

By the Committees on Rules; and Health Policy; and Senator
Grimsley

595-03708-14

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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; amending s. 395.003, F.S.;

31 revising provisions relating to the provision of

32 cardiovascular services by a hospital; amending s.

33 400.474, F.S.; revising the report requirements for

34 home health agencies; creating s. 400.9141, F.S.;

35 limiting services at PPEC centers; amending s.

36 400.934, F.S., relating to home medical equipment

37 providers; requiring that the emergency management

38 plan include criteria relating to the maintenance of

39 patient equipment and supply lists; amending s.

40 409.962, F.S.; redefining the term "provider service

41 network"; amending s. 409.972, F.S.; exempting certain

42 people from the requirement to enroll in Medicaid

43 managed care; amending s. 409.974, F.S.; providing for

44 contracting with eligible plans; revising provisions

45 relating to negotiation with a provider service

46 network; providing requirements for termination of a

47 contract with a provider service network; providing an

48 effective date.

49

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

51

52 Section 1. Paragraph (d) of subsection (3) of section

53 390.012, Florida Statutes, is amended to read:

54 390.012 Powers of agency; rules; disposal of fetal

55 remains.—

56 (3) For clinics that perform or claim to perform abortions

57 after the first trimester of pregnancy, the agency shall adopt

58 rules pursuant to ss. 120.536(1) and 120.54 to implement the

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59 provisions of this chapter, including the following:

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

63 1. A medical history including reported allergies to
64 medications, antiseptic solutions, or latex; past surgeries; and
65 an obstetric and gynecological history.

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

68 3. The appropriate laboratory tests, including:

69 a. Urine or blood tests for pregnancy performed before the
70 abortion procedure.

71 b. A test for anemia.

72 c. Rh typing, unless reliable written documentation of
73 blood type is available.

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

75 4. An ultrasound evaluation for all patients. The rules
76 must ~~shall~~ require that if a person who is not a physician
77 performs an ultrasound examination, that person shall have
78 documented evidence that he or she has completed a course in the
79 operation of ultrasound equipment as prescribed in rule. ~~The~~
80 ~~rules shall require clinics to be in compliance with s.~~
81 ~~390.0111.~~

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

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88 examination of a patient in the patient's medical history file.

89 Section 2. Paragraph (a) of subsection (6) of section
90 395.003, Florida Statutes, is amended to read:

91 395.003 Licensure; denial, suspension, and revocation.—

92 (6) (a) A specialty hospital may not provide any service or
93 regularly serve any population group beyond those services or
94 groups specified in its license. A ~~specialty-licensed children's~~
95 hospital that is authorized to provide pediatric cardiac
96 catheterization and pediatric open-heart surgery services may
97 provide cardiovascular service to adults who, as children, were
98 previously served by the hospital for congenital heart disease,
99 or to ~~these~~ patients who are referred only for a specialized
100 procedure ~~only~~ for congenital heart disease by an adult
101 hospital, without obtaining additional licensure as a provider
102 of adult cardiovascular services. The agency may request
103 documentation as needed to support patient selection and
104 treatment. This subsection does not apply to a specialty-
105 licensed children's hospital that is already licensed to provide
106 adult cardiovascular services.

107 Section 3. Subsection (11) of section 400.021, Florida
108 Statutes, is amended to read:

109 400.021 Definitions.—When used in this part, unless the
110 context otherwise requires, the term:

111 (11) "Nursing home bed" means an accommodation that ~~which~~
112 is ready for immediate occupancy, or is capable of being made
113 ready for occupancy within 48 hours, excluding the provision of
114 staffing, ~~+~~ and that ~~which~~ conforms to minimum space
115 requirements, including the availability of appropriate
116 equipment and furnishings within the 48 hours, as specified by

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117 ~~rule of~~ the agency, for the provision of services specified in
118 this part to a single resident.

119 Section 4. Subsection (3) of section 400.0712, Florida
120 Statutes, is amended to read:

121 400.0712 Application for inactive license.-

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

124 Section 5. Section 400.23, Florida Statutes, is amended to
125 read:

126 400.23 Rules; evaluation and deficiencies; licensure
127 status.-

128 (1) It is the intent of the Legislature that rules
129 published and enforced pursuant to this part and part II of
130 chapter 408 ~~shall~~ include criteria by which a reasonable and
131 consistent quality of resident care may be ensured, and the
132 results of such resident care can be demonstrated, and by which
133 safe and sanitary nursing homes can be provided. It is further
134 intended that reasonable efforts be made to accommodate the
135 needs and preferences of residents to enhance the quality of
136 life in a nursing home. In addition, efforts shall be made to
137 minimize the amount of paperwork associated with the reporting
138 and documentation requirements of these rules.

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

145 (a) The location of the facility and housing conditions

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146 that will ensure the health, safety, and comfort of residents,
147 including an adequate call system. In adopting ~~making~~ such
148 rules, the agency shall be guided by criteria recommended by
149 nationally recognized reputable professional groups and
150 associations that have ~~with~~ knowledge of such subject matters.
151 The agency shall update or revise the ~~such~~ criteria as the need
152 arises. The agency may require alterations to a building if it
153 determines that an existing condition constitutes a distinct
154 hazard to life, health, or safety. In performing ~~any~~ inspections
155 of facilities authorized by this part or part II of chapter 408,
156 the agency may enforce the special-occupancy provisions of the
157 Florida Building Code and the Florida Fire Prevention Code which
158 apply to nursing homes. A resident ~~Residents~~ or his or her
159 representative must ~~their representatives shall~~ be able to
160 request a change in the placement of the bed in his or her ~~their~~
161 room if, provided that at admission, the resident is ~~they are~~
162 presented with a room that meets requirements of the Florida
163 Building Code. The location of a bed may be changed if the
164 requested placement does not infringe on the resident's roommate
165 or interfere with the resident's care or safety as determined by
166 the care planning team in accordance with facility policies and
167 procedures. In addition, the bed placement may not be used as a
168 restraint. Each facility shall maintain a log of resident rooms
169 with beds that are not in strict compliance with the Florida
170 Building Code in order for such log to be used by surveyors and
171 nurse monitors during inspections and visits. A resident or a
172 resident's ~~resident~~ representative who requests that a bed be
173 moved must ~~shall~~ sign a statement indicating that he or she
174 understands that the room will not be in compliance with the

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175 Florida Building Code, but that he or she ~~they~~ would prefer to
176 exercise the ~~their~~ right to self-determination. The statement
177 must be retained as part of the resident's care plan. A ~~Any~~
178 facility that offers this option must submit a letter signed by
179 the nursing home administrator of record to the agency notifying
180 it of this practice along with a copy of the policies and
181 procedures of the facility. The agency is directed to provide
182 assistance to the Florida Building Commission in updating the
183 construction standards of the code relating ~~relative~~ to nursing
184 homes.

185 (b) The number and qualifications of all personnel,
186 including management, medical, nursing, and other professional
187 personnel, and nursing assistants, orderlies, and support
188 personnel, having responsibility for any part of the care given
189 residents.

190 (c) All sanitary conditions within the facility and its
191 surroundings, including water supply, sewage disposal, food
192 handling, and general hygiene which will ensure the health and
193 comfort of residents.

194 (d) The equipment essential to the health and welfare of
195 the residents.

196 (e) A uniform accounting system.

197 (f) The care, treatment, and maintenance of residents and
198 measurement of the quality and adequacy thereof, based on rules
199 developed under this chapter and the Omnibus Budget
200 Reconciliation Act of 1987, (Pub. L. No. 100-203) ~~(December 22,~~
201 ~~1987)~~, Title IV (Medicare, Medicaid, and Other Health-Related
202 Programs), Subtitle C (Nursing Home Reform), as amended.

203 (g) The preparation and annual update of a comprehensive

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204 emergency management plan. The agency shall establish ~~adopt~~
205 ~~rules establishing~~ minimum criteria for the plan after
206 consultation with the Division of Emergency Management. At a
207 minimum, the ~~rules must provide for~~ plan components must provide
208 ~~that address~~ emergency evacuation transportation; adequate
209 sheltering arrangements; postdisaster activities, including
210 emergency power, food, and water; postdisaster transportation;
211 supplies; staffing; emergency equipment; individual
212 identification of residents and transfer of records; and
213 responding to family inquiries. The comprehensive emergency
214 management plan is subject to review and approval by the local
215 emergency management agency. During the ~~its~~ review, the local
216 emergency management agency shall ensure that the following
217 agencies, at a minimum, are given the opportunity to review the
218 plan: the Department of Elderly Affairs, the Department of
219 Health, the Agency for Health Care Administration, and the
220 Division of Emergency Management. ~~Also,~~ Appropriate volunteer
221 organizations must also be given the opportunity to review the
222 plan. The local emergency management agency shall complete its
223 review within 60 days and ~~either~~ approve the plan or advise the
224 facility of necessary revisions.

225 (h) The availability, distribution, and posting of reports
226 and records pursuant to s. 400.191 and the Gold Seal Program
227 pursuant to s. 400.235.

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

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

231 a. A combined minimum weekly average of certified nursing
232 assistant and licensed nursing staffing ~~combined~~ of 3.6 hours of

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233 direct care per resident per day. As used in this sub-
234 subparagraph, a week is defined as Sunday through Saturday.

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

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

241 2. Nursing assistants employed under s. 400.211(2) may be
242 included in computing the staffing ratio for certified nursing
243 assistants if their job responsibilities include only nursing-
244 assistant-related duties.

245 3. Each nursing home facility must document compliance with
246 staffing standards ~~as~~ required under this paragraph and post
247 daily the names of staff on duty for the benefit of facility
248 residents and the public.

249 4. The agency shall recognize the use of licensed nurses
250 for compliance with the minimum staffing requirements for
251 certified nursing assistants if the nursing home facility
252 otherwise meets the minimum staffing requirements for licensed
253 nurses and the licensed nurses are performing the duties of ~~a~~
254 certified nursing assistants ~~assistant~~. Unless otherwise
255 approved by the agency, licensed nurses counted toward the
256 minimum staffing requirements for certified nursing assistants
257 must exclusively perform the duties of ~~a~~ certified nursing
258 assistants ~~assistant~~ for the entire shift and not also be
259 counted toward the minimum staffing requirements for licensed
260 nurses. If the agency approved a facility's request to use a
261 licensed nurse to perform both licensed nursing and certified

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262 nursing assistant duties, the facility must allocate the amount
263 of staff time specifically spent on certified nursing assistant
264 duties for the purpose of documenting compliance with minimum
265 staffing requirements for certified and licensed nursing staff.
266 The hours of a licensed nurse with dual job responsibilities may
267 not be counted twice.

268 (b) Nonnursing staff providing eating assistance to
269 residents does ~~shall~~ not count toward compliance with minimum
270 staffing standards.

271 (c) Licensed practical nurses licensed under chapter 464
272 who are providing nursing services in nursing home facilities
273 under this part may supervise the activities of other licensed
274 practical nurses, certified nursing assistants, and other
275 unlicensed personnel providing services in such facilities in
276 accordance with rules adopted by the Board of Nursing.

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

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

285 (a) Minimum standards of care for persons under 21 years of
286 age who reside in nursing home facilities may be established by
287 the agency, in collaboration with the Division of Children's
288 Medical Services of the Department of Health. A facility may be
289 exempted from these standards and the provisions of paragraph
290 (b) for specified ~~specific~~ persons between 18 and 21 years of

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291 age, if the person's physician agrees that minimum standards of
292 care based on age are not necessary.

293 (b) The following ~~Minimum~~ staffing requirements for persons
294 under 21 years of age who reside in nursing home facilities,
295 ~~which~~ apply in lieu of the requirements contained in subsection
296 (3):

297 1. For persons under 21 years of age who require skilled
298 care:

299 a. A minimum combined average of 3.9 hours of direct care
300 per resident per day must be provided by licensed nurses,
301 respiratory therapists, respiratory care practitioners, and
302 certified nursing assistants.

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

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

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

310 2. For persons under 21 years of age who are medically
311 fragile:

312 a. A minimum combined average of 5.0 hours of direct care
313 per resident per day must be provided by licensed nurses,
314 respiratory therapists, respiratory care practitioners, and
315 certified nursing assistants.

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

318 c. Up to ~~No more than~~ 1.5 hours of certified nursing
319 assistant care per resident per day may be counted in

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320 determining the minimum direct care hours required.

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

323 (6) Before ~~Prior to~~ conducting a survey of the facility,
324 the survey team shall obtain a copy of the local long-term care
325 ombudsman council report on the facility. Problems noted in the
326 report shall be incorporated into and followed up through the
327 agency's inspection process. This procedure does not preclude
328 the local long-term care ombudsman council from requesting the
329 agency to conduct a followup visit to the facility.

330 (7) The agency shall, at least every 15 months, evaluate
331 all nursing home facilities and determine ~~make a determination~~
332 ~~as to~~ the degree of compliance by each licensee with the
333 established rules adopted under this part as a basis for
334 assigning a licensure status to a ~~that~~ facility. The agency
335 shall base its evaluation on the most recent inspection report,
336 taking into consideration findings from other official reports,
337 surveys, interviews, investigations, and inspections. In
338 addition to license categories authorized under part II of
339 chapter 408, the agency shall assign a ~~licensure status of~~
340 standard or conditional licensure status to each nursing home.

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

344 (b) A conditional licensure status means that a facility,
345 due to the presence of one or more class I or class II
346 deficiencies, or class III deficiencies not corrected within the
347 time established by the agency, is not in substantial compliance
348 at the time of the survey with criteria established under this

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349 part or with rules adopted by the agency. If the facility has no
350 class I, class II, or class III deficiencies at the time of the
351 followup survey, a standard licensure status may be assigned.

352 (c) In evaluating the overall quality of care and services
353 and determining whether the facility will receive a conditional
354 or standard license, the agency shall consider the needs and
355 limitations of residents in the facility and the results of
356 interviews and surveys of a representative sampling of
357 residents, families of residents, ombudsman council members in
358 the planning and service area in which the facility is located,
359 guardians of residents, and staff of the nursing home facility.

360 (d) The current licensure status of each facility must be
361 indicated in bold print on the face of the license. A list of
362 the deficiencies of the facility shall be posted in a prominent
363 place that is in clear and unobstructed public view at or near
364 the place where residents are being admitted to that facility.
365 Licensees receiving a conditional licensure status for a
366 facility shall prepare, within 10 working days after receiving
367 notice of deficiencies, a plan for correction of all
368 deficiencies and ~~shall~~ submit the plan to the agency for
369 approval.

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

371 1. Establish uniform procedures for the evaluation of
372 facilities.

373 2. Provide criteria in the areas referenced in paragraph
374 (c).

375 3. Address other areas necessary for carrying out the
376 intent of this section.

377 (8) The agency shall ensure ~~adopt rules pursuant to this~~

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378 ~~part and part II of chapter 408 to provide that, if when the~~
379 criteria established under subsection (2) are not met, such
380 deficiencies shall be classified according to the nature and the
381 scope of the deficiency. The scope shall be cited as isolated,
382 patterned, or widespread. An isolated deficiency is a deficiency
383 affecting one or a very limited number of residents, or
384 involving one or a very limited number of staff, or a situation
385 that occurred only occasionally or in a very limited number of
386 locations. A patterned deficiency is a deficiency in which ~~where~~
387 more than a very limited number of residents are affected, or
388 more than a very limited number of staff are involved, or the
389 situation has occurred in several locations, or the same
390 resident or residents have been affected by repeated occurrences
391 of the same deficient practice but the effect of the deficient
392 practice is not found to be pervasive throughout the facility. A
393 widespread deficiency is a deficiency in which the problems
394 causing the deficiency are pervasive in the facility or
395 represent systemic failure that has affected or has the
396 potential to affect a large portion of the facility's residents.
397 The agency shall indicate the classification on the face of the
398 notice of deficiencies as follows:

399 (a) A class I deficiency is a deficiency that the agency
400 determines presents a situation in which immediate corrective
401 action is necessary because the facility's noncompliance has
402 caused, or is likely to cause, serious injury, harm, impairment,
403 or death to a resident receiving care in a facility. The
404 condition or practice constituting a class I violation must
405 ~~shall~~ be abated or eliminated immediately, unless a fixed period
406 of time, as determined by the agency, is required for

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407 correction. A class I deficiency is subject to a civil penalty
408 of \$10,000 for an isolated deficiency, \$12,500 for a patterned
409 deficiency, and \$15,000 for a widespread deficiency. The fine
410 amount is ~~shall be~~ doubled for each deficiency if the facility
411 was previously cited for one or more class I or class II
412 deficiencies during the last licensure inspection or during an
413 ~~any~~ inspection or complaint investigation since the last
414 licensure inspection. A fine must be levied notwithstanding the
415 correction of the deficiency.

416 (b) A class II deficiency is a deficiency that the agency
417 determines has compromised a ~~the~~ resident's ability to maintain
418 or reach his or her highest practicable physical, mental, and
419 psychosocial well-being, as defined by an accurate and
420 comprehensive resident assessment, plan of care, and provision
421 of services. A class II deficiency is subject to a civil penalty
422 of \$2,500 for an isolated deficiency, \$5,000 for a patterned
423 deficiency, and \$7,500 for a widespread deficiency. The fine
424 amount is ~~shall be~~ doubled for each deficiency if the facility
425 was previously cited for one or more class I or class II
426 deficiencies during the last licensure inspection or an ~~any~~
427 inspection or complaint investigation since the last licensure
428 inspection. A fine shall be levied notwithstanding the
429 correction of the deficiency.

430 (c) A class III deficiency is a deficiency that the agency
431 determines will result in no more than minimal physical, mental,
432 or psychosocial discomfort to a ~~the~~ resident or has the
433 potential to compromise a ~~the~~ resident's ability to maintain or
434 reach his or her highest practical physical, mental, or
435 psychosocial well-being, as defined by an accurate and

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436 comprehensive resident assessment, plan of care, and provision
437 of services. A class III deficiency is subject to a civil
438 penalty of \$1,000 for an isolated deficiency, \$2,000 for a
439 patterned deficiency, and \$3,000 for a widespread deficiency.
440 The fine amount is ~~shall be~~ doubled for each deficiency if the
441 facility was previously cited for one or more class I or class
442 II deficiencies during the last licensure inspection or an ~~any~~
443 inspection or complaint investigation since the last licensure
444 inspection. A citation for a class III deficiency must specify
445 the time within which the deficiency is required to be
446 corrected. If a class III deficiency is corrected within the
447 time specified, a civil penalty may not be imposed.

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

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

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

458 Section 6. Subsection (7) of section 400.474, Florida
459 Statutes, is amended to read:

460 400.474 Administrative penalties.—

461 (7) A home health agency shall electronically submit to the
462 agency, ~~within 15 days after the end of each calendar quarter,~~ a
463 ~~written~~ report for each 6-month period ending March 31 and
464 September 30.

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465 (a) Each report must include ~~that includes~~ the following
466 data as it ~~they~~ existed on the last day of the reporting period
467 ~~quarter~~:

468 1.(a) The number of insulin-dependent diabetic patients who
469 receive insulin-injection services from the home health agency.

470 2.(b) The number of patients who receive both home health
471 services from the home health agency and hospice services.

472 3.(c) The number of patients who receive home health
473 services from the home health agency.

474 4.(d) The name and license number of each nurse whose
475 primary job responsibility is to provide home health services to
476 patients and who received remuneration from the home health
477 agency in excess of \$50,000 ~~\$25,000~~ during the reporting period
478 ~~calendar quarter~~.

479 (b) If the home health agency fails to submit the ~~written~~
480 ~~quarterly~~ report within 15 days after the end of the applicable
481 reporting period ~~each calendar quarter~~, the agency ~~for Health~~
482 ~~Care Administration~~ shall impose a fine of \$200 per day against
483 the home health agency ~~in the amount of \$200 per day~~ until the
484 agency ~~for Health Care Administration~~ receives the report,
485 except that the total fine imposed pursuant to this subsection
486 may not exceed \$5,000 per reporting period ~~quarter~~. A home
487 health agency is exempt from submission of the report and the
488 imposition of the fine if it is not a Medicaid or Medicare
489 provider ~~or if it does not share a controlling interest with a~~
490 ~~licensee, as defined in s. 408.803, which bills the Florida~~
491 ~~Medicaid program or the Medicare program.~~

492 Section 7. Subsection (7) of section 400.487, Florida
493 Statutes, is amended to read:

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494 400.487 Home health service agreements; physician's,
495 physician assistant's, and advanced registered nurse
496 practitioner's treatment orders; patient assessment;
497 establishment and review of plan of care; provision of services;
498 orders not to resuscitate.-

499 (7) Home health agency personnel may withhold or withdraw
500 cardiopulmonary resuscitation if presented with an order not to
501 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
502 ~~adopt rules providing for the implementation of such orders.~~
503 Home health personnel and agencies are ~~shall~~ not ~~be~~ subject to
504 criminal prosecution or civil liability and are not, ~~nor be~~
505 considered to have engaged in negligent or unprofessional
506 conduct, ~~for withholding or withdrawing cardiopulmonary~~
507 resuscitation pursuant to such ~~an order and rules adopted by the~~
508 agency.

509 Section 8. Section 400.497, Florida Statutes, is amended to
510 read:

511 400.497 Rules establishing minimum standards.-The agency
512 may ~~shall~~ adopt, ~~publish, and enforce~~ rules to administer
513 ~~implement~~ part II of chapter 408 and this part, including the
514 provider's duties and responsibilities under, ~~as applicable,~~ ss.
515 400.506 and 400.509. Rules shall specify, but are not limited
516 to, which must provide reasonable and fair minimum standards
517 relating to:

518 (1) The home health aide competency test and home health
519 aide training. The agency shall create the home health aide
520 competency test and establish the curriculum and instructor
521 qualifications for home health aide training. Licensed home
522 health agencies may provide this training and shall furnish

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523 documentation of such training to other licensed home health
524 agencies upon request. Successful passage of the competency test
525 by home health aides may be substituted for the training
526 required under this section and agency ~~any rule adopted pursuant~~
527 ~~thereto~~.

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

533 (3) The criteria for the frequency of onsite licensure
534 surveys.

535 (4) Licensure application and renewal.

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

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

541 (b) Requirements for a director of nursing to provide to
542 the agency, upon request, a certified daily report of the home
543 health services provided by a specified direct employee or
544 contracted staff member on behalf of the home health agency. The
545 agency may request a certified daily report for up to ~~only for a~~
546 ~~period not to exceed~~ 2 years before ~~prior to~~ the date of the
547 request; and

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

550 (6) Conditions for using a recent unannounced licensure
551 inspection for the inspection required under ~~in~~ s. 408.806

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552 related to a licensure application associated with a change in
553 ownership of a licensed home health agency.

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

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

557 (9) Geographic service areas.

558 (10) Preparation of a comprehensive emergency management
559 plan pursuant to s. 400.492.

560 ~~(a) The Agency for Health Care Administration shall adopt~~
561 ~~rules establishing minimum criteria for the plan and plan~~
562 ~~updates, with the concurrence of the Department of Health and in~~
563 ~~consultation with the Division of Emergency Management.~~

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

568 (b) ~~(e)~~ The plan is subject to review and approval by the
569 county health department. During its review, the county health
570 department shall contact state and local health and medical
571 stakeholders when necessary. The county health department shall
572 complete its review to ensure that the plan is in accordance
573 with the requirements of law ~~criteria in the Agency for Health~~
574 ~~Care Administration rules~~ within 90 days after receipt of the
575 plan and shall approve the plan or advise the home health agency
576 of necessary revisions. If the home health agency fails to
577 submit a plan or fails to submit the requested information or
578 revisions to the county health department within 30 days after
579 written notification from the county health department, the
580 county health department shall notify the Agency for Health Care

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581 Administration. The agency shall notify the home health agency
582 that its failure constitutes a deficiency, subject to a fine of
583 \$5,000 per occurrence. If the plan is not submitted, information
584 is not provided, or revisions are not made as requested, the
585 agency may impose the fine.

586 (c)~~(d)~~ For a ~~any~~ home health agency that operates in more
587 than one county, the Department of Health shall review the plan,
588 after consulting with state and local health and medical
589 stakeholders when necessary. The department shall complete its
590 review within 90 days after receipt of the plan and shall
591 approve the plan or advise the home health agency of necessary
592 revisions. The department shall make every effort to avoid
593 imposing differing requirements on a home health agency that
594 operates in more than one county as a result of differing or
595 conflicting comprehensive plan requirements of the counties in
596 which the home health agency operates.

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

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

601 2. A retirement community that consists of both residential
602 units for independent living and ~~either~~ a licensed nursing home
603 or an assisted living facility, ~~and~~ and has a licensed home health
604 agency used exclusively by ~~the~~ residents of the retirement
605 community, if ~~provided~~ the comprehensive emergency management
606 plan for the facility or retirement community provides for
607 continuous care of all residents with special needs during an
608 emergency.

609 Section 9. Paragraph (f) of subsection (12) and subsection

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610 (17) of section 400.506, Florida Statutes, are amended to read:

611 400.506 Licensure of nurse registries; requirements;
612 penalties.—

613 (12) Each nurse registry shall prepare and maintain a
614 comprehensive emergency management plan that is consistent with
615 the criteria in this subsection and with the local special needs
616 plan. The plan shall be updated annually. The plan shall include
617 the means by which the nurse registry will continue to provide
618 the same type and quantity of services to its patients who
619 evacuate to special needs shelters which were being provided to
620 those patients prior to evacuation. The plan shall specify how
621 the nurse registry shall facilitate the provision of continuous
622 care by persons referred for contract to persons who are
623 registered pursuant to s. 252.355 during an emergency that
624 interrupts the provision of care or services in private
625 residences. Nurse registries may establish links to local
626 emergency operations centers to determine a mechanism by which
627 to approach specific areas within a disaster area in order for a
628 provider to reach its clients. Nurse registries shall
629 demonstrate a good faith effort to comply with the requirements
630 of this subsection by documenting attempts of staff to follow
631 procedures outlined in the nurse registry's comprehensive
632 emergency management plan which support a finding that the
633 provision of continuing care has been attempted for patients
634 identified as needing care by the nurse registry and registered
635 under s. 252.355 in the event of an emergency under this
636 subsection.

637 ~~(f) The Agency for Health Care Administration shall adopt~~
638 ~~rules establishing minimum criteria for the comprehensive~~

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639 ~~emergency management plan and plan updates required by this~~
640 ~~subsection, with the concurrence of the Department of Health and~~
641 ~~in consultation with the Division of Emergency Management.~~

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

644 Section 10. Subsection (7) of section 400.509, Florida
645 Statutes, is amended to read:

646 400.509 Registration of particular service providers exempt
647 from licensure; certificate of registration; regulation of
648 registrants.-

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

651 Section 11. Subsection (8) of section 400.6095, Florida
652 Statutes, is amended to read:

653 400.6095 Patient admission; assessment; plan of care;
654 discharge; death.-

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

659 Hospice staff are ~~shall~~ not be subject to criminal prosecution
660 or civil liability, nor be considered to have engaged in
661 negligent or unprofessional conduct, for withholding or
662 withdrawing cardiopulmonary resuscitation pursuant to such an
663 order and applicable rules. The absence of an order to
664 resuscitate executed pursuant to s. 401.45 does not preclude a
665 physician from withholding or withdrawing cardiopulmonary
666 resuscitation as otherwise permitted by law.

667 Section 12. Section 400.914, Florida Statutes, is amended

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668 to read:

669 400.914 Rulemaking; ~~Rules establishing~~ standards.—

670 (1) Pursuant to the intention of the Legislature to provide
671 safe and sanitary facilities and healthful programs, the agency
672 in conjunction with the Division of Children's Medical Services
673 of the Department of Health may ~~shall~~ adopt and ~~publish~~
674 administer ~~implement the provisions of~~ this part and part II of
675 chapter 408, ~~which shall include reasonable and fair standards.~~
676 Any conflict between these rules ~~standards~~ and those established
677 ~~that may be set forth~~ in local, county, or city ordinances shall
678 be resolved in favor of those having statewide effect.

679 (2) The rules must specify, but are not limited to,
680 reasonable and fair standards relating ~~Such standards shall~~
681 ~~relate to:~~

682 (a) The assurance that PPEC services are family centered
683 and provide individualized medical, developmental, and family
684 training services.

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

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

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

696 (e) All sanitary conditions within the PPEC center and its

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697 surroundings, including water supply, sewage disposal, food
698 handling, and general hygiene, and maintenance thereof, which
699 will ensure the health and comfort of children served.

700 (f) Programs and basic services promoting and maintaining
701 the health and development of the children served and meeting
702 the training needs of the children's legal guardians.

703 (g) Supportive, contracted, other operational, and
704 transportation services.

705 (h) Maintenance of appropriate medical records, data, and
706 information relative to the children and programs. Such records
707 shall be maintained in the facility for inspection by the
708 agency.

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

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

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

714 Section 13. Section 400.9141, Florida Statutes, is created
715 to read:

716 400.9141 Limitations.-

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

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

721 Section 14. Paragraph (a) of subsection (20) of section
722 400.934, Florida Statutes, is amended to read:

723 400.934 Minimum standards.-As a requirement of licensure,
724 home medical equipment providers shall:

725 (20) (a) Prepare and maintain a comprehensive emergency

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726 management plan that meets minimum criteria established by
727 agency rule, including criteria for the maintenance of patient
728 equipment and supply lists that accompany patients who are
729 transported from their homes. Such rules shall be formulated in
730 consultation with the Department of Health and the Division of
731 Emergency Management ~~under s. 400.935~~. The plan shall be updated
732 annually and shall provide for continuing home medical equipment
733 services for life-supporting or life-sustaining equipment, as
734 defined in s. 400.925, during an emergency that interrupts home
735 medical equipment services in a patient's home. The plan must
736 ~~shall~~ include:

737 1. The means by which the home medical equipment provider
738 will continue to provide equipment to perform the same type and
739 quantity of services to its patients who evacuate to special
740 needs shelters which were being provided to those patients
741 before ~~prior to~~ evacuation.

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

745 a. Notification of staff when emergency response measures
746 are initiated.

747 b. Communication between staff members, county health
748 departments, and local emergency management agencies, which
749 includes provisions for a backup communications system.

750 c. Identification of resources necessary to continue
751 essential care or services or referrals to other organizations
752 subject to written agreement.

753 d. Contacting and prioritizing patients in need of
754 continued medical equipment services and supplies.

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755 Section 15. Section 400.935, Florida Statutes, is amended
756 to read:

757 400.935 Rule authority ~~Rules establishing minimum~~
758 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules as
759 necessary to implement this part and part II of chapter 408. The
760 rules must specify, but not be limited to, which must provide
761 reasonable and fair minimum standards relating to:

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

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

765 (2)~~(3)~~ The administration of the home medical equipment
766 provider.

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

768 (3)~~(5)~~ Ensuring that the home medical equipment and
769 services provided by a home medical equipment provider are in
770 accordance with the plan of treatment established for each
771 patient, when provided as a part of a plan of treatment.

772 (4)~~(6)~~ Contractual arrangements for the provision of home
773 medical equipment and services by providers not employed by the
774 home medical equipment provider providing for the consumer's
775 needs.

776 (5)~~(7)~~ Physical location and zoning requirements.

777 (6)~~(8)~~ Home medical equipment requiring home medical
778 equipment services.

779 ~~(9) Preparation of the comprehensive emergency management~~
780 ~~plan under s. 400.934 and the establishment of minimum criteria~~
781 ~~for the plan, including the maintenance of patient equipment and~~
782 ~~supply lists that can accompany patients who are transported~~
783 ~~from their homes. Such rules shall be formulated in consultation~~

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784 ~~with the Department of Health and the Division of Emergency~~
785 ~~Management.~~

786 Section 16. Subsection (5) of section 400.962, Florida
787 Statutes, is amended to read:

788 400.962 License required; license application.—

789 (5) The applicant must agree to provide or arrange for
790 active treatment services by an interdisciplinary team in order
791 to maximize individual independence or prevent regression or
792 loss of functional status. ~~Standards for active treatment shall~~
793 ~~be adopted by the Agency for Health Care Administration by rule~~
794 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services
795 shall be provided in accordance with the individual support plan
796 and shall be reimbursed as part of the per diem rate as paid
797 under the Medicaid program.

798 Section 17. Subsections (2) and (3) of section 400.967,
799 Florida Statutes, are amended to read:

800 400.967 Rules and classification of deficiencies.—

801 (2) ~~Pursuant to the intention of the Legislature,~~ The
802 agency, in consultation with the Agency for Persons with
803 Disabilities and the Department of Elderly Affairs, may shall
804 adopt and enforce rules as necessary to administer this part and
805 part II of chapter 408, which ~~shall include reasonable and fair~~
806 criteria governing:

807 (a) The location and construction of the facility;
808 including fire and life safety, plumbing, heating, cooling,
809 lighting, ventilation, and other housing conditions that ensure
810 the health, safety, and comfort of residents. The agency shall
811 establish standards for facilities and equipment to increase the
812 extent to which new facilities, and a new wing or floor added to

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813 an existing facility after July 1, 2000, are structurally
814 capable of serving as shelters only for residents, staff, and
815 families of residents and staff, and equipped to be self-
816 supporting during and immediately following disasters. The
817 agency shall update or revise the criteria as the need arises.
818 ~~All~~ Facilities must comply with the ~~these~~ lifesafety code
819 requirements and building code standards applicable when ~~at the~~
820 ~~time of approval of~~ their construction plans are approved. The
821 agency may require alterations to a building if it determines
822 that an existing condition constitutes a ~~distinct~~ hazard to
823 life, health, or safety. The agency may state the ~~shall adopt~~
824 ~~fair and reasonable rules setting forth~~ conditions under which
825 existing facilities undergoing additions, alterations,
826 conversions, renovations, or repairs are required to comply with
827 the most recent updated or revised standards.

828 (b) The number and qualifications of all personnel,
829 including management, medical, nursing, and other personnel,
830 having responsibility for any part of the care given to
831 residents.

832 (c) ~~All~~ Sanitary conditions within the facility and its
833 surroundings, including water supply, sewage disposal, food
834 handling, and general hygiene, which ~~will~~ ensure the health and
835 comfort of residents.

836 (d) ~~The~~ Equipment essential to the health and welfare of
837 the residents.

838 (e) A uniform accounting system.

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

841 (g) The preparation and annual update of a comprehensive

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842 emergency management plan. After consultation with the Division
843 of Emergency Management, the agency may establish ~~shall adopt~~
844 ~~rules establishing~~ minimum criteria for the plan after
845 ~~consultation with the Division of Emergency Management. At a~~
846 ~~minimum, the rules must provide for~~ plan components that address
847 emergency evacuation transportation; adequate sheltering
848 arrangements; postdisaster activities, including emergency
849 power, food, and water; postdisaster transportation; supplies;
850 staffing; emergency equipment; individual identification of
851 residents and transfer of records; and responding to family
852 inquiries. The comprehensive emergency management plan is
853 subject to review and approval by the local emergency management
854 agency. During the ~~its~~ review, the local emergency management
855 agency shall ensure that the following agencies, at a minimum,
856 are given the opportunity to review the plan: the Department of
857 Elderly Affairs, the Agency for Persons with Disabilities, the
858 Agency for Health Care Administration, and the Division of
859 Emergency Management. ~~Also,~~ Appropriate volunteer organizations
860 must also be given the opportunity to review the plan. The local
861 emergency management agency shall complete its review within 60
862 days and ~~either~~ approve the plan or advise the facility of
863 necessary revisions.

864 (h) The use of restraint and seclusion. Such criteria ~~rules~~
865 must be consistent with recognized best practices; prohibit
866 inherently dangerous restraint or seclusion procedures;
867 establish limitations on the use and duration of restraint and
868 seclusion; establish measures to ensure the safety of clients
869 and staff during an incident of restraint or seclusion;
870 establish procedures for staff to follow before, during, and

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871 after incidents of restraint or seclusion, including
872 individualized plans for the use of restraints or seclusion in
873 emergency situations; establish professional qualifications of
874 and training for staff who may order or be engaged in the use of
875 restraint or seclusion; establish requirements for facility data
876 collection and reporting relating to the use of restraint and
877 seclusion; and establish procedures relating to the
878 documentation of the use of restraint or seclusion in the
879 client's facility or program record.

880 (3) ~~If The agency shall adopt rules to provide that, when~~
881 the criteria established under this part and part II of chapter
882 408 are not met, such deficiencies shall be classified according
883 to the nature of the deficiency. The agency shall indicate the
884 classification on the face of the notice of deficiencies as
885 follows:

886 (a) Class I deficiencies are those which the agency
887 determines present an imminent danger to ~~the~~ residents or guests
888 of the facility or a substantial probability that death or
889 serious physical harm will ~~would~~ result therefrom. The condition
890 or practice constituting a class I violation must be abated or
891 eliminated immediately, unless the agency determines that a
892 fixed period of time, ~~as determined by the agency,~~ is required
893 for correction. A class I deficiency is subject to a civil
894 penalty in an amount of at least not less than \$5,000 but not
895 more than ~~and not exceeding~~ \$10,000 for each deficiency. A fine
896 may be levied notwithstanding the correction of the deficiency.

897 (b) Class II deficiencies are those which the agency
898 determines have a direct or immediate relationship to the
899 health, safety, or security of ~~the~~ facility residents but do not

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900 meet the criteria established for, ~~other than~~ class I
901 deficiencies. A class II deficiency is subject to a civil
902 penalty in an amount of at least ~~not less than~~ \$1,000 and not
903 more than ~~not exceeding~~ \$5,000 for each deficiency. A citation
904 for a class II deficiency must ~~shall~~ specify the time within
905 which the deficiency must be corrected. If a class II deficiency
906 is corrected within the time specified, a ~~no~~ civil penalty may
907 not ~~shall~~ be imposed, unless it is a repeated offense.

908 (c) Class III deficiencies are those which the agency
909 determines to have an indirect or potential relationship to the
910 health, safety, or security of ~~the~~ facility residents but do not
911 meet the criteria for, ~~other than~~ class I or class II
912 deficiencies. A class III deficiency is subject to a civil
913 penalty of at least ~~not less than~~ \$500 and not more than
914 ~~exceeding~~ \$1,000 for each deficiency. A citation for a class III
915 deficiency must ~~shall~~ specify the time within which the
916 deficiency must be corrected. If a class III deficiency is
917 corrected within the time specified, a ~~no~~ civil penalty may not
918 ~~shall~~ be imposed, unless it is a repeated offense.

919 Section 18. Subsection (2) of section 400.980, Florida
920 Statutes, is amended to read:

921 400.980 Health care services pools.—

922 (2) The requirements of part II of chapter 408 apply to the
923 provision of services that require licensure or registration
924 pursuant to this part and part II of chapter 408 and to entities
925 registered by or applying for such registration from the agency
926 pursuant to this part. Registration or a license issued by the
927 agency is required for the operation of a health care services
928 pool in this state. In accordance with s. 408.805, an applicant

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929 or licensee shall pay a fee for each license application
930 submitted using this part, part II of chapter 408, and
931 applicable rules. The agency shall ~~adopt rules and~~ provide forms
932 required for such registration and shall impose a registration
933 fee in an amount sufficient to cover the cost of administering
934 this part and part II of chapter 408. In addition to the
935 requirements in part II of chapter 408, the registrant must
936 provide the agency with any change of information contained on
937 the original registration application within 14 days before
938 ~~prior to~~ the change.

939 Section 19. Subsection (43) of section 409.912, Florida
940 Statutes, is amended to read:

941 409.912 Cost-effective purchasing of health care.—The
942 agency shall purchase goods and services for Medicaid recipients
943 in the most cost-effective manner consistent with the delivery
944 of quality medical care. To ensure that medical services are
945 effectively utilized, the agency may, in any case, require a
946 confirmation or second physician's opinion of the correct
947 diagnosis for purposes of authorizing future services under the
948 Medicaid program. This section does not restrict access to
949 emergency services or poststabilization care services as defined
950 in 42 C.F.R. part 438.114. Such confirmation or second opinion
951 shall be rendered in a manner approved by the agency. The agency
952 shall maximize the use of prepaid per capita and prepaid
953 aggregate fixed-sum basis services when appropriate and other
954 alternative service delivery and reimbursement methodologies,
955 including competitive bidding pursuant to s. 287.057, designed
956 to facilitate the cost-effective purchase of a case-managed
957 continuum of care. The agency shall also require providers to

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958 minimize the exposure of recipients to the need for acute
959 inpatient, custodial, and other institutional care and the
960 inappropriate or unnecessary use of high-cost services. The
961 agency shall contract with a vendor to monitor and evaluate the
962 clinical practice patterns of providers in order to identify
963 trends that are outside the normal practice patterns of a
964 provider's professional peers or the national guidelines of a
965 provider's professional association. The vendor must be able to
966 provide information and counseling to a provider whose practice
967 patterns are outside the norms, in consultation with the agency,
968 to improve patient care and reduce inappropriate utilization.
969 The agency may mandate prior authorization, drug therapy
970 management, or disease management participation for certain
971 populations of Medicaid beneficiaries, certain drug classes, or
972 particular drugs to prevent fraud, abuse, overuse, and possible
973 dangerous drug interactions. The Pharmaceutical and Therapeutics
974 Committee shall make recommendations to the agency on drugs for
975 which prior authorization is required. The agency shall inform
976 the Pharmaceutical and Therapeutics Committee of its decisions
977 regarding drugs subject to prior authorization. The agency is
978 authorized to limit the entities it contracts with or enrolls as
979 Medicaid providers by developing a provider network through
980 provider credentialing. The agency may competitively bid single-
981 source-provider contracts if procurement of goods or services
982 results in demonstrated cost savings to the state without
983 limiting access to care. The agency may limit its network based
984 on the assessment of beneficiary access to care, provider
985 availability, provider quality standards, time and distance
986 standards for access to care, the cultural competence of the

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987 provider network, demographic characteristics of Medicaid
988 beneficiaries, practice and provider-to-beneficiary standards,
989 appointment wait times, beneficiary use of services, provider
990 turnover, provider profiling, provider licensure history,
991 previous program integrity investigations and findings, peer
992 review, provider Medicaid policy and billing compliance records,
993 clinical and medical record audits, and other factors. Providers
994 are not entitled to enrollment in the Medicaid provider network.
995 The agency shall determine instances in which allowing Medicaid
996 beneficiaries to purchase durable medical equipment and other
997 goods is less expensive to the Medicaid program than long-term
998 rental of the equipment or goods. The agency may establish rules
999 to facilitate purchases in lieu of long-term rentals in order to
1000 protect against fraud and abuse in the Medicaid program as
1001 defined in s. 409.913. The agency may seek federal waivers
1002 necessary to administer these policies.

1003 (43) Subject to the availability of funds, the agency shall
1004 mandate a recipient's participation in a provider lock-in
1005 program, when appropriate, if a recipient is found by the agency
1006 to have used Medicaid goods or services at a frequency or amount
1007 not medically necessary, limiting the receipt of goods or
1008 services to medically necessary providers after the 21-day
1009 appeal process has ended, for at least ~~a period of not less than~~
1010 1 year. The lock-in programs must ~~shall~~ include, but are not
1011 limited to, pharmacies, medical doctors, and infusion clinics.
1012 The limitation does not apply to emergency services and care
1013 provided to the recipient in a hospital emergency department.
1014 The agency shall seek any federal waivers necessary to implement
1015 this subsection. ~~The agency shall adopt any rules necessary to~~

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1016 ~~comply with or administer this subsection.~~ This subsection
1017 expires October 1, 2014.

1018 Section 20. Subsection (13) of section 409.962, Florida
1019 Statutes, is amended to read:

1020 409.962 Definitions.—As used in this part, except as
1021 otherwise specifically provided, the term:

1022 (13) "Provider service network" means an entity qualified
1023 pursuant to s. 409.912(4)(d) of which a controlling interest is
1024 owned by a health care provider, or group of ~~affiliated~~
1025 providers affiliated for the purpose of providing health care,
1026 or a public agency or entity that delivers health services.
1027 Health care providers include Florida-licensed health care
1028 practitioners ~~professionals~~ or licensed health care facilities,
1029 federally qualified health care centers, and home health care
1030 agencies.

1031 Section 21. Paragraph (e) of subsection (2) of section
1032 409.972, Florida Statutes, is amended to read:

1033 409.972 Mandatory and voluntary enrollment.—

1034 (2) The following Medicaid-eligible persons are exempt from
1035 mandatory managed care enrollment required by s. 409.965, and
1036 may voluntarily choose to participate in the managed medical
1037 assistance program:

1038 (e) Medicaid recipients enrolled in the home and community
1039 based services waiver pursuant to chapter 393, ~~and~~ Medicaid
1040 recipients waiting for waiver services, and Medicaid recipients
1041 under the age of 21 who are not receiving waiver services but
1042 are authorized by the Agency for Persons with Disabilities or
1043 the Department of Children and Families to reside in a group
1044 home facility licensed pursuant to chapter 393.

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1045 Section 22. Subsection (1) of section 409.974, Florida
1046 Statutes, is amended to read:

1047 409.974 Eligible plans.—

1048 (1) ELIGIBLE PLAN SELECTION.—The agency shall select and
1049 contract with eligible plans through the procurement process
1050 described in s. 409.966. The agency shall notice invitations to
1051 negotiate by ~~no later than~~ January 1, 2013.

1052 (a) The agency shall procure and contract with two plans
1053 for Region 1. At least one plan shall be a provider service
1054 network if any provider service networks submit a responsive
1055 bid.

1056 (b) The agency shall procure and contract with two plans
1057 for Region 2. At least one plan shall be a provider service
1058 network if any provider service networks submit a responsive
1059 bid.

1060 (c) The agency shall procure and contract with at least
1061 three plans and up to five plans for Region 3. At least one plan
1062 must be a provider service network if any provider service
1063 networks submit a responsive bid.

1064 (d) The agency shall procure and contract with at least
1065 three plans and up to five plans for Region 4. At least one plan
1066 must be a provider service network if any provider service
1067 networks submit a responsive bid.

1068 (e) The agency shall procure and contract with at least two
1069 plans and up to four plans for Region 5. At least one plan must
1070 be a provider service network if any provider service networks
1071 submit a responsive bid.

1072 (f) The agency shall procure and contract with at least
1073 four plans and up to seven plans for Region 6. At least one plan

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1074 must be a provider service network if any provider service
1075 networks submit a responsive bid.

1076 (g) The agency shall procure and contract with at least
1077 three plans and up to six plans for Region 7. At least one plan
1078 must be a provider service network if any provider service
1079 networks submit a responsive bid.

1080 (h) The agency shall procure and contract with at least two
1081 plans and up to four plans for Region 8. At least one plan must
1082 be a provider service network if any provider service networks
1083 submit a responsive bid.

1084 (i) The agency shall procure and contract with at least two
1085 plans and up to four plans for Region 9. At least one plan must
1086 be a provider service network if any provider service networks
1087 submit a responsive bid.

1088 (j) The agency shall procure and contract with at least two
1089 plans and up to four plans for Region 10. At least one plan must
1090 be a provider service network if any provider service networks
1091 submit a responsive bid.

1092 (k) The agency shall procure and contract with at least
1093 five plans and up to 10 plans for Region 11. At least one plan
1094 must be a provider service network if any provider service
1095 networks submit a responsive bid.

1096
1097 If no provider service network submits a responsive bid, the
1098 agency shall procure up to ~~no more than~~ one less than the
1099 maximum number of eligible plans permitted in that region and,
1100 within the next 12 months after the initial invitation to
1101 negotiate, shall issue an invitation to negotiate in order ~~the~~
1102 ~~agency shall attempt~~ to procure and contract with a provider

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1103 service network. In a region in which the agency has contracted
1104 with only one provider service network and changes in the
1105 ownership or business structure of the network result in the
1106 network no longer meeting the definition of a provider service
1107 network under s. 409.962, the agency must, within the next 12
1108 months, terminate the contract, provide ~~shall~~ notice of another
1109 invitation to negotiate, and procure and contract ~~only~~ with a
1110 provider service network in that region ~~networks in those~~
1111 ~~regions where no provider service network has been selected.~~

1112 Section 23. Subsection (4) of section 429.255, Florida
1113 Statutes, is amended to read:

1114 429.255 Use of personnel; emergency care.—

1115 (4) Facility staff may withhold or withdraw cardiopulmonary
1116 resuscitation or the use of an automated external defibrillator
1117 if presented with an order not to resuscitate executed pursuant
1118 to s. 401.45. ~~The department shall adopt rules providing for the~~
1119 ~~implementation of such orders.~~ Facility staff and facilities are
1120 ~~shall~~ not ~~be~~ subject to criminal prosecution or civil liability,
1121 nor ~~be~~ considered to have engaged in negligent or unprofessional
1122 conduct, for withholding or withdrawing cardiopulmonary
1123 resuscitation or use of an automated external defibrillator
1124 pursuant to such an order ~~and rules adopted by the department.~~
1125 The absence of an order to resuscitate executed pursuant to s.
1126 401.45 does not preclude a physician from withholding or
1127 withdrawing cardiopulmonary resuscitation or use of an automated
1128 external defibrillator as otherwise permitted by law.

1129 Section 24. Subsection (3) of section 429.73, Florida
1130 Statutes, is amended to read:

1131 429.73 Rules and standards relating to adult family-care

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1132 homes.—

1133 (3) ~~The department shall adopt rules providing for the~~
1134 ~~implementation of orders not to resuscitate.~~ The provider may
1135 withhold or withdraw cardiopulmonary resuscitation if presented
1136 with an order not to resuscitate executed pursuant to s. 401.45.
1137 The provider is ~~shall~~ not ~~be~~ subject to criminal prosecution or
1138 civil liability, nor ~~be~~ considered to have engaged in negligent
1139 or unprofessional conduct, for withholding or withdrawing
1140 cardiopulmonary resuscitation pursuant to such an order ~~and~~
1141 ~~applicable rules.~~

1142 Section 25. Subsection (10) of section 440.102, Florida
1143 Statutes, is amended to read:

1144 440.102 Drug-free workplace program requirements.—The
1145 following provisions apply to a drug-free workplace program
1146 implemented pursuant to law or to rules adopted by the Agency
1147 for Health Care Administration:

1148 (10) RULES. ~~The Agency for Health Care Administration shall~~
1149 ~~adopt rules~~ Pursuant to s. 112.0455, part II of chapter 408, and
1150 using criteria established by the United States Department of
1151 Health and Human Services, the agency shall adopt rules as
1152 ~~general guidelines~~ for ~~modeling~~ drug-free workplace
1153 laboratories, including concerning, but not limited to:

1154 (a) Standards for licensing drug-testing laboratories and
1155 suspension and revocation of such licenses.

1156 (b) Urine, hair, blood, and other body specimens and
1157 minimum specimen amounts that are appropriate for drug testing.

1158 (c) Methods of analysis and procedures to ensure reliable
1159 drug-testing results, including standards for initial tests and
1160 confirmation tests.

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1161 (d) Minimum cutoff detection levels for each drug or
1162 metabolites of such drug for the purposes of determining a
1163 positive test result.

1164 (e) Chain-of-custody procedures to ensure proper
1165 identification, labeling, and handling of specimens tested.

1166 (f) Retention, storage, and transportation procedures to
1167 ensure reliable results on confirmation tests and retests.

1168 Section 26. Subsection (2) of section 483.245, Florida
1169 Statutes, is amended to read:

1170 483.245 Rebates prohibited; penalties.—

1171 (2) The agency may establish and ~~shall adopt rules that~~
1172 assess administrative penalties for acts prohibited by
1173 subsection (1). ~~If in the case of~~ an entity is licensed by the
1174 agency, such penalties may include any disciplinary action
1175 available to the agency under the appropriate licensing laws. If
1176 ~~In the case of~~ an entity is not licensed by the agency, such
1177 penalties may include:

1178 (a) A fine not to exceed \$1,000;

1179 (b) If applicable, a recommendation by the agency to the
1180 appropriate licensing board that disciplinary action be taken.

1181 Section 27. Subsections (1) and (2) of section 765.541,
1182 Florida Statutes, are amended to read:

1183 765.541 Licensure ~~Certification~~ of procurement
1184 organizations; agency responsibilities.—The agency shall:

1185 (1) Establish a program for the licensure ~~certification~~ of
1186 organizations, corporations, or other entities engaged in the
1187 procurement of organs, tissues, and eyes within the state for
1188 transplantation.

1189 (2) Adopt rules as necessary to implement ~~that set forth~~

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1190 ~~appropriate standards and guidelines for the program in~~
1191 ~~accordance with ss. 765.541-765.546 and part II of chapter 408.~~
1192 ~~These Standards and guidelines for the program adopted by the~~
1193 ~~agency must be substantially based on the ~~existing~~ laws of the~~
1194 ~~Federal Government and this state, and the ~~existing~~ standards~~
1195 ~~and guidelines of the Organ Procurement and Transplantation~~
1196 ~~Network (OPTN), the Association of Organ Procurement~~
1197 ~~Organizations (AOPO)United Network for Organ Sharing (UNOS), the~~
1198 ~~American Association of Tissue Banks (AATB), the South-Eastern~~
1199 ~~Organ Procurement Foundation (SEOPF), the North American~~
1200 ~~Transplant Coordinators Organization (NATCO), and the Eye Bank~~
1201 ~~Association of America (EBAA). ~~In addition, the agency shall,~~~~
1202 ~~~~before adopting these standards and guidelines, seek input from~~~~
1203 ~~~~all procurement organizations based in this state.~~~~

1204 Section 28. Subsection (2) of section 765.544, Florida
1205 Statutes, is amended to read:

1206 765.544 Fees; organ and tissue donor education and
1207 procurement.—

1208 ~~(2) The agency shall specify by rule the administrative~~
1209 ~~penalties for the purpose of ensuring adherence to the standards~~
1210 ~~of quality and practice required by this chapter, part II of~~
1211 ~~chapter 408, and applicable rules of the agency for continued~~
1212 ~~certification.~~

1213 Section 29. This act shall take effect July 1, 2014.