healthcare~~  
1267 ~~Organizations~~ or the Accreditation Association for Ambulatory  
1268 Health Care, Inc., or a national accrediting organization that  
1269 is approved by the Centers for Medicare and Medicaid Services  
1270 and whose standards incorporate comparable licensure regulations  
1271 required by the state; and the American College of Radiology;  
1272 and if, in the preceding quarter, the percentage of scans  
1273 performed by that clinic which was billed to all personal injury  
1274 protection insurance carriers was less than 15 percent, the  
1275 chief financial officer of the clinic may, in a written  
1276 acknowledgment provided to the agency, assume the responsibility

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1277 for the conduct of the systematic reviews of clinic billings to  
1278 ensure that the billings are not fraudulent or unlawful.

1279 (7) (a) Each clinic engaged in magnetic resonance imaging  
1280 services must be accredited by the Joint Commission, the  
1281 American Osteopathic Association/Healthcare Facilities  
1282 Accreditation Program, a national accrediting organization that  
1283 is approved by the Centers for Medicare and Medicaid Services  
1284 and whose standards incorporate comparable licensure regulations  
1285 required by the state ~~on Accreditation of Healthcare~~  
1286 ~~Organizations~~, the American College of Radiology, or the  
1287 Accreditation Association for Ambulatory Health Care, Inc.,  
1288 within 1 year after licensure. A clinic that is accredited by  
1289 the American College of Radiology or that is within the original  
1290 1-year period after licensure and replaces its core magnetic  
1291 resonance imaging equipment shall be given 1 year after the date  
1292 on which the equipment is replaced to attain accreditation.  
1293 However, a clinic may request a single, 6-month extension if it  
1294 provides evidence to the agency establishing that, for good  
1295 cause shown, such clinic cannot be accredited within 1 year  
1296 after licensure, and that such accreditation will be completed  
1297 within the 6-month extension. After obtaining accreditation as  
1298 required by this subsection, each such clinic must maintain  
1299 accreditation as a condition of renewal of its license. A clinic  
1300 that files a change of ownership application must comply with  
1301 the original accreditation timeframe requirements of the  
1302 transferor. The agency shall deny a change of ownership  
1303 application if the clinic is not in compliance with the  
1304 accreditation requirements. When a clinic adds, replaces, or  
1305 modifies magnetic resonance imaging equipment and the

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1306 accrediting ~~accreditation~~ agency requires new accreditation, the  
1307 clinic must be accredited within 1 year after the date of the  
1308 addition, replacement, or modification but may request a single,  
1309 6-month extension if the clinic provides evidence of good cause  
1310 to the agency.

1311 (b) The agency may deny the application or revoke the  
1312 license of an ~~any~~ entity formed for the purpose of avoiding  
1313 compliance with the accreditation provisions of this subsection  
1314 and whose principals were previously principals of an entity  
1315 that was unable to meet the accreditation requirements within  
1316 the specified timeframes. The agency may adopt rules as to the  
1317 accreditation of magnetic resonance imaging clinics.

1318 Section 33. Sections 400.9970 through 400.9984, Florida  
1319 Statutes, are designated as part XI of chapter 400, Florida  
1320 Statutes, entitled "Transitional Living Facilities."

1321 Section 34. Section 400.9970, Florida Statutes, is created  
1322 to read:

1323 400.9970 Legislative intent.—It is the intent of the  
1324 Legislature to provide for the licensure of transitional living  
1325 facilities and require the development, establishment, and  
1326 enforcement of basic standards by the Agency for Health Care  
1327 Administration to ensure quality of care and services to clients  
1328 in transitional living facilities. It is the policy of the state  
1329 that the least restrictive appropriate available treatment be  
1330 used based on the individual needs and best interest of the  
1331 client and consistent with optimum improvement of the client's  
1332 condition. The goal of a transitional living program for  
1333 individuals who have brain or spinal cord injuries is to assist  
1334 each individual who has such an injury to achieve a higher level

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1335 of independent functioning and to enable that individual to  
1336 reenter the community. It is also the policy of this state that  
1337 the use of restraints and seclusion of clients is justified only  
1338 as an emergency safety measure to be used in response to danger  
1339 to the client or others. It is, therefore, the intent of the  
1340 Legislature to achieve an ongoing reduction in the use of  
1341 restraints and seclusion in programs and facilities that serve  
1342 persons who have brain injury or spinal cord injuries.

1343 Section 35. Section 400.9971, Florida Statutes, is created  
1344 to read:

1345 400.9971 Definitions.—As used in this part, the term:

1346 (1) "Agency" means the Agency for Health Care  
1347 Administration.

1348 (2) "Chemical restraint" means a pharmacologic drug that  
1349 physically limits, restricts, or deprives an individual of  
1350 movement or mobility, is used for client protection or safety,  
1351 and is not required for the treatment of medical conditions or  
1352 symptoms.

1353 (3) "Client's representative" means the parent of a child  
1354 client or the client's guardian, designated representative or  
1355 designee, surrogate, or attorney in fact.

1356 (4) "Department" means the Department of Health.

1357 (5) "Physical restraint" means any manual method to  
1358 restrict freedom of movement of or normal access to an  
1359 individual's body or a physical or mechanical device, material,  
1360 or equipment attached or adjacent to the individual's body so  
1361 that he or she cannot easily remove the restraint and which  
1362 restricts freedom of movement of or normal access to one's body,  
1363 including, but not limited to, a half-bed rail, a full-bed rail,

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1364 a geriatric chair, and a posey restraint. The term includes any  
1365 device that was not specifically manufactured as a restraint but  
1366 that has been altered, arranged, or otherwise used for this  
1367 purpose. The term does not include bandage material used for the  
1368 purpose of binding a wound or injury.

1369 (6) "Seclusion" means the physical segregation of a person  
1370 in any fashion or the involuntary isolation of a person in a  
1371 room or area from which the person is prevented from leaving.  
1372 The prevention may be by physical barrier or by a staff member  
1373 who is acting in a manner, or who is physically situated, so as  
1374 to prevent the person from leaving the room or area. For  
1375 purposes of this chapter, the term does not mean isolation due  
1376 to a person's medical condition or symptoms.

1377 (7) "Transitional living facility" means a site where  
1378 specialized health care services are provided, including, but  
1379 not limited to, rehabilitative services, behavior modification,  
1380 community reentry training, aids for independent living, and  
1381 counseling to individuals who have brain injuries or spinal cord  
1382 injuries. The term does not require a provider that is licensed  
1383 by the agency to obtain a separate transitional living facility  
1384 license to serve persons who have brain injuries or spinal cord  
1385 injuries as long as the services provided are within the scope  
1386 of the provider's license.

1387 Section 36. Section 400.9972, Florida Statutes, is created  
1388 to read:

1389 400.9972 License required; fee; application.—

1390 (1) The requirements of part II of chapter 408 apply to the  
1391 provision of services that require licensure pursuant to this  
1392 part and part II of chapter 408 and to entities licensed by or



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1393 applying for such licensure from the agency pursuant to this  
1394 part. A license issued by the agency is required for the  
1395 operation of a transitional living facility in this state. Every  
1396 transitional living facility licensed under s. 400.805 on or  
1397 before July 1, 2013, shall be granted a license under the  
1398 provisions of part XI of chapter 400.

1399 (2) In accordance with this part, an applicant or a  
1400 licensee shall pay a fee for each license application submitted  
1401 under this part. The license fee shall consist of a \$4,588  
1402 license fee and a \$90 per-bed fee per biennium and shall conform  
1403 to the annual adjustment authorized in s. 408.805.

1404 (3) Each applicant for licensure must provide the  
1405 following:

1406 (a) The location of the facility for which a license is  
1407 sought and documentation, signed by the appropriate local  
1408 government official, which states that the applicant has met  
1409 local zoning requirements.

1410 (b) Proof of liability insurance as provided in s. 624.605.

1411 (c) Proof of compliance with local zoning requirements,  
1412 including compliance with the requirements of chapter 419 if the  
1413 proposed facility is a community residential home.

1414 (d) Proof that the facility has received a satisfactory  
1415 firesafety inspection.

1416 (e) Documentation of a satisfactory sanitation inspection  
1417 of the facility by the county health department.

1418  
1419 The applicant's proposed facility must attain and continuously  
1420 maintain accreditation by an accrediting organization  
1421 specializing in evaluating rehabilitation facilities whose

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1422 standards incorporate comparable licensure regulations required  
1423 by the state. An applicant for licensure as a transitional  
1424 living facility must acquire accreditation within 12 months  
1425 after the issuance of an initial license. The agency shall  
1426 accept the accreditation survey report of the accrediting  
1427 organization in lieu of conducting a licensure inspection if the  
1428 standards included in the survey report are determined by the  
1429 agency to document that the facility is in substantial  
1430 compliance with state licensure requirements. The applicant  
1431 shall submit to the agency within 10 days after receipt a copy  
1432 of any accreditation survey report and evidence of the  
1433 accreditation decision subsequent to a survey by the accrediting  
1434 organization on the facility. This part does not preclude the  
1435 agency from conducting periodic inspections of a transitional  
1436 living facility to ensure compliance with all licensure  
1437 requirements, and as it deems necessary to carry out the  
1438 functions of the agency. An inspection may be conducted to  
1439 ensure compliance with licensure requirements of this part, to  
1440 validate the inspection process of accrediting organizations, to  
1441 respond to licensure complaints, or to protect the public health  
1442 and safety.

1443 Section 37. Section 400.9973, Florida Statutes, is created  
1444 to read:

1445 400.9973 Client admission, transfer, and discharge.-

1446 (1) Each transitional living facility must have written  
1447 policies and procedures governing the admission, transfer, and  
1448 discharge of clients.

1449 (2) The admission of each client to a transitional living  
1450 facility must be in accordance with the licensee's policies and

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1451 procedures.

1452 (3) A client admitted to a transitional living facility  
1453 must have a brain or spinal cord injury, such as a lesion to the  
1454 spinal cord or cauda equina syndrome, with evidence of  
1455 significant involvement of two of the following deficits or  
1456 dysfunctions:

1457 (a) A motor deficit.

1458 (b) A sensory deficit.

1459 (c) Bowel and bladder dysfunction.

1460 (d) An acquired internal or external injury to the skull,  
1461 the brain, or the brain's covering, whether caused by a  
1462 traumatic or nontraumatic event, which produces an altered state  
1463 of consciousness or an anatomic motor, sensory, cognitive, or  
1464 behavioral deficit.

1465 (4) A client whose medical condition and diagnosis do not  
1466 positively identify a cause of the client's condition, whose  
1467 symptoms are inconsistent with the known cause of injury, or  
1468 whose recovery is inconsistent with the known medical condition  
1469 may be admitted to a transitional living facility for evaluation  
1470 for a period not to exceed 90 days.

1471 (5) A client admitted to a transitional living facility  
1472 must be admitted upon prescription by a licensed physician and  
1473 must remain under the care of a licensed physician for the  
1474 duration of the client's stay in the facility.

1475 (6) A transitional living facility may not admit a client  
1476 whose primary admitting diagnosis is mental illness or an  
1477 intellectual or a developmental disability.

1478 (7) An individual may not be admitted to a transitional  
1479 living facility if the individual:

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1480       (a) Presents significant risk of infection to other clients  
1481 or personnel. A health care practitioner must provide  
1482 documentation that the individual is free of apparent signs and  
1483 symptoms of communicable disease;

1484       (b) Is a danger to self or others as determined by a  
1485 physician or mental health practitioner licensed under chapter  
1486 490 or chapter 491, unless the facility provides adequate  
1487 staffing and support to ensure patient safety;

1488       (c) Is bedridden; or

1489       (d) Requires 24-hour nursing supervision.

1490       (8) If the client meets the admission criteria, the medical  
1491 or nursing director of the facility must complete an initial  
1492 evaluation of the client's functional skills, behavioral status,  
1493 cognitive status, educational or vocational potential, medical  
1494 status, psychosocial status, sensorimotor capacity, and other  
1495 related skills and abilities within the first 72 hours after the  
1496 client's admission to the facility. An initial comprehensive  
1497 treatment plan that delineates services to be provided and  
1498 appropriate sources for such services must be implemented within  
1499 the first 4 days after admission.

1500       (9) Each transitional living facility shall develop a  
1501 discharge plan for each client before or upon admission to the  
1502 facility. The discharge plan must identify the intended  
1503 discharge site and possible alternative discharge sites. For  
1504 each discharge site identified, the discharge plan must identify  
1505 the skills, behaviors, and other conditions that the client must  
1506 achieve to be appropriate for discharge. Discharge plans must be  
1507 reviewed and updated as necessary, but no less often than once  
1508 monthly.

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1509       (10) As soon as practicable, a transitional living facility  
1510 shall discharge a client when he or she no longer requires any  
1511 of the specialized services described in s. 400.9971(7) or is  
1512 not making measurable progress in accordance with his or her  
1513 comprehensive treatment plan, or if the transitional living  
1514 facility is no longer the most appropriate, least restrictive  
1515 treatment option.

1516       (11) Each transitional living facility shall provide at  
1517 least 30 days' notice to clients of transfer or discharge plans,  
1518 including the location of an acceptable transfer location if the  
1519 client is unable to live independently. This requirement does  
1520 not apply if a client voluntarily terminates residency.

1521       Section 38. Section 400.9974, Florida Statutes, is created  
1522 to read:

1523       400.9974 Client comprehensive treatment plans; client  
1524 services.—

1525       (1) Each transitional living facility shall develop a  
1526 comprehensive treatment plan for each client as soon as  
1527 possible, but no later than 30 days following development of the  
1528 initial comprehensive treatment plan. Comprehensive treatment  
1529 plans must be reviewed and updated if the client fails to meet  
1530 projected improvements in the plan or if a significant change in  
1531 the client's condition occurs. Comprehensive treatment plans  
1532 must be reviewed and updated at least once monthly.

1533 Comprehensive treatment plans must be developed by an  
1534 interdisciplinary team consisting of the case manager, the  
1535 program director, the nurse, and appropriate therapists. The  
1536 client or, if appropriate, the client's representative must be  
1537 included in developing the comprehensive treatment plan.

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1538       (2) The comprehensive treatment plan must include the  
1539 following:

1540           (a) The physician's orders and the client's diagnosis,  
1541 medical history, physical examination, and rehabilitative or  
1542 restorative needs.

1543           (b) A preliminary nursing evaluation with physician's  
1544 orders for immediate care, completed on admission.

1545           (c) A comprehensive, accurate, reproducible, and  
1546 standardized assessment of the client's functional capability;  
1547 the treatments designed to achieve skills, behaviors, and other  
1548 conditions necessary to return to the community; and specific  
1549 measurable goals.

1550           (d) Steps necessary for the client to achieve transition to  
1551 the community and estimated length of time to achieve the goals.

1552       (3) The client or, if appropriate, the client's  
1553 representative must consent to the continued treatment at the  
1554 transitional living facility. Consent may be for a period of up  
1555 to 3 months. If such consent is not given, the transitional  
1556 living facility shall discharge the client as soon as  
1557 practicable.

1558           (4) Each client must receive the professional program  
1559 services needed to implement the client's comprehensive  
1560 treatment plan.

1561           (5) The licensee must employ qualified professional staff  
1562 to carry out and monitor the various professional interventions  
1563 in accordance with the stated goals and objectives of every  
1564 client's comprehensive treatment plan.

1565           (6) Each client must receive a continuous treatment program  
1566 that includes appropriate, consistent implementation of a

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1567 program of specialized and general training, treatment, health  
1568 services, and related services and that is directed toward:

1569 (a) The acquisition of the behaviors and skills necessary  
1570 for the client to function with as much self-determination and  
1571 independence as possible;

1572 (b) The prevention or deceleration of regression or loss of  
1573 current optimal functional status; and

1574 (c) The management of behavioral issues that preclude  
1575 independent functioning in the community.

1576 Section 39. Section 400.9975, Florida Statutes, is created  
1577 to read:

1578 400.9975 Licensee responsibilities.-

1579 (1) The licensee shall ensure that each client:

1580 (a) Lives in a safe environment free from abuse, neglect,  
1581 and exploitation.

1582 (b) Is treated with consideration and respect and with due  
1583 recognition of personal dignity, individuality, and the need for  
1584 privacy.

1585 (c) Retains and uses his or her own clothes and other  
1586 personal property in his or her immediate living quarters, so as  
1587 to maintain individuality and personal dignity, except when the  
1588 licensee can demonstrate that such retention and use would be  
1589 unsafe, impractical, or an infringement upon the rights of other  
1590 clients.

1591 (d) Has unrestricted private communication, including  
1592 receiving and sending unopened correspondence, access to a  
1593 telephone, and visiting with any person of his or her choice.  
1594 Upon request, the licensee shall make provisions to modify  
1595 visiting hours for caregivers and guests. The facility shall

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1596 restrict communication in accordance with any court order or  
1597 written instruction of a client's representative. Any  
1598 restriction on a client's communication for therapeutic reasons  
1599 shall be documented and reviewed at least weekly and shall be  
1600 removed as soon as it is no longer clinically indicated. The  
1601 basis for the restriction shall be explained to the client and,  
1602 if applicable, the client's representative. The client shall  
1603 nonetheless retain the right to call the abuse hotline, the  
1604 agency, and Disability Rights Florida at any and all times.

1605 (e) Has the opportunity to participate in and benefits from  
1606 community services and activities to achieve the highest  
1607 possible level of independence, autonomy, and interaction within  
1608 the community.

1609 (f) Has the opportunity to manage his or her financial  
1610 affairs unless the client or, if applicable, the client's  
1611 representative authorizes the administrator of the facility to  
1612 provide safekeeping for funds as provided in this part.

1613 (g) Has reasonable opportunity for regular exercise several  
1614 times a week and to be outdoors at regular and frequent  
1615 intervals except when prevented by inclement weather.

1616 (h) Has the opportunity to exercise civil and religious  
1617 liberties, including the right to independent personal  
1618 decisions. No religious belief or practice, including attendance  
1619 at religious services, shall be imposed upon any client.

1620 (i) Has access to adequate and appropriate health care  
1621 consistent with established and recognized standards within the  
1622 community.

1623 (j) Has the ability to present grievances and recommend  
1624 changes in policies, procedures, and services to the staff of



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1625 the licensee, governing officials, or any other person without  
1626 restraint, interference, coercion, discrimination, or reprisal.  
1627 Each licensee shall establish a grievance procedure to  
1628 facilitate a client's ability to present grievances, including a  
1629 system for investigating, tracking, managing, and responding to  
1630 complaints by persons receiving services or individuals acting  
1631 on their behalf, and an appeals process. This process must  
1632 include access to Disability Rights Florida and other advocates  
1633 and the right to be a member of, be active in, and associate  
1634 with advocacy or special interest groups.

1635 (2) The licensee shall:

1636 (a) Promote participation of each client's representative  
1637 in the process of providing treatment to the client unless the  
1638 representative's participation is unobtainable or inappropriate.

1639 (b) Answer communications from each client's family,  
1640 guardians, and friends promptly and appropriately.

1641 (c) Promote visits by individuals with a relationship to  
1642 the client at any reasonable hour, without requiring prior  
1643 notice, or in any area of the facility which provides direct  
1644 client care services to the client, consistent with the client's  
1645 and other clients' privacy, unless the interdisciplinary team  
1646 determines that such a visit would not be appropriate.

1647 (d) Promote leave from the facility for visits, trips, or  
1648 vacations.

1649 (e) Promptly notify the client's representative of any  
1650 significant incidents or changes in the client's condition,  
1651 including, but not limited to, serious illness, accident, abuse,  
1652 unauthorized absence, or death.

1653 (3) The administrator of a facility shall ensure that a

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1654 written notice of licensee responsibilities is posted in a  
1655 prominent place in each building where clients reside, and is  
1656 read, or explained, to clients who cannot read. This notice must  
1657 include the statewide toll-free telephone number for reporting  
1658 complaints to the agency, must be provided to clients in a  
1659 manner that is clearly legible, and must include the words: "To  
1660 report a complaint regarding the services you receive, please  
1661 call toll-free ...[telephone number]... or Disability Rights  
1662 Florida ...[telephone number]..."; and the statewide toll-free  
1663 telephone number for the central abuse hotline must be provided  
1664 to clients in a manner that is clearly legible and must include  
1665 the words: "To report abuse, neglect, or exploitation, please  
1666 call toll-free ...[telephone number where complaints may be  
1667 lodged]...." The licensee must ensure a client's access to a  
1668 telephone where telephone numbers required in this subsection  
1669 are readily available to call the agency, central abuse hotline,  
1670 or Disability Rights Florida.

1671 (4) A licensee or employee of a facility may not serve  
1672 notice upon a client to leave the premises or take any other  
1673 retaliatory action against any person solely due to the  
1674 following:

1675 (a) The client or other person files an internal or  
1676 external complaint or grievance regarding the facility.

1677 (b) The client or other person appears as a witness in any  
1678 hearing inside or outside the facility.

1679 (5) Before or at the time of admission, the client and the  
1680 client's representative shall be provided with a copy of the  
1681 licensee's responsibilities as provided in this section,  
1682 including grievance procedures and the telephone numbers

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1683 provided in this section.

1684 (6) The licensee must develop and implement policies and  
1685 procedures governing the release of any client information,  
1686 including consent necessary from the client or the client's  
1687 representative.

1688 Section 40. Section 400.9976, Florida Statutes, is created  
1689 to read:

1690 400.9976 Medication practices.—

1691 (1) An individual medication administration record must be  
1692 maintained for each client. Each dose of medication, including a  
1693 self-administered dose, shall be properly recorded in the  
1694 client's record. Each client who self-administers medication  
1695 shall be given a pill organizer. Medication must be placed in  
1696 the pill organizer by a nurse. A nurse shall document the date  
1697 and time medication is placed into each client's pill organizer.  
1698 All medications must be administered in compliance with the  
1699 physician's orders.

1700 (2) If the interdisciplinary team determines that self-  
1701 administration of medications is an appropriate objective, and  
1702 if the physician does not specify otherwise, a client must be  
1703 taught to self-administer his or her medication without a staff  
1704 person. This includes all forms of administration, including  
1705 orally, via injection, and via suppository. The client's  
1706 physician must be informed of the interdisciplinary team's  
1707 decision that self-administration of medications is an objective  
1708 for the client. A client may not self-administer medication  
1709 until he or she demonstrates the competency to take the correct  
1710 medication in the correct dosage at the correct time, to respond  
1711 to missed doses, and to contact an appropriate person with

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1712 questions.

1713 (3) Medication administration discrepancies and adverse  
1714 drug reactions must be recorded and reported immediately to a  
1715 physician.

1716 Section 41. Section 400.9977, Florida Statutes, is created  
1717 to read:

1718 400.9977 Protection from abuse, neglect, mistreatment, and  
1719 exploitation.—The licensee must develop and implement policies  
1720 and procedures for the screening and training of employees; the  
1721 protection of clients; and the prevention, identification,  
1722 investigation, and reporting of abuse, neglect, and  
1723 exploitation. This includes the licensee's identification of  
1724 clients whose personal histories render them at risk for abusing  
1725 other clients, development of intervention strategies to prevent  
1726 occurrences, monitoring for changes that would trigger abusive  
1727 behavior, and reassessment of the interventions on a regular  
1728 basis. A licensee shall implement procedures to:

1729 (1) Screen potential employees for a history of abuse,  
1730 neglect, or mistreatment of clients. The screening shall include  
1731 an attempt to obtain information from previous employers and  
1732 current employers and verification with the appropriate  
1733 licensing boards.

1734 (2) Train employees, through orientation and ongoing  
1735 sessions, on issues related to abuse prohibition practices,  
1736 including identification of abuse, neglect, mistreatment, and  
1737 exploitation, appropriate interventions to deal with aggressive  
1738 or catastrophic reactions of clients, the process to report  
1739 allegations without fear of reprisal, and recognition of signs  
1740 of frustration and stress that may lead to abuse.

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1741 (3) Provide clients, families, and staff with information  
1742 on how and to whom they may report concerns, incidents, and  
1743 grievances without the fear of retribution and provide feedback  
1744 regarding the concerns that have been expressed. A licensee must  
1745 identify, correct, and intervene in situations in which abuse,  
1746 neglect, mistreatment, or exploitation is likely to occur,  
1747 including:

1748 (a) Evaluating the physical environment of the facility to  
1749 identify characteristics that may make abuse or neglect more  
1750 likely to occur, such as secluded areas.

1751 (b) Providing sufficient staff on each shift to meet the  
1752 needs of the clients, and ensuring that the staff assigned have  
1753 knowledge of the individual clients' care needs. The licensee  
1754 shall identify inappropriate behaviors of its staff, such as  
1755 using derogatory language, rough handling, ignoring clients  
1756 while giving care, and directing clients who need toileting  
1757 assistance to urinate or defecate in their beds.

1758 (c) Assessing, planning care for, and monitoring clients  
1759 with needs and behaviors that might lead to conflict or neglect,  
1760 such as clients with a history of aggressive behaviors, clients  
1761 who have behaviors such as entering other clients' rooms,  
1762 clients with self-injurious behaviors, clients with  
1763 communication disorders, and clients who require heavy nursing  
1764 care or are totally dependent on staff.

1765 (4) Identify events, such as suspicious bruising of  
1766 clients, occurrences, patterns, and trends that may constitute  
1767 abuse and determine the direction of the investigation.

1768 (5) Investigate different types of incidents, identify the  
1769 staff member responsible for the initial reporting, investigate

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1770 alleged violations, and report results to the proper  
1771 authorities. The licensee must analyze the occurrences to  
1772 determine what changes are needed, if any, to policies and  
1773 procedures to prevent further occurrences and to take all  
1774 necessary corrective action depending on the results of the  
1775 investigation.

1776 (6) Protect clients from harm during an investigation.

1777 (7) Report all alleged violations and all substantiated  
1778 incidents, as required under chapters 39 and 415, to the  
1779 licensing authorities and all other agencies as required, and to  
1780 report any knowledge it has of any actions by a court of law  
1781 that would indicate an employee is unfit for service.

1782 Section 42. Section 400.9978, Florida Statutes, is created  
1783 to read:

1784 400.9978 Restraints and seclusion; client safety.—

1785 (1) Each facility shall provide a therapeutic milieu that  
1786 supports a culture of individual empowerment and responsibility.  
1787 The health and safety of the client shall be the primary concern  
1788 at all times.

1789 (2) The use of physical restraints must be ordered and  
1790 documented by a physician and must be consistent with policies  
1791 and procedures adopted by the facility. The client or, if  
1792 applicable, the client's representative must be informed of the  
1793 facility's physical restraint policies and procedures at the  
1794 time of the client's admission.

1795 (3) The use of chemical restraints is limited to prescribed  
1796 dosages of medications as ordered by a physician and must be  
1797 consistent with the client's diagnosis and the policies and  
1798 procedures adopted by the facility. The client and, if

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1799 applicable, the client's representative must be informed of the  
1800 facility's chemical restraint policies and procedures at the  
1801 time of the client's admission.

1802 (4) Based on a physician's assessment, if a client exhibits  
1803 symptoms that present an immediate risk of injury or death to  
1804 self or others, a physician may issue an emergency treatment  
1805 order to immediately administer rapid response psychotropic  
1806 medications or other chemical restraints. Each emergency  
1807 treatment order must be documented and maintained in the  
1808 client's record.

1809 (a) An emergency treatment order is effective for no more  
1810 than 24 hours.

1811 (b) Whenever a client is medicated in accordance with this  
1812 subsection, the client's representative or responsible party and  
1813 the client's physician must be notified as soon as practicable.

1814 (5) A client who is prescribed and receiving a medication  
1815 that can serve as a chemical restraint for a purpose other than  
1816 an emergency treatment order must be evaluated by his or her  
1817 physician at least monthly to assess the following:

1818 (a) The continued need for the medication.

1819 (b) The level of the medication in the client's blood, as  
1820 appropriate.

1821 (c) The need for adjustments in the prescription.

1822 (6) The licensee shall ensure that clients are free from  
1823 unnecessary drugs and physical restraints and are provided  
1824 treatment to reduce dependency on drugs and physical restraints.

1825 (7) The licensee may use physical restraints and seclusion  
1826 only as authorized by the facility's written physical restraint  
1827 and seclusion policies, which must be in compliance with this

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1828 section and applicable rules.

1829 (8) Interventions to manage dangerous client behavior must  
1830 be employed with sufficient safeguards and supervision to ensure  
1831 that the safety, welfare, and civil and human rights of each  
1832 client are adequately protected.

1833 (9) A facility shall notify the parent or guardian of a  
1834 client each time restraint or seclusion is used. Such  
1835 notification must be within 24 hours from the time the restraint  
1836 or seclusion occurs. Reasonable efforts must be taken to notify  
1837 the parent or guardian by telephone or e-mail, or both, and  
1838 these efforts must be documented.

1839 (10) The agency may adopt by rule standards and procedures  
1840 relating to the use of restraints, restraint positioning,  
1841 seclusion, and emergency treatment orders for psychotropic  
1842 medications, restraint, and seclusion. These rules must include  
1843 duration of restraint use, staff training, client observation  
1844 during restraint, and documentation and reporting standards.

1845 Section 43. Section 400.9979, Florida Statutes, is created  
1846 to read:

1847 400.9979 Background screening; administration and  
1848 management.—

1849 (1) The agency shall require level 2 background screening  
1850 for personnel as required in s. 408.809(1)(e) pursuant to s.  
1851 408.809 and chapter 435.

1852 (2) The licensee shall maintain personnel records for each  
1853 staff member which contain, at a minimum, documentation of  
1854 background screening, if applicable, a job description,  
1855 documentation of compliance with all training requirements of  
1856 this part or applicable rule, the employment application,



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1857 references, a copy of all job performance evaluations, and, for  
1858 each staff member who performs services for which licensure or  
1859 certification is required, a copy of all licenses or  
1860 certification held by the staff member.

1861 (3) The licensee must:

1862 (a) Develop and implement infection control policies and  
1863 procedures and include such policies and procedures in the  
1864 licensee's policy manual.

1865 (b) Maintain liability insurance as defined in s. 624.605.

1866 (c) Designate one person as an administrator who is  
1867 responsible and accountable for the overall management of the  
1868 facility.

1869 (d) Designate a person in writing to be responsible for the  
1870 facility when the administrator is absent from the facility for  
1871 more than 24 hours.

1872 (e) Designate in writing a program director who is  
1873 responsible for supervising the therapeutic and behavioral staff  
1874 and who determines the levels of supervision and the room  
1875 placement for each client.

1876 (f) Designate in writing a person to be responsible when  
1877 the program director is absent from the facility for more than  
1878 24 hours.

1879 (g) Obtain approval of the comprehensive emergency  
1880 management plan, pursuant to s. 400.9981(2)(e), from the local  
1881 emergency management agency. Pending the approval of the plan,  
1882 the local emergency management agency shall ensure that the  
1883 following agencies, at a minimum, are given the opportunity to  
1884 review the plan: the Department of Health, the Agency for Health  
1885 Care Administration, and the Division of Emergency Management.

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1886 Appropriate volunteer organizations must also be given the  
1887 opportunity to review the plan. The local emergency management  
1888 agency shall complete its review within 60 days and either  
1889 approve the plan or advise the licensee of necessary revisions.

1890 (h) Maintain written records in a form and system that  
1891 comply with medical and business practices and make such records  
1892 available in the facility for review or submission to the agency  
1893 upon request. The records shall include:

1894 1. A daily census record that indicates the number of  
1895 clients currently receiving services in the facility, including  
1896 information regarding any public funding of such clients.

1897 2. A record of all accidents or unusual incidents involving  
1898 any client or staff member which caused, or had the potential to  
1899 cause, injury or harm to any person or property within the  
1900 facility. Such records must contain a clear description of each  
1901 accident or incident, the names of the persons involved, a  
1902 description of all medical or other services provided to these  
1903 persons specifying who provided such services, and the steps  
1904 taken to prevent recurrence of such accidents or incidents.

1905 3. A copy of current agreements with third-party providers.

1906 4. A copy of current agreements with each consultant  
1907 employed by the licensee and documentation of each consultant's  
1908 visits and required written, dated reports.

1909 Section 44. Section 400.9980, Florida Statutes, is created  
1910 to read:

1911 400.9980 Property and personal affairs of clients.—

1912 (1) A client shall be given the option of using his or her  
1913 own belongings, as space permits; choosing his or her roommate  
1914 if practical and not clinically contraindicated; and, whenever

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1915 possible, unless the client is adjudicated incompetent or  
1916 incapacitated under state law, managing his or her own affairs.

1917 (2) The admission of a client to a facility and his or her  
1918 presence therein shall not confer on a licensee, administrator,  
1919 employee, or representative thereof any authority to manage,  
1920 use, or dispose of any property of the client, nor shall such  
1921 admission or presence confer on any of such persons any  
1922 authority or responsibility for the personal affairs of the  
1923 client except that which may be necessary for the safe  
1924 management of the facility or for the safety of the client.

1925 (3) A licensee, administrator, employee, or representative  
1926 thereof may:

1927 (a) Not act as the guardian, trustee, or conservator for  
1928 any client or any of such client's property.

1929 (b) Act as a competent client's payee for social security,  
1930 veteran's, or railroad benefits if the client provides consent  
1931 and the licensee files a surety bond with the agency in an  
1932 amount equal to twice the average monthly aggregate income or  
1933 personal funds due to the client, or expendable for the client's  
1934 account, which are received by a licensee.

1935 (c) Act as the power of attorney for a client if the  
1936 licensee has filed a surety bond with the agency in an amount  
1937 equal to twice the average monthly income of the client, plus  
1938 the value of any client's property under the control of the  
1939 attorney in fact.

1940  
1941 The bond under paragraph (b) or paragraph (c) shall be executed  
1942 by the licensee as principal and a licensed surety company. The  
1943 bond shall be conditioned upon the faithful compliance of the

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1944 licensee with the requirements of licensure and shall be payable  
1945 to the agency for the benefit of any client who suffers a  
1946 financial loss as a result of the misuse or misappropriation of  
1947 funds held pursuant to this subsection. Any surety company that  
1948 cancels or does not renew the bond of any licensee shall notify  
1949 the agency in writing not less than 30 days in advance of such  
1950 action, giving the reason for the cancellation or nonrenewal.  
1951 Any licensee, administrator, employee, or representative thereof  
1952 who is granted power of attorney for any client of the facility  
1953 shall, on a monthly basis, notify the client in writing of any  
1954 transaction made on behalf of the client pursuant to this  
1955 subsection, and a copy of such notification given to the client  
1956 shall be retained in each client's file and available for agency  
1957 inspection.

1958 (4) A licensee, upon mutual consent with the client, shall  
1959 provide for the safekeeping in the facility of the client's  
1960 personal effects of a value not in excess of \$1,000 and the  
1961 client's funds not in excess of \$500 cash and shall keep  
1962 complete and accurate records of all such funds and personal  
1963 effects received. If a client is absent from a facility for 24  
1964 hours or more, the licensee may provide for the safekeeping of  
1965 the client's personal effects of a value in excess of \$1,000.

1966 (5) Any funds or other property belonging to or due to a  
1967 client or expendable for his or her account which is received by  
1968 a licensee shall be trust funds and shall be kept separate from  
1969 the funds and property of the licensee and other clients or  
1970 shall be specifically credited to such client. Such trust funds  
1971 shall be used or otherwise expended only for the account of the  
1972 client. At least once every month, unless upon order of a court

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1973 of competent jurisdiction, the licensee shall furnish the client  
1974 and the client's representative a complete and verified  
1975 statement of all funds and other property to which this  
1976 subsection applies, detailing the amount and items received,  
1977 together with their sources and disposition. In any event, the  
1978 licensee shall furnish such statement annually and upon the  
1979 discharge or transfer of a client. Any governmental agency or  
1980 private charitable agency contributing funds or other property  
1981 to the account of a client shall also be entitled to receive  
1982 such statement monthly and upon the discharge or transfer of the  
1983 client.

1984 (6) (a) In addition to any damages or civil penalties to  
1985 which a person is subject, any person who:

1986 1. Intentionally withholds a client's personal funds,  
1987 personal property, or personal needs allowance, or who demands,  
1988 beneficially receives, or contracts for payment of all or any  
1989 part of a client's personal property or personal needs allowance  
1990 in satisfaction of the facility rate for supplies and services;  
1991 or

1992 2. Borrows from or pledges any personal funds of a client,  
1993 other than the amount agreed to by written contract under s.  
1994 429.24,

1995  
1996 commits a misdemeanor of the first degree, punishable as  
1997 provided in s. 775.082 or s. 775.083.

1998 (b) Any licensee or any administrator, employee, or  
1999 representative thereof who is granted power of attorney for any  
2000 client of the facility and who misuses or misappropriates funds  
2001 obtained through this power commits a felony of the third

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2002 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
2003 775.084.

2004 (7) In the event of the death of a client, a licensee shall  
2005 return all refunds, funds, and property held in trust to the  
2006 client's personal representative, if one has been appointed at  
2007 the time the licensee disburses such funds, or, if not, to the  
2008 client's spouse or adult next of kin named in a beneficiary  
2009 designation form provided by the licensee to the client. If the  
2010 client has no spouse or adult next of kin or such person cannot  
2011 be located, funds due the client shall be placed in an interest-  
2012 bearing account and all property held in trust by the licensee  
2013 shall be safeguarded until such time as the funds and property  
2014 are disbursed pursuant to the Florida Probate Code. Such funds  
2015 shall be kept separate from the funds and property of the  
2016 licensee and other clients of the facility. If the funds of the  
2017 deceased client are not disbursed pursuant to the Florida  
2018 Probate Code within 2 years after the client's death, the funds  
2019 shall be deposited in the Health Care Trust Fund administered by  
2020 the agency.

2021 (8) The agency, by rule, may clarify terms and specify  
2022 procedures and documentation necessary to administer the  
2023 provisions of this section relating to the proper management of  
2024 clients' funds and personal property and the execution of surety  
2025 bonds.

2026 Section 45. Section 400.9981, Florida Statutes, is created  
2027 to read:

2028 400.9981 Rules establishing standards.-

2029 (1) It is the intent of the Legislature that rules  
2030 published and enforced pursuant to this part and part II of

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2031 chapter 408 include criteria to ensure reasonable and consistent  
2032 quality of care and client safety. Rules should make reasonable  
2033 efforts to accommodate the needs and preferences of clients to  
2034 enhance the quality of life in transitional living facilities.

2035 (2) The agency may adopt and enforce rules to implement  
2036 this part and part II of chapter 408, which shall include  
2037 reasonable and fair criteria in relation to the following:

2038 (a) The location of transitional living facilities.

2039 (b) The number of qualifications of all personnel,  
2040 including management, medical, nursing, and other professional  
2041 personnel and nursing assistants and support personnel having  
2042 responsibility for any part of the care given to clients. The  
2043 licensee must have enough qualified professional staff available  
2044 to carry out and monitor the various professional interventions  
2045 in accordance with the stated goals and objectives of each  
2046 comprehensive treatment plan.

2047 (c) Requirements for personnel procedures, reporting  
2048 procedures, and documentation necessary to implement this part.

2049 (d) Services provided to clients of transitional living  
2050 facilities.

2051 (e) The preparation and annual update of a comprehensive  
2052 emergency management plan in consultation with the Division of  
2053 Emergency Management. At a minimum, the rules must provide for  
2054 plan components that address emergency evacuation  
2055 transportation; adequate sheltering arrangements; postdisaster  
2056 activities, including provision of emergency power, food, and  
2057 water; postdisaster transportation; supplies; staffing;  
2058 emergency equipment; individual identification of clients and  
2059 transfer of records; communication with families; and responses

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2060 to family inquiries.

2061 Section 46. Section 400.9982, Florida Statutes, is created  
2062 to read:

2063 400.9982 Violations; penalties.-

2064 (1) Each violation of this part and rules adopted pursuant  
2065 thereto shall be classified according to the nature of the  
2066 violation and the gravity of its probable effect on facility  
2067 clients. The agency shall indicate the classification on the  
2068 written notice of the violation as follows:

2069 (a) Class "I" violations are defined in s. 408.813. The  
2070 agency shall issue a citation regardless of correction and  
2071 impose an administrative fine of \$5,000 for an isolated  
2072 violation, \$7,500 for a patterned violation, and \$10,000 for a  
2073 widespread violation. Violations may be identified and a fine  
2074 must be levied notwithstanding the correction of the deficiency  
2075 giving rise to the violation.

2076 (b) Class "II" violations are defined in s. 408.813. The  
2077 agency shall impose an administrative fine of \$1,000 for an  
2078 isolated violation, \$2,500 for a patterned violation, and \$5,000  
2079 for a widespread violation. A fine must be levied  
2080 notwithstanding the correction of the deficiency giving rise to  
2081 the violation.

2082 (c) Class "III" violations are defined in s. 408.813. The  
2083 agency shall impose an administrative fine of \$500 for an  
2084 isolated violation, \$750 for a patterned violation, and \$1,000  
2085 for a widespread violation. If a deficiency giving rise to a  
2086 class III violation is corrected within the time specified by  
2087 the agency, a fine may not be imposed.

2088 (d) Class "IV" violations are defined in s. 408.813. The



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2089 agency shall impose an administrative fine for a cited class IV  
2090 violation in an amount not less than \$100 and not exceeding \$200  
2091 for each violation. If a deficiency giving rise to a class IV  
2092 violation is corrected within the time specified by the agency,  
2093 a fine may not be imposed.

2094 Section 47. Section 400.9983, Florida Statutes, is created  
2095 to read:

2096 400.9983 Receivership proceedings.—The agency may apply s.  
2097 429.22 with regard to receivership proceedings for transitional  
2098 living facilities.

2099 Section 48. Section 400.9984, Florida Statutes, is created  
2100 to read:

2101 400.9984 Interagency communication.—The agency, the  
2102 department, the Agency for Persons with Disabilities, and the  
2103 Department of Children and Families shall develop electronic  
2104 systems to ensure that relevant information pertaining to the  
2105 regulation of transitional living facilities and clients is  
2106 timely and effectively communicated among agencies in order to  
2107 facilitate the protection of clients. Electronic sharing of  
2108 information shall include, at a minimum, a brain and spinal cord  
2109 injury registry and a client abuse registry.

2110 Section 49. Subsections (1) and (2) of section 402.7306,  
2111 Florida Statutes, are amended to read:

2112 402.7306 Administrative monitoring of child welfare  
2113 providers, and administrative, licensure, and programmatic  
2114 monitoring of mental health and substance abuse service  
2115 providers.—The Department of Children and Family Services, the  
2116 Department of Health, the Agency for Persons with Disabilities,  
2117 the Agency for Health Care Administration, community-based care

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2118 lead agencies, managing entities as defined in s. 394.9082, and  
2119 agencies who have contracted with monitoring agents shall  
2120 identify and implement changes that improve the efficiency of  
2121 administrative monitoring of child welfare services, and the  
2122 administrative, licensure, and programmatic monitoring of mental  
2123 health and substance abuse service providers. For the purpose of  
2124 this section, the term "mental health and substance abuse  
2125 service provider" means a provider who provides services to this  
2126 state's priority population as defined in s. 394.674. To assist  
2127 with that goal, each such agency shall adopt the following  
2128 policies:

2129 (1) Limit administrative monitoring to once every 3 years  
2130 if the child welfare provider is accredited by the Joint  
2131 Commission, a national accrediting organization that is approved  
2132 by the Centers for Medicare and Medicaid Services and whose  
2133 standards incorporate comparable licensure regulations required  
2134 by the state, CARF International ~~the Commission on Accreditation~~  
2135 ~~of Rehabilitation Facilities~~, or the Council on Accreditation.  
2136 If the accrediting body does not require documentation that the  
2137 state agency requires, that documentation shall be requested by  
2138 the state agency and may be posted by the service provider on  
2139 the data warehouse for the agency's review. Notwithstanding the  
2140 survey or inspection of an accrediting organization specified in  
2141 this subsection, an agency specified in and subject to this  
2142 section may continue to monitor the service provider as  
2143 necessary with respect to:

2144 (a) Ensuring that services for which the agency is paying  
2145 are being provided.

2146 (b) Investigating complaints or suspected problems and

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2147 monitoring the service provider's compliance with ~~any~~ resulting  
2148 negotiated terms and conditions, including provisions relating  
2149 to consent decrees that are unique to a specific service and are  
2150 not statements of general applicability.

2151 (c) Ensuring compliance with federal and state laws,  
2152 federal regulations, or state rules if such monitoring does not  
2153 duplicate the accrediting organization's review pursuant to  
2154 accreditation standards.

2155  
2156 Medicaid certification and precertification reviews are exempt  
2157 from this subsection to ensure Medicaid compliance.

2158 (2) Limit administrative, licensure, and programmatic  
2159 monitoring to once every 3 years if the mental health or  
2160 substance abuse service provider is accredited by the Joint  
2161 Commission, the American Osteopathic Association/Healthcare  
2162 Facilities Accreditation Program, a national accrediting  
2163 organization that is approved by the Centers for Medicare and  
2164 Medicaid Services and whose standards incorporate comparable  
2165 licensure regulations required by the state, CARF International  
2166 ~~the Commission on Accreditation of Rehabilitation Facilities,~~ or  
2167 the Council on Accreditation. If the services being monitored  
2168 are not the services for which the provider is accredited, the  
2169 limitations of this subsection do not apply. If the accrediting  
2170 body does not require documentation that the state agency  
2171 requires, that documentation, except documentation relating to  
2172 licensure applications and fees, must be requested by the state  
2173 agency and may be posted by the service provider on the data  
2174 warehouse for the agency's review. Notwithstanding the survey or  
2175 inspection of an accrediting organization specified in this

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2176 subsection, an agency specified in and subject to this section  
 2177 may continue to monitor the service provider as necessary with  
 2178 respect to:

2179 (a) Ensuring that services for which the agency is paying  
 2180 are being provided.

2181 (b) Investigating complaints, identifying problems that  
 2182 would affect the safety or viability of the service provider,  
 2183 and monitoring the service provider's compliance with ~~any~~  
 2184 resulting negotiated terms and conditions, including provisions  
 2185 relating to consent decrees that are unique to a specific  
 2186 service and are not statements of general applicability.

2187 (c) Ensuring compliance with federal and state laws,  
 2188 federal regulations, or state rules if such monitoring does not  
 2189 duplicate the accrediting organization's review pursuant to  
 2190 accreditation standards.

2191  
 2192 Federal certification and precertification reviews are exempt  
 2193 from this subsection to ensure Medicaid compliance.

2194 Section 50. Subsection (4) of section 408.061, Florida  
 2195 Statutes, is amended to read:

2196 408.061 Data collection; uniform systems of financial  
 2197 reporting; information relating to physician charges;  
 2198 confidential information; immunity.—

2199 (4) Within 120 days after the end of its fiscal year, each  
 2200 health care facility, excluding continuing care facilities,  
 2201 hospitals operated by state agencies, and nursing homes as  
 2202 defined in s. 408.07(14) and (37), shall file with the agency,  
 2203 on forms adopted by the agency and based on the uniform system  
 2204 of financial reporting, its actual financial experience for that

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2205 fiscal year, including expenditures, revenues, and statistical  
2206 measures. Such data may be based on internal financial reports  
2207 which are certified to be complete and accurate by the provider.  
2208 However, hospitals' actual financial experience shall be their  
2209 audited actual experience. Every nursing home shall submit to  
2210 the agency, in a format designated by the agency, a statistical  
2211 profile of the nursing home residents. The agency, in  
2212 conjunction with the Department of Elderly Affairs and the  
2213 Department of Health, shall review these statistical profiles  
2214 and develop recommendations for the types of residents who might  
2215 more appropriately be placed in their homes or other  
2216 noninstitutional settings.

2217 Section 51. Subsection (4) of section 408.20, Florida  
2218 Statutes, is amended to read:

2219 408.20 Assessments; Health Care Trust Fund.—

2220 (4) Hospitals operated by state agencies ~~the Department of~~  
2221 ~~Children and Family Services, the Department of Health, or the~~  
2222 ~~Department of Corrections~~ are exempt from the assessments  
2223 required under this section.

2224 Section 52. Subsection (21) of section 408.802, Florida  
2225 Statutes, is amended to read:

2226 408.802 Applicability.—The provisions of this part apply to  
2227 the provision of services that require licensure as defined in  
2228 this part and to the following entities licensed, registered, or  
2229 certified by the agency, as described in chapters 112, 383, 390,  
2230 394, 395, 400, 429, 440, 483, and 765:

2231 (21) Transitional living facilities, as provided under part  
2232 XI ~~¶~~ of chapter 400.

2233 Section 53. Subsection (4) of section 408.809, Florida

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2234 Statutes, is amended to read:

2235 408.809 Background screening; prohibited offenses.—

2236 (4) In addition to the offenses listed in s. 435.04, all  
2237 persons required to undergo background screening pursuant to  
2238 this part or authorizing statutes must not have an arrest  
2239 awaiting final disposition for, must not have been found guilty  
2240 of, regardless of adjudication, or entered a plea of nolo  
2241 contendere or guilty to, and must not have been adjudicated  
2242 delinquent and the record not have been sealed or expunged for  
2243 any of the following offenses or any similar offense of another  
2244 jurisdiction:

2245 (a) Any authorizing statutes, if the offense was a felony.

2246 (b) This chapter, if the offense was a felony.

2247 (c) Section 409.920, relating to Medicaid provider fraud.

2248 (d) Section 409.9201, relating to Medicaid fraud.

2249 (e) Section 741.28, relating to domestic violence.

2250 (f) Section 777.04, relating to attempts, solicitation, and  
2251 conspiracy to commit an offense listed in this subsection.

2252 (g) ~~(f)~~ Section 817.034, relating to fraudulent acts through  
2253 mail, wire, radio, electromagnetic, photoelectronic, or  
2254 photooptical systems.

2255 (h) ~~(g)~~ Section 817.234, relating to false and fraudulent  
2256 insurance claims.

2257 (i) Section 817.481, relating to obtaining goods by using  
2258 false, expired, etc., credit cards, if the offense was a felony.

2259 (j) Section 817.50, relating to fraudulently obtaining  
2260 goods, services, etc., from a health care provider.

2261 (k) ~~(h)~~ Section 817.505, relating to patient brokering.

2262 (l) ~~(i)~~ Section 817.568, relating to criminal use of

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2263 personal identification information.

2264 (m)~~(j)~~ Section 817.60, relating to obtaining a credit card  
2265 through fraudulent means.

2266 (n)~~(k)~~ Section 817.61, relating to fraudulent use of credit  
2267 cards, if the offense was a felony.

2268 (o)~~(l)~~ Section 831.01, relating to forgery.

2269 (p)~~(m)~~ Section 831.02, relating to uttering forged  
2270 instruments.

2271 (q)~~(n)~~ Section 831.07, relating to forging bank bills,  
2272 checks, drafts, or promissory notes.

2273 (r)~~(o)~~ Section 831.09, relating to uttering forged bank  
2274 bills, checks, drafts, or promissory notes.

2275 (s)~~(p)~~ Section 831.30, relating to fraud in obtaining  
2276 medicinal drugs.

2277 (t)~~(q)~~ Section 831.31, relating to the sale, manufacture,  
2278 delivery, or possession with the intent to sell, manufacture, or  
2279 deliver any counterfeit controlled substance, if the offense was  
2280 a felony.

2281 (u) Section 895.03, relating to racketeering and illegal  
2282 debts.

2283 (v) Section 896.101, relating to the Florida Money  
2284 Laundering Act.

2285 Section 54. Subsection (20) of section 408.820, Florida  
2286 Statutes, is amended to read:

2287 408.820 Exemptions.—Except as prescribed in authorizing  
2288 statutes, the following exemptions shall apply to specified  
2289 requirements of this part:

2290 (20) Transitional living facilities, as provided under part  
2291 XI ~~∅~~ of chapter 400, are exempt from s. 408.810(10).

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2292 Section 55. Subsections (3) through (21) of section  
2293 409.9122, Florida Statutes, are renumbered as subsection (4)  
2294 through (22), paragraphs (1) and (m) of subsection (2) of that  
2295 section are amended, and a new subsection (3) is added to that  
2296 section, to read:

2297 409.9122 Mandatory Medicaid managed care enrollment;  
2298 programs and procedures.—

2299 (2)

2300 ~~(1) If the Medicaid recipient is diagnosed with HIV/AIDS,~~  
2301 ~~the agency shall assign the Medicaid recipient to a managed care~~  
2302 ~~plan that is a health maintenance organization authorized under~~  
2303 ~~chapter 641, is under contract with the agency on July 1, 2011,~~  
2304 ~~and which offers a delivery system through a university-based~~  
2305 ~~teaching and research-oriented organization that specializes in~~  
2306 ~~providing health care services and treatment for individuals~~  
2307 ~~diagnosed with HIV/AIDS.~~

2308 (1) ~~(m)~~ Notwithstanding the provisions of chapter 287, the  
2309 agency may, at its discretion, renew cost-effective contracts  
2310 for choice counseling services once or more for such periods as  
2311 the agency may decide. However, all such renewals may not  
2312 combine to exceed a total period longer than the term of the  
2313 original contract.

2314

2315 This subsection expires October 1, 2014.

2316 (3) If the Medicaid recipient is diagnosed with HIV/AIDS,  
2317 the agency shall assign the Medicaid recipient to a managed care  
2318 plan that is a health maintenance organization authorized under  
2319 chapter 641, is under contract with the agency as an HIV/AIDS  
2320 specialty plan, and offers a delivery system through a



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2321 university-based teaching and research-oriented organization  
2322 that specializes in providing health care services and treatment  
2323 for individuals diagnosed with HIV/AIDS.

2324 Section 56. Paragraph (a) of subsection (3) of section  
2325 409.966, Florida Statutes, is amended to read:

2326 409.966 Eligible plans; selection.—

2327 (3) QUALITY SELECTION CRITERIA.—

2328 (a) The invitation to negotiate must specify the criteria  
2329 and the relative weight of the criteria that will be used for  
2330 determining the acceptability of the reply and guiding the  
2331 selection of the organizations with which the agency negotiates.  
2332 In addition to criteria established by the agency, the agency  
2333 shall consider the following factors in the selection of  
2334 eligible plans:

2335 1. Accreditation by the National Committee for Quality  
2336 Assurance, the Joint Commission, the American Osteopathic  
2337 Association/Healthcare Facilities Accreditation Program, a  
2338 national accrediting organization that is approved by the  
2339 Centers for Medicare and Medicaid Services and whose standards  
2340 incorporate comparable licensure regulations required by the  
2341 state, or another nationally recognized accrediting body.

2342 2. Experience serving similar populations, including the  
2343 organization's record in achieving specific quality standards  
2344 with similar populations.

2345 3. Availability and accessibility of primary care and  
2346 specialty physicians in the provider network.

2347 4. Establishment of community partnerships with providers  
2348 that create opportunities for reinvestment in community-based  
2349 services.

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2350           5. Organization commitment to quality improvement and  
2351 documentation of achievements in specific quality improvement  
2352 projects, including active involvement by organization  
2353 leadership.

2354           6. Provision of additional benefits, particularly dental  
2355 care and disease management, and other initiatives that improve  
2356 health outcomes.

2357           7. Evidence that an eligible plan has written agreements or  
2358 signed contracts or has made substantial progress in  
2359 establishing relationships with providers before the plan  
2360 submitting a response.

2361           8. Comments submitted in writing by an ~~any~~ enrolled  
2362 Medicaid provider relating to a specifically identified plan  
2363 participating in the procurement in the same region as the  
2364 submitting provider.

2365           9. Documentation of policies and procedures for preventing  
2366 fraud and abuse.

2367           10. The business relationship an eligible plan has with  
2368 another ~~any other~~ eligible plan that responds to the invitation  
2369 to negotiate.

2370           Section 57. Paragraphs (c) and (e) of subsection (2) of  
2371 section 409.967, Florida Statutes, are amended to read:

2372           409.967 Managed care plan accountability.—

2373           (2) The agency shall establish such contract requirements  
2374 as are necessary for the operation of the statewide managed care  
2375 program. In addition to any other provisions the agency may deem  
2376 necessary, the contract must require:

2377           (c) *Access*.—

2378           1. The agency shall establish specific standards for the

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2379 number, type, and regional distribution of providers in managed  
2380 care plan networks to ensure access to care for both adults and  
2381 children. Each plan must maintain a regionwide network of  
2382 providers in sufficient numbers to meet the access standards for  
2383 specific medical services for all recipients enrolled in the  
2384 plan. The exclusive use of mail-order pharmacies may not be  
2385 sufficient to meet network access standards. Consistent with the  
2386 standards established by the agency, provider networks may  
2387 include providers located outside the region. A plan may  
2388 contract with a new hospital facility before the date the  
2389 hospital becomes operational if the hospital has commenced  
2390 construction, will be licensed and operational by January 1,  
2391 2013, and a final order has issued in any civil or  
2392 administrative challenge. Each plan shall establish and maintain  
2393 an accurate and complete electronic database of contracted  
2394 providers, including information about licensure or  
2395 registration, locations and hours of operation, specialty  
2396 credentials and other certifications, specific performance  
2397 indicators, and such other information as the agency deems  
2398 necessary. The database must be available online to both the  
2399 agency and the public and have the capability to compare the  
2400 availability of providers to network adequacy standards and to  
2401 accept and display feedback from each provider's patients. Each  
2402 plan shall submit quarterly reports to the agency identifying  
2403 the number of enrollees assigned to each primary care provider.

2404       2. Each managed care plan must publish any prescribed drug  
2405 formulary or preferred drug list on the plan's website in a  
2406 manner that is accessible to and searchable by enrollees and  
2407 providers. The plan must update the list within 24 hours after

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2408 making a change. Each plan must ensure that the prior  
2409 authorization process for prescribed drugs is readily accessible  
2410 to health care providers, including posting appropriate contact  
2411 information on its website and providing timely responses to  
2412 providers. For Medicaid recipients diagnosed with hemophilia who  
2413 have been prescribed anti-hemophilic-factor replacement  
2414 products, the agency shall provide for those products and  
2415 hemophilia overlay services through the agency's hemophilia  
2416 disease management program.

2417 3. Managed care plans, and their fiscal agents or  
2418 intermediaries, must accept prior authorization requests for any  
2419 service electronically.

2420 4. Managed care plans must permit an enrollee who was  
2421 receiving a prescription drug and was on the plan's formulary  
2422 and subsequently removed or changed, to continue receiving that  
2423 drug if the provider submits a written request demonstrating  
2424 that the drug is medically necessary, and the enrollee meets  
2425 clinical criteria to receive the drug.

2426 (e) *Continuous improvement.*—The agency shall establish  
2427 specific performance standards and expected milestones or  
2428 timelines for improving performance over the term of the  
2429 contract.

2430 1. Each managed care plan shall establish an internal  
2431 health care quality improvement system, including enrollee  
2432 satisfaction and disenrollment surveys. The quality improvement  
2433 system must include incentives and disincentives for network  
2434 providers.

2435 2. Each plan must collect and report the Health Plan  
2436 Employer Data and Information Set (HEDIS) measures, as specified

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2437 by the agency. These measures must be published on the plan's  
2438 website in a manner that allows recipients to reliably compare  
2439 the performance of plans. The agency shall use the HEDIS  
2440 measures as a tool to monitor plan performance.

2441 3. Each managed care plan must be accredited by the  
2442 National Committee for Quality Assurance, the Joint Commission,  
2443 a national accrediting organization that is approved by the  
2444 Centers for Medicare and Medicaid Services and whose standards  
2445 incorporate comparable licensure regulations required by the  
2446 state, or another nationally recognized accrediting body, or  
2447 have initiated the accreditation process, within 1 year after  
2448 the contract is executed. The agency shall suspend automatic  
2449 assignment under ss. 409.977 and 409.984 for a ~~any~~ plan not  
2450 accredited within 18 months after executing the contract,~~the~~  
2451 ~~agency shall suspend automatic assignment under s. 409.977 and~~  
2452 ~~409.984.~~

2453 4. By the end of the fourth year of the first contract  
2454 term, the agency shall issue a request for information to  
2455 determine whether cost savings could be achieved by contracting  
2456 for plan oversight and monitoring, including analysis of  
2457 encounter data, assessment of performance measures, and  
2458 compliance with other contractual requirements.

2459 Section 58. Paragraphs (b) and (c) of subsection (3) of  
2460 section 429.07, Florida Statutes, are amended to read:

2461 429.07 License required; fee.—

2462 (3) In addition to the requirements of s. 408.806, each  
2463 license granted by the agency must state the type of care for  
2464 which the license is granted. Licenses shall be issued for one  
2465 or more of the following categories of care: standard, extended

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2466 congregate care, limited nursing services, or limited mental  
2467 health.

2468 (b) An extended congregate care license shall be issued to  
2469 facilities that have been licensed as assisted living facilities  
2470 for 2 or more years and that provide ~~providing~~, directly or  
2471 through contract, services beyond those authorized in paragraph  
2472 (a), including services performed by persons licensed under part  
2473 I of chapter 464 and supportive services, as defined by rule, to  
2474 persons who would otherwise be disqualified from continued  
2475 residence in a facility licensed under this part. An extended  
2476 congregate care license may also be issued to those facilities  
2477 that have provisional extended congregate care licenses and meet  
2478 the requirements for licensure under subparagraph 2. The primary  
2479 purpose of extended congregate care services is to allow  
2480 residents, as they become more impaired, the option of remaining  
2481 in a familiar setting from which they would otherwise be  
2482 disqualified for continued residency. A facility licensed to  
2483 provide extended congregate care services may also admit an  
2484 individual who exceeds the admission criteria for a facility  
2485 with a standard license, if the individual is determined  
2486 appropriate for admission to the extended congregate care  
2487 facility.

2488 1. In order for extended congregate care services to be  
2489 provided, the agency must first determine that all requirements  
2490 established in law and rule are met and must specifically  
2491 designate, on the facility's license, that such services may be  
2492 provided and whether the designation applies to all or part of  
2493 the facility. Such designation may be made at the time of  
2494 initial licensure or relicensure, or upon request in writing by

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2495 a licensee under this part and part II of chapter 408. The  
2496 notification of approval or the denial of the request shall be  
2497 made in accordance with part II of chapter 408. Existing  
2498 facilities qualifying to provide extended congregate care  
2499 services must have maintained a standard license and may not  
2500 have been subject to administrative sanctions during the  
2501 previous 2 years, or since initial licensure if the facility has  
2502 been licensed for less than 2 years, for any of the following  
2503 reasons:

2504 a. A class I or class II violation;

2505 b. Three or more repeat or recurring class III violations  
2506 of identical or similar resident care standards from which a  
2507 pattern of noncompliance is found by the agency;

2508 c. Three or more class III violations that were not  
2509 corrected in accordance with the corrective action plan approved  
2510 by the agency;

2511 d. Violation of resident care standards which results in  
2512 requiring the facility to employ the services of a consultant  
2513 pharmacist or consultant dietitian;

2514 e. Denial, suspension, or revocation of a license for  
2515 another facility licensed under this part in which the applicant  
2516 for an extended congregate care license has at least 25 percent  
2517 ownership interest; or

2518 f. Imposition of a moratorium pursuant to this part or part  
2519 II of chapter 408 or initiation of injunctive proceedings.

2520 2. If an assisted living facility has been licensed for  
2521 less than 2 years but meets all other licensure requirements for  
2522 an extended congregate care license, it shall be issued a  
2523 provisional extended congregate care license for a period of 6

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2524 months. Within the first 3 months after the provisional license  
2525 is issued, the licensee shall notify the agency when it has  
2526 admitted an extended congregate care resident, after which an  
2527 unannounced inspection shall be made to determine compliance  
2528 with requirements of an extended congregate care license. If the  
2529 licensee demonstrates compliance with all of the requirements of  
2530 an extended congregate care license during the inspection, the  
2531 licensee shall be issued an extended congregate care license. In  
2532 addition to sanctions authorized under this part, if violations  
2533 are found during the inspection and the licensee fails to  
2534 demonstrate compliance with all assisted living requirements  
2535 during a followup inspection, the licensee shall immediately  
2536 suspend extended congregate care services, and the provisional  
2537 extended congregate care license expires.

2538 3.2. A facility that is licensed to provide extended  
2539 congregate care services shall maintain a written progress  
2540 report on each person who receives services which describes the  
2541 type, amount, duration, scope, and outcome of services that are  
2542 rendered and the general status of the resident's health. A  
2543 registered nurse, or appropriate designee, representing the  
2544 agency shall visit the facility at least twice a year ~~quarterly~~  
2545 to monitor residents who are receiving extended congregate care  
2546 services and to determine if the facility is in compliance with  
2547 this part, part II of chapter 408, and relevant rules. One of  
2548 the visits may be in conjunction with the regular survey. The  
2549 monitoring visits may be provided through contractual  
2550 arrangements with appropriate community agencies. A registered  
2551 nurse shall serve as part of the team that inspects the  
2552 facility. The agency may waive one of the required yearly



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2553 monitoring visits for a facility ~~that has been licensed for at~~  
2554 ~~least 24 months to provide extended congregate care services,~~  
2555 ~~if, during the inspection, the registered nurse determines that~~  
2556 ~~extended congregate care services are being provided~~  
2557 ~~appropriately, and if the facility has held an extended~~  
2558 ~~congregate care license during the last 24 months, has had no~~  
2559 ~~class I or class II violations, has had and no uncorrected class~~  
2560 ~~III violations, and has had no confirmed ombudsman council~~  
2561 ~~complaints that resulted in a citation for licensure. The agency~~  
2562 ~~must first consult with the long-term care ombudsman council for~~  
2563 ~~the area in which the facility is located to determine if any~~  
2564 ~~complaints have been made and substantiated about the quality of~~  
2565 ~~services or care. The agency may not waive one of the required~~  
2566 ~~yearly monitoring visits if complaints have been made and~~  
2567 ~~substantiated.~~

2568 4.3. A facility that is licensed to provide extended  
2569 congregate care services must:

2570 a. Demonstrate the capability to meet unanticipated  
2571 resident service needs.

2572 b. Offer a physical environment that promotes a homelike  
2573 setting, provides for resident privacy, promotes resident  
2574 independence, and allows sufficient congregate space as defined  
2575 by rule.

2576 c. Have sufficient staff available, taking into account the  
2577 physical plant and firesafety features of the building, to  
2578 assist with the evacuation of residents in an emergency.

2579 d. Adopt and follow policies and procedures that maximize  
2580 resident independence, dignity, choice, and decisionmaking to  
2581 permit residents to age in place, so that moves due to changes

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2582 in functional status are minimized or avoided.

2583 e. Allow residents or, if applicable, a resident's  
2584 representative, designee, surrogate, guardian, or attorney in  
2585 fact to make a variety of personal choices, participate in  
2586 developing service plans, and share responsibility in  
2587 decisionmaking.

2588 f. Implement the concept of managed risk.

2589 g. Provide, directly or through contract, the services of a  
2590 person licensed under part I of chapter 464.

2591 h. In addition to the training mandated in s. 429.52,  
2592 provide specialized training as defined by rule for facility  
2593 staff.

2594 5.4. A facility that is licensed to provide extended  
2595 congregate care services is exempt from the criteria for  
2596 continued residency set forth in rules adopted under s. 429.41.  
2597 A licensed facility must adopt its own requirements within  
2598 guidelines for continued residency set forth by rule. However,  
2599 the facility may not serve residents who require 24-hour nursing  
2600 supervision. A licensed facility that provides extended  
2601 congregate care services must also provide each resident with a  
2602 written copy of facility policies governing admission and  
2603 retention.

2604 ~~5. The primary purpose of extended congregate care services~~  
2605 ~~is to allow residents, as they become more impaired, the option~~  
2606 ~~of remaining in a familiar setting from which they would~~  
2607 ~~otherwise be disqualified for continued residency. A facility~~  
2608 ~~licensed to provide extended congregate care services may also~~  
2609 ~~admit an individual who exceeds the admission criteria for a~~  
2610 ~~facility with a standard license, if the individual is~~

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2611 ~~determined appropriate for admission to the extended congregate~~  
2612 ~~care facility.~~

2613 6. Before the admission of an individual to a facility  
2614 licensed to provide extended congregate care services, the  
2615 individual must undergo a medical examination as provided in s.  
2616 429.26(4) and the facility must develop a preliminary service  
2617 plan for the individual.

2618 7. If ~~When~~ a facility can no longer provide or arrange for  
2619 services in accordance with the resident's service plan and  
2620 needs and the facility's policy, the facility must ~~shall~~ make  
2621 arrangements for relocating the person in accordance with s.  
2622 429.28(1)(k).

2623 ~~8. Failure to provide extended congregate care services may~~  
2624 ~~result in denial of extended congregate care license renewal.~~

2625  
2626 The agency may deny or revoke a facility's extended congregate  
2627 care license for not meeting the standards of an extended  
2628 congregate care license or for any of the grounds listed in this  
2629 subsection.

2630 (c) A limited nursing services license shall be issued to a  
2631 facility that provides services beyond those authorized in  
2632 paragraph (a) and as specified in this paragraph.

2633 1. In order for limited nursing services to be provided in  
2634 a facility licensed under this part, the agency must first  
2635 determine that all requirements established in law and rule are  
2636 met and must specifically designate, on the facility's license,  
2637 that such services may be provided. Such designation may be made  
2638 at the time of initial licensure or licensure renewal  
2639 ~~relicensure~~, or upon request in writing by a licensee under this

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2640 part and part II of chapter 408. Notification of approval or  
2641 denial of such request shall be made in accordance with part II  
2642 of chapter 408. An existing facility that qualifies ~~facilities~~  
2643 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have  
2644 maintained a standard license and may not have been subject to  
2645 administrative sanctions that affect the health, safety, and  
2646 welfare of residents for the previous 2 years or since initial  
2647 licensure if the facility has been licensed for less than 2  
2648 years.

2649 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide  
2650 limited nursing services shall maintain a written progress  
2651 report on each person who receives such nursing services. The~~r~~  
2652 ~~which~~ report must describe ~~describes~~ the type, amount, duration,  
2653 scope, and outcome of services that are rendered and the general  
2654 status of the resident's health. A registered nurse representing  
2655 the agency shall visit the facility ~~such facilities~~ at least  
2656 annually ~~twice a year~~ to monitor residents who are receiving  
2657 limited nursing services and to determine if the facility is in  
2658 compliance with applicable provisions of this part, part II of  
2659 chapter 408, and related rules. The monitoring visits may be  
2660 provided through contractual arrangements with appropriate  
2661 community agencies. A registered nurse shall also serve as part  
2662 of the team that inspects such facility. Visits may be in  
2663 conjunction with other agency inspections. The agency may waive  
2664 one of the required yearly monitoring visits for a facility that  
2665 has:

2666 a. A limited nursing services license for at least 24  
2667 months;

2668 b. No class I or class II violations and no uncorrected

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2669 class III violations; and

2670 c. No confirmed ombudsman council complaints that resulted  
2671 in a citation for licensure.

2672 3. A person who receives limited nursing services under  
2673 this part must meet the admission criteria established by the  
2674 agency for assisted living facilities. When a resident no longer  
2675 meets the admission criteria for a facility licensed under this  
2676 part, arrangements for relocating the person shall be made in  
2677 accordance with s. 429.28(1)(k), unless the facility is licensed  
2678 to provide extended congregate care services.

2679 Section 59. Section 429.075, Florida Statutes, is amended  
2680 to read:

2681 429.075 Limited mental health license.—An assisted living  
2682 facility that serves one ~~three~~ or more mental health residents  
2683 must obtain a limited mental health license.

2684 (1) To obtain a limited mental health license, a facility  
2685 must hold a standard license as an assisted living facility,  
2686 must not have any current uncorrected ~~deficiencies or~~  
2687 violations, and must ensure that, within 6 months after  
2688 receiving a limited mental health license, the facility  
2689 administrator and the staff of the facility who are in direct  
2690 contact with mental health residents must complete training of  
2691 no less than 6 hours related to their duties. Such designation  
2692 may be made at the time of initial licensure or relicensure or  
2693 upon request in writing by a licensee under this part and part  
2694 II of chapter 408. Notification of approval or denial of such  
2695 request shall be made in accordance with this part, part II of  
2696 chapter 408, and applicable rules. This training must ~~will~~ be  
2697 provided by or approved by the Department of Children and Family

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2698 Services.

2699 (2) A facility that is ~~Facilities~~ licensed to provide  
2700 services to mental health residents must ~~shall~~ provide  
2701 appropriate supervision and staffing to provide for the health,  
2702 safety, and welfare of such residents.

2703 (3) A facility that has a limited mental health license  
2704 must:

2705 (a) Have a copy of each mental health resident's community  
2706 living support plan and the cooperative agreement with the  
2707 mental health care services provider. The support plan and the  
2708 agreement may be combined.

2709 (b) Have documentation that is provided by the Department  
2710 of Children and Family Services that each mental health resident  
2711 has been assessed and determined to be able to live in the  
2712 community in an assisted living facility that has ~~with~~ a limited  
2713 mental health license.

2714 (c) Make the community living support plan available for  
2715 inspection by the resident, the resident's legal guardian, the  
2716 resident's health care surrogate, and other individuals who have  
2717 a lawful basis for reviewing this document.

2718 (d) Assist the mental health resident in carrying out the  
2719 activities identified in the individual's community living  
2720 support plan.

2721 (4) A facility that has ~~with~~ a limited mental health  
2722 license may enter into a cooperative agreement with a private  
2723 mental health provider. For purposes of the limited mental  
2724 health license, the private mental health provider may act as  
2725 the case manager.

2726 Section 60. Section 429.14, Florida Statutes, is amended to

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2727 read:

2728 429.14 Administrative penalties.—

2729 (1) In addition to the requirements of part II of chapter  
2730 408, the agency may deny, revoke, and suspend any license issued  
2731 under this part and impose an administrative fine in the manner  
2732 provided in chapter 120 against a licensee for a violation of  
2733 any provision of this part, part II of chapter 408, or  
2734 applicable rules, or for any of the following actions by a  
2735 licensee, for the actions of any person subject to level 2  
2736 background screening under s. 408.809, or for the actions of any  
2737 facility staff ~~employee~~:

2738 (a) An intentional or negligent act seriously affecting the  
2739 health, safety, or welfare of a resident of the facility.

2740 (b) A ~~The~~ determination by the agency that the owner lacks  
2741 the financial ability to provide continuing adequate care to  
2742 residents.

2743 (c) Misappropriation or conversion of the property of a  
2744 resident of the facility.

2745 (d) Failure to follow the criteria and procedures provided  
2746 under part I of chapter 394 relating to the transportation,  
2747 voluntary admission, and involuntary examination of a facility  
2748 resident.

2749 (e) A citation of any of the following violations  
2750 ~~deficiencies~~ as specified in s. 429.19:

- 2751 1. One or more cited class I violations ~~deficiencies~~.
- 2752 2. Three or more cited class II violations ~~deficiencies~~.
- 2753 3. Five or more cited class III violations ~~deficiencies~~  
2754 that have been cited on a single survey and have not been  
2755 corrected within the times specified.

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2756 (f) Failure to comply with the background screening  
2757 standards of this part, s. 408.809(1), or chapter 435.

2758 (g) Violation of a moratorium.

2759 (h) Failure of the license applicant, the licensee during  
2760 relicensure, or a licensee that holds a provisional license to  
2761 meet the minimum license requirements of this part, or related  
2762 rules, at the time of license application or renewal.

2763 (i) An intentional or negligent life-threatening act in  
2764 violation of the uniform firesafety standards for assisted  
2765 living facilities or other firesafety standards which ~~that~~  
2766 threatens the health, safety, or welfare of a resident of a  
2767 facility, as communicated to the agency by the local authority  
2768 having jurisdiction or the State Fire Marshal.

2769 (j) Knowingly operating any unlicensed facility or  
2770 providing without a license any service that must be licensed  
2771 under this chapter or chapter 400.

2772 (k) Any act constituting a ground upon which application  
2773 for a license may be denied.

2774 (2) Upon notification by the local authority having  
2775 jurisdiction or by the State Fire Marshal, the agency may deny  
2776 or revoke the license of an assisted living facility that fails  
2777 to correct cited fire code violations that affect or threaten  
2778 the health, safety, or welfare of a resident of a facility.

2779 (3) The agency may deny or revoke a license of an ~~to any~~  
2780 applicant or controlling interest as defined in part II of  
2781 chapter 408 which has or had a 25-percent or greater financial  
2782 or ownership interest in any other facility that is licensed  
2783 under this part, or in any entity licensed by this state or  
2784 another state to provide health or residential care, if that



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2785 ~~which~~ facility or entity during the 5 years prior to the  
2786 application for a license closed due to financial inability to  
2787 operate; had a receiver appointed or a license denied,  
2788 suspended, or revoked; was subject to a moratorium; or had an  
2789 injunctive proceeding initiated against it.

2790 (4) The agency shall deny or revoke the license of an  
2791 assisted living facility if:

2792 (a) There are two moratoria, issued pursuant to this part  
2793 or part II of chapter 408, within a 2-year period which are  
2794 imposed by final order;

2795 (b) The facility is cited for two or more class I  
2796 violations arising from unrelated circumstances during the same  
2797 survey or investigation; or

2798 (c) The facility is cited for two or more class I  
2799 violations arising from separate surveys or investigations  
2800 within a 2-year period ~~that has two or more class I violations~~  
2801 ~~that are similar or identical to violations identified by the~~  
2802 ~~agency during a survey, inspection, monitoring visit, or~~  
2803 ~~complaint investigation occurring within the previous 2 years.~~

2804 (5) An action taken by the agency to suspend, deny, or  
2805 revoke a facility's license under this part or part II of  
2806 chapter 408, in which the agency claims that the facility owner  
2807 or an employee of the facility has threatened the health,  
2808 safety, or welfare of a resident of the facility must be heard  
2809 by the Division of Administrative Hearings of the Department of  
2810 Management Services within 120 days after receipt of the  
2811 facility's request for a hearing, unless that time limitation is  
2812 waived by both parties. The administrative law judge shall ~~must~~  
2813 render a decision within 30 days after receipt of a proposed

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2814 recommended order.

2815       (6) The agency shall impose an immediate moratorium, as  
2816 provided under s. 408.814, on an assisted living facility that  
2817 fails to provide the agency access to the facility or prohibits  
2818 the agency from conducting a regulatory inspection. The licensee  
2819 may not restrict agency staff in accessing and copying records  
2820 or in conducting confidential interviews with facility staff or  
2821 any individual who receives services from the facility provide  
2822 ~~to the Division of Hotels and Restaurants of the Department of~~  
2823 ~~Business and Professional Regulation, on a monthly basis, a list~~  
2824 ~~of those assisted living facilities that have had their licenses~~  
2825 ~~denied, suspended, or revoked or that are involved in an~~  
2826 ~~appellate proceeding pursuant to s. 120.60 related to the~~  
2827 ~~denial, suspension, or revocation of a license.~~

2828       (7) Agency notification of a license suspension or  
2829 revocation, or denial of a license renewal, shall be posted and  
2830 visible to the public at the facility.

2831       (8) If a facility is required to relocate some or all of  
2832 its residents due to agency action, that facility is exempt from  
2833 the 45 days' notice requirement in s. 429.28(1)(k). This  
2834 provision does not exempt the facility from any deadlines for  
2835 corrective action set by the agency.

2836       Section 61. Paragraphs (a) and (b) of subsection (2) of  
2837 section 429.178, Florida Statutes, are amended to read:

2838       429.178 Special care for persons with Alzheimer's disease  
2839 or other related disorders.—

2840       (2) (a) An individual who is employed by a facility that  
2841 provides special care for residents with Alzheimer's disease or  
2842 other related disorders, and who has regular contact with such

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2843 residents, must complete up to 4 hours of initial dementia-  
2844 specific training developed or approved by the department. The  
2845 training must ~~shall~~ be completed within 3 months after beginning  
2846 employment and satisfy ~~shall satisfy~~ the core training  
2847 requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

2848 (b) A direct caregiver who is employed by a facility that  
2849 provides special care for residents with Alzheimer's disease or  
2850 other related disorders, and who provides direct care to such  
2851 residents, must complete the required initial training and 4  
2852 additional hours of training developed or approved by the  
2853 department. The training must ~~shall~~ be completed within 9 months  
2854 after beginning employment and satisfy ~~shall satisfy~~ the core  
2855 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

2856 Section 62. Section 429.19, Florida Statutes, is amended to  
2857 read:

2858 429.19 Violations; imposition of administrative fines;  
2859 grounds.—

2860 (1) In addition to the requirements of part II of chapter  
2861 408, the agency shall impose an administrative fine in the  
2862 manner provided in chapter 120 for the violation of any  
2863 provision of this part, part II of chapter 408, and applicable  
2864 rules by an assisted living facility, for the actions of any  
2865 person subject to level 2 background screening under s. 408.809,  
2866 for the actions of any facility employee, or for an intentional  
2867 or negligent act seriously affecting the health, safety, or  
2868 welfare of a resident of the facility.

2869 (2) Each violation of this part and adopted rules must  
2870 ~~shall~~ be classified according to the nature of the violation and  
2871 the gravity of its probable effect on facility residents. The

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2872 agency shall indicate the classification on the written notice  
2873 of the violation as follows:

2874 (a) Class "I" violations are defined in s. 408.813. The  
2875 agency shall impose an administrative fine of \$7,500 for each a  
2876 cited class I violation in a facility that is licensed for fewer  
2877 than 100 beds at the time of the violation ~~in an amount not less~~  
2878 ~~than \$5,000 and not exceeding \$10,000 for each violation.~~ The  
2879 agency shall impose an administrative fine of \$11,250 for each  
2880 cited class I violation in a facility that is licensed for 100  
2881 or more beds at the time of the violation. If the noncompliance  
2882 occurs within the prior 12 months, the fine must be levied for  
2883 violations that are corrected before an inspection.

2884 (b) Class "II" violations are defined in s. 408.813. The  
2885 agency shall impose an administrative fine of \$3,000 for each a  
2886 cited class II violation in a facility that is licensed for  
2887 fewer than 100 beds at the time of the violation ~~in an amount~~  
2888 ~~not less than \$1,000 and not exceeding \$5,000 for each~~  
2889 violation. The agency shall impose an administrative fine of  
2890 \$4,500 for each cited class II violation in a facility that is  
2891 licensed for 100 or more beds at the time of the violation.

2892 (c) Class "III" violations are defined in s. 408.813. The  
2893 agency shall impose an administrative fine of \$750 for each a  
2894 cited class III violation in a facility that is licensed for  
2895 fewer than 100 beds at the time of the violation ~~in an amount~~  
2896 ~~not less than \$500 and not exceeding \$1,000 for each violation.~~  
2897 The agency shall impose an administrative fine of \$1,125 for  
2898 each cited class III violation in a facility that is licensed  
2899 for 100 or more beds at the time of the violation.

2900 (d) Class "IV" violations are defined in s. 408.813. The

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2901 agency shall impose an administrative fine of \$150 for each a  
2902 cited class IV violation in a facility that is licensed for  
2903 fewer than 100 beds at the time of the violation ~~in an amount~~  
2904 ~~not less than \$100 and not exceeding \$200 for each violation.~~  
2905 The agency shall impose an administrative fine of \$225 for each  
2906 cited class IV violation in a facility that is licensed for 100  
2907 or more beds at the time of the violation.

2908 (e) Any fine imposed for class I and class II violations  
2909 must be doubled if a facility was previously cited for one or  
2910 more class I or class II violations during the agency's last  
2911 licensure inspection or any inspection or complaint  
2912 investigation since the last licensure inspection.

2913 (f) Notwithstanding s. 408.813(2)(c) and (d) and s.  
2914 408.832, a fine must be imposed for each class III and class IV  
2915 violation, regardless of correction, if a facility was  
2916 previously cited for one or more class III or class IV  
2917 violations during the agency's last licensure inspection or any  
2918 inspection or complaint investigation since the last licensure  
2919 inspection, for the same regulatory violation. A fine imposed  
2920 for class III or class IV violations must be doubled if a  
2921 facility was previously cited for one or more class III or class  
2922 IV violations during the agency's last two licensure inspections  
2923 for the same regulatory violation.

2924 (g) Regardless of the class of violation cited, instead of  
2925 the fine amounts listed in paragraphs (a)-(d), the agency shall  
2926 impose an administrative fine of \$500 if a facility is found not  
2927 to be in compliance with the background screening requirements  
2928 as provided in s. 408.809.

2929 ~~(3) For purposes of this section, in determining if a~~

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2930 ~~penalty is to be imposed and in fixing the amount of the fine,~~  
2931 ~~the agency shall consider the following factors:~~

2932 ~~(a) The gravity of the violation, including the probability~~  
2933 ~~that death or serious physical or emotional harm to a resident~~  
2934 ~~will result or has resulted, the severity of the action or~~  
2935 ~~potential harm, and the extent to which the provisions of the~~  
2936 ~~applicable laws or rules were violated.~~

2937 ~~(b) Actions taken by the owner or administrator to correct~~  
2938 ~~violations.~~

2939 ~~(c) Any previous violations.~~

2940 ~~(d) The financial benefit to the facility of committing or~~  
2941 ~~continuing the violation.~~

2942 ~~(e) The licensed capacity of the facility.~~

2943 ~~(3)-(4)~~ (3) Each day of continuing violation after the date  
2944 established by the agency ~~fixed~~ for correction ~~termination~~ of  
2945 the violation, ~~as ordered by the agency,~~ constitutes an  
2946 additional, separate, and distinct violation.

2947 ~~(4)-(5)~~ (4) An Any action taken to correct a violation shall be  
2948 documented in writing by the owner or administrator of the  
2949 facility and verified through followup visits by agency  
2950 personnel. The agency may impose a fine and, in the case of an  
2951 owner-operated facility, revoke or deny a facility's license  
2952 when a facility administrator fraudulently misrepresents action  
2953 taken to correct a violation.

2954 ~~(5)-(6)~~ (5) A Any facility whose owner fails to apply for a  
2955 change-of-ownership license in accordance with part II of  
2956 chapter 408 and operates the facility under the new ownership is  
2957 subject to a fine of \$5,000.

2958 ~~(6)-(7)~~ (6) In addition to any administrative fines imposed, the

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2959 agency may assess a survey fee, equal to the lesser of one half  
2960 of the facility's biennial license and bed fee or \$500, to cover  
2961 the cost of conducting initial complaint investigations that  
2962 result in the finding of a violation that was the subject of the  
2963 complaint or monitoring visits conducted under s. 429.28(3)(c)  
2964 to verify the correction of the violations.

2965 (7)~~(8)~~ During an inspection, the agency shall make a  
2966 reasonable attempt to discuss each violation with the owner or  
2967 administrator of the facility, prior to written notification.

2968 (8)~~(9)~~ The agency shall develop and disseminate an annual  
2969 list of all facilities sanctioned or fined for violations of  
2970 state standards, the number and class of violations involved,  
2971 the penalties imposed, and the current status of cases. The list  
2972 shall be disseminated, at no charge, to the Department of  
2973 Elderly Affairs, the Department of Health, the Department of  
2974 Children and Family Services, the Agency for Persons with  
2975 Disabilities, the area agencies on aging, the Florida Statewide  
2976 Advocacy Council, and the state and local ombudsman councils.  
2977 The Department of Children and Family Services shall disseminate  
2978 the list to service providers under contract to the department  
2979 who are responsible for referring persons to a facility for  
2980 residency. The agency may charge a fee commensurate with the  
2981 cost of printing and postage to other interested parties  
2982 requesting a copy of this list. This information may be provided  
2983 electronically or through the agency's Internet site.

2984 Section 63. Subsection (1) of section 429.26, Florida  
2985 Statutes, is amended to read:

2986 429.26 Appropriateness of placements; examinations of  
2987 residents.—

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2988 (1) The owner or administrator of a facility is responsible  
2989 for determining the appropriateness of admission of an  
2990 individual to the facility and for determining the continued  
2991 appropriateness of residence of an individual in the facility. A  
2992 determination shall be based upon an assessment of the  
2993 strengths, needs, and preferences of the resident, the care and  
2994 services offered or arranged for by the facility in accordance  
2995 with facility policy, and any limitations in law or rule related  
2996 to admission criteria or continued residency for the type of  
2997 license held by the facility under this part. A resident who  
2998 requires assistance with portable oxygen, colostomy care, and  
2999 anti-embolism stockings or hosiery, and who otherwise meets the  
3000 admission criteria, may be admitted to a standard licensed  
3001 assisted living facility as long as the facility has a licensed  
3002 nurse on staff or under contract to perform the services. A  
3003 resident may not be moved from one facility to another without  
3004 consultation with and agreement from the resident or, if  
3005 applicable, the resident's representative or designee or the  
3006 resident's family, guardian, surrogate, or attorney in fact. In  
3007 the case of a resident who has been placed by the department or  
3008 the Department of Children and Family Services, the  
3009 administrator must notify the appropriate contact person in the  
3010 applicable department.

3011 Section 64. Subsections (2) and (6) of section 429.28,  
3012 Florida Statutes, are amended to read:

3013 429.28 Resident bill of rights.—

3014 (2) The administrator of a facility shall ensure that a  
3015 written notice of the rights, obligations, and prohibitions set  
3016 forth in this part is posted in a prominent place in each



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3017 facility and read or explained to residents who cannot read. The  
3018 ~~This~~ notice must ~~shall~~ include the name, address, and telephone  
3019 numbers of the local ombudsman council and central abuse hotline  
3020 and, if ~~when~~ applicable, Disability Rights Florida ~~the Advocacy~~  
3021 ~~Center for Persons with Disabilities, Inc., and the Florida~~  
3022 ~~local advocacy council~~, where complaints may be lodged. The  
3023 notice must state that a complaint made to the Office of State  
3024 Long-Term Care Ombudsman or a local long-term care ombudsman  
3025 council, the names and identities of the residents involved in  
3026 the complaint, and the identity of complainants are kept  
3027 confidential pursuant to s. 400.0077 and that retaliatory action  
3028 cannot be taken against a resident for presenting grievances or  
3029 for exercising any other resident right. The facility must  
3030 ensure a resident's access to a telephone to call the local  
3031 ombudsman council, central abuse hotline, and Disability Rights  
3032 Florida Advocacy Center for Persons with Disabilities, Inc., and  
3033 ~~the Florida local advocacy council.~~

3034 (6) A ~~Any~~ facility that ~~which~~ terminates the residency of  
3035 an individual who participated in activities specified in  
3036 subsection (5) must ~~shall~~ show good cause in a court of  
3037 competent jurisdiction. If good cause is not shown, the agency  
3038 shall impose a fine of \$2,500 in addition to any other penalty  
3039 assessed against the facility.

3040 Section 65. Section 429.34, Florida Statutes, is amended to  
3041 read:

3042 429.34 Right of entry and inspection.—

3043 (1) In addition to the requirements of s. 408.811, any duly  
3044 designated officer or employee of the department, the Department  
3045 of Children and Family Services, the Medicaid Fraud Control Unit

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3046 of the Office of the Attorney General, the state or local fire  
3047 marshal, or a member of the state or local long-term care  
3048 ombudsman council has ~~shall have~~ the right to enter unannounced  
3049 upon and into the premises of any facility licensed pursuant to  
3050 this part in order to determine the state of compliance with the  
3051 provisions of this part, part II of chapter 408, and applicable  
3052 rules. Data collected by the state or local long-term care  
3053 ombudsman councils or the state or local advocacy councils may  
3054 be used by the agency in investigations involving violations of  
3055 regulatory standards. A person specified in this section who  
3056 knows or has reasonable cause to suspect that a vulnerable adult  
3057 has been or is being abused, neglected, or exploited shall  
3058 immediately report such knowledge or suspicion to the central  
3059 abuse hotline pursuant to chapter 415.

3060 (2) Each licensed assisted living facility must be  
3061 inspected by the agency at least once every 24 months to  
3062 determine compliance with this chapter and related rules. If an  
3063 assisted living facility is cited for one or more class I  
3064 violations or two or more class II violations arising from  
3065 separate surveys within a 60-day period or due to unrelated  
3066 circumstances during the same survey, the agency must conduct an  
3067 additional licensure inspection within 6 months. In addition to  
3068 any fines imposed on the facility under s. 429.19, the licensee  
3069 must pay a fee for the cost of the additional inspection  
3070 equivalent to the standard assisted living facility license and  
3071 per-bed fees, without exception for beds designated for  
3072 recipients of optional state supplementation. The agency shall  
3073 adjust the fee in accordance with s. 408.805.

3074 Section 66. Present subsections (1) through (11) of section

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3075 429.52, Florida Statutes, are redesignated as subsections (2)  
3076 through (12), respectively, a new subsection (1) is added to  
3077 that section, and present subsection (9) of that section is  
3078 amended, to read:

3079 429.52 Staff training and educational programs; core  
3080 educational requirement.—

3081 (1) Effective October 1, 2013, each new assisted living  
3082 facility employee who has not previously completed core training  
3083 must attend a preservice orientation provided by the facility  
3084 before interacting with residents. The preservice orientation  
3085 must be at least 2 hours in duration and cover topics that help  
3086 the employee provide responsible care and respond to the needs  
3087 of residents of the facility. Upon completion, the employee and  
3088 the administrator of the facility must sign an affidavit stating  
3089 that the employee completed the required preservice orientation.  
3090 The facility must keep the affidavit in the employee's work  
3091 file.

3092 (10)~~(9)~~ The training required by this section must ~~shall~~ be  
3093 conducted by persons registered with the department as having  
3094 the requisite experience and credentials to conduct the  
3095 training. A person seeking to register as a trainer must provide  
3096 the department with proof of completion of the minimum core  
3097 training education requirements, successful passage of the  
3098 competency test established under this section, and proof of  
3099 compliance with the continuing education requirement in  
3100 subsection (5)~~(4)~~.

3101 Section 67. The Legislature finds that consistent  
3102 regulation of assisted living facilities benefits residents and  
3103 operators of such facilities. To determine whether surveys are

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3104 consistent between surveys and surveyors, the Agency for Health  
3105 Care Administration shall conduct a study of intersurveyor  
3106 reliability for assisted living facilities. By November 1, 2013,  
3107 the agency shall report to the Governor, the President of the  
3108 Senate, and the Speaker of the House of Representatives its  
3109 findings and make any recommendations to improve intersurveyor  
3110 reliability.

3111 Section 68. The Legislature finds that consumers need  
3112 additional information on the quality of care and service in  
3113 assisted living facilities in order to select the best facility  
3114 for themselves or their loved ones. Therefore, the Agency for  
3115 Health Care Administration shall:

3116 (1) Propose a rating system for assisted living facilities.  
3117 The proposal must include, but is not limited to, the data  
3118 elements to be used, the method of collecting the data, the  
3119 method of determining the rating, an estimate of the initial and  
3120 ongoing costs of a rating system to both the agency and assisted  
3121 living facilities, and a timetable for the implementation of the  
3122 rating system for assisted living facilities. The agency shall  
3123 submit its proposal to the Governor, the President of the  
3124 Senate, and the Speaker of the House of Representatives by  
3125 November 1, 2013.

3126 (2) By January 1, 2014, create a content that is easily  
3127 accessible through the front page of the agency's website. At a  
3128 minimum, the content must include:

3129 (a) Information on each licensed assisted living facility,  
3130 including, but not limited to:

3131 1. The name and address of the facility.

3132 2. The number and type of licensed beds in the facility.

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- 3133       3. The types of licenses held by the facility.
- 3134       4. The facility's license expiration date and status.
- 3135       5. Other relevant information that the agency currently  
3136 collects.
- 3137       (b) A list of the facility's violations, including, for  
3138 each violation:
- 3139       1. A summary of the violation which is presented in a  
3140 manner understandable by the general public;
- 3141       2. Any sanctions imposed by final order; and
- 3142       3. A summary of any corrective action taken by the  
3143 facility.
- 3144       (c) Links to inspection reports that the agency has on  
3145 file.
- 3146       (d) A monitored comment page, maintained by the agency,  
3147 which allows members of the public to anonymously comment on  
3148 assisted living facilities that are licensed to operate in the  
3149 state. This comment page must, at a minimum, allow members of  
3150 the public to post comments on their experiences with, or  
3151 observations of, an assisted living facility and to review other  
3152 people's comments. Comments posted to the agency's comment page  
3153 may not contain profanity and are intended to provide meaningful  
3154 feedback about the assisted living facility. The agency shall  
3155 provide for a webpage moderator to review comments for profane  
3156 content before the comments are posted to the page. An employee,  
3157 owner, or controlling interest in an assisted living facility is  
3158 prohibited from posting comments on the page.
- 3159       Section 69. Paragraph (b) of subsection (3) of section  
3160 430.80, Florida Statutes, is amended to read:
- 3161       430.80 Implementation of a teaching nursing home pilot

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3162 project.-

3163 (3) To be designated as a teaching nursing home, a nursing  
3164 home licensee must, at a minimum:

3165 (b) Participate in a nationally recognized accrediting  
3166 ~~accreditation~~ program and hold a valid accreditation, such as  
3167 the accreditation awarded by the Joint Commission ~~on~~  
3168 ~~Accreditation of Healthcare Organizations~~, a national  
3169 accrediting organization that is approved by the Centers for  
3170 Medicare and Medicaid Services and whose standards incorporate  
3171 comparable licensure regulations required by the state, or, at  
3172 the time of initial designation, possess a Gold Seal Award as  
3173 conferred by the state on its licensed nursing home;

3174 Section 70. Paragraphs (d) through (yy) of subsection (2)  
3175 of section 435.04, Florida Statutes, are redesignated as  
3176 paragraphs (e) through (zz), respectively, paragraph (e) of  
3177 subsection (1) of that section is amended, and a new paragraph  
3178 (d) is added to subsection (2) of that section, to read:

3179 435.04 Level 2 screening standards.-

3180 (1)

3181 (e) Vendors who submit fingerprints on behalf of employers  
3182 must:

3183 1. Meet the requirements of s. 943.053; and

3184 2. Have the ability to communicate electronically with the  
3185 state agency accepting screening results from the Department of  
3186 Law Enforcement and provide the first, middle, and last name;  
3187 social security number; date of birth; mailing address; sex; and  
3188 race of the applicant ~~a photograph of the applicant taken at the~~  
3189 ~~time the fingerprints are submitted.~~

3190 (2) The security background investigations under this

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3191 section must ensure that no persons subject to the provisions of  
3192 this section have been arrested for and are awaiting final  
3193 disposition of, have been found guilty of, regardless of  
3194 adjudication, or entered a plea of nolo contendere or guilty to,  
3195 or have been adjudicated delinquent and the record has not been  
3196 sealed or expunged for, any offense prohibited under any of the  
3197 following provisions of state law or similar law of another  
3198 jurisdiction:

3199 (d) Section 777.04, relating to attempts, solicitation, and  
3200 conspiracy to commit an offense listed in this subsection.

3201 Section 71. Subsections (1) and (2) of section 435.07,  
3202 Florida Statutes, are amended to read:

3203 435.07 Exemptions from disqualification.—Unless otherwise  
3204 provided by law, the provisions of this section apply to  
3205 exemptions from disqualification for disqualifying offenses  
3206 revealed pursuant to background screenings required under this  
3207 chapter, regardless of whether those disqualifying offenses are  
3208 listed in this chapter or other laws.

3209 (1) (a) The head of the appropriate agency may grant to any  
3210 employee otherwise disqualified from employment an exemption  
3211 from disqualification for:

3212 1. ~~(a)~~ Felonies for which at least 3 years have elapsed  
3213 since the applicant for the exemption has completed or been  
3214 lawfully released from confinement, supervision, or nonmonetary  
3215 condition imposed by the court ~~sanction~~ for the disqualifying  
3216 felony;

3217 2. ~~(b)~~ Misdemeanors prohibited under any of the statutes  
3218 cited in this chapter or under similar statutes of other  
3219 jurisdictions for which the applicant for the exemption has

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3220 completed or been lawfully released from confinement,  
3221 supervision, or nonmonetary condition imposed by the court  
3222 ~~sanction~~;

3223 3.~~(e)~~ Offenses that were felonies when committed but that  
3224 are now misdemeanors and for which the applicant for the  
3225 exemption has completed or been lawfully released from  
3226 confinement, supervision, or nonmonetary condition imposed by  
3227 the court ~~sanction~~; or

3228 4.~~(d)~~ Findings of delinquency. For offenses that would be  
3229 felonies if committed by an adult and the record has not been  
3230 sealed or expunged, the exemption may not be granted until at  
3231 least 3 years have elapsed since the applicant for the exemption  
3232 has completed or been lawfully released from confinement,  
3233 supervision, or nonmonetary condition imposed by the court  
3234 ~~sanction~~ for the disqualifying offense.

3235 (b) A person who wishes to apply for an exemption who was  
3236 ordered to pay any amount for any fee, fine, fund, lien, civil  
3237 judgment, application, costs of prosecution, trust, or  
3238 restitution as part of the judgment and sentence for any  
3239 disqualifying felony or misdemeanor must have paid the court-  
3240 ordered amount in full before being eligible for an exemption.

3241  
3242 For the purposes of this subsection, the term "felonies" means  
3243 both felonies prohibited under any of the statutes cited in this  
3244 chapter or under similar statutes of other jurisdictions.

3245 (2) Persons employed, or applicants for employment, by  
3246 treatment providers who treat adolescents 13 years of age and  
3247 older who are disqualified from employment solely because of  
3248 crimes under s. 817.563, s. 893.13, or s. 893.147 may be



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3249 exempted from disqualification from employment pursuant to this  
3250 chapter without application of the waiting period in  
3251 subparagraph (1) (a) ~~paragraph (1) (a)~~.

3252 Section 72. Subsection (2) of section 435.12, Florida  
3253 Statutes, is amended to read:

3254 435.12 Care Provider Background Screening Clearinghouse.—

3255 (2) (a) To ensure that the information in the clearinghouse  
3256 is current, the fingerprints of an employee required to be  
3257 screened by a specified agency and included in the clearinghouse  
3258 must be:

3259 1. Retained by the Department of Law Enforcement pursuant  
3260 to s. 943.05(2) (g) and (h) and (3), and the Department of Law  
3261 Enforcement must report the results of searching those  
3262 fingerprints against state incoming arrest fingerprint  
3263 submissions to the Agency for Health Care Administration for  
3264 inclusion in the clearinghouse.

3265 2. Resubmitted for a Federal Bureau of Investigation  
3266 national criminal history check every 5 years until such time as  
3267 the fingerprints are retained by the Federal Bureau of  
3268 Investigation.

3269 3. Subject to retention on a 5-year renewal basis with fees  
3270 collected at the time of initial submission or resubmission of  
3271 fingerprints.

3272 4. Submitted with a photograph of the person taken at the  
3273 time the fingerprints are submitted.

3274 (b) Until such time as the fingerprints are retained at the  
3275 Federal Bureau of Investigation, an employee with a break in  
3276 service of more than 90 days from a position that requires  
3277 screening by a specified agency must submit to a national

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3278 screening if the person returns to a position that requires  
3279 screening by a specified agency.

3280 (c) An employer of persons subject to screening by a  
3281 specified agency must register with the clearinghouse and  
3282 maintain the employment status of all employees within the  
3283 clearinghouse. Initial employment status and any changes in  
3284 status must be reported within 10 business days.

3285 (d) An employer must register and initiate all criminal  
3286 history checks through the clearinghouse before referring an  
3287 employee or potential employee for electronic fingerprint  
3288 submission to the Department of Law Enforcement. The  
3289 registration must include the employee's full name (first,  
3290 middle, last), social security number, date of birth, mailing  
3291 address, sex, and race.

3292 Section 73. Paragraphs (b) and (d) of subsection (9) of  
3293 section 440.102, Florida Statutes, are amended to read:

3294 440.102 Drug-free workplace program requirements.—The  
3295 following provisions apply to a drug-free workplace program  
3296 implemented pursuant to law or to rules adopted by the Agency  
3297 for Health Care Administration:

3298 (9) DRUG-TESTING STANDARDS FOR LABORATORIES.—

3299 (b) A laboratory may analyze ~~initial~~~~or~~ confirmation test  
3300 specimens only if:

3301 1. The laboratory obtains a license under part II of  
3302 chapter 408 and s. 112.0455(17). Each applicant for licensure  
3303 and each licensee must comply with all requirements of this  
3304 section, part II of chapter 408, and applicable rules.

3305 2. The laboratory has written procedures to ensure the  
3306 chain of custody.

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3307 3. The laboratory follows proper quality control  
3308 procedures, including, but not limited to:

3309 a. The use of internal quality controls, including the use  
3310 of samples of known concentrations which are used to check the  
3311 performance and calibration of testing equipment, and periodic  
3312 use of blind samples for overall accuracy.

3313 b. An internal review and certification process for drug  
3314 test results, conducted by a person qualified to perform that  
3315 function in the testing laboratory.

3316 c. Security measures implemented by the testing laboratory  
3317 to preclude adulteration of specimens and drug test results.

3318 d. Other necessary and proper actions taken to ensure  
3319 reliable and accurate drug test results.

3320 ~~(d) The laboratory shall submit to the Agency for Health  
3321 Care Administration a monthly report with statistical  
3322 information regarding the testing of employees and job  
3323 applicants. The report must include information on the methods  
3324 of analysis conducted, the drugs tested for, the number of  
3325 positive and negative results for both initial tests and  
3326 confirmation tests, and any other information deemed appropriate  
3327 by the Agency for Health Care Administration. A monthly report  
3328 must not identify specific employees or job applicants.~~

3329 Section 74. Paragraph (a) of subsection (2) of section  
3330 440.13, Florida Statutes, is amended to read:

3331 440.13 Medical services and supplies; penalty for  
3332 violations; limitations.—

3333 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

3334 (a) Subject to the limitations specified elsewhere in this  
3335 chapter, the employer shall furnish to the employee such

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3336 medically necessary remedial treatment, care, and attendance for  
3337 such period as the nature of the injury or the process of  
3338 recovery may require, which is in accordance with established  
3339 practice parameters and protocols of treatment as provided for  
3340 in this chapter, including medicines, medical supplies, durable  
3341 medical equipment, orthoses, prostheses, and other medically  
3342 necessary apparatus. Remedial treatment, care, and attendance,  
3343 including work-hardening programs or pain-management programs  
3344 accredited by CARF International, the ~~Commission on~~  
3345 ~~Accreditation of Rehabilitation Facilities~~ or Joint Commission,  
3346 the American Osteopathic Association/Healthcare Facilities  
3347 Accreditation Program, or a national accrediting organization  
3348 that is approved by the Centers for Medicare and Medicaid  
3349 Services and whose standards incorporate comparable licensure  
3350 regulations required by the state, ~~on the Accreditation of~~  
3351 ~~Health Organizations~~ or pain-management programs affiliated with  
3352 medical schools, shall be considered as covered treatment only  
3353 when such care is given based on a referral by a physician as  
3354 defined in this chapter. Medically necessary treatment, care,  
3355 and attendance does not include chiropractic services in excess  
3356 of 24 treatments or rendered 12 weeks beyond the date of the  
3357 initial chiropractic treatment, whichever comes first, unless  
3358 the carrier authorizes additional treatment or the employee is  
3359 catastrophically injured.

3360

3361 Failure of the carrier to timely comply with this subsection  
3362 shall be a violation of this chapter and the carrier shall be  
3363 subject to penalties as provided for in s. 440.525.

3364 Section 75. Section 465.1902, Florida Statutes, is created

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3365 to read:

3366 465.1902 Preemption.—This chapter preempts to the state all  
3367 regulation of the licensure, activity, and operation of  
3368 pharmacies and pharmacists as defined in this chapter. A local  
3369 government or political subdivision of the state may not enact  
3370 or enforce an ordinance that imposes a levy, charge, or fee  
3371 upon, or that otherwise regulates, pharmacies and pharmacists as  
3372 defined in this chapter, except that this preemption does not  
3373 prohibit a local government or political subdivision from  
3374 enacting an ordinance regarding the following:

3375 (1) Local business taxes adopted pursuant to chapter 205.

3376 (2) Land use development regulations adopted pursuant to  
3377 chapter 163, which include regulation of any aspect of  
3378 development, including a subdivision, building construction,  
3379 sign regulation, and any other regulation concerning the  
3380 development of land, landscaping, or tree protection, and which  
3381 do not include restrictions on pain-management services, health  
3382 care services, or the prescribing of controlled substances.

3383 Section 76. Paragraph (b) of subsection (54) of section  
3384 499.003, Florida Statutes, is amended to read:

3385 499.003 Definitions of terms used in this part.—As used in  
3386 this part, the term:

3387 (54) "Wholesale distribution" means distribution of  
3388 prescription drugs to persons other than a consumer or patient,  
3389 but does not include:

3390 (a) Any of the following activities, which is not a  
3391 violation of s. 499.005(21) or s. 499.0051(13)(f) if such  
3392 activity is conducted in accordance with s. 499.01(2)(g):

3393 1. The purchase or other acquisition by a hospital or other

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3394 health care entity that is a member of a group purchasing  
3395 organization of a prescription drug for its own use from the  
3396 group purchasing organization or from other hospitals or health  
3397 care entities that are members of that organization.

3398         2. The sale, purchase, or trade of a prescription drug or  
3399 an offer to sell, purchase, or trade a prescription drug by a  
3400 charitable organization described in s. 501(c)(3) of the  
3401 Internal Revenue Code of 1986, as amended and revised, to a  
3402 nonprofit affiliate of the organization to the extent otherwise  
3403 permitted by law.

3404         3. The sale, purchase, or trade of a prescription drug or  
3405 an offer to sell, purchase, or trade a prescription drug among  
3406 hospitals or other health care entities that are under common  
3407 control. For purposes of this subparagraph, "common control"  
3408 means the power to direct or cause the direction of the  
3409 management and policies of a person or an organization, whether  
3410 by ownership of stock, by voting rights, by contract, or  
3411 otherwise.

3412         4. The sale, purchase, trade, or other transfer of a  
3413 prescription drug from or for any federal, state, or local  
3414 government agency or any entity eligible to purchase  
3415 prescription drugs at public health services prices pursuant to  
3416 Pub. L. No. 102-585, s. 602 to a contract provider or its  
3417 subcontractor for eligible patients of the agency or entity  
3418 under the following conditions:

3419             a. The agency or entity must obtain written authorization  
3420 for the sale, purchase, trade, or other transfer of a  
3421 prescription drug under this subparagraph from the Secretary of  
3422 Business and Professional Regulation or his or her designee.

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3423           b. The contract provider or subcontractor must be  
3424 authorized by law to administer or dispense prescription drugs.

3425           c. In the case of a subcontractor, the agency or entity  
3426 must be a party to and execute the subcontract.

3427           d. The contract provider and subcontractor must maintain  
3428 and produce immediately for inspection all records of movement  
3429 or transfer of all the prescription drugs belonging to the  
3430 agency or entity, including, but not limited to, the records of  
3431 receipt and disposition of prescription drugs. Each contractor  
3432 and subcontractor dispensing or administering these drugs must  
3433 maintain and produce records documenting the dispensing or  
3434 administration. Records that are required to be maintained  
3435 include, but are not limited to, a perpetual inventory itemizing  
3436 drugs received and drugs dispensed by prescription number or  
3437 administered by patient identifier, which must be submitted to  
3438 the agency or entity quarterly.

3439           e. The contract provider or subcontractor may administer or  
3440 dispense the prescription drugs only to the eligible patients of  
3441 the agency or entity or must return the prescription drugs for  
3442 or to the agency or entity. The contract provider or  
3443 subcontractor must require proof from each person seeking to  
3444 fill a prescription or obtain treatment that the person is an  
3445 eligible patient of the agency or entity and must, at a minimum,  
3446 maintain a copy of this proof as part of the records of the  
3447 contractor or subcontractor required under sub-subparagraph d.

3448           f. In addition to the departmental inspection authority set  
3449 forth in s. 499.051, the establishment of the contract provider  
3450 and subcontractor and all records pertaining to prescription  
3451 drugs subject to this subparagraph shall be subject to

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3452 inspection by the agency or entity. All records relating to  
3453 prescription drugs of a manufacturer under this subparagraph  
3454 shall be subject to audit by the manufacturer of those drugs,  
3455 without identifying individual patient information.

3456 (b) Any of the following activities, which is not a  
3457 violation of s. 499.005(21) or s. 499.0051(13)(f) if such  
3458 activity is conducted in accordance with rules established by  
3459 the department:

3460 1. The sale, purchase, or trade of a prescription drug  
3461 among federal, state, or local government health care entities  
3462 that are under common control and are authorized to purchase  
3463 such prescription drug.

3464 2. The sale, purchase, or trade of a prescription drug or  
3465 an offer to sell, purchase, or trade a prescription drug for  
3466 emergency medical reasons. For purposes of this subparagraph,  
3467 the term "emergency medical reasons" includes transfers of  
3468 prescription drugs by a retail pharmacy to another retail  
3469 pharmacy to alleviate a temporary shortage.

3470 3. The transfer of a prescription drug acquired by a  
3471 medical director on behalf of a licensed emergency medical  
3472 services provider to that emergency medical services provider  
3473 and its transport vehicles for use in accordance with the  
3474 provider's license under chapter 401.

3475 4. The revocation of a sale or the return of a prescription  
3476 drug to the person's prescription drug wholesale supplier.

3477 5. The donation of a prescription drug by a health care  
3478 entity to a charitable organization that has been granted an  
3479 exemption under s. 501(c)(3) of the Internal Revenue Code of  
3480 1986, as amended, and that is authorized to possess prescription



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3481 drugs.

3482         6. The transfer of a prescription drug by a person  
3483 authorized to purchase or receive prescription drugs to a person  
3484 licensed or permitted to handle reverse distributions or  
3485 destruction under the laws of the jurisdiction in which the  
3486 person handling the reverse distribution or destruction receives  
3487 the drug.

3488         7. The transfer of a prescription drug by a hospital or  
3489 other health care entity, either directly or through the  
3490 hospital's or health care entity's prescription drug wholesale  
3491 supplier or the manufacturer, to a person licensed under this  
3492 part to repackage prescription drugs for the purpose of  
3493 repackaging the prescription drug for use by that hospital, or  
3494 other health care entity and other health care entities that are  
3495 under common control, and the transfer of the drugs by the  
3496 repackager to the hospital or other healthcare entity, if  
3497 ownership of the prescription drugs remains with the hospital or  
3498 other health care entity at all times. In addition to the  
3499 recordkeeping requirements of s. 499.0121(6), the hospital or  
3500 health care entity that transfers prescription drugs pursuant to  
3501 this subparagraph must reconcile all drugs transferred and  
3502 returned and resolve any discrepancies in a timely manner. The  
3503 repackager must comply with the recordkeeping requirements of s.  
3504 499.01212(2).

3505         Section 77. Paragraph (b) of subsection (2) of section  
3506 499.01, Florida Statutes, is amended to read

3507         499.01 Permits.—

3508         (2) The following permits are established:

3509         (b) *Prescription drug repackager permit.*—A prescription

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3510 drug repackager permit is required for any person that  
3511 repackages a prescription drug in this state or any person  
3512 located in another state who repackages and distributes  
3513 prescription drugs in or into this state which are received in a  
3514 transfer pursuant to s. 499.003(54)(b)7.

3515 1. A person that operates an establishment permitted as a  
3516 prescription drug repackager may engage in wholesale  
3517 distribution of prescription drugs repackaged at that  
3518 establishment and must comply with all the provisions of this  
3519 part and the rules adopted under this part that apply to a  
3520 wholesale distributor.

3521 2. A prescription drug repackager must comply with all  
3522 appropriate state and federal good manufacturing practices.

3523 Section 78. Subsection (2) of section 499.01212, Florida  
3524 Statutes, is amended to read:

3525 499.01212 Pedigree paper.—

3526 (2) FORMAT.—A pedigree paper must contain the following  
3527 information:

3528 (a) For the wholesale distribution of a prescription drug  
3529 within the normal distribution chain or pursuant to a transfer  
3530 described in s. 499.003(54)(b)7. if the wholesale distributor  
3531 purchased the specific unit of the prescription drug directly  
3532 from the manufacturer and the wholesale distributor transfers  
3533 title to the prescription drug within the normal distribution  
3534 chain, but delivers physical possession to a repackager licensed  
3535 under this part:

3536 1. The following statement: "This wholesale distributor  
3537 purchased the specific unit of the prescription drug directly  
3538 from the manufacturer."

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3539           2. The manufacturer's national drug code identifier and the  
3540 name and address of the wholesale distributor and the purchaser  
3541 of the prescription drug.

3542           3. The name of the prescription drug as it appears on the  
3543 label.

3544           4. The quantity, dosage form, and strength of the  
3545 prescription drug.

3546

3547 The wholesale distributor must also maintain and make available  
3548 to the department, upon request, the point of origin of the  
3549 prescription drugs, including intracompany transfers, the date  
3550 of the shipment from the manufacturer to the wholesale  
3551 distributor, the lot numbers of such drugs, and the invoice  
3552 numbers from the manufacturer. If a repackager further  
3553 distributes prescription drugs to a hospital or other health  
3554 care entity pursuant to s. 499.003(54)(b)7., and the hospital or  
3555 other health care entity receives the statement from the  
3556 wholesale distributor in this subsection, the repackager's  
3557 pedigree paper must contain the statement from the wholesale  
3558 distributor in this subsection, along with the lot numbers of  
3559 the prescription drugs, the name and address of the repackager  
3560 and his or her signature, the date of receipt, and the name and  
3561 address of the person authorized by law to purchase prescription  
3562 drugs for the purpose of administering or dispensing the drug,  
3563 as defined in s. 465.003.

3564           (b) For all other wholesale distributions of prescription  
3565 drugs and all other transfers of prescription drugs by  
3566 repackagers pursuant to s. 499.003(54)(b)7.:

3567           1. The quantity, dosage form, and strength of the

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3568 prescription drugs.

3569 2. The lot numbers of the prescription drugs.

3570 3. The name and address of each owner of the prescription  
3571 drug and his or her signature.

3572 4. Shipping information, including the name and address of  
3573 each person certifying delivery or receipt of the prescription  
3574 drug.

3575 5. An invoice number, a shipping document number, or  
3576 another number uniquely identifying the transaction.

3577 6. A certification that the recipient wholesale distributor  
3578 has authenticated the pedigree papers.

3579 7. The unique serialization of the prescription drug, if  
3580 the manufacturer or repackager has uniquely serialized the  
3581 individual prescription drug unit.

3582 8. The name, address, telephone number, and, if available,  
3583 e-mail contact information of each wholesale distributor  
3584 involved in the chain of the prescription drug's custody.

3585

3586 When an affiliated group member obtains title to a prescription  
3587 drug before distributing the prescription drug as the  
3588 manufacturer under s. 499.003(31)(e), information regarding the  
3589 distribution between those affiliated group members may be  
3590 omitted from a pedigree paper required under this paragraph for  
3591 subsequent distributions of that prescription drug.

3592 Section 79. Subsection (8) of section 499.041, Florida  
3593 Statutes, is amended to read

3594 499.041 Schedule of fees for drug, device, and cosmetic  
3595 applications and permits, product registrations, and free-sale  
3596 certificates.-

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3597 (8) The department shall assess a prescription drug  
3598 repackager applicant or permittee physically located outside of  
3599 the state or an out-of-state prescription drug wholesale  
3600 distributor applicant or permittee an onsite inspection fee of  
3601 not less than \$1,000 or more than \$3,000 annually, to be based  
3602 on the actual cost of the inspection if an onsite inspection is  
3603 performed by agents of the department.

3604 Section 80. Subsection (1) of section 627.645, Florida  
3605 Statutes, is amended to read:

3606 627.645 Denial of health insurance claims restricted.—

3607 (1) A ~~No~~ claim for payment under a health insurance policy  
3608 or self-insured program of health benefits for treatment, care,  
3609 or services in a licensed hospital that ~~which~~ is accredited by  
3610 the Joint Commission, the American Osteopathic  
3611 Association/Healthcare Facilities Accreditation Program, a  
3612 national accrediting organization that is approved by the  
3613 Centers for Medicare and Medicaid Services and whose standards  
3614 incorporate comparable licensure regulations required by the  
3615 state ~~on the Accreditation of Hospitals~~, the American  
3616 Osteopathic Association, or CARF International may not ~~the~~  
3617 ~~Commission on the Accreditation of Rehabilitative Facilities~~  
3618 ~~shall~~ be denied because such hospital lacks major surgical  
3619 facilities and is primarily of a rehabilitative nature, if such  
3620 rehabilitation is specifically for treatment of physical  
3621 disability.

3622 Section 81. Paragraph (c) of subsection (2) of section  
3623 627.668, Florida Statutes, is amended to read:

3624 627.668 Optional coverage for mental and nervous disorders  
3625 required; exception.—

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3626 (2) Under group policies or contracts, inpatient hospital  
3627 benefits, partial hospitalization benefits, and outpatient  
3628 benefits consisting of durational limits, dollar amounts,  
3629 deductibles, and coinsurance factors shall not be less favorable  
3630 than for physical illness generally, except that:

3631 (c) Partial hospitalization benefits shall be provided  
3632 under the direction of a licensed physician. For purposes of  
3633 this part, the term "partial hospitalization services" is  
3634 defined as those services offered by a program that is  
3635 accredited by the Joint Commission, the American Osteopathic  
3636 Association/Healthcare Facilities Accreditation Program, or a  
3637 national accrediting organization approved by the Centers for  
3638 Medicare and Medicaid Services and whose standards incorporate  
3639 comparable licensure regulations required by the state; ~~or~~  
3640 Accreditation of Hospitals (JCAH) or that is in compliance with  
3641 equivalent standards. Alcohol rehabilitation programs accredited  
3642 by the Joint Commission ~~on Accreditation of Hospitals~~ or  
3643 approved by the state and licensed drug abuse rehabilitation  
3644 programs shall also be qualified providers under this section.  
3645 In a given ~~any~~ benefit year, if partial hospitalization services  
3646 or a combination of inpatient and partial hospitalization are  
3647 used ~~utilized~~, the total benefits paid for all such services may  
3648 ~~shall~~ not exceed the cost of 30 days after ~~of~~ inpatient  
3649 hospitalization for psychiatric services, including physician  
3650 fees, which prevail in the community in which the partial  
3651 hospitalization services are rendered. If partial  
3652 hospitalization services benefits are provided beyond the limits  
3653 set forth in this paragraph, the durational limits, dollar  
3654 amounts, and coinsurance factors thereof need not be the same as

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3655 those applicable to physical illness generally.

3656 Section 82. Subsection (3) of section 627.669, Florida  
3657 Statutes, is amended to read:

3658 627.669 Optional coverage required for substance abuse  
3659 impaired persons; exception.—

3660 (3) The benefits provided under this section are ~~shall be~~  
3661 applicable only if treatment is provided by, or under the  
3662 supervision of, or is prescribed by, a licensed physician or  
3663 licensed psychologist and if services are provided in a program  
3664 that is accredited by the Joint Commission, the American  
3665 Osteopathic Association/Healthcare Facilities Accreditation  
3666 Program, or a national accrediting organization that is approved  
3667 by the Centers for Medicare and Medicaid Services and whose  
3668 standards incorporate comparable licensure regulations required  
3669 by the state ~~on Accreditation of Hospitals~~ or that is approved  
3670 by the state.

3671 Section 83. Paragraph (a) of subsection (1) of section  
3672 627.736, Florida Statutes, is amended to read:

3673 627.736 Required personal injury protection benefits;  
3674 exclusions; priority; claims.—

3675 (1) REQUIRED BENEFITS.—An insurance policy complying with  
3676 the security requirements of s. 627.733 must provide personal  
3677 injury protection to the named insured, relatives residing in  
3678 the same household, persons operating the insured motor vehicle,  
3679 passengers in the motor vehicle, and other persons struck by the  
3680 motor vehicle and suffering bodily injury while not an occupant  
3681 of a self-propelled vehicle, subject to subsection (2) and  
3682 paragraph (4) (e), to a limit of \$10,000 in medical and  
3683 disability benefits and \$5,000 in death benefits resulting from

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3684 bodily injury, sickness, disease, or death arising out of the  
3685 ownership, maintenance, or use of a motor vehicle as follows:

3686 (a) *Medical benefits.*—Eighty percent of all reasonable  
3687 expenses for medically necessary medical, surgical, X-ray,  
3688 dental, and rehabilitative services, including prosthetic  
3689 devices and medically necessary ambulance, hospital, and nursing  
3690 services if the individual receives initial services and care  
3691 pursuant to subparagraph 1. within 14 days after the motor  
3692 vehicle accident. The medical benefits provide reimbursement  
3693 only for:

3694 1. Initial services and care that are lawfully provided,  
3695 supervised, ordered, or prescribed by a physician licensed under  
3696 chapter 458 or chapter 459, a dentist licensed under chapter  
3697 466, or a chiropractic physician licensed under chapter 460 or  
3698 that are provided in a hospital or in a facility that owns, or  
3699 is wholly owned by, a hospital. Initial services and care may  
3700 also be provided by a person or entity licensed under part III  
3701 of chapter 401 which provides emergency transportation and  
3702 treatment.

3703 2. Upon referral by a provider described in subparagraph  
3704 1., followup services and care consistent with the underlying  
3705 medical diagnosis rendered pursuant to subparagraph 1. which may  
3706 be provided, supervised, ordered, or prescribed only by a  
3707 physician licensed under chapter 458 or chapter 459, a  
3708 chiropractic physician licensed under chapter 460, a dentist  
3709 licensed under chapter 466, or, to the extent permitted by  
3710 applicable law and under the supervision of such physician,  
3711 osteopathic physician, chiropractic physician, or dentist, by a  
3712 physician assistant licensed under chapter 458 or chapter 459 or



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3713 an advanced registered nurse practitioner licensed under chapter  
3714 464. Followup services and care may also be provided by ~~any of~~  
3715 the following persons or entities:

3716 a. A hospital or ambulatory surgical center licensed under  
3717 chapter 395.

3718 b. An entity wholly owned by one or more physicians  
3719 licensed under chapter 458 or chapter 459, chiropractic  
3720 physicians licensed under chapter 460, or dentists licensed  
3721 under chapter 466 or by such practitioners and the spouse,  
3722 parent, child, or sibling of such practitioners.

3723 c. An entity that owns or is wholly owned, directly or  
3724 indirectly, by a hospital or hospitals.

3725 d. A physical therapist licensed under chapter 486, based  
3726 upon a referral by a provider described in this subparagraph.

3727 e. A health care clinic licensed under part X of chapter  
3728 400 which is accredited by the Joint Commission, the American  
3729 Osteopathic Association/Healthcare Facilities Accreditation  
3730 Program, a national accrediting organization that is approved by  
3731 the Centers for Medicare and Medicaid Services and whose  
3732 standards incorporate comparable licensure regulations required  
3733 by the state, CARF International ~~on Accreditation of Healthcare~~  
3734 ~~Organizations, the American Osteopathic Association, the~~  
3735 ~~Commission on Accreditation of Rehabilitation Facilities,~~ or the  
3736 Accreditation Association for Ambulatory Health Care, Inc., or

3737 (I) Has a medical director licensed under chapter 458,  
3738 chapter 459, or chapter 460;

3739 (II) Has been continuously licensed for more than 3 years  
3740 or is a publicly traded corporation that issues securities  
3741 traded on an exchange registered with the United States

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3742 Securities and Exchange Commission as a national securities  
3743 exchange; and

3744 (III) Provides at least four of the following medical  
3745 specialties:

3746 (A) General medicine.

3747 (B) Radiography.

3748 (C) Orthopedic medicine.

3749 (D) Physical medicine.

3750 (E) Physical therapy.

3751 (F) Physical rehabilitation.

3752 (G) Prescribing or dispensing outpatient prescription  
3753 medication.

3754 (H) Laboratory services.

3755 3. Reimbursement for services and care provided in  
3756 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician  
3757 licensed under chapter 458 or chapter 459, a dentist licensed  
3758 under chapter 466, a physician assistant licensed under chapter  
3759 458 or chapter 459, or an advanced registered nurse practitioner  
3760 licensed under chapter 464 has determined that the injured  
3761 person had an emergency medical condition.

3762 4. Reimbursement for services and care provided in  
3763 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a ~~any~~  
3764 provider listed in subparagraph 1. or subparagraph 2. determines  
3765 that the injured person did not have an emergency medical  
3766 condition.

3767 5. Medical benefits do not include massage as defined in s.  
3768 480.033 or acupuncture as defined in s. 457.102, regardless of  
3769 the person, entity, or licensee providing massage or  
3770 acupuncture, and a licensed massage therapist or licensed

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3771 acupuncturist may not be reimbursed for medical benefits under  
3772 this section.

3773         6. The Financial Services Commission shall adopt by rule  
3774 the form that must be used by an insurer and a health care  
3775 provider specified in sub-subparagraph 2.b., sub-subparagraph  
3776 2.c., or sub-subparagraph 2.e. to document that the health care  
3777 provider meets the criteria of this paragraph. Such, ~~which~~ rule  
3778 must include a requirement for a sworn statement or affidavit.

3779  
3780 Only insurers writing motor vehicle liability insurance in this  
3781 state may provide the required benefits of this section, and  
3782 such insurer may not require the purchase of any other motor  
3783 vehicle coverage other than the purchase of property damage  
3784 liability coverage as required by s. 627.7275 as a condition for  
3785 providing such benefits. Insurers may not require that property  
3786 damage liability insurance in an amount greater than \$10,000 be  
3787 purchased in conjunction with personal injury protection. Such  
3788 insurers shall make benefits and required property damage  
3789 liability insurance coverage available through normal marketing  
3790 channels. An insurer writing motor vehicle liability insurance  
3791 in this state who fails to comply with such availability  
3792 requirement as a general business practice violates part IX of  
3793 chapter 626, and such violation constitutes an unfair method of  
3794 competition or an unfair or deceptive act or practice involving  
3795 the business of insurance. An insurer committing such violation  
3796 is subject to the penalties provided under that part, as well as  
3797 those provided elsewhere in the insurance code.

3798         Section 84. Subsection (12) of section 641.495, Florida  
3799 Statutes, is amended to read:

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3800           641.495 Requirements for issuance and maintenance of  
3801 certificate.-

3802           (12) The provisions of part I of chapter 395 do not apply  
3803 to a health maintenance organization that, on or before January  
3804 1, 1991, provides not more than 10 outpatient holding beds for  
3805 short-term and hospice-type patients in an ambulatory care  
3806 facility for its members, provided that such health maintenance  
3807 organization maintains current accreditation by the Joint  
3808 Commission ~~on Accreditation of Health Care Organizations~~, a  
3809 national accrediting organization that is approved by the  
3810 Centers for Medicare and Medicaid Services and whose standards  
3811 incorporate comparable licensure regulations required by the  
3812 state, the Accreditation Association for Ambulatory Health Care,  
3813 Inc., or the National Committee for Quality Assurance.

3814           Section 85. Subsection (2) of section 766.1015, Florida  
3815 Statutes, is amended to read:

3816           766.1015 Civil immunity for members of or consultants to  
3817 certain boards, committees, or other entities.-

3818           (2) Such committee, board, group, commission, or other  
3819 entity must be established in accordance with state law, ~~or~~ in  
3820 accordance with requirements of the Joint Commission, the  
3821 American Osteopathic Association/Healthcare Facilities  
3822 Accreditation Program, or a national accrediting organization  
3823 that is approved by the Centers for Medicare and Medicaid  
3824 Services and whose standards incorporate comparable licensure  
3825 regulations required by the state ~~on Accreditation of Healthcare~~  
3826 ~~Organizations~~, established and duly constituted by one or more  
3827 public or licensed private hospitals or behavioral health  
3828 agencies, or established by a governmental agency. To be

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3829 protected by this section, the act, decision, omission, or  
3830 utterance may not be made or done in bad faith or with malicious  
3831 intent.

3832 Section 86. Section 893.0552, Florida Statutes, is created  
3833 to read:

3834 893.0552 Preemption of regulation.—

3835 (1) This section preempts to the state all regulation of  
3836 the licensure, activity, and operation of pain-management  
3837 clinics as defined in ss. 458.3265 and 459.0137 in the following  
3838 circumstances:

3839 (a) The clinic is wholly owned and operated by a physician  
3840 who performs interventional pain procedures of the type  
3841 routinely billed using surgical codes, who has never been  
3842 suspended or revoked for prescribing a controlled substance in  
3843 Schedule II or Schedule III of s. 893.03 and drugs containing  
3844 Alprazolam in excessive or inappropriate quantities that are not  
3845 in the best interest of a patient, and who:

3846 1. Has completed a fellowship in pain medicine which is  
3847 approved by the Accreditation Council for Graduate Medical  
3848 Education or the American Osteopathic Association;

3849 2. Is board-certified in pain medicine by the American  
3850 Board of Pain Medicine, board-certified by the American Board of  
3851 Interventional Pain Physicians; or

3852 3. Has a board certification or subcertification in pain  
3853 management or pain medicine by a specialty board approved by the  
3854 American Board of Medical Specialties or the American  
3855 Osteopathic Association.

3856 (b) The clinic is wholly owned and operated by a physician-  
3857 multispecialty practice if one or more board-eligible or board-

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3858 certified medical specialists has one of the qualifications  
3859 specified in subparagraph (a)1., subparagraph (a)2., or  
3860 subparagraph (a)3., performs interventional pain procedures of  
3861 the type routinely billed using surgical codes, and has never  
3862 been suspended or revoked for prescribing a controlled substance  
3863 in Schedule II or Schedule III of s. 893.03 and drugs containing  
3864 Alprazolam in excessive or inappropriate quantities that are not  
3865 in the best interest of a patient.

3866 (2) Notwithstanding subsection (1), the preemption does not  
3867 prohibit a local government or political subdivision from  
3868 enacting an ordinance regarding local business taxes adopted  
3869 pursuant to chapter 205 and land use development regulations  
3870 adopted pursuant to chapter 163. A pain-management clinic in  
3871 which the regulation of its licensure, activity, and operation  
3872 is preempted to the state pursuant to subsection (1) is a  
3873 permissible use in a land use or zoning category that permits  
3874 hospitals and other health care facilities or clinics as defined  
3875 in chapter 395 or s. 408.07. Upon the request of a local  
3876 government, a pain-management clinic must annually demonstrate  
3877 that it qualifies for preemption pursuant to subsection (1).

3878 Section 87. This act shall take effect July 1, 2013.