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LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 03/25/2014 | . |       |
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (d) of subsection (3) of section  
390.012, Florida Statutes, is amended to read:

390.012 Powers of agency; rules; disposal of fetal  
remains.—

(3) For clinics that perform or claim to perform abortions  
after the first trimester of pregnancy, the agency shall adopt



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11 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
12 provisions of this chapter, including the following:

13 (d) Rules relating to the medical screening and evaluation  
14 of each abortion clinic patient. At a minimum, these rules must  
15 ~~shall~~ require:

16 1. A medical history including reported allergies to  
17 medications, antiseptic solutions, or latex; past surgeries; and  
18 an obstetric and gynecological history.

19 2. A physical examination, including a bimanual examination  
20 estimating uterine size and palpation of the adnexa.

21 3. The appropriate laboratory tests, including:

22 a. Urine or blood tests for pregnancy performed before the  
23 abortion procedure.

24 b. A test for anemia.

25 c. Rh typing, unless reliable written documentation of  
26 blood type is available.

27 d. Other tests as indicated from the physical examination.

28 4. An ultrasound evaluation for all patients. The rules  
29 must ~~shall~~ require that if a person who is not a physician  
30 performs an ultrasound examination, that person shall have  
31 documented evidence that he or she has completed a course in the  
32 operation of ultrasound equipment as prescribed in rule. ~~The~~  
33 ~~rules shall require clinics to be in compliance with s.~~  
34 ~~390.0111.~~

35 5. That the physician is responsible for estimating the  
36 gestational age of the fetus based on the ultrasound examination  
37 and obstetric standards in keeping with established standards of  
38 care regarding the estimation of fetal age as defined in rule  
39 and shall write the estimate in the patient's medical history.



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40 The physician shall keep original prints of each ultrasound  
41 examination of a patient in the patient's medical history file.

42 Section 2. Subsection (11) of section 400.021, Florida  
43 Statutes, is amended to read:

44 400.021 Definitions.—When used in this part, unless the  
45 context otherwise requires, the term:

46 (11) "Nursing home bed" means an accommodation that ~~which~~  
47 is ready for immediate occupancy, or is capable of being made  
48 ready for occupancy within 48 hours, excluding the provision of  
49 staffing, ~~+~~ and that ~~which~~ conforms to minimum space  
50 requirements, including the availability of appropriate  
51 equipment and furnishings within the 48 hours, as specified by  
52 ~~rule of~~ the agency, for the provision of services specified in  
53 this part to a single resident.

54 Section 3. Subsection (3) of section 400.0712, Florida  
55 Statutes, is amended to read:

56 400.0712 Application for inactive license.—

57 ~~(3) The agency shall adopt rules pursuant to ss. 120.536(1)~~  
58 ~~and 120.54 necessary to implement this section.~~

59 Section 4. Section 400.23, Florida Statutes, is amended to  
60 read:

61 400.23 Rules; evaluation and deficiencies; licensure  
62 status.—

63 (1) It is the intent of the Legislature that rules  
64 published and enforced pursuant to this part and part II of  
65 chapter 408 ~~shall~~ include criteria by which a reasonable and  
66 consistent quality of resident care may be ensured, and the  
67 results of such resident care can be demonstrated, and ~~by which~~  
68 safe and sanitary nursing homes can be provided. It is further



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69 intended that reasonable efforts be made to accommodate the  
70 needs and preferences of residents to enhance the quality of  
71 life in a nursing home. In addition, efforts shall be made to  
72 minimize the amount of paperwork associated with the reporting  
73 and documentation requirements of these rules.

74 (2) Pursuant to the intention of the Legislature, the  
75 agency, in consultation with the Department of Health and the  
76 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules  
77 to administer ~~implement~~ this part and part II of chapter 408.  
78 The rules must specify, but are not limited to, which shall  
79 ~~include~~ reasonable and fair criteria relating ~~in relation~~ to:

80 (a) The location of the facility and housing conditions  
81 that will ensure the health, safety, and comfort of residents,  
82 including an adequate call system. In adopting ~~making~~ such  
83 rules, the agency shall be guided by criteria recommended by  
84 nationally recognized reputable professional groups and  
85 associations that have ~~with~~ knowledge of such subject matters.  
86 The agency shall update or revise the ~~such~~ criteria as the need  
87 arises. The agency may require alterations to a building if it  
88 determines that an existing condition constitutes a distinct  
89 hazard to life, health, or safety. In performing ~~any~~ inspections  
90 of facilities authorized by this part or part II of chapter 408,  
91 the agency may enforce the special-occupancy provisions of the  
92 Florida Building Code and the Florida Fire Prevention Code which  
93 apply to nursing homes. A resident ~~Residents~~ or his or her  
94 representative must ~~their representatives shall~~ be able to  
95 request a change in the placement of the bed in his or her ~~their~~  
96 room if, provided that at admission, the resident is ~~they are~~  
97 presented with a room that meets requirements of the Florida



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98 Building Code. The location of a bed may be changed if the  
99 requested placement does not infringe on the resident's roommate  
100 or interfere with the resident's care or safety as determined by  
101 the care planning team in accordance with facility policies and  
102 procedures. In addition, the bed placement may not be used as a  
103 restraint. Each facility shall maintain a log of resident rooms  
104 with beds that are not in strict compliance with the Florida  
105 Building Code in order for such log to be used by surveyors and  
106 nurse monitors during inspections and visits. A resident or a  
107 resident's ~~resident~~ representative who requests that a bed be  
108 moved must ~~shall~~ sign a statement indicating that he or she  
109 understands that the room will not be in compliance with the  
110 Florida Building Code, but that he or she ~~they~~ would prefer to  
111 exercise the ~~their~~ right to self-determination. The statement  
112 must be retained as part of the resident's care plan. A ~~Any~~  
113 facility that offers this option must submit a letter signed by  
114 the nursing home administrator of record to the agency notifying  
115 it of this practice along with a copy of the policies and  
116 procedures of the facility. The agency is directed to provide  
117 assistance to the Florida Building Commission in updating the  
118 construction standards of the code relating ~~relative~~ to nursing  
119 homes.

120 (b) The number and qualifications of all personnel,  
121 including management, medical, nursing, and other professional  
122 personnel, and nursing assistants, orderlies, and support  
123 personnel, having responsibility for any part of the care given  
124 residents.

125 (c) All sanitary conditions within the facility and its  
126 surroundings, including water supply, sewage disposal, food



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127 handling, and general hygiene which will ensure the health and  
128 comfort of residents.

129 (d) The equipment essential to the health and welfare of  
130 the residents.

131 (e) A uniform accounting system.

132 (f) The care, treatment, and maintenance of residents and  
133 measurement of the quality and adequacy thereof, based on rules  
134 developed under this chapter and the Omnibus Budget  
135 Reconciliation Act of 1987, (Pub. L. No. 100-203) ~~(December 22,~~  
136 ~~1987)~~, Title IV (Medicare, Medicaid, and Other Health-Related  
137 Programs), Subtitle C (Nursing Home Reform), as amended.

138 (g) The preparation and annual update of a comprehensive  
139 emergency management plan. The agency shall establish ~~adopt~~  
140 ~~rules establishing~~ minimum criteria for the plan after  
141 consultation with the Division of Emergency Management. At a  
142 minimum, the ~~rules must provide for~~ plan components must provide  
143 ~~that address~~ emergency evacuation transportation; adequate  
144 sheltering arrangements; postdisaster activities, including  
145 emergency power, food, and water; postdisaster transportation;  
146 supplies; staffing; emergency equipment; individual  
147 identification of residents and transfer of records; and  
148 responding to family inquiries. The comprehensive emergency  
149 management plan is subject to review and approval by the local  
150 emergency management agency. During the ~~its~~ review, the local  
151 emergency management agency shall ensure that the following  
152 agencies, at a minimum, are given the opportunity to review the  
153 plan: the Department of Elderly Affairs, the Department of  
154 Health, the Agency for Health Care Administration, and the  
155 Division of Emergency Management. ~~Also,~~ Appropriate volunteer



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156 organizations must also be given the opportunity to review the  
157 plan. The local emergency management agency shall complete its  
158 review within 60 days and ~~either~~ approve the plan or advise the  
159 facility of necessary revisions.

160 (h) The availability, distribution, and posting of reports  
161 and records pursuant to s. 400.191 and the Gold Seal Program  
162 pursuant to s. 400.235.

163 (3) (a) ~~1-~~ The agency shall enforce ~~adopt rules providing~~  
164 minimum staffing requirements for nursing home facilities.

165 1. These requirements must include, for each facility:

166 a. A combined minimum weekly average of certified nursing  
167 assistant and licensed nursing staffing ~~combined~~ of 3.6 hours of  
168 direct care per resident per day. As used in this sub-  
169 subparagraph, a week is defined as Sunday through Saturday.

170 b. A minimum certified nursing assistant staffing of 2.5  
171 hours of direct care per resident per day. A facility may not  
172 staff below one certified nursing assistant per 20 residents.

173 c. A minimum licensed nursing staffing of 1.0 hour of  
174 direct care per resident per day. A facility may not staff below  
175 one licensed nurse per 40 residents.

176 2. Nursing assistants employed under s. 400.211(2) may be  
177 included in computing the staffing ratio for certified nursing  
178 assistants if their job responsibilities include only nursing-  
179 assistant-related duties.

180 3. Each nursing home facility must document compliance with  
181 staffing standards ~~as~~ required under this paragraph and post  
182 daily the names of staff on duty for the benefit of facility  
183 residents and the public.

184 4. The agency shall recognize the use of licensed nurses



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185 for compliance with the minimum staffing requirements for  
186 certified nursing assistants if the nursing home facility  
187 otherwise meets the minimum staffing requirements for licensed  
188 nurses and the licensed nurses are performing the duties of a  
189 certified nursing assistants ~~assistant~~. Unless otherwise  
190 approved by the agency, licensed nurses counted toward the  
191 minimum staffing requirements for certified nursing assistants  
192 must exclusively perform the duties of a certified nursing  
193 assistants ~~assistant~~ for the entire shift and not also be  
194 counted toward the minimum staffing requirements for licensed  
195 nurses. If the agency approved a facility's request to use a  
196 licensed nurse to perform both licensed nursing and certified  
197 nursing assistant duties, the facility must allocate the amount  
198 of staff time specifically spent on certified nursing assistant  
199 duties for the purpose of documenting compliance with minimum  
200 staffing requirements for certified and licensed nursing staff.  
201 The hours of a licensed nurse with dual job responsibilities may  
202 not be counted twice.

203 (b) Nonnursing staff providing eating assistance to  
204 residents does ~~shall~~ not count toward compliance with minimum  
205 staffing standards.

206 (c) Licensed practical nurses licensed under chapter 464  
207 who are providing nursing services in nursing home facilities  
208 under this part may supervise the activities of other licensed  
209 practical nurses, certified nursing assistants, and other  
210 unlicensed personnel providing services in such facilities in  
211 accordance with rules adopted by the Board of Nursing.

212 (4) ~~Rules developed pursuant to~~ This section does ~~shall~~ not  
213 restrict the use of shared staffing and shared programming in





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214 facilities ~~that which~~ are part of retirement communities that  
215 provide multiple levels of care and otherwise meet the  
216 requirement of law or rule.

217 ~~(5) The agency, in collaboration with the Division of~~  
218 ~~Children's Medical Services of the Department of Health, must~~  
219 ~~adopt rules for:~~

220 (a) Minimum standards of care for persons under 21 years of  
221 age who reside in nursing home facilities may be established by  
222 the agency, in collaboration with the Division of Children's  
223 Medical Services of the Department of Health. A facility may be  
224 exempted from these standards and the provisions of paragraph  
225 (b) for specified ~~specific~~ persons between 18 and 21 years of  
226 age, if the person's physician agrees that minimum standards of  
227 care based on age are not necessary.

228 (b) The following ~~Minimum~~ staffing requirements for persons  
229 under 21 years of age who reside in nursing home facilities,  
230 ~~which~~ apply in lieu of the requirements contained in subsection  
231 (3) :-

232 1. For persons under 21 years of age who require skilled  
233 care:

234 a. A minimum combined average of 3.9 hours of direct care  
235 per resident per day must be provided by licensed nurses,  
236 respiratory therapists, respiratory care practitioners, and  
237 certified nursing assistants.

238 b. A minimum licensed nursing staffing of 1.0 hour of  
239 direct care per resident per day ~~must be provided.~~

240 c. Up to ~~No more than~~ 1.5 hours of certified nursing  
241 assistant care per resident per day may be counted in  
242 determining the minimum direct care hours required.



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

245           2. For persons under 21 years of age who are medically  
246 fragile:

247           a. A minimum combined average of 5.0 hours of direct care  
248 per resident per day must be provided by licensed nurses,  
249 respiratory therapists, respiratory care practitioners, and  
250 certified nursing assistants.

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

253           c. Up to ~~No more than~~ 1.5 hours of certified nursing  
254 assistant care per resident per day may be counted in  
255 determining the minimum direct care hours required.

256           d. One registered nurse must be on duty on the site 24  
257 hours per day on a ~~the~~ unit where children reside.

258           (6) Before ~~Prior to~~ conducting a survey of the facility,  
259 the survey team shall obtain a copy of the local long-term care  
260 ombudsman council report on the facility. Problems noted in the  
261 report shall be incorporated into and followed up through the  
262 agency's inspection process. This procedure does not preclude  
263 the local long-term care ombudsman council from requesting the  
264 agency to conduct a followup visit to the facility.

265           (7) The agency shall, at least every 15 months, evaluate  
266 all nursing home facilities and determine ~~make a determination~~  
267 ~~as to~~ the degree of compliance by each licensee with the  
268 established rules adopted under this part as a basis for  
269 assigning a licensure status to a ~~that~~ facility. The agency  
270 shall base its evaluation on the most recent inspection report,  
271 taking into consideration findings from other official reports,



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272 surveys, interviews, investigations, and inspections. In  
273 addition to license categories authorized under part II of  
274 chapter 408, the agency shall assign a ~~licensure status~~ of  
275 standard or conditional licensure status to each nursing home.

276 (a) A standard licensure status means that a facility has  
277 no class I or class II deficiencies and has corrected all class  
278 III deficiencies within the time established by the agency.

279 (b) A conditional licensure status means that a facility,  
280 due to the presence of one or more class I or class II  
281 deficiencies, or class III deficiencies not corrected within the  
282 time established by the agency, is not in substantial compliance  
283 at the time of the survey with criteria established under this  
284 part or with rules adopted by the agency. If the facility has no  
285 class I, class II, or class III deficiencies at the time of the  
286 followup survey, a standard licensure status may be assigned.

287 (c) In evaluating the overall quality of care and services  
288 and determining whether the facility will receive a conditional  
289 or standard license, the agency shall consider the needs and  
290 limitations of residents in the facility and the results of  
291 interviews and surveys of a representative sampling of  
292 residents, families of residents, ombudsman council members in  
293 the planning and service area in which the facility is located,  
294 guardians of residents, and staff of the nursing home facility.

295 (d) The current licensure status of each facility must be  
296 indicated in bold print on the face of the license. A list of  
297 the deficiencies of the facility shall be posted in a prominent  
298 place that is in clear and unobstructed public view at or near  
299 the place where residents are being admitted to that facility.  
300 Licensees receiving a conditional licensure status for a



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301 facility shall prepare, within 10 working days after receiving  
302 notice of deficiencies, a plan for correction of all  
303 deficiencies and ~~shall~~ submit the plan to the agency for  
304 approval.

305 (e) The agency shall ~~adopt rules that~~:

306 1. Establish uniform procedures for the evaluation of  
307 facilities.

308 2. Provide criteria in the areas referenced in paragraph  
309 (c).

310 3. Address other areas necessary for carrying out the  
311 intent of this section.

312 (8) The agency shall ensure ~~adopt rules pursuant to this~~  
313 ~~part and part II of chapter 408 to provide that, if when the~~  
314 criteria established under subsection (2) are not met, such  
315 deficiencies shall be classified according to the nature and the  
316 scope of the deficiency. The scope shall be cited as isolated,  
317 patterned, or widespread. An isolated deficiency is a deficiency  
318 affecting one or a very limited number of residents, or  
319 involving one or a very limited number of staff, or a situation  
320 that occurred only occasionally or in a very limited number of  
321 locations. A patterned deficiency is a deficiency in which ~~where~~  
322 more than a very limited number of residents are affected, or  
323 more than a very limited number of staff are involved, or the  
324 situation has occurred in several locations, or the same  
325 resident or residents have been affected by repeated occurrences  
326 of the same deficient practice but the effect of the deficient  
327 practice is not found to be pervasive throughout the facility. A  
328 widespread deficiency is a deficiency in which the problems  
329 causing the deficiency are pervasive in the facility or



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330 represent systemic failure that has affected or has the  
331 potential to affect a large portion of the facility's residents.  
332 The agency shall indicate the classification on the face of the  
333 notice of deficiencies as follows:

334 (a) A class I deficiency is a deficiency that the agency  
335 determines presents a situation in which immediate corrective  
336 action is necessary because the facility's noncompliance has  
337 caused, or is likely to cause, serious injury, harm, impairment,  
338 or death to a resident receiving care in a facility. The  
339 condition or practice constituting a class I violation must  
340 ~~shall~~ be abated or eliminated immediately, unless a fixed period  
341 of time, as determined by the agency, is required for  
342 correction. A class I deficiency is subject to a civil penalty  
343 of \$10,000 for an isolated deficiency, \$12,500 for a patterned  
344 deficiency, and \$15,000 for a widespread deficiency. The fine  
345 amount is ~~shall be~~ doubled for each deficiency if the facility  
346 was previously cited for one or more class I or class II  
347 deficiencies during the last licensure inspection or during an  
348 ~~any~~ inspection or complaint investigation since the last  
349 licensure inspection. A fine must be levied notwithstanding the  
350 correction of the deficiency.

351 (b) A class II deficiency is a deficiency that the agency  
352 determines has compromised a ~~the~~ resident's ability to maintain  
353 or reach his or her highest practicable physical, mental, and  
354 psychosocial well-being, as defined by an accurate and  
355 comprehensive resident assessment, plan of care, and provision  
356 of services. A class II deficiency is subject to a civil penalty  
357 of \$2,500 for an isolated deficiency, \$5,000 for a patterned  
358 deficiency, and \$7,500 for a widespread deficiency. The fine



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359 amount is ~~shall be~~ doubled for each deficiency if the facility  
360 was previously cited for one or more class I or class II  
361 deficiencies during the last licensure inspection or an ~~any~~  
362 inspection or complaint investigation since the last licensure  
363 inspection. A fine shall be levied notwithstanding the  
364 correction of the deficiency.

365 (c) A class III deficiency is a deficiency that the agency  
366 determines will result in no more than minimal physical, mental,  
367 or psychosocial discomfort to a ~~the~~ resident or has the  
368 potential to compromise a ~~the~~ resident's ability to maintain or  
369 reach his or her highest practical physical, mental, or  
370 psychosocial well-being, as defined by an accurate and  
371 comprehensive resident assessment, plan of care, and provision  
372 of services. A class III deficiency is subject to a civil  
373 penalty of \$1,000 for an isolated deficiency, \$2,000 for a  
374 patterned deficiency, and \$3,000 for a widespread deficiency.  
375 The fine amount is ~~shall be~~ doubled for each deficiency if the  
376 facility was previously cited for one or more class I or class  
377 II deficiencies during the last licensure inspection or an ~~any~~  
378 inspection or complaint investigation since the last licensure  
379 inspection. A citation for a class III deficiency must specify  
380 the time within which the deficiency is required to be  
381 corrected. If a class III deficiency is corrected within the  
382 time specified, a civil penalty may not be imposed.

383 (d) A class IV deficiency is a deficiency that the agency  
384 determines has the potential for causing no more than a minor  
385 negative impact on a ~~the~~ resident. If the class IV deficiency is  
386 isolated, no plan of correction is required.

387 (9) Civil penalties paid by a ~~any~~ licensee under subsection



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388 (8) shall be deposited in the Health Care Trust Fund and  
389 expended as provided in s. 400.063.

390 (10) Agency records, reports, ranking systems, Internet  
391 information, and publications must be promptly updated to  
392 reflect the most current agency actions.

393 Section 5. Subsection (7) of section 400.487, Florida  
394 Statutes, is amended to read:

395 400.487 Home health service agreements; physician's,  
396 physician assistant's, and advanced registered nurse  
397 practitioner's treatment orders; patient assessment;  
398 establishment and review of plan of care; provision of services;  
399 orders not to resuscitate.-

400 (7) Home health agency personnel may withhold or withdraw  
401 cardiopulmonary resuscitation if presented with an order not to  
402 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~  
403 ~~adopt rules providing for the implementation of such orders.~~  
404 Home health personnel and agencies are ~~shall~~ not ~~be~~ subject to  
405 criminal prosecution or civil liability and are not, ~~nor be~~  
406 considered to have engaged in negligent or unprofessional  
407 conduct, ~~for withholding or withdrawing cardiopulmonary~~  
408 resuscitation pursuant to such ~~an order and rules adopted by the~~  
409 ~~agency.~~

410 Section 6. Section 400.497, Florida Statutes, is amended to  
411 read:

412 400.497 Rules establishing minimum standards.-The agency  
413 may shall ~~adopt, publish, and enforce~~ rules to administer  
414 ~~implement~~ part II of chapter 408 and this part, including the  
415 provider's duties and responsibilities under, ~~as applicable,~~ ss.  
416 400.506 and 400.509. Rules shall specify, but are not limited



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417 ~~to, which must provide~~ reasonable and fair minimum standards  
418 relating to:

419 (1) The home health aide competency test and home health  
420 aide training. The agency shall create the home health aide  
421 competency test and establish the curriculum and instructor  
422 qualifications for home health aide training. Licensed home  
423 health agencies may provide this training and shall furnish  
424 documentation of such training to other licensed home health  
425 agencies upon request. Successful passage of the competency test  
426 by home health aides may be substituted for the training  
427 required under this section and agency ~~any rule adopted pursuant~~  
428 ~~thereto~~.

429 (2) Shared staffing. ~~The agency shall allow~~ Shared staffing  
430 is allowed if the home health agency is part of a retirement  
431 community that provides multiple levels of care, is located on  
432 one campus, is licensed under this chapter or chapter 429, and  
433 otherwise meets the requirements of law and rule.

434 (3) The criteria for the frequency of onsite licensure  
435 surveys.

436 (4) Licensure application and renewal.

437 (5) Oversight by the director of nursing, including. ~~The~~  
438 ~~agency shall develop rules related to:~~

439 (a) Standards that address oversight responsibilities by  
440 the director of nursing for ~~of~~ skilled nursing and personal care  
441 services provided by the home health agency's staff;

442 (b) Requirements for a director of nursing to provide to  
443 the agency, upon request, a certified daily report of the home  
444 health services provided by a specified direct employee or  
445 contracted staff member on behalf of the home health agency. The





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446 agency may request a certified daily report for up to ~~only for a~~  
447 ~~period not to exceed~~ 2 years before ~~prior to~~ the date of the  
448 request; and

449 (c) A quality assurance program for home health services  
450 provided by the home health agency.

451 (6) Conditions for using a recent unannounced licensure  
452 inspection for the inspection required under ~~in~~ s. 408.806  
453 related to a licensure application associated with a change in  
454 ownership of a licensed home health agency.

455 (7) The requirements for onsite and electronic  
456 accessibility of supervisory personnel of home health agencies.

457 (8) Information to be included in patients' records.

458 (9) Geographic service areas.

459 (10) Preparation of a comprehensive emergency management  
460 plan pursuant to s. 400.492.

461 ~~(a) The Agency for Health Care Administration shall adopt~~  
462 ~~rules establishing minimum criteria for the plan and plan~~  
463 ~~updates, with the concurrence of the Department of Health and in~~  
464 ~~consultation with the Division of Emergency Management.~~

465 (a) ~~(b)~~ An emergency plan ~~The rules must address the~~  
466 ~~requirements in s. 400.492. In addition, the rules shall provide~~  
467 ~~for the maintenance of patient-specific medication lists that~~  
468 ~~can accompany patients who are transported from their homes.~~

469 (b) ~~(e)~~ The plan is subject to review and approval by the  
470 county health department. During its review, the county health  
471 department shall contact state and local health and medical  
472 stakeholders when necessary. The county health department shall  
473 complete its review to ensure that the plan is in accordance  
474 with the requirements of law ~~criteria in the Agency for Health~~



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475 ~~Care Administration~~ rules within 90 days after receipt of the  
476 plan and shall approve the plan or advise the home health agency  
477 of necessary revisions. If the home health agency fails to  
478 submit a plan or fails to submit the requested information or  
479 revisions to the county health department within 30 days after  
480 written notification from the county health department, the  
481 county health department shall notify the Agency for Health Care  
482 Administration. The agency shall notify the home health agency  
483 that its failure constitutes a deficiency, subject to a fine of  
484 \$5,000 per occurrence. If the plan is not submitted, information  
485 is not provided, or revisions are not made as requested, the  
486 agency may impose the fine.

487 ~~(c)-(d)~~ For a ~~any~~ home health agency that operates in more  
488 than one county, the Department of Health shall review the plan,  
489 after consulting with state and local health and medical  
490 stakeholders when necessary. The department shall complete its  
491 review within 90 days after receipt of the plan and shall  
492 approve the plan or advise the home health agency of necessary  
493 revisions. The department shall make every effort to avoid  
494 imposing differing requirements on a home health agency that  
495 operates in more than one county as a result of differing or  
496 conflicting comprehensive plan requirements of the counties in  
497 which the home health agency operates.

498 ~~(d)-(e)~~ The requirements in this subsection do not apply to:

499 1. A facility that is certified under chapter 651 and has a  
500 licensed home health agency used exclusively by residents of the  
501 facility; or

502 2. A retirement community that consists of both residential  
503 units for independent living and ~~either~~ a licensed nursing home



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504 or an assisted living facility~~r~~ and has a licensed home health  
505 agency used exclusively by ~~the~~ residents of the retirement  
506 community, if, ~~provided~~ the comprehensive emergency management  
507 plan for the facility or retirement community provides for  
508 continuous care of all residents with special needs during an  
509 emergency.

510 Section 7. Paragraph (f) of subsection (12) and subsection  
511 (17) of section 400.506, Florida Statutes, are amended to read:

512 400.506 Licensure of nurse registries; requirements;  
513 penalties.—

514 (12) Each nurse registry shall prepare and maintain a  
515 comprehensive emergency management plan that is consistent with  
516 the criteria in this subsection and with the local special needs  
517 plan. The plan shall be updated annually. The plan shall include  
518 the means by which the nurse registry will continue to provide  
519 the same type and quantity of services to its patients who  
520 evacuate to special needs shelters which were being provided to  
521 those patients prior to evacuation. The plan shall specify how  
522 the nurse registry shall facilitate the provision of continuous  
523 care by persons referred for contract to persons who are  
524 registered pursuant to s. 252.355 during an emergency that  
525 interrupts the provision of care or services in private  
526 residences. Nurse registries may establish links to local  
527 emergency operations centers to determine a mechanism by which  
528 to approach specific areas within a disaster area in order for a  
529 provider to reach its clients. Nurse registries shall  
530 demonstrate a good faith effort to comply with the requirements  
531 of this subsection by documenting attempts of staff to follow  
532 procedures outlined in the nurse registry's comprehensive



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533 emergency management plan which support a finding that the  
534 provision of continuing care has been attempted for patients  
535 identified as needing care by the nurse registry and registered  
536 under s. 252.355 in the event of an emergency under this  
537 subsection.

538 ~~(f) The Agency for Health Care Administration shall adopt~~  
539 ~~rules establishing minimum criteria for the comprehensive~~  
540 ~~emergency management plan and plan updates required by this~~  
541 ~~subsection, with the concurrence of the Department of Health and~~  
542 ~~in consultation with the Division of Emergency Management.~~

543 ~~(17) The Agency for Health Care Administration shall adopt~~  
544 ~~rules to implement this section and part II of chapter 408.~~

545 Section 8. Subsection (7) of section 400.509, Florida  
546 Statutes, is amended to read:

547 400.509 Registration of particular service providers exempt  
548 from licensure; certificate of registration; regulation of  
549 registrants.-

550 ~~(7) The Agency for Health Care Administration shall adopt~~  
551 ~~rules to administer this section and part II of chapter 408.~~

552 Section 9. Subsection (8) of section 400.6095, Florida  
553 Statutes, is amended to read:

554 400.6095 Patient admission; assessment; plan of care;  
555 discharge; death.-

556 (8) The hospice care team may withhold or withdraw  
557 cardiopulmonary resuscitation if presented with an order not to  
558 resuscitate executed pursuant to s. 401.45. ~~The department shall~~  
559 ~~adopt rules providing for the implementation of such orders.~~  
560 Hospice staff are ~~shall~~ not ~~be~~ subject to criminal prosecution  
561 or civil liability, nor ~~be~~ considered to have engaged in



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562 negligent or unprofessional conduct, for withholding or  
563 withdrawing cardiopulmonary resuscitation pursuant to such an  
564 order and applicable rules. The absence of an order to  
565 resuscitate executed pursuant to s. 401.45 does not preclude a  
566 physician from withholding or withdrawing cardiopulmonary  
567 resuscitation as otherwise permitted by law.

568 Section 10. Section 400.914, Florida Statutes, is amended  
569 to read:

570 400.914 Rulemaking; Rules establishing standards.—

571 (1) Pursuant to the intention of the Legislature to provide  
572 safe and sanitary facilities and healthful programs, the agency  
573 in conjunction with the Division of Children's Medical Services  
574 of the Department of Health may ~~shall~~ adopt ~~and publish~~ rules to  
575 administer ~~implement the provisions of~~ this part and part II of  
576 chapter 408, ~~which shall include reasonable and fair standards.~~  
577 Any conflict between these rules ~~standards~~ and those established  
578 ~~that may be set forth~~ in local, county, or city ordinances shall  
579 be resolved in favor of those having statewide effect.

580 (2) The rules must specify, but are not limited to,  
581 reasonable and fair standards relating ~~Such standards shall~~  
582 ~~relate~~ to:

583 (a) The assurance that PPEC services are family centered  
584 and provide individualized medical, developmental, and family  
585 training services.

586 (b) The maintenance of PPEC centers, not in conflict with  
587 ~~the provisions of~~ chapter 553 and based upon the size of the  
588 structure and number of children, relating to plumbing, heating,  
589 lighting, ventilation, and other building conditions, including  
590 adequate space, which will ensure the health, safety, comfort,



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591 and protection from fire of the children served.

592 (c) The application of the appropriate provisions of the  
593 most recent edition of the "Life Safety Code" (NFPA-101) ~~shall~~  
594 ~~be applied.~~

595 (d) The number and qualifications of all personnel who have  
596 responsibility for the care of the children served.

597 (e) All sanitary conditions within the PPEC center and its  
598 surroundings, including water supply, sewage disposal, food  
599 handling, and general hygiene, and maintenance thereof, which  
600 will ensure the health and comfort of children served.

601 (f) Programs and basic services promoting and maintaining  
602 the health and development of the children served and meeting  
603 the training needs of the children's legal guardians.

604 (g) Supportive, contracted, other operational, and  
605 transportation services.

606 (h) Maintenance of appropriate medical records, data, and  
607 information relative to the children and programs. Such records  
608 shall be maintained in the facility for inspection by the  
609 agency.

610 ~~(2) The agency shall adopt rules to ensure that:~~

611 ~~(a) No child attends a PPEC center for more than 12 hours~~  
612 ~~within a 24-hour period.~~

613 ~~(b) No PPEC center provides services other than those~~  
614 ~~provided to medically or technologically dependent children.~~

615 Section 11. Section 400.9141, Florida Statutes, is created  
616 to read:

617 400.9141 Limitations.—

618 (1) A child may not attend a PPEC center for more than 12  
619 hours within a 24-hour period.



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620           (2) A PPEC center may provide services only to medically or  
621 technologically dependent children.

622           Section 12. Paragraph (a) of subsection (20) of section  
623 400.934, Florida Statutes, is amended to read:

624           400.934 Minimum standards.—As a requirement of licensure,  
625 home medical equipment providers shall:

626           (20) (a) Prepare and maintain a comprehensive emergency  
627 management plan that meets minimum criteria established by  
628 agency rule, including criteria for the maintenance of patient  
629 equipment and supply lists that accompany patients who are  
630 transported from their homes. Such rules shall be formulated in  
631 consultation with the Department of Health and the Division of  
632 Emergency Management under s. 400.935. The plan shall be updated  
633 annually and shall provide for continuing home medical equipment  
634 services for life-supporting or life-sustaining equipment, as  
635 defined in s. 400.925, during an emergency that interrupts home  
636 medical equipment services in a patient's home. The plan must  
637 ~~shall~~ include:

638           1. The means by which the home medical equipment provider  
639 will continue to provide equipment to perform the same type and  
640 quantity of services to its patients who evacuate to special  
641 needs shelters which were being provided to those patients  
642 before ~~prior to~~ evacuation.

643           2. The means by which the home medical equipment provider  
644 establishes and maintains an effective response to emergencies  
645 and disasters, including plans for:

646           a. Notification of staff when emergency response measures  
647 are initiated.

648           b. Communication between staff members, county health



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649 departments, and local emergency management agencies, which  
650 includes provisions for a backup communications system.

651 c. Identification of resources necessary to continue  
652 essential care or services or referrals to other organizations  
653 subject to written agreement.

654 d. Contacting and prioritizing patients in need of  
655 continued medical equipment services and supplies.

656 Section 13. Section 400.935, Florida Statutes, is amended  
657 to read:

658 400.935 Rule authority ~~Rules establishing minimum~~  
659 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules as  
660 necessary to implement this part and part II of chapter 408. The  
661 rules shall specify, but not be limited to, ~~which must provide~~  
662 reasonable and fair minimum standards relating to:

663 (1) The qualifications and minimum training requirements of  
664 all home medical equipment provider personnel.

665 ~~(2) Financial ability to operate.~~

666 ~~(2)(3)~~—The administration of the home medical equipment  
667 provider.

668 ~~(4) Procedures for maintaining patient records.~~

669 ~~(3)(5)~~—Ensuring that the home medical equipment and  
670 services provided by a home medical equipment provider are in  
671 accordance with the plan of treatment established for each  
672 patient, when provided as a part of a plan of treatment.

673 ~~(4)(6)~~—Contractual arrangements for the provision of home  
674 medical equipment and services by providers not employed by the  
675 home medical equipment provider providing for the consumer's  
676 needs.

677 ~~(5)(7)~~—Physical location and zoning requirements.





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678           ~~(6)-(8)~~ Home medical equipment requiring home medical  
679 equipment services.

680           ~~(9) Preparation of the comprehensive emergency management~~  
681 ~~plan under s. 400.934 and the establishment of minimum criteria~~  
682 ~~for the plan, including the maintenance of patient equipment and~~  
683 ~~supply lists that can accompany patients who are transported~~  
684 ~~from their homes. Such rules shall be formulated in consultation~~  
685 ~~with the Department of Health and the Division of Emergency~~  
686 ~~Management.~~

687           Section 14. Subsection (5) of section 400.962, Florida  
688 Statutes, is amended to read:

689           400.962 License required; license application.—

690           (5) The applicant must agree to provide or arrange for  
691 active treatment services by an interdisciplinary team in order  
692 to maximize individual independence or prevent regression or  
693 loss of functional status. ~~Standards for active treatment shall~~  
694 ~~be adopted by the Agency for Health Care Administration by rule~~  
695 ~~pursuant to ss. 120.536(1) and 120.54. Active treatment services~~  
696 shall be provided in accordance with the individual support plan  
697 and shall be reimbursed as part of the per diem rate as paid  
698 under the Medicaid program.

699           Section 15. Subsections (2) and (3) of section 400.967,  
700 Florida Statutes, are amended to read:

701           400.967 Rules and classification of deficiencies.—

702           ~~(2) Pursuant to the intention of the Legislature,~~ The  
703 agency, in consultation with the Agency for Persons with  
704 Disabilities and the Department of Elderly Affairs, may shall  
705 adopt and enforce rules as necessary to administer this part and  
706 part II of chapter 408, which ~~shall include reasonable and fair~~



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707 criteria governing:

708 (a) The location and construction of the facility;  
709 including fire and life safety, plumbing, heating, cooling,  
710 lighting, ventilation, and other housing conditions that ensure  
711 the health, safety, and comfort of residents. The agency shall  
712 establish standards for facilities and equipment to increase the  
713 extent to which new facilities, and a new wing or floor added to  
714 an existing facility after July 1, 2000, are structurally  
715 capable of serving as shelters only for residents, staff, and  
716 families of residents and staff, and equipped to be self-  
717 supporting during and immediately following disasters. The  
718 agency shall update or revise the criteria as the need arises.  
719 ~~All~~ Facilities must comply with the ~~these~~ lifesafety code  
720 requirements and building code standards applicable when at the  
721 ~~time of approval of~~ their construction plans are approved. The  
722 agency may require alterations to a building if it determines  
723 that an existing condition constitutes a ~~distinct~~ hazard to  
724 life, health, or safety. The agency may state the ~~shall adopt~~  
725 ~~fair and reasonable rules setting forth~~ conditions under which  
726 existing facilities undergoing additions, alterations,  
727 conversions, renovations, or repairs are required to comply with  
728 the most recent updated or revised standards.

729 (b) The number and qualifications of all personnel,  
730 including management, medical, nursing, and other personnel,  
731 having responsibility for any part of the care given to  
732 residents.

733 (c) ~~All~~ Sanitary conditions within the facility and its  
734 surroundings, including water supply, sewage disposal, food  
735 handling, and general hygiene, which ~~will~~ ensure the health and



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736 comfort of residents.

737 (d) ~~The~~ Equipment essential to the health and welfare of  
738 the residents.

739 (e) A uniform accounting system.

740 (f) The care, treatment, and maintenance of residents and  
741 the assessment measurement of the quality and adequacy thereof.

742 (g) The preparation and annual update of a comprehensive  
743 emergency management plan. After consultation with the Division  
744 of Emergency Management, the agency may establish ~~shall adopt~~  
745 ~~rules establishing~~ minimum criteria for ~~the plan after~~  
746 ~~consultation with the Division of Emergency Management. At a~~  
747 ~~minimum, the rules must provide for~~ plan components that address  
748 emergency evacuation transportation; adequate sheltering  
749 arrangements; postdisaster activities, including emergency  
750 power, food, and water; postdisaster transportation; supplies;  
751 staffing; emergency equipment; individual identification of  
752 residents and transfer of records; and responding to family  
753 inquiries. The comprehensive emergency management plan is  
754 subject to review and approval by the local emergency management  
755 agency. During the ~~its~~ review, the local emergency management  
756 agency shall ensure that the following agencies, at a minimum,  
757 are given the opportunity to review the plan: the Department of  
758 Elderly Affairs, the Agency for Persons with Disabilities, the  
759 Agency for Health Care Administration, and the Division of  
760 Emergency Management. ~~Also,~~ Appropriate volunteer organizations  
761 must also be given the opportunity to review the plan. The local  
762 emergency management agency shall complete its review within 60  
763 days and ~~either~~ approve the plan or advise the facility of  
764 necessary revisions.



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765 (h) The use of restraint and seclusion. Such criteria ~~rules~~  
766 must be consistent with recognized best practices; prohibit  
767 inherently dangerous restraint or seclusion procedures;  
768 establish limitations on the use and duration of restraint and  
769 seclusion; establish measures to ensure the safety of clients  
770 and staff during an incident of restraint or seclusion;  
771 establish procedures for staff to follow before, during, and  
772 after incidents of restraint or seclusion, including  
773 individualized plans for the use of restraints or seclusion in  
774 emergency situations; establish professional qualifications of  
775 and training for staff who may order or be engaged in the use of  
776 restraint or seclusion; establish requirements for facility data  
777 collection and reporting relating to the use of restraint and  
778 seclusion; and establish procedures relating to the  
779 documentation of the use of restraint or seclusion in the  
780 client's facility or program record.

781 (3) ~~If The agency shall adopt rules to provide that, when~~  
782 the criteria established under this part and part II of chapter  
783 408 are not met, such deficiencies shall be classified according  
784 to the nature of the deficiency. The agency shall indicate the  
785 classification on the face of the notice of deficiencies as  
786 follows:

787 (a) Class I deficiencies are those which the agency  
788 determines present an imminent danger to ~~the~~ residents or guests  
789 of the facility or a substantial probability that death or  
790 serious physical harm will ~~would~~ result therefrom. The condition  
791 or practice constituting a class I violation must be abated or  
792 eliminated immediately, unless the agency determines that a  
793 fixed period of time, ~~as determined by the agency,~~ is required



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794 for correction. A class I deficiency is subject to a civil  
795 penalty in an amount of at least not less than \$5,000 but not  
796 more than and ~~not exceeding~~ \$10,000 for each deficiency. A fine  
797 may be levied notwithstanding the correction of the deficiency.

798 (b) Class II deficiencies are those which the agency  
799 determines have a direct or immediate relationship to the  
800 health, safety, or security of ~~the~~ facility residents but do not  
801 meet the criteria established for, other than class I  
802 deficiencies. A class II deficiency is subject to a civil  
803 penalty in an amount of at least not less than \$1,000 and not  
804 more than ~~not exceeding~~ \$5,000 for each deficiency. A citation  
805 for a class II deficiency must shall specify the time within  
806 which the deficiency must be corrected. If a class II deficiency  
807 is corrected within the time specified, a no civil penalty may  
808 not shall be imposed, unless it is a repeated offense.

809 (c) Class III deficiencies are those which the agency  
810 determines to have an indirect or potential relationship to the  
811 health, safety, or security of ~~the~~ facility residents but do not  
812 meet the criteria for, other than class I or class II  
813 deficiencies. A class III deficiency is subject to a civil  
814 penalty of at least not less than \$500 and not more than  
815 ~~exceeding~~ \$1,000 for each deficiency. A citation for a class III  
816 deficiency must shall specify the time within which the  
817 deficiency must be corrected. If a class III deficiency is  
818 corrected within the time specified, a no civil penalty may not  
819 ~~shall~~ be imposed, unless it is a repeated offense.

820 Section 16. Subsection (2) of section 400.980, Florida  
821 Statutes, is amended to read:

822 400.980 Health care services pools.—



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823           (2) The requirements of part II of chapter 408 apply to the  
824 provision of services that require licensure or registration  
825 pursuant to this part and part II of chapter 408 and to entities  
826 registered by or applying for such registration from the agency  
827 pursuant to this part. Registration or a license issued by the  
828 agency is required for the operation of a health care services  
829 pool in this state. In accordance with s. 408.805, an applicant  
830 or licensee shall pay a fee for each license application  
831 submitted using this part, part II of chapter 408, and  
832 applicable rules. The agency shall ~~adopt rules and~~ provide forms  
833 required for such registration and shall impose a registration  
834 fee in an amount sufficient to cover the cost of administering  
835 this part and part II of chapter 408. In addition to the  
836 requirements in part II of chapter 408, the registrant must  
837 provide the agency with any change of information contained on  
838 the original registration application within 14 days before  
839 ~~prior to~~ the change.

840           Section 17. Subsection (43) of section 409.912, Florida  
841 Statutes, is amended to read:

842           409.912 Cost-effective purchasing of health care.—The  
843 agency shall purchase goods and services for Medicaid recipients  
844 in the most cost-effective manner consistent with the delivery  
845 of quality medical care. To ensure that medical services are  
846 effectively utilized, the agency may, in any case, require a  
847 confirmation or second physician's opinion of the correct  
848 diagnosis for purposes of authorizing future services under the  
849 Medicaid program. This section does not restrict access to  
850 emergency services or poststabilization care services as defined  
851 in 42 C.F.R. part 438.114. Such confirmation or second opinion



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852 shall be rendered in a manner approved by the agency. The agency  
853 shall maximize the use of prepaid per capita and prepaid  
854 aggregate fixed-sum basis services when appropriate and other  
855 alternative service delivery and reimbursement methodologies,  
856 including competitive bidding pursuant to s. 287.057, designed  
857 to facilitate the cost-effective purchase of a case-managed  
858 continuum of care. The agency shall also require providers to  
859 minimize the exposure of recipients to the need for acute  
860 inpatient, custodial, and other institutional care and the  
861 inappropriate or unnecessary use of high-cost services. The  
862 agency shall contract with a vendor to monitor and evaluate the  
863 clinical practice patterns of providers in order to identify  
864 trends that are outside the normal practice patterns of a  
865 provider's professional peers or the national guidelines of a  
866 provider's professional association. The vendor must be able to  
867 provide information and counseling to a provider whose practice  
868 patterns are outside the norms, in consultation with the agency,  
869 to improve patient care and reduce inappropriate utilization.  
870 The agency may mandate prior authorization, drug therapy  
871 management, or disease management participation for certain  
872 populations of Medicaid beneficiaries, certain drug classes, or  
873 particular drugs to prevent fraud, abuse, overuse, and possible  
874 dangerous drug interactions. The Pharmaceutical and Therapeutics  
875 Committee shall make recommendations to the agency on drugs for  
876 which prior authorization is required. The agency shall inform  
877 the Pharmaceutical and Therapeutics Committee of its decisions  
878 regarding drugs subject to prior authorization. The agency is  
879 authorized to limit the entities it contracts with or enrolls as  
880 Medicaid providers by developing a provider network through



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881 provider credentialing. The agency may competitively bid single-  
882 source-provider contracts if procurement of goods or services  
883 results in demonstrated cost savings to the state without  
884 limiting access to care. The agency may limit its network based  
885 on the assessment of beneficiary access to care, provider  
886 availability, provider quality standards, time and distance  
887 standards for access to care, the cultural competence of the  
888 provider network, demographic characteristics of Medicaid  
889 beneficiaries, practice and provider-to-beneficiary standards,  
890 appointment wait times, beneficiary use of services, provider  
891 turnover, provider profiling, provider licensure history,  
892 previous program integrity investigations and findings, peer  
893 review, provider Medicaid policy and billing compliance records,  
894 clinical and medical record audits, and other factors. Providers  
895 are not entitled to enrollment in the Medicaid provider network.  
896 The agency shall determine instances in which allowing Medicaid  
897 beneficiaries to purchase durable medical equipment and other  
898 goods is less expensive to the Medicaid program than long-term  
899 rental of the equipment or goods. The agency may establish rules  
900 to facilitate purchases in lieu of long-term rentals in order to  
901 protect against fraud and abuse in the Medicaid program as  
902 defined in s. 409.913. The agency may seek federal waivers  
903 necessary to administer these policies.

904 (43) Subject to the availability of funds, the agency shall  
905 mandate a recipient's participation in a provider lock-in  
906 program, when appropriate, if a recipient is found by the agency  
907 to have used Medicaid goods or services at a frequency or amount  
908 not medically necessary, limiting the receipt of goods or  
909 services to medically necessary providers after the 21-day





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910 appeal process has ended, for at least ~~a period of not less than~~  
911 1 year. The lock-in programs must ~~shall~~ include, but are not  
912 limited to, pharmacies, medical doctors, and infusion clinics.  
913 The limitation does not apply to emergency services and care  
914 provided to the recipient in a hospital emergency department.  
915 The agency shall seek any federal waivers necessary to implement  
916 this subsection. ~~The agency shall adopt any rules necessary to~~  
917 ~~comply with or administer this subsection.~~ This subsection  
918 expires October 1, 2014.

919 Section 18. Subsection (13) of section 409.962, Florida  
920 Statutes, is amended to read:

921 409.962 Definitions.—As used in this part, except as  
922 otherwise specifically provided, the term:

923 (13) "Provider service network" means an entity qualified  
924 pursuant to s. 409.912(4)(d) of which a controlling interest is  
925 owned by a health care provider, or group of ~~affiliated~~  
926 providers affiliated for the purpose of providing health care,  
927 or a public agency or entity that delivers health services.  
928 Health care providers include Florida-licensed health care  
929 practitioners ~~professionals~~ or licensed health care facilities,  
930 federally qualified health care centers, and home health care  
931 agencies.

932 Section 19. Paragraph (e) of subsection (2) of section  
933 409.972, Florida Statutes, is amended to read:

934 409.972 Mandatory and voluntary enrollment.—

935 (2) The following Medicaid-eligible persons are exempt from  
936 mandatory managed care enrollment required by s. 409.965, and  
937 may voluntarily choose to participate in the managed medical  
938 assistance program:



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939           (e) Medicaid recipients enrolled in the home and community  
940 based services waiver pursuant to chapter 393, ~~and~~ Medicaid  
941 recipients waiting for waiver services, and Medicaid recipients  
942 under the age of 21 who are not receiving waiver services but  
943 are authorized by the Agency for Persons with Disabilities or  
944 the Department of Children and Families to reside in a group  
945 home facility licensed pursuant to chapter 393.

946           Section 20. Subsection (1) of section 409.974, Florida  
947 Statutes, is amended to read:

948           409.974 Eligible plans.—

949           (1) ELIGIBLE PLAN SELECTION.—The agency shall select and  
950 contract with eligible plans through the procurement process  
951 described in s. 409.966. The agency shall notice invitations to  
952 negotiate by ~~no later than~~ January 1, 2013.

953           (a) The agency shall procure and contract with two plans  
954 for Region 1. At least one plan shall be a provider service  
955 network if any provider service networks submit a responsive  
956 bid.

957           (b) The agency shall procure and contract with two plans  
958 for Region 2. At least one plan shall be a provider service  
959 network if any provider service networks submit a responsive  
960 bid.

961           (c) The agency shall procure and contract with at least  
962 three plans and up to five plans for Region 3. At least one plan  
963 must be a provider service network if any provider service  
964 networks submit a responsive bid.

965           (d) The agency shall procure and contract with at least  
966 three plans and up to five plans for Region 4. At least one plan  
967 must be a provider service network if any provider service



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968 networks submit a responsive bid.

969 (e) The agency shall procure and contract with at least two  
970 plans and up to four plans for Region 5. At least one plan must  
971 be a provider service network if any provider service networks  
972 submit a responsive bid.

973 (f) The agency shall procure and contract with at least  
974 four plans and up to seven plans for Region 6. At least one plan  
975 must be a provider service network if any provider service  
976 networks submit a responsive bid.

977 (g) The agency shall procure and contract with at least  
978 three plans and up to six plans for Region 7. At least one plan  
979 must be a provider service network if any provider service  
980 networks submit a responsive bid.

981 (h) The agency shall procure and contract with at least two  
982 plans and up to four plans for Region 8. At least one plan must  
983 be a provider service network if any provider service networks  
984 submit a responsive bid.

985 (i) The agency shall procure and contract with at least two  
986 plans and up to four plans for Region 9. At least one plan must  
987 be a provider service network if any provider service networks  
988 submit a responsive bid.

989 (j) The agency shall procure and contract with at least two  
990 plans and up to four plans for Region 10. At least one plan must  
991 be a provider service network if any provider service networks  
992 submit a responsive bid.

993 (k) The agency shall procure and contract with at least  
994 five plans and up to 10 plans for Region 11. At least one plan  
995 must be a provider service network if any provider service  
996 networks submit a responsive bid.



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997  
998 If no provider service network submits a responsive bid, the  
999 agency shall procure up to no more than one less than the  
1000 maximum number of eligible plans permitted in that region and,  
1001 within the next 12 months after the initial invitation to  
1002 negotiate, shall issue an invitation to negotiate in order the  
1003 agency shall attempt to procure and contract with a provider  
1004 service network. In a region in which the agency has contracted  
1005 with only one provider service network and changes in the  
1006 ownership or business structure of the network result in the  
1007 network no longer meeting the definition of a provider service  
1008 network under s. 409.962, the agency must, within the next 12  
1009 months, terminate the contract, provide shall notice of another  
1010 invitation to negotiate, and procure and contract only with a  
1011 provider service network in that region networks in those  
1012 regions where no provider service network has been selected.

1013 Section 21. Subsection (4) of section 429.255, Florida  
1014 Statutes, is amended to read:

1015 429.255 Use of personnel; emergency care.-

1016 (4) Facility staff may withhold or withdraw cardiopulmonary  
1017 resuscitation or the use of an automated external defibrillator  
1018 if presented with an order not to resuscitate executed pursuant  
1019 to s. 401.45. ~~The department shall adopt rules providing for the~~  
1020 ~~implementation of such orders.~~ Facility staff and facilities are  
1021 ~~shall not be~~ subject to criminal prosecution or civil liability,  
1022 nor ~~be~~ considered to have engaged in negligent or unprofessional  
1023 conduct, for withholding or withdrawing cardiopulmonary  
1024 resuscitation or use of an automated external defibrillator  
1025 pursuant to such an order ~~and rules adopted by the department.~~



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1026 The absence of an order to resuscitate executed pursuant to s.  
1027 401.45 does not preclude a physician from withholding or  
1028 withdrawing cardiopulmonary resuscitation or use of an automated  
1029 external defibrillator as otherwise permitted by law.

1030 Section 22. Subsection (3) of section 429.73, Florida  
1031 Statutes, is amended to read:

1032 429.73 Rules and standards relating to adult family-care  
1033 homes.—

1034 (3) ~~The department shall adopt rules providing for the~~  
1035 ~~implementation of orders not to resuscitate.~~ The provider may  
1036 withhold or withdraw cardiopulmonary resuscitation if presented  
1037 with an order not to resuscitate executed pursuant to s. 401.45.  
1038 The provider is ~~shall~~ not ~~be~~ subject to criminal prosecution or  
1039 civil liability, nor ~~be~~ considered to have engaged in negligent  
1040 or unprofessional conduct, for withholding or withdrawing  
1041 cardiopulmonary resuscitation pursuant to such an order ~~and~~  
1042 ~~applicable rules.~~

1043 Section 23. Subsection (10) of section 440.102, Florida  
1044 Statutes, is amended to read:

1045 440.102 Drug-free workplace program requirements.—The  
1046 following provisions apply to a drug-free workplace program  
1047 implemented pursuant to law or to rules adopted by the Agency  
1048 for Health Care Administration:

1049 (10) RULES.—~~The Agency for Health Care Administration shall~~  
1050 ~~adopt rules~~ Pursuant to s. 112.0455, part II of chapter 408, and  
1051 using criteria established by the United States Department of  
1052 Health and Human Services, the agency shall adopt rules as  
1053 ~~general guidelines~~ for modeling drug-free workplace  
1054 laboratories, including ~~concerning~~, but not limited to:



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1055 (a) Standards for licensing drug-testing laboratories and  
1056 suspension and revocation of such licenses.

1057 (b) Urine, hair, blood, and other body specimens and  
1058 minimum specimen amounts that are appropriate for drug testing.

1059 (c) Methods of analysis and procedures to ensure reliable  
1060 drug-testing results, including standards for initial tests and  
1061 confirmation tests.

1062 (d) Minimum cutoff detection levels for each drug or  
1063 metabolites of such drug for the purposes of determining a  
1064 positive test result.

1065 (e) Chain-of-custody procedures to ensure proper  
1066 identification, labeling, and handling of specimens tested.

1067 (f) Retention, storage, and transportation procedures to  
1068 ensure reliable results on confirmation tests and retests.

1069 Section 24. Subsection (2) of section 483.245, Florida  
1070 Statutes, is amended to read:

1071 483.245 Rebates prohibited; penalties.—

1072 (2) The agency may establish and ~~shall adopt rules that~~  
1073 assess administrative penalties for acts prohibited by  
1074 subsection (1). If ~~In the case of~~ an entity is licensed by the  
1075 agency, such penalties may include any disciplinary action  
1076 available to the agency under the appropriate licensing laws. If  
1077 ~~In the case of~~ an entity is not licensed by the agency, such  
1078 penalties may include:

1079 (a) A fine not to exceed \$1,000;

1080 (b) If applicable, a recommendation by the agency to the  
1081 appropriate licensing board that disciplinary action be taken.

1082 Section 25. Subsection (2) of section 765.541, Florida  
1083 Statutes, is amended to read:



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1084           765.541 Licensure ~~Certification~~ of procurement  
1085 organizations; agency responsibilities.—The agency shall:  
1086           (1) Establish a program for the licensure ~~certification~~ of  
1087 organizations, corporations, or other entities engaged in the  
1088 procurement of organs, tissues, and eyes within the state for  
1089 transplantation.  
1090           (2) Adopt rules as necessary to implement ~~that set forth~~  
1091 ~~appropriate standards and guidelines for the program in~~  
1092 ~~accordance with~~ ss. 765.541-765.546 and part II of chapter 408.  
1093           (a) These Standards and guidelines for the program adopted  
1094 by the agency must be substantially based on the ~~existing~~ laws  
1095 of the Federal Government and this state, and the existing  
1096 standards and guidelines of the Organ Procurement and  
1097 Transplantation Network (OPTN), the Association of Organ  
1098 Procurement Organizations (AOP) ~~United Network for Organ Sharing~~  
1099 ~~(UNOS)~~, the American Association of Tissue Banks (AATB), the  
1100 South-Eastern Organ Procurement Foundation (SEOPF), the North  
1101 American Transplant Coordinators Organization (NATCO), and the  
1102 Eye Bank Association of America (EBAA). ~~In addition, the agency~~  
1103 ~~shall, before adopting these standards and guidelines, seek~~  
1104 ~~input from all procurement organizations based in this state.~~  
1105           Section 26. Subsection (2) of section 765.544, Florida  
1106 Statutes, is amended to read:  
1107           765.544 Fees; organ and tissue donor education and  
1108 procurement.—  
1109           ~~(2) The agency shall specify by rule the administrative~~  
1110 ~~penalties for the purpose of ensuring adherence to the standards~~  
1111 ~~of quality and practice required by this chapter, part II of~~  
1112 ~~chapter 408, and applicable rules of the agency for continued~~



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1113 ~~certification.~~

1114 Section 27. This act shall take effect July 1, 2014.

1115

1116 ===== T I T L E A M E N D M E N T =====

1117 And the title is amended as follows:

1118 Delete everything before the enacting clause

1119 and insert:

1120 A bill to be entitled

1121 An act relating to health care services; amending ss.  
1122 390.012, 400.021, 400.0712, 400.23, 400.487, 400.497,  
1123 400.506, 400.509, 400.6095, 400.914, 400.935, 400.962,  
1124 400.967, 400.980, 409.912, 429.255, 429.73, 440.102,  
1125 483.245, 765.541, and 765.544, F.S.; removing certain  
1126 rulemaking authority relating to the disposal of fetal  
1127 remains by abortion clinics, nursing home equipment  
1128 and furnishings, license applications for nursing home  
1129 facilities, evaluation of nursing home facilities,  
1130 home health agencies and cardiopulmonary  
1131 resuscitation, home health agency standards, nurse  
1132 registry emergency management plans, registration of  
1133 certain service providers, hospice and cardiopulmonary  
1134 resuscitation, standards for prescribed pediatric  
1135 extended care facilities, minimum standards relating  
1136 to home medical equipment providers, standards for  
1137 intermediate care facilities for the developmentally  
1138 disabled, rules and the classification of deficiencies  
1139 for intermediate care facilities for the  
1140 developmentally disabled, the registration of health  
1141 care service pools, participation in a Medicaid





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1142 provider lock-in program, assisted living facilities  
1143 and cardiopulmonary resuscitation, adult family-care  
1144 homes and cardiopulmonary resuscitation, guidelines  
1145 for drug-free workplace laboratories, penalties for  
1146 rebates, standards for organ procurement  
1147 organizations; administrative penalties for violations  
1148 of the organ and tissue donor education and  
1149 procurement program; creating s. 400.9141; limiting  
1150 services at PPEC centers; amending s. 400.934,  
1151 relating to home medical equipment providers;  
1152 requiring that the emergency management plan include  
1153 criteria relating to the maintenance of patient  
1154 equipment and supply lists; amending s. 409.962, F.S.;  
1155 redefining the term "provider service network";  
1156 amending s. 409.972; exempting certain people from the  
1157 requirement to enroll in Medicaid managed care;  
1158 amending s. 409.974, F.S.; providing for contracting  
1159 with eligible plans; revising provisions relating to  
1160 negotiation with a provider service network; providing  
1161 requirements for termination of a contract with a  
1162 provider service network; providing an effective date.