

By the Committee on Health Policy; and Senator Grimsley

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1 A bill to be entitled
2 An act relating to health care services; amending ss.
3 390.012, 400.021, 400.0712, 400.23, 400.487, 400.497,
4 400.506, 400.509, 400.6095, 400.914, 400.935, 400.962,
5 400.967, 400.980, 409.912, 429.255, 429.73, 440.102,
6 483.245, 765.541, and 765.544, F.S.; removing certain
7 rulemaking authority relating to the disposal of fetal
8 remains by abortion clinics, nursing home equipment
9 and furnishings, license applications for nursing home
10 facilities, evaluation of nursing home facilities,
11 home health agencies and cardiopulmonary
12 resuscitation, home health agency standards, nurse
13 registry emergency management plans, registration of
14 certain service providers, hospice and cardiopulmonary
15 resuscitation, standards for prescribed pediatric
16 extended care facilities, minimum standards relating
17 to home medical equipment providers, standards for
18 intermediate care facilities for the developmentally
19 disabled, rules and the classification of deficiencies
20 for intermediate care facilities for the
21 developmentally disabled, the registration of health
22 care service pools, participation in a Medicaid
23 provider lock-in program, assisted living facilities
24 and cardiopulmonary resuscitation, adult family-care
25 homes and cardiopulmonary resuscitation, guidelines
26 for drug-free workplace laboratories, penalties for
27 rebates, standards for organ procurement
28 organizations; administrative penalties for violations
29 of the organ and tissue donor education and

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30 procurement program; creating s. 400.9141; limiting
31 services at PPEC centers; amending s. 400.934,
32 relating to home medical equipment providers;
33 requiring that the emergency management plan include
34 criteria relating to the maintenance of patient
35 equipment and supply lists; amending s. 409.962, F.S.;
36 redefining the term "provider service network";
37 amending s. 409.972; exempting certain people from the
38 requirement to enroll in Medicaid managed care;
39 amending s. 409.974, F.S.; providing for contracting
40 with eligible plans; revising provisions relating to
41 negotiation with a provider service network; providing
42 requirements for termination of a contract with a
43 provider service network; providing an effective date.
44

45 Be It Enacted by the Legislature of the State of Florida:
46

47 Section 1. Paragraph (d) of subsection (3) of section
48 390.012, Florida Statutes, is amended to read:

49 390.012 Powers of agency; rules; disposal of fetal
50 remains.—

51 (3) For clinics that perform or claim to perform abortions
52 after the first trimester of pregnancy, the agency shall adopt
53 rules pursuant to ss. 120.536(1) and 120.54 to implement the
54 provisions of this chapter, including the following:

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

58 1. A medical history including reported allergies to

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59 medications, antiseptic solutions, or latex; past surgeries; and
60 an obstetric and gynecological history.

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

63 3. The appropriate laboratory tests, including:

64 a. Urine or blood tests for pregnancy performed before the
65 abortion procedure.

66 b. A test for anemia.

67 c. Rh typing, unless reliable written documentation of
68 blood type is available.

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

70 4. An ultrasound evaluation for all patients. The rules
71 must ~~shall~~ require that if a person who is not a physician
72 performs an ultrasound examination, that person shall have
73 documented evidence that he or she has completed a course in the
74 operation of ultrasound equipment as prescribed in rule. ~~The~~
75 ~~rules shall require clinics to be in compliance with s.~~
76 ~~390.0111.~~

77 5. That the physician is responsible for estimating the
78 gestational age of the fetus based on the ultrasound examination
79 and obstetric standards in keeping with established standards of
80 care regarding the estimation of fetal age as defined in rule
81 and shall write the estimate in the patient's medical history.
82 The physician shall keep original prints of each ultrasound
83 examination of a patient in the patient's medical history file.

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

86 400.021 Definitions.—When used in this part, unless the
87 context otherwise requires, the term:

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88 (11) "Nursing home bed" means an accommodation that ~~which~~
89 is ready for immediate occupancy, or is capable of being made
90 ready for occupancy within 48 hours, excluding the provision of
91 staffing, ~~+~~ and that ~~which~~ conforms to minimum space
92 requirements, including the availability of appropriate
93 equipment and furnishings within the 48 hours, as specified by
94 ~~rule of~~ the agency, for the provision of services specified in
95 this part to a single resident.

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

98 400.0712 Application for inactive license.-

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

101 Section 4. Section 400.23, Florida Statutes, is amended to
102 read:

103 400.23 Rules; evaluation and deficiencies; licensure
104 status.-

105 (1) It is the intent of the Legislature that rules
106 published and enforced pursuant to this part and part II of
107 chapter 408 ~~shall~~ include criteria by which a reasonable and
108 consistent quality of resident care may be ensured, and the
109 results of such resident care can be demonstrated, and ~~by which~~
110 safe and sanitary nursing homes can be provided. It is further
111 intended that reasonable efforts be made to accommodate the
112 needs and preferences of residents to enhance the quality of
113 life in a nursing home. In addition, efforts shall be made to
114 minimize the amount of paperwork associated with the reporting
115 and documentation requirements of these rules.

116 (2) Pursuant to the intention of the Legislature, the

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117 agency, in consultation with the Department of Health and the
118 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules
119 to administer ~~implement~~ this part and part II of chapter 408.
120 The rules must specify, but are not limited to, which shall
121 ~~include~~ reasonable and fair criteria relating in relation to:
122 (a) The location of the facility and housing conditions
123 that will ensure the health, safety, and comfort of residents,
124 including an adequate call system. In adopting ~~making~~ such
125 rules, the agency shall be guided by criteria recommended by
126 nationally recognized reputable professional groups and
127 associations that have ~~with~~ knowledge of such subject matters.
128 The agency shall update or revise the ~~such~~ criteria as the need
129 arises. The agency may require alterations to a building if it
130 determines that an existing condition constitutes a distinct
131 hazard to life, health, or safety. In performing ~~any~~ inspections
132 of facilities authorized by this part or part II of chapter 408,
133 the agency may enforce the special-occupancy provisions of the
134 Florida Building Code and the Florida Fire Prevention Code which
135 apply to nursing homes. A resident ~~Residents~~ or his or her
136 representative must ~~their representatives shall~~ be able to
137 request a change in the placement of the bed in his or her ~~their~~
138 room if, provided that at admission, the resident is ~~they are~~
139 presented with a room that meets requirements of the Florida
140 Building Code. The location of a bed may be changed if the
141 requested placement does not infringe on the resident's roommate
142 or interfere with the resident's care or safety as determined by
143 the care planning team in accordance with facility policies and
144 procedures. In addition, the bed placement may not be used as a
145 restraint. Each facility shall maintain a log of resident rooms

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146 with beds that are not in strict compliance with the Florida
147 Building Code in order for such log to be used by surveyors and
148 nurse monitors during inspections and visits. A resident or a
149 resident's ~~resident~~ representative who requests that a bed be
150 moved must ~~shall~~ sign a statement indicating that he or she
151 understands that the room will not be in compliance with the
152 Florida Building Code, but that he or she ~~they~~ would prefer to
153 exercise the ~~their~~ right to self-determination. The statement
154 must be retained as part of the resident's care plan. A ~~Any~~
155 facility that offers this option must submit a letter signed by
156 the nursing home administrator of record to the agency notifying
157 it of this practice along with a copy of the policies and
158 procedures of the facility. The agency is directed to provide
159 assistance to the Florida Building Commission in updating the
160 construction standards of the code relating ~~relative~~ to nursing
161 homes.

162 (b) The number and qualifications of all personnel,
163 including management, medical, nursing, and other professional
164 personnel, and nursing assistants, orderlies, and support
165 personnel, having responsibility for any part of the care given
166 residents.

167 (c) All sanitary conditions within the facility and its
168 surroundings, including water supply, sewage disposal, food
169 handling, and general hygiene which will ensure the health and
170 comfort of residents.

171 (d) The equipment essential to the health and welfare of
172 the residents.

173 (e) A uniform accounting system.

174 (f) The care, treatment, and maintenance of residents and

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175 measurement of the quality and adequacy thereof, based on rules
176 developed under this chapter and the Omnibus Budget
177 Reconciliation Act of 1987, ~~(Pub. L. No. 100-203) (December 22,~~
178 ~~1987)~~, Title IV (Medicare, Medicaid, and Other Health-Related
179 Programs), Subtitle C (Nursing Home Reform), as amended.

180 (g) The preparation and annual update of a comprehensive
181 emergency management plan. The agency shall establish ~~adopt~~
182 ~~rules establishing~~ minimum criteria for the plan after
183 consultation with the Division of Emergency Management. At a
184 minimum, the ~~rules must provide for~~ plan components must provide
185 ~~that address~~ emergency evacuation transportation; adequate
186 sheltering arrangements; postdisaster activities, including
187 emergency power, food, and water; postdisaster transportation;
188 supplies; staffing; emergency equipment; individual
189 identification of residents and transfer of records; and
190 responding to family inquiries. The comprehensive emergency
191 management plan is subject to review and approval by the local
192 emergency management agency. During the ~~its~~ review, the local
193 emergency management agency shall ensure that the following
194 agencies, at a minimum, are given the opportunity to review the
195 plan: the Department of Elderly Affairs, the Department of
196 Health, the Agency for Health Care Administration, and the
197 Division of Emergency Management. ~~Also,~~ Appropriate volunteer
198 organizations must also be given the opportunity to review the
199 plan. The local emergency management agency shall complete its
200 review within 60 days and ~~either~~ approve the plan or advise the
201 facility of necessary revisions.

202 (h) The availability, distribution, and posting of reports
203 and records pursuant to s. 400.191 and the Gold Seal Program

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204 pursuant to s. 400.235.

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

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

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

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

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

218 2. Nursing assistants employed under s. 400.211(2) may be
219 included in computing the staffing ratio for certified nursing
220 assistants if their job responsibilities include only nursing-
221 assistant-related duties.

222 3. Each nursing home facility must document compliance with
223 staffing standards ~~as~~ required under this paragraph and post
224 daily the names of staff on duty for the benefit of facility
225 residents and the public.

226 4. The agency shall recognize the use of licensed nurses
227 for compliance with the minimum staffing requirements for
228 certified nursing assistants if the nursing home facility
229 otherwise meets the minimum staffing requirements for licensed
230 nurses and the licensed nurses are performing the duties of a
231 certified nursing assistants ~~assistant~~. Unless otherwise
232 approved by the agency, licensed nurses counted toward the

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233 minimum staffing requirements for certified nursing assistants
234 must exclusively perform the duties of ~~a~~ certified nursing
235 assistants ~~assistant~~ for the entire shift and not also be
236 counted toward the minimum staffing requirements for licensed
237 nurses. If the agency approved a facility's request to use a
238 licensed nurse to perform both licensed nursing and certified
239 nursing assistant duties, the facility must allocate the amount
240 of staff time specifically spent on certified nursing assistant
241 duties for the purpose of documenting compliance with minimum
242 staffing requirements for certified and licensed nursing staff.
243 The hours of a licensed nurse with dual job responsibilities may
244 not be counted twice.

245 (b) Nonnursing staff providing eating assistance to
246 residents does ~~shall~~ not count toward compliance with minimum
247 staffing standards.

248 (c) Licensed practical nurses licensed under chapter 464
249 who are providing nursing services in nursing home facilities
250 under this part may supervise the activities of other licensed
251 practical nurses, certified nursing assistants, and other
252 unlicensed personnel providing services in such facilities in
253 accordance with rules adopted by the Board of Nursing.

254 (4) ~~Rules developed pursuant to~~ This section does ~~shall~~ not
255 restrict the use of shared staffing and shared programming in
256 facilities that ~~which~~ are part of retirement communities that
257 provide multiple levels of care and otherwise meet the
258 requirement of law or rule.

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

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262 (a) Minimum standards of care for persons under 21 years of
263 age who reside in nursing home facilities may be established by
264 the agency, in collaboration with the Division of Children's
265 Medical Services of the Department of Health. A facility may be
266 exempted from these standards and the provisions of paragraph
267 (b) for specified ~~specific~~ persons between 18 and 21 years of
268 age, if the person's physician agrees that minimum standards of
269 care based on age are not necessary.

270 (b) The following ~~Minimum~~ staffing requirements for persons
271 under 21 years of age who reside in nursing home facilities,
272 ~~which~~ apply in lieu of the requirements contained in subsection
273 (3):

274 1. For persons under 21 years of age who require skilled
275 care:

276 a. A minimum combined average of 3.9 hours of direct care
277 per resident per day must be provided by licensed nurses,
278 respiratory therapists, respiratory care practitioners, and
279 certified nursing assistants.

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

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

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

287 2. For persons under 21 years of age who are medically
288 fragile:

289 a. A minimum combined average of 5.0 hours of direct care
290 per resident per day must be provided by licensed nurses,

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291 respiratory therapists, respiratory care practitioners, and
292 certified nursing assistants.

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

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

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

300 (6) Before ~~Prior to~~ conducting a survey of the facility,
301 the survey team shall obtain a copy of the local long-term care
302 ombudsman council report on the facility. Problems noted in the
303 report shall be incorporated into and followed up through the
304 agency's inspection process. This procedure does not preclude
305 the local long-term care ombudsman council from requesting the
306 agency to conduct a followup visit to the facility.

307 (7) The agency shall, at least every 15 months, evaluate
308 all nursing home facilities and determine ~~make a determination~~
309 ~~as to~~ the degree of compliance by each licensee with the
310 established rules adopted under this part as a basis for
311 assigning a licensure status to a ~~that~~ facility. The agency
312 shall base its evaluation on the most recent inspection report,
313 taking into consideration findings from other official reports,
314 surveys, interviews, investigations, and inspections. In
315 addition to license categories authorized under part II of
316 chapter 408, the agency shall assign a ~~licensure status of~~
317 standard or conditional licensure status to each nursing home.

318 (a) A standard licensure status means that a facility has
319 no class I or class II deficiencies and has corrected all class

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320 III deficiencies within the time established by the agency.

321 (b) A conditional licensure status means that a facility,
322 due to the presence of one or more class I or class II
323 deficiencies, or class III deficiencies not corrected within the
324 time established by the agency, is not in substantial compliance
325 at the time of the survey with criteria established under this
326 part or with rules adopted by the agency. If the facility has no
327 class I, class II, or class III deficiencies at the time of the
328 followup survey, a standard licensure status may be assigned.

329 (c) In evaluating the overall quality of care and services
330 and determining whether the facility will receive a conditional
331 or standard license, the agency shall consider the needs and
332 limitations of residents in the facility and the results of
333 interviews and surveys of a representative sampling of
334 residents, families of residents, ombudsman council members in
335 the planning and service area in which the facility is located,
336 guardians of residents, and staff of the nursing home facility.

337 (d) The current licensure status of each facility must be
338 indicated in bold print on the face of the license. A list of
339 the deficiencies of the facility shall be posted in a prominent
340 place that is in clear and unobstructed public view at or near
341 the place where residents are being admitted to that facility.
342 Licensees receiving a conditional licensure status for a
343 facility shall prepare, within 10 working days after receiving
344 notice of deficiencies, a plan for correction of all
345 deficiencies and ~~shall~~ submit the plan to the agency for
346 approval.

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

348 1. Establish uniform procedures for the evaluation of

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349 facilities.

350 2. Provide criteria in the areas referenced in paragraph
351 (c).

352 3. Address other areas necessary for carrying out the
353 intent of this section.

354 (8) The agency shall ensure ~~adopt rules pursuant to this~~
355 ~~part and part II of chapter 408 to provide that, if when the~~
356 criteria established under subsection (2) are not met, such
357 deficiencies shall be classified according to the nature and the
358 scope of the deficiency. The scope shall be cited as isolated,
359 patterned, or widespread. An isolated deficiency is a deficiency
360 affecting one or a very limited number of residents, or
361 involving one or a very limited number of staff, or a situation
362 that occurred only occasionally or in a very limited number of
363 locations. A patterned deficiency is a deficiency in which ~~where~~
364 more than a very limited number of residents are affected, or
365 more than a very limited number of staff are involved, or the
366 situation has occurred in several locations, or the same
367 resident or residents have been affected by repeated occurrences
368 of the same deficient practice but the effect of the deficient
369 practice is not found to be pervasive throughout the facility. A
370 widespread deficiency is a deficiency in which the problems
371 causing the deficiency are pervasive in the facility or
372 represent systemic failure that has affected or has the
373 potential to affect a large portion of the facility's residents.
374 The agency shall indicate the classification on the face of the
375 notice of deficiencies as follows:

376 (a) A class I deficiency is a deficiency that the agency
377 determines presents a situation in which immediate corrective

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378 action is necessary because the facility's noncompliance has
379 caused, or is likely to cause, serious injury, harm, impairment,
380 or death to a resident receiving care in a facility. The
381 condition or practice constituting a class I violation must
382 ~~shall~~ be abated or eliminated immediately, unless a fixed period
383 of time, as determined by the agency, is required for
384 correction. A class I deficiency is subject to a civil penalty
385 of \$10,000 for an isolated deficiency, \$12,500 for a patterned
386 deficiency, and \$15,000 for a widespread deficiency. The fine
387 amount is ~~shall be~~ doubled for each deficiency if the facility
388 was previously cited for one or more class I or class II
389 deficiencies during the last licensure inspection or during an
390 ~~any~~ inspection or complaint investigation since the last
391 licensure inspection. A fine must be levied notwithstanding the
392 correction of the deficiency.

393 (b) A class II deficiency is a deficiency that the agency
394 determines has compromised a ~~the~~ resident's ability to maintain
395 or reach his or her highest practicable physical, mental, and
396 psychosocial well-being, as defined by an accurate and
397 comprehensive resident assessment, plan of care, and provision
398 of services. A class II deficiency is subject to a civil penalty
399 of \$2,500 for an isolated deficiency, \$5,000 for a patterned
400 deficiency, and \$7,500 for a widespread deficiency. The fine
401 amount is ~~shall be~~ doubled for each deficiency if the facility
402 was previously cited for one or more class I or class II
403 deficiencies during the last licensure inspection or an ~~any~~
404 inspection or complaint investigation since the last licensure
405 inspection. A fine shall be levied notwithstanding the
406 correction of the deficiency.

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407 (c) A class III deficiency is a deficiency that the agency
408 determines will result in no more than minimal physical, mental,
409 or psychosocial discomfort to a ~~the~~ resident or has the
410 potential to compromise a ~~the~~ resident's ability to maintain or
411 reach his or her highest practical physical, mental, or
412 psychosocial well-being, as defined by an accurate and
413 comprehensive resident assessment, plan of care, and provision
414 of services. A class III deficiency is subject to a civil
415 penalty of \$1,000 for an isolated deficiency, \$2,000 for a
416 patterned deficiency, and \$3,000 for a widespread deficiency.
417 The fine amount is ~~shall be~~ doubled for each deficiency if the
418 facility was previously cited for one or more class I or class
419 II deficiencies during the last licensure inspection or an ~~any~~
420 inspection or complaint investigation since the last licensure
421 inspection. A citation for a class III deficiency must specify
422 the time within which the deficiency is required to be
423 corrected. If a class III deficiency is corrected within the
424 time specified, a civil penalty may not be imposed.

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

429 (9) Civil penalties paid by a ~~any~~ licensee under subsection
430 (8) shall be deposited in the Health Care Trust Fund and
431 expended as provided in s. 400.063.

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

435 Section 5. Subsection (7) of section 400.487, Florida

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436 Statutes, is amended to read:

437 400.487 Home health service agreements; physician's,
438 physician assistant's, and advanced registered nurse
439 practitioner's treatment orders; patient assessment;
440 establishment and review of plan of care; provision of services;
441 orders not to resuscitate.—

442 (7) Home health agency personnel may withhold or withdraw
443 cardiopulmonary resuscitation if presented with an order not to
444 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
445 ~~adopt rules providing for the implementation of such orders.~~
446 Home health personnel and agencies are ~~shall~~ not ~~be~~ subject to
447 criminal prosecution or civil liability and are not, ~~nor be~~
448 considered to have engaged in negligent or unprofessional
449 conduct, ~~for withholding or withdrawing cardiopulmonary~~
450 resuscitation pursuant to such ~~an order and rules adopted by the~~
451 ~~agency.~~

452 Section 6. Section 400.497, Florida Statutes, is amended to
453 read:

454 400.497 Rules establishing minimum standards.—The agency
455 may ~~shall~~ ~~adopt, publish, and enforce~~ rules to administer
456 ~~implement~~ part II of chapter 408 and this part, including the
457 provider's duties and responsibilities under, ~~as applicable,~~ ss.
458 400.506 and 400.509. Rules shall specify, but are not limited
459 to, which must provide reasonable and fair minimum standards
460 relating to:

461 (1) The home health aide competency test and home health
462 aide training. The agency shall create the home health aide
463 competency test and establish the curriculum and instructor
464 qualifications for home health aide training. Licensed home

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465 health agencies may provide this training and shall furnish
466 documentation of such training to other licensed home health
467 agencies upon request. Successful passage of the competency test
468 by home health aides may be substituted for the training
469 required under this section and agency ~~any rule adopted pursuant~~
470 ~~thereto~~.

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

476 (3) The criteria for the frequency of onsite licensure
477 surveys.

478 (4) Licensure application and renewal.

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

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

484 (b) Requirements for a director of nursing to provide to
485 the agency, upon request, a certified daily report of the home
486 health services provided by a specified direct employee or
487 contracted staff member on behalf of the home health agency. The
488 agency may request a certified daily report for up to ~~only for a~~
489 ~~period not to exceed~~ 2 years before ~~prior to~~ the date of the
490 request; and

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

493 (6) Conditions for using a recent unannounced licensure

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494 inspection for the inspection required under ~~in~~ s. 408.806
495 related to a licensure application associated with a change in
496 ownership of a licensed home health agency.

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

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

500 (9) Geographic service areas.

501 (10) Preparation of a comprehensive emergency management
502 plan pursuant to s. 400.492.

503 ~~(a) The Agency for Health Care Administration shall adopt~~
504 ~~rules establishing minimum criteria for the plan and plan~~
505 ~~updates, with the concurrence of the Department of Health and in~~
506 ~~consultation with the Division of Emergency Management.~~

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

511 (b)(e) ~~The plan is subject to review and approval by the~~
512 ~~county health department. During its review, the county health~~
513 ~~department shall contact state and local health and medical~~
514 ~~stakeholders when necessary. The county health department shall~~
515 ~~complete its review to ensure that the plan is in accordance~~
516 ~~with the requirements of law ~~criteria in the Agency for Health~~~~
517 ~~Care Administration rules within 90 days after receipt of the~~
518 ~~plan and shall approve the plan or advise the home health agency~~
519 ~~of necessary revisions. If the home health agency fails to~~
520 ~~submit a plan or fails to submit the requested information or~~
521 ~~revisions to the county health department within 30 days after~~
522 ~~written notification from the county health department, the~~

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523 county health department shall notify the Agency for Health Care
524 Administration. The agency shall notify the home health agency
525 that its failure constitutes a deficiency, subject to a fine of
526 \$5,000 per occurrence. If the plan is not submitted, information
527 is not provided, or revisions are not made as requested, the
528 agency may impose the fine.

529 (c)~~(d)~~ For a ~~any~~ home health agency that operates in more
530 than one county, the Department of Health shall review the plan,
531 after consulting with state and local health and medical
532 stakeholders when necessary. The department shall complete its
533 review within 90 days after receipt of the plan and shall
534 approve the plan or advise the home health agency of necessary
535 revisions. The department shall make every effort to avoid
536 imposing differing requirements on a home health agency that
537 operates in more than one county as a result of differing or
538 conflicting comprehensive plan requirements of the counties in
539 which the home health agency operates.

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

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

544 2. A retirement community that consists of both residential
545 units for independent living and ~~either~~ a licensed nursing home
546 or an assisted living facility, and has a licensed home health
547 agency used exclusively by ~~the~~ residents of the retirement
548 community, if, ~~provided~~ the comprehensive emergency management
549 plan for the facility or retirement community provides for
550 continuous care of all residents with special needs during an
551 emergency.

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552 Section 7. Paragraph (f) of subsection (12) and subsection
553 (17) of section 400.506, Florida Statutes, are amended to read:
554 400.506 Licensure of nurse registries; requirements;
555 penalties.—

556 (12) Each nurse registry shall prepare and maintain a
557 comprehensive emergency management plan that is consistent with
558 the criteria in this subsection and with the local special needs
559 plan. The plan shall be updated annually. The plan shall include
560 the means by which the nurse registry will continue to provide
561 the same type and quantity of services to its patients who
562 evacuate to special needs shelters which were being provided to
563 those patients prior to evacuation. The plan shall specify how
564 the nurse registry shall facilitate the provision of continuous
565 care by persons referred for contract to persons who are
566 registered pursuant to s. 252.355 during an emergency that
567 interrupts the provision of care or services in private
568 residences. Nurse registries may establish links to local
569 emergency operations centers to determine a mechanism by which
570 to approach specific areas within a disaster area in order for a
571 provider to reach its clients. Nurse registries shall
572 demonstrate a good faith effort to comply with the requirements
573 of this subsection by documenting attempts of staff to follow
574 procedures outlined in the nurse registry's comprehensive
575 emergency management plan which support a finding that the
576 provision of continuing care has been attempted for patients
577 identified as needing care by the nurse registry and registered
578 under s. 252.355 in the event of an emergency under this
579 subsection.

580 ~~(f) The Agency for Health Care Administration shall adopt~~

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581 ~~rules establishing minimum criteria for the comprehensive~~
582 ~~emergency management plan and plan updates required by this~~
583 ~~subsection, with the concurrence of the Department of Health and~~
584 ~~in consultation with the Division of Emergency Management.~~

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

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

589 400.509 Registration of particular service providers exempt
590 from licensure; certificate of registration; regulation of
591 registrants.-

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

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

596 400.6095 Patient admission; assessment; plan of care;
597 discharge; death.-

598 (8) The hospice care team may withhold or withdraw
599 cardiopulmonary resuscitation if presented with an order not to
600 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
601 ~~adopt rules providing for the implementation of such orders.~~

602 Hospice staff are ~~shall~~ not ~~be~~ subject to criminal prosecution
603 or civil liability, nor ~~be~~ considered to have engaged in
604 negligent or unprofessional conduct, for withholding or
605 withdrawing cardiopulmonary resuscitation pursuant to such an
606 order and applicable rules. The absence of an order to
607 resuscitate executed pursuant to s. 401.45 does not preclude a
608 physician from withholding or withdrawing cardiopulmonary
609 resuscitation as otherwise permitted by law.

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610 Section 10. Section 400.914, Florida Statutes, is amended
611 to read:

612 400.914 Rulemaking; ~~Rules establishing~~ standards.—

613 (1) Pursuant to the intention of the Legislature to provide
614 safe and sanitary facilities and healthful programs, the agency
615 in conjunction with the Division of Children's Medical Services
616 of the Department of Health may ~~shall~~ adopt and ~~publish~~ rules to
617 administer ~~implement the provisions of~~ this part and part II of
618 chapter 408, ~~which shall include reasonable and fair standards.~~
619 Any conflict between these rules ~~standards~~ and those established
620 ~~that may be set forth~~ in local, county, or city ordinances shall
621 be resolved in favor of those having statewide effect.

622 (2) The rules must specify, but are not limited to,
623 reasonable and fair standards relating ~~Such standards shall~~
624 relate to:

625 (a) The assurance that PPEC services are family centered
626 and provide individualized medical, developmental, and family
627 training services.

628 (b) The maintenance of PPEC centers, not in conflict with
629 ~~the provisions of~~ chapter 553 and based upon the size of the
630 structure and number of children, relating to plumbing, heating,
631 lighting, ventilation, and other building conditions, including
632 adequate space, which will ensure the health, safety, comfort,
633 and protection from fire of the children served.

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

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

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

643 (f) Programs and basic services promoting and maintaining
644 the health and development of the children served and meeting
645 the training needs of the children's legal guardians.

646 (g) Supportive, contracted, other operational, and
647 transportation services.

648 (h) Maintenance of appropriate medical records, data, and
649 information relative to the children and programs. Such records
650 shall be maintained in the facility for inspection by the
651 agency.

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

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

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

657 Section 11. Section 400.9141, Florida Statutes, is created
658 to read:

659 400.9141 Limitations.-

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

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

664 Section 12. Paragraph (a) of subsection (20) of section
665 400.934, Florida Statutes, is amended to read:

666 400.934 Minimum standards.-As a requirement of licensure,
667 home medical equipment providers shall:

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668 (20) (a) Prepare and maintain a comprehensive emergency
669 management plan that meets minimum criteria established by
670 agency rule, including criteria for the maintenance of patient
671 equipment and supply lists that accompany patients who are
672 transported from their homes. Such rules shall be formulated in
673 consultation with the Department of Health and the Division of
674 Emergency Management ~~under s. 400.935~~. The plan shall be updated
675 annually and shall provide for continuing home medical equipment
676 services for life-supporting or life-sustaining equipment, as
677 defined in s. 400.925, during an emergency that interrupts home
678 medical equipment services in a patient's home. The plan must
679 ~~shall~~ include:

680 1. The means by which the home medical equipment provider
681 will continue to provide equipment to perform the same type and
682 quantity of services to its patients who evacuate to special
683 needs shelters which were being provided to those patients
684 before ~~prior to~~ evacuation.

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

688 a. Notification of staff when emergency response measures
689 are initiated.

690 b. Communication between staff members, county health
691 departments, and local emergency management agencies, which
692 includes provisions for a backup communications system.

693 c. Identification of resources necessary to continue
694 essential care or services or referrals to other organizations
695 subject to written agreement.

696 d. Contacting and prioritizing patients in need of

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697 continued medical equipment services and supplies.

698 Section 13. Section 400.935, Florida Statutes, is amended
699 to read:

700 400.935 Rule authority ~~Rules establishing minimum~~
701 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules as
702 necessary to implement this part and part II of chapter 408. The
703 rules must specify, but not be limited to, which must provide
704 reasonable and fair minimum standards relating to:

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

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

708 ~~(2)(3)~~ (2) The administration of the home medical equipment
709 provider.

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

711 ~~(3)(5)~~ (3) Ensuring that the home medical equipment and
712 services provided by a home medical equipment provider are in
713 accordance with the plan of treatment established for each
714 patient, when provided as a part of a plan of treatment.

715 ~~(4)(6)~~ (4) Contractual arrangements for the provision of home
716 medical equipment and services by providers not employed by the
717 home medical equipment provider providing for the consumer's
718 needs.

719 ~~(5)(7)~~ (5) Physical location and zoning requirements.

720 ~~(6)(8)~~ (6) Home medical equipment requiring home medical
721 equipment services.

722 ~~(9) Preparation of the comprehensive emergency management~~
723 ~~plan under s. 400.934 and the establishment of minimum criteria~~
724 ~~for the plan, including the maintenance of patient equipment and~~
725 ~~supply lists that can accompany patients who are transported~~

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726 ~~from their homes. Such rules shall be formulated in consultation~~
727 ~~with the Department of Health and the Division of Emergency~~
728 ~~Management.~~

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

731 400.962 License required; license application.—

732 (5) The applicant must agree to provide or arrange for
733 active treatment services by an interdisciplinary team in order
734 to maximize individual independence or prevent regression or
735 loss of functional status. ~~Standards for active treatment shall~~
736 ~~be adopted by the Agency for Health Care Administration by rule~~
737 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services
738 shall be provided in accordance with the individual support plan
739 and shall be reimbursed as part of the per diem rate as paid
740 under the Medicaid program.

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

743 400.967 Rules and classification of deficiencies.—

744 (2) ~~Pursuant to the intention of the Legislature,~~ The
745 agency, in consultation with the Agency for Persons with
746 Disabilities and the Department of Elderly Affairs, may ~~shall~~
747 adopt and enforce rules as necessary to administer this part and
748 part II of chapter 408, which ~~shall~~ include ~~reasonable and fair~~
749 criteria governing:

750 (a) The location and construction of the facility;
751 including fire and life safety, plumbing, heating, cooling,
752 lighting, ventilation, and other housing conditions that ensure
753 the health, safety, and comfort of residents. The agency shall
754 establish standards for facilities and equipment to increase the

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755 extent to which new facilities, and a new wing or floor added to
756 an existing facility after July 1, 2000, are structurally
757 capable of serving as shelters only for residents, staff, and
758 families of residents and staff, and equipped to be self-
759 supporting during and immediately following disasters. The
760 agency shall update or revise the criteria as the need arises.
761 ~~All~~ Facilities must comply with the ~~those~~ lifesafety code
762 requirements and building code standards applicable when ~~at the~~
763 ~~time of approval of~~ their construction plans are approved. The
764 agency may require alterations to a building if it determines
765 that an existing condition constitutes a ~~distinct~~ hazard to
766 life, health, or safety. The agency may state the ~~shall adopt~~
767 ~~fair and reasonable rules setting forth~~ conditions under which
768 existing facilities undergoing additions, alterations,
769 conversions, renovations, or repairs are required to comply with
770 the most recent updated or revised standards.

771 (b) The number and qualifications of all personnel,
772 including management, medical, nursing, and other personnel,
773 having responsibility for any part of the care given to
774 residents.

775 (c) ~~All~~ Sanitary conditions within the facility and its
776 surroundings, including water supply, sewage disposal, food
777 handling, and general hygiene, which ~~will~~ ensure the health and
778 comfort of residents.

779 (d) ~~The~~ Equipment essential to the health and welfare of
780 the residents.

781 (e) A uniform accounting system.

782 (f) The care, treatment, and maintenance of residents and
783 the assessment ~~measurement~~ of the quality and adequacy thereof.

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784 (g) The preparation and annual update of a comprehensive
785 emergency management plan. After consultation with the Division
786 of Emergency Management, the agency may establish ~~shall adopt~~
787 ~~rules establishing~~ minimum criteria for ~~the plan after~~
788 ~~consultation with the Division of Emergency Management. At a~~
789 ~~minimum, the rules must provide for~~ plan components that address
790 emergency evacuation transportation; adequate sheltering
791 arrangements; postdisaster activities, including emergency
792 power, food, and water; postdisaster transportation; supplies;
793 staffing; emergency equipment; individual identification of
794 residents and transfer of records; and responding to family
795 inquiries. The comprehensive emergency management plan is
796 subject to review and approval by the local emergency management
797 agency. During the ~~its~~ review, the local emergency management
798 agency shall ensure that the following agencies, at a minimum,
799 are given the opportunity to review the plan: the Department of
800 Elderly Affairs, the Agency for Persons with Disabilities, the
801 Agency for Health Care Administration, and the Division of
802 Emergency Management. ~~Also,~~ Appropriate volunteer organizations
803 must also be given the opportunity to review the plan. The local
804 emergency management agency shall complete its review within 60
805 days and ~~either~~ approve the plan or advise the facility of
806 necessary revisions.

807 (h) The use of restraint and seclusion. Such criteria ~~rules~~
808 must be consistent with recognized best practices; prohibit
809 inherently dangerous restraint or seclusion procedures;
810 establish limitations on the use and duration of restraint and
811 seclusion; establish measures to ensure the safety of clients
812 and staff during an incident of restraint or seclusion;

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813 establish procedures for staff to follow before, during, and
814 after incidents of restraint or seclusion, including
815 individualized plans for the use of restraints or seclusion in
816 emergency situations; establish professional qualifications of
817 and training for staff who may order or be engaged in the use of
818 restraint or seclusion; establish requirements for facility data
819 collection and reporting relating to the use of restraint and
820 seclusion; and establish procedures relating to the
821 documentation of the use of restraint or seclusion in the
822 client's facility or program record.

823 (3) ~~If The agency shall adopt rules to provide that, when~~
824 the criteria established under this part and part II of chapter
825 408 are not met, such deficiencies shall be classified according
826 to the nature of the deficiency. The agency shall indicate the
827 classification on the face of the notice of deficiencies as
828 follows:

829 (a) Class I deficiencies are those which the agency
830 determines present an imminent danger to ~~the~~ residents or guests
831 of the facility or a substantial probability that death or
832 serious physical harm will ~~would~~ result therefrom. The condition
833 or practice constituting a class I violation must be abated or
834 eliminated immediately, unless the agency determines that a
835 fixed period of time, ~~as determined by the agency,~~ is required
836 for correction. A class I deficiency is subject to a civil
837 penalty in an amount of at least ~~not less than~~ \$5,000 but not
838 more than ~~and not exceeding~~ \$10,000 for each deficiency. A fine
839 may be levied notwithstanding the correction of the deficiency.

840 (b) Class II deficiencies are those which the agency
841 determines have a direct or immediate relationship to the

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842 health, safety, or security of ~~the~~ facility residents but do not
843 meet the criteria established for, ~~other than~~ class I
844 deficiencies. A class II deficiency is subject to a civil
845 penalty in an amount of at least ~~not less than~~ \$1,000 and not
846 more than ~~not exceeding~~ \$5,000 for each deficiency. A citation
847 for a class II deficiency must ~~shall~~ specify the time within
848 which the deficiency must be corrected. If a class II deficiency
849 is corrected within the time specified, a ~~no~~ civil penalty may
850 not ~~shall~~ be imposed, unless it is a repeated offense.

851 (c) Class III deficiencies are those which the agency
852 determines to have an indirect or potential relationship to the
853 health, safety, or security of ~~the~~ facility residents but do not
854 meet the criteria for, ~~other than~~ class I or class II
855 deficiencies. A class III deficiency is subject to a civil
856 penalty of at least ~~not less than~~ \$500 and not more than
857 ~~exceeding~~ \$1,000 for each deficiency. A citation for a class III
858 deficiency must ~~shall~~ specify the time within which the
859 deficiency must be corrected. If a class III deficiency is
860 corrected within the time specified, a ~~no~~ civil penalty may not
861 ~~shall~~ be imposed, unless it is a repeated offense.

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

864 400.980 Health care services pools.—

865 (2) The requirements of part II of chapter 408 apply to the
866 provision of services that require licensure or registration
867 pursuant to this part and part II of chapter 408 and to entities
868 registered by or applying for such registration from the agency
869 pursuant to this part. Registration or a license issued by the
870 agency is required for the operation of a health care services

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871 pool in this state. In accordance with s. 408.805, an applicant
872 or licensee shall pay a fee for each license application
873 submitted using this part, part II of chapter 408, and
874 applicable rules. The agency shall ~~adopt rules and~~ provide forms
875 required for such registration and shall impose a registration
876 fee in an amount sufficient to cover the cost of administering
877 this part and part II of chapter 408. In addition to the
878 requirements in part II of chapter 408, the registrant must
879 provide the agency with any change of information contained on
880 the original registration application within 14 days before
881 ~~prior to~~ the change.

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

884 409.912 Cost-effective purchasing of health care.—The
885 agency shall purchase goods and services for Medicaid recipients
886 in the most cost-effective manner consistent with the delivery
887 of quality medical care. To ensure that medical services are
888 effectively utilized, the agency may, in any case, require a
889 confirmation or second physician's opinion of the correct
890 diagnosis for purposes of authorizing future services under the
891 Medicaid program. This section does not restrict access to
892 emergency services or poststabilization care services as defined
893 in 42 C.F.R. part 438.114. Such confirmation or second opinion
894 shall be rendered in a manner approved by the agency. The agency
895 shall maximize the use of prepaid per capita and prepaid
896 aggregate fixed-sum basis services when appropriate and other
897 alternative service delivery and reimbursement methodologies,
898 including competitive bidding pursuant to s. 287.057, designed
899 to facilitate the cost-effective purchase of a case-managed

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900 continuum of care. The agency shall also require providers to
901 minimize the exposure of recipients to the need for acute
902 inpatient, custodial, and other institutional care and the
903 inappropriate or unnecessary use of high-cost services. The
904 agency shall contract with a vendor to monitor and evaluate the
905 clinical practice patterns of providers in order to identify
906 trends that are outside the normal practice patterns of a
907 provider's professional peers or the national guidelines of a
908 provider's professional association. The vendor must be able to
909 provide information and counseling to a provider whose practice
910 patterns are outside the norms, in consultation with the agency,
911 to improve patient care and reduce inappropriate utilization.
912 The agency may mandate prior authorization, drug therapy
913 management, or disease management participation for certain
914 populations of Medicaid beneficiaries, certain drug classes, or
915 particular drugs to prevent fraud, abuse, overuse, and possible
916 dangerous drug interactions. The Pharmaceutical and Therapeutics
917 Committee shall make recommendations to the agency on drugs for
918 which prior authorization is required. The agency shall inform
919 the Pharmaceutical and Therapeutics Committee of its decisions
920 regarding drugs subject to prior authorization. The agency is
921 authorized to limit the entities it contracts with or enrolls as
922 Medicaid providers by developing a provider network through
923 provider credentialing. The agency may competitively bid single-
924 source-provider contracts if procurement of goods or services
925 results in demonstrated cost savings to the state without
926 limiting access to care. The agency may limit its network based
927 on the assessment of beneficiary access to care, provider
928 availability, provider quality standards, time and distance

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929 standards for access to care, the cultural competence of the
930 provider network, demographic characteristics of Medicaid
931 beneficiaries, practice and provider-to-beneficiary standards,
932 appointment wait times, beneficiary use of services, provider
933 turnover, provider profiling, provider licensure history,
934 previous program integrity investigations and findings, peer
935 review, provider Medicaid policy and billing compliance records,
936 clinical and medical record audits, and other factors. Providers
937 are not entitled to enrollment in the Medicaid provider network.
938 The agency shall determine instances in which allowing Medicaid
939 beneficiaries to purchase durable medical equipment and other
940 goods is less expensive to the Medicaid program than long-term
941 rental of the equipment or goods. The agency may establish rules
942 to facilitate purchases in lieu of long-term rentals in order to
943 protect against fraud and abuse in the Medicaid program as
944 defined in s. 409.913. The agency may seek federal waivers
945 necessary to administer these policies.

946 (43) Subject to the availability of funds, the agency shall
947 mandate a recipient's participation in a provider lock-in
948 program, when appropriate, if a recipient is found by the agency
949 to have used Medicaid goods or services at a frequency or amount
950 not medically necessary, limiting the receipt of goods or
951 services to medically necessary providers after the 21-day
952 appeal process has ended, for at least ~~a period of not less than~~
953 1 year. The lock-in programs must ~~shall~~ include, but are not
954 limited to, pharmacies, medical doctors, and infusion clinics.
955 The limitation does not apply to emergency services and care
956 provided to the recipient in a hospital emergency department.
957 The agency shall seek any federal waivers necessary to implement

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958 this subsection. ~~The agency shall adopt any rules necessary to~~
959 ~~comply with or administer this subsection.~~ This subsection
960 expires October 1, 2014.

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

963 409.962 Definitions.—As used in this part, except as
964 otherwise specifically provided, the term:

965 (13) "Provider service network" means an entity qualified
966 pursuant to s. 409.912(4)(d) of which a controlling interest is
967 owned by a health care provider, or group of ~~affiliated~~
968 providers affiliated for the purpose of providing health care,
969 or a public agency or entity that delivers health services.
970 Health care providers include Florida-licensed health care
971 practitioners ~~professionals~~ or licensed health care facilities,
972 federally qualified health care centers, and home health care
973 agencies.

974 Section 19. Paragraph (e) of subsection (2) of section
975 409.972, Florida Statutes, is amended to read:

976 409.972 Mandatory and voluntary enrollment.—

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

981 (e) Medicaid recipients enrolled in the home and community
982 based services waiver pursuant to chapter 393, ~~and~~ Medicaid
983 recipients waiting for waiver services, and Medicaid recipients
984 under the age of 21 who are not receiving waiver services but
985 are authorized by the Agency for Persons with Disabilities or
986 the Department of Children and Families to reside in a group

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987 home facility licensed pursuant to chapter 393.

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

990 409.974 Eligible plans.—

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

995 (a) The agency shall procure and contract with two plans
996 for Region 1. At least one plan shall be a provider service
997 network if any provider service networks submit a responsive
998 bid.

999 (b) The agency shall procure and contract with two plans
1000 for Region 2. At least one plan shall be a provider service
1001 network if any provider service networks submit a responsive
1002 bid.

1003 (c) The agency shall procure and contract with at least
1004 three plans and up to five plans for Region 3. At least one plan
1005 must be a provider service network if any provider service
1006 networks submit a responsive bid.

1007 (d) The agency shall procure and contract with at least
1008 three plans and up to five plans for Region 4. At least one plan
1009 must be a provider service network if any provider service
1010 networks submit a responsive bid.

1011 (e) The agency shall procure and contract with at least two
1012 plans and up to four plans for Region 5. At least one plan must
1013 be a provider service network if any provider service networks
1014 submit a responsive bid.

1015 (f) The agency shall procure and contract with at least

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1016 four plans and up to seven plans for Region 6. At least one plan
1017 must be a provider service network if any provider service
1018 networks submit a responsive bid.

1019 (g) The agency shall procure and contract with at least
1020 three plans and up to six plans for Region 7. At least one plan
1021 must be a provider service network if any provider service
1022 networks submit a responsive bid.

1023 (h) The agency shall procure and contract with at least two
1024 plans and up to four plans for Region 8. At least one plan must
1025 be a provider service network if any provider service networks
1026 submit a responsive bid.

1027 (i) The agency shall procure and contract with at least two
1028 plans and up to four plans for Region 9. At least one plan must
1029 be a provider service network if any provider service networks
1030 submit a responsive bid.

1031 (j) The agency shall procure and contract with at least two
1032 plans and up to four plans for Region 10. At least one plan must
1033 be a provider service network if any provider service networks
1034 submit a responsive bid.

1035 (k) The agency shall procure and contract with at least
1036 five plans and up to 10 plans for Region 11. At least one plan
1037 must be a provider service network if any provider service
1038 networks submit a responsive bid.

1039
1040 If no provider service network submits a responsive bid, the
1041 agency shall procure up to ~~no more than~~ one less than the
1042 maximum number of eligible plans permitted in that region and,
1043 within the next 12 months after the initial invitation to
1044 negotiate, shall issue an invitation to negotiate in order ~~the~~

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1045 ~~agency shall attempt~~ to procure and contract with a provider
1046 service network. In a region in which the agency has contracted
1047 with only one provider service network and changes in the
1048 ownership or business structure of the network result in the
1049 network no longer meeting the definition of a provider service
1050 network under s. 409.962, the agency must, within the next 12
1051 months, terminate the contract, provide shall notice of another
1052 invitation to negotiate, and procure and contract only with a
1053 provider service network in that region ~~networks in those~~
1054 ~~regions where no provider service network has been selected.~~

1055 Section 21. Subsection (4) of section 429.255, Florida
1056 Statutes, is amended to read:

1057 429.255 Use of personnel; emergency care.—

1058 (4) Facility staff may withhold or withdraw cardiopulmonary
1059 resuscitation or the use of an automated external defibrillator
1060 if presented with an order not to resuscitate executed pursuant
1061 to s. 401.45. ~~The department shall adopt rules providing for the~~
1062 ~~implementation of such orders.~~ Facility staff and facilities are
1063 ~~shall not be~~ subject to criminal prosecution or civil liability,
1064 nor ~~be~~ considered to have engaged in negligent or unprofessional
1065 conduct, for withholding or withdrawing cardiopulmonary
1066 resuscitation or use of an automated external defibrillator
1067 pursuant to such an order ~~and rules adopted by the department.~~
1068 The absence of an order to resuscitate executed pursuant to s.
1069 401.45 does not preclude a physician from withholding or
1070 withdrawing cardiopulmonary resuscitation or use of an automated
1071 external defibrillator as otherwise permitted by law.

1072 Section 22. Subsection (3) of section 429.73, Florida
1073 Statutes, is amended to read:

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1074 429.73 Rules and standards relating to adult family-care
1075 homes.—

1076 (3) ~~The department shall adopt rules providing for the~~
1077 ~~implementation of orders not to resuscitate.~~ The provider may
1078 withhold or withdraw cardiopulmonary resuscitation if presented
1079 with an order not to resuscitate executed pursuant to s. 401.45.
1080 The provider is ~~shall~~ not ~~be~~ subject to criminal prosecution or
1081 civil liability, nor ~~be~~ considered to have engaged in negligent
1082 or unprofessional conduct, for withholding or withdrawing
1083 cardiopulmonary resuscitation pursuant to such an order ~~and~~
1084 ~~applicable rules.~~

1085 Section 23. Subsection (10) of section 440.102, Florida
1086 Statutes, is amended to read:

1087 440.102 Drug-free workplace program requirements.—The
1088 following provisions apply to a drug-free workplace program
1089 implemented pursuant to law or to rules adopted by the Agency
1090 for Health Care Administration:

1091 (10) RULES.—~~The Agency for Health Care Administration shall~~
1092 ~~adopt rules~~ Pursuant to s. 112.0455, part II of chapter 408, and
1093 using criteria established by the United States Department of
1094 Health and Human Services, the agency shall adopt rules as
1095 ~~general guidelines~~ for ~~modeling~~ drug-free workplace
1096 laboratories, including ~~concerning~~, but not limited to:

1097 (a) Standards for licensing drug-testing laboratories and
1098 suspension and revocation of such licenses.

1099 (b) Urine, hair, blood, and other body specimens and
1100 minimum specimen amounts that are appropriate for drug testing.

1101 (c) Methods of analysis and procedures to ensure reliable
1102 drug-testing results, including standards for initial tests and

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1103 confirmation tests.

1104 (d) Minimum cutoff detection levels for each drug or
1105 metabolites of such drug for the purposes of determining a
1106 positive test result.

1107 (e) Chain-of-custody procedures to ensure proper
1108 identification, labeling, and handling of specimens tested.

1109 (f) Retention, storage, and transportation procedures to
1110 ensure reliable results on confirmation tests and retests.

1111 Section 24. Subsection (2) of section 483.245, Florida
1112 Statutes, is amended to read:

1113 483.245 Rebates prohibited; penalties.—

1114 (2) The agency may establish and ~~shall adopt rules that~~
1115 assess administrative penalties for acts prohibited by
1116 subsection (1). ~~If in the case of an entity is~~ licensed by the
1117 agency, such penalties may include any disciplinary action
1118 available to the agency under the appropriate licensing laws. If
1119 ~~In the case of an entity is~~ not licensed by the agency, such
1120 penalties may include:

1121 (a) A fine not to exceed \$1,000;

1122 (b) If applicable, a recommendation by the agency to the
1123 appropriate licensing board that disciplinary action be taken.

1124 Section 25. Subsection (2) of section 765.541, Florida
1125 Statutes, is amended to read:

1126 765.541 Licensure Certification of procurement
1127 organizations; agency responsibilities.—The agency shall:

1128 (1) Establish a program for the licensure ~~certification~~ of
1129 organizations, corporations, or other entities engaged in the
1130 procurement of organs, tissues, and eyes within the state for
1131 transplantation.

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1132 (2) Adopt rules as necessary to implement ~~that set forth~~
1133 ~~appropriate standards and guidelines for the program in~~
1134 ~~accordance with ss. 765.541-765.546 and part II of chapter 408.~~
1135 ~~These Standards and guidelines~~ for the program adopted by the
1136 agency must be substantially based on the ~~existing~~ laws of the
1137 Federal Government and this state, and the ~~existing~~ standards
1138 and guidelines of the Organ Procurement and Transplantation
1139 Network (OPTN), the Association of Organ Procurement
1140 Organizations (AOPO) ~~United Network for Organ Sharing (UNOS), the~~
1141 ~~American Association of Tissue Banks (AATB), the South-Eastern~~
1142 ~~Organ Procurement Foundation (SEOPF), the North American~~
1143 ~~Transplant Coordinators Organization (NATCO), and the Eye Bank~~
1144 ~~Association of America (EBAA). In addition, the agency shall,~~
1145 ~~before adopting these standards and guidelines, seek input from~~
1146 ~~all procurement organizations based in this state.~~

1147 Section 26. Subsection (2) of section 765.544, Florida
1148 Statutes, is amended to read:

1149 765.544 Fees; organ and tissue donor education and
1150 procurement.—

1151 ~~(2) The agency shall specify by rule the administrative~~
1152 ~~penalties for the purpose of ensuring adherence to the standards~~
1153 ~~of quality and practice required by this chapter, part II of~~
1154 ~~chapter 408, and applicable rules of the agency for continued~~
1155 ~~certification.~~

1156 Section 27. This act shall take effect July 1, 2014.