

By the Committees on Appropriations; Rules; and 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; amending s. 395.003, F.S.;

31 revising provisions relating to the provision of

32 cardiovascular services by a hospital; amending s.

33 400.471, F.S.; exempting a home health agency that is

34 not Medicare or Medicaid certified and does not

35 provide skilled nursing care from having to provide

36 documentation of accreditation; amending s. 400.474,

37 F.S.; revising the report requirements for home health

38 agencies; creating s. 400.9141, F.S.; limiting

39 services at PPEC centers; amending s. 400.934, F.S.,

40 relating to home medical equipment providers;

41 requiring that the emergency management plan include

42 criteria relating to the maintenance of patient

43 equipment and supply lists; amending s. 409.972, F.S.;

44 exempting certain people from the requirement to

45 enroll in Medicaid managed care; providing an

46 effective date.

47

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

49

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

51 390.012, Florida Statutes, is amended to read:

52 390.012 Powers of agency; rules; disposal of fetal

53 remains.—

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

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

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

57 provisions of this chapter, including the following:

58 (d) Rules relating to the medical screening and evaluation

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59 of each abortion clinic patient. At a minimum, these rules must
60 ~~shall~~ require:

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

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

66 3. The appropriate laboratory tests, including:

67 a. Urine or blood tests for pregnancy performed before the
68 abortion procedure.

69 b. A test for anemia.

70 c. Rh typing, unless reliable written documentation of
71 blood type is available.

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

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

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

87 Section 2. Paragraph (a) of subsection (6) of section

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88 395.003, Florida Statutes, is amended to read:

89 395.003 Licensure; denial, suspension, and revocation.—

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

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

107 400.021 Definitions.—When used in this part, unless the
108 context otherwise requires, the term:

109 (11) "Nursing home bed" means an accommodation that ~~which~~
110 is ready for immediate occupancy, or is capable of being made
111 ready for occupancy within 48 hours, excluding the provision of
112 staffing, ~~and that which~~ conforms to minimum space
113 requirements, including the availability of appropriate
114 equipment and furnishings within the 48 hours, as specified by
115 ~~rule of~~ the agency, for the provision of services specified in
116 this part to a single resident.

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

119 400.0712 Application for inactive license.—

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

122 Section 5. Section 400.23, Florida Statutes, is amended to
123 read:

124 400.23 Rules; evaluation and deficiencies; licensure
125 status.—

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

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

143 (a) The location of the facility and housing conditions
144 that will ensure the health, safety, and comfort of residents,
145 including an adequate call system. In adopting ~~making~~ such

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

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175 must be retained as part of the resident's care plan. A ~~Any~~
176 facility that offers this option must submit a letter signed by
177 the nursing home administrator of record to the agency notifying
178 it of this practice along with a copy of the policies and
179 procedures of the facility. The agency is directed to provide
180 assistance to the Florida Building Commission in updating the
181 construction standards of the code relating ~~relative~~ to nursing
182 homes.

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

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

192 (d) The equipment essential to the health and welfare of
193 the residents.

194 (e) A uniform accounting system.

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

201 (g) The preparation and annual update of a comprehensive
202 emergency management plan. The agency shall establish ~~adopt~~
203 ~~rules establishing~~ minimum criteria for the plan after

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

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

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

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

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

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

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

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

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

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

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262 duties for the purpose of documenting compliance with minimum
263 staffing requirements for certified and licensed nursing staff.
264 The hours of a licensed nurse with dual job responsibilities may
265 not be counted twice.

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

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

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

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

283 (a) Minimum standards of care for persons under 21 years of
284 age who reside in nursing home facilities may be established by
285 the agency, in collaboration with the Division of Children's
286 Medical Services of the Department of Health. A facility may be
287 exempted from these standards and the provisions of paragraph
288 (b) for specified ~~specific~~ persons between 18 and 21 years of
289 age, if the person's physician agrees that minimum standards of
290 care based on age are not necessary.

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

295 1. For persons under 21 years of age who require skilled
296 care:

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

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

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

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

308 2. For persons under 21 years of age who are medically
309 fragile:

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

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

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

319 d. One registered nurse must be on duty on the site 24

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320 hours per day on a ~~the~~ unit where children reside.

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

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

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

342 (b) A conditional licensure status means that a facility,
343 due to the presence of one or more class I or class II
344 deficiencies, or class III deficiencies not corrected within the
345 time established by the agency, is not in substantial compliance
346 at the time of the survey with criteria established under this
347 part or with rules adopted by the agency. If the facility has no
348 class I, class II, or class III deficiencies at the time of the

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349 followup survey, a standard licensure status may be assigned.

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

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

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

369 1. Establish uniform procedures for the evaluation of
370 facilities.

371 2. Provide criteria in the areas referenced in paragraph

372 (c).

373 3. Address other areas necessary for carrying out the
374 intent of this section.

375 (8) The agency shall ensure ~~adopt rules pursuant to this~~
376 ~~part and part II of chapter 408 to provide that, if when the~~
377 criteria established under subsection (2) are not met, such

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

397 (a) A class I deficiency is a deficiency that the agency
398 determines presents a situation in which immediate corrective
399 action is necessary because the facility's noncompliance has
400 caused, or is likely to cause, serious injury, harm, impairment,
401 or death to a resident receiving care in a facility. The
402 condition or practice constituting a class I violation must
403 ~~shall~~ be abated or eliminated immediately, unless a fixed period
404 of time, as determined by the agency, is required for
405 correction. A class I deficiency is subject to a civil penalty
406 of \$10,000 for an isolated deficiency, \$12,500 for a patterned

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

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

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

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

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

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

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

456 Section 6. Paragraph (h) of subsection (2) of section
457 400.471, Florida Statutes, is amended to read:

458 400.471 Application for license; fee.—

459 (2) In addition to the requirements of part II of chapter
460 408, the initial applicant must file with the application
461 satisfactory proof that the home health agency is in compliance
462 with this part and applicable rules, including:

463 (h) In the case of an application for initial licensure,
464 documentation of accreditation, or an application for

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465 accreditation, from an accrediting organization that is
466 recognized by the agency as having standards comparable to those
467 required by this part and part II of chapter 408.
468 Notwithstanding s. 408.806, an applicant that has applied for
469 accreditation must provide proof of accreditation that is not
470 conditional or provisional within 120 days after the date of the
471 agency's receipt of the application for licensure or the
472 application shall be withdrawn from further consideration. Such
473 accreditation must be maintained by the home health agency to
474 maintain licensure. The agency shall accept, in lieu of its own
475 periodic licensure survey, the submission of the survey of an
476 accrediting organization that is recognized by the agency if the
477 accreditation of the licensed home health agency is not
478 provisional and if the licensed home health agency authorizes
479 releases of, and the agency receives the report of, the
480 accrediting organization. A home health agency that is not
481 Medicare or Medicaid certified and does not provide skilled
482 nursing care is exempt from this paragraph.

483 Section 7. Subsection (7) of section 400.474, Florida
484 Statutes, is amended to read:

485 400.474 Administrative penalties.—

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

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

493 1. ~~(a)~~ The number of insulin-dependent diabetic patients who

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494 receive insulin-injection services from the home health agency.

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

497 3.~~(e)~~ The number of patients who receive home health
498 services from the home health agency.

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

504 (b) If the home health agency fails to submit the ~~written~~
505 ~~quarterly~~ report within 15 days after the end of the applicable
506 reporting period ~~each calendar quarter~~, the agency ~~for Health~~
507 ~~Care Administration~~ shall impose a fine of \$200 per day against
508 the home health agency ~~in the amount of \$200 per day~~ until the
509 agency ~~for Health Care Administration~~ receives the report,
510 except that the total fine imposed pursuant to this subsection
511 may not exceed \$5,000 per reporting period ~~quarter~~. A home
512 health agency is exempt from submission of the report and the
513 imposition of the fine if it is not a Medicaid or Medicare
514 provider ~~or if it does not share a controlling interest with a~~
515 ~~licensee, as defined in s. 408.803, which bills the Florida~~
516 ~~Medicaid program or the Medicare program.~~

517 Section 8. Subsection (7) of section 400.487, Florida
518 Statutes, is amended to read:

519 400.487 Home health service agreements; physician's,
520 physician assistant's, and advanced registered nurse
521 practitioner's treatment orders; patient assessment;
522 establishment and review of plan of care; provision of services;

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523 orders not to resuscitate.-

524 (7) Home health agency personnel may withhold or withdraw
525 cardiopulmonary resuscitation if presented with an order not to
526 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
527 ~~adopt rules providing for the implementation of such orders.~~
528 Home health personnel and agencies are ~~shall~~ not ~~be~~ subject to
529 criminal prosecution or civil liability and are not, ~~nor be~~
530 considered to have engaged in negligent or unprofessional
531 conduct, ~~for withholding or withdrawing cardiopulmonary~~
532 resuscitation pursuant to such an order and rules adopted by the
533 agency.

534 Section 9. Section 400.497, Florida Statutes, is amended to
535 read:

536 400.497 Rules establishing minimum standards.-The agency
537 may ~~shall~~ adopt, ~~publish, and enforce~~ rules to administer
538 ~~implement~~ part II of chapter 408 and this part, including the
539 provider's duties and responsibilities under, ~~as applicable,~~ ss.
540 400.506 and 400.509. Rules shall specify, but are not limited
541 to, which must provide reasonable and fair minimum standards
542 relating to:

543 (1) The home health aide competency test and home health
544 aide training. The agency shall create the home health aide
545 competency test and establish the curriculum and instructor
546 qualifications for home health aide training. Licensed home
547 health agencies may provide this training and shall furnish
548 documentation of such training to other licensed home health
549 agencies upon request. Successful passage of the competency test
550 by home health aides may be substituted for the training
551 required under this section and agency ~~any rule adopted pursuant~~

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552 ~~thereto.~~

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

558 (3) The criteria for the frequency of onsite licensure
559 surveys.

560 (4) Licensure application and renewal.

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

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

566 (b) Requirements for a director of nursing to provide to
567 the agency, upon request, a certified daily report of the home
568 health services provided by a specified direct employee or
569 contracted staff member on behalf of the home health agency. The
570 agency may request a certified daily report for up to ~~only for a~~
571 ~~period not to exceed~~ 2 years before ~~prior to~~ the date of the
572 request; and

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

575 (6) Conditions for using a recent unannounced licensure
576 inspection for the inspection required under ~~in~~ s. 408.806
577 related to a licensure application associated with a change in
578 ownership of a licensed home health agency.

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

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581 (8) Information to be included in patients' records.
582 (9) Geographic service areas.
583 (10) Preparation of a comprehensive emergency management
584 plan pursuant to s. 400.492.
585 ~~(a) The Agency for Health Care Administration shall adopt~~
586 ~~rules establishing minimum criteria for the plan and plan~~
587 ~~updates, with the concurrence of the Department of Health and in~~
588 ~~consultation with the Division of Emergency Management.~~
589 (a) ~~(b)~~ An emergency plan The rules must address the
590 ~~requirements in s. 400.492. In addition, the rules shall provide~~
591 for the maintenance of patient-specific medication lists that
592 can accompany patients who are transported from their homes.
593 (b) ~~(c)~~ The plan is subject to review and approval by the
594 county health department. During its review, the county health
595 department shall contact state and local health and medical
596 stakeholders when necessary. The county health department shall
597 complete its review to ensure that the plan is in accordance
598 with the requirements of law ~~criteria in the Agency for Health~~
599 ~~Care Administration rules~~ within 90 days after receipt of the
600 plan and shall approve the plan or advise the home health agency
601 of necessary revisions. If the home health agency fails to
602 submit a plan or fails to submit the requested information or
603 revisions to the county health department within 30 days after
604 written notification from the county health department, the
605 county health department shall notify the Agency for Health Care
606 Administration. The agency shall notify the home health agency
607 that its failure constitutes a deficiency, subject to a fine of
608 \$5,000 per occurrence. If the plan is not submitted, information
609 is not provided, or revisions are not made as requested, the

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610 agency may impose the fine.

611 (c)~~(d)~~ For a ~~any~~ home health agency that operates in more
612 than one county, the Department of Health shall review the plan,
613 after consulting with state and local health and medical
614 stakeholders when necessary. The department shall complete its
615 review within 90 days after receipt of the plan and shall
616 approve the plan or advise the home health agency of necessary
617 revisions. The department shall make every effort to avoid
618 imposing differing requirements on a home health agency that
619 operates in more than one county as a result of differing or
620 conflicting comprehensive plan requirements of the counties in
621 which the home health agency operates.

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

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

626 2. A retirement community that consists of both residential
627 units for independent living and ~~either~~ a licensed nursing home
628 or an assisted living facility, and has a licensed home health
629 agency used exclusively by ~~the~~ residents of the retirement
630 community, if, ~~provided~~ the comprehensive emergency management
631 plan for the facility or retirement community provides for
632 continuous care of all residents with special needs during an
633 emergency.

634 Section 10. Paragraph (f) of subsection (12) and subsection
635 (17) of section 400.506, Florida Statutes, are amended to read:

636 400.506 Licensure of nurse registries; requirements;
637 penalties.—

638 (12) Each nurse registry shall prepare and maintain a

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639 comprehensive emergency management plan that is consistent with
640 the criteria in this subsection and with the local special needs
641 plan. The plan shall be updated annually. The plan shall include
642 the means by which the nurse registry will continue to provide
643 the same type and quantity of services to its patients who
644 evacuate to special needs shelters which were being provided to
645 those patients prior to evacuation. The plan shall specify how
646 the nurse registry shall facilitate the provision of continuous
647 care by persons referred for contract to persons who are
648 registered pursuant to s. 252.355 during an emergency that
649 interrupts the provision of care or services in private
650 residences. Nurse registries may establish links to local
651 emergency operations centers to determine a mechanism by which
652 to approach specific areas within a disaster area in order for a
653 provider to reach its clients. Nurse registries shall
654 demonstrate a good faith effort to comply with the requirements
655 of this subsection by documenting attempts of staff to follow
656 procedures outlined in the nurse registry's comprehensive
657 emergency management plan which support a finding that the
658 provision of continuing care has been attempted for patients
659 identified as needing care by the nurse registry and registered
660 under s. 252.355 in the event of an emergency under this
661 subsection.

662 ~~(f) The Agency for Health Care Administration shall adopt~~
663 ~~rules establishing minimum criteria for the comprehensive~~
664 ~~emergency management plan and plan updates required by this~~
665 ~~subsection, with the concurrence of the Department of Health and~~
666 ~~in consultation with the Division of Emergency Management.~~

667 ~~(17) The Agency for Health Care Administration shall adopt~~

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668 ~~rules to implement this section and part II of chapter 408.~~

669 Section 11. Subsection (7) of section 400.509, Florida
670 Statutes, is amended to read:

671 400.509 Registration of particular service providers exempt
672 from licensure; certificate of registration; regulation of
673 registrants.—

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

676 Section 12. Subsection (8) of section 400.6095, Florida
677 Statutes, is amended to read:

678 400.6095 Patient admission; assessment; plan of care;
679 discharge; death.—

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

684 Hospice staff are ~~shall~~ not be subject to criminal prosecution
685 or civil liability, nor be considered to have engaged in
686 negligent or unprofessional conduct, for withholding or
687 withdrawing cardiopulmonary resuscitation pursuant to such an
688 order and applicable rules. The absence of an order to
689 resuscitate executed pursuant to s. 401.45 does not preclude a
690 physician from withholding or withdrawing cardiopulmonary
691 resuscitation as otherwise permitted by law.

692 Section 13. Section 400.914, Florida Statutes, is amended
693 to read:

694 400.914 Rulemaking; ~~Rules establishing~~ standards.—

695 (1) Pursuant to the intention of the Legislature to provide
696 safe and sanitary facilities and healthful programs, the agency

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697 in conjunction with the Division of Children's Medical Services
698 of the Department of Health may ~~shall~~ adopt and ~~publish~~ rules to
699 administer ~~implement the provisions of~~ this part and part II of
700 chapter 408, ~~which shall include reasonable and fair standards.~~
701 Any conflict between these rules ~~standards~~ and those established
702 ~~that may be set forth~~ in local, county, or city ordinances shall
703 be resolved in favor of those having statewide effect.

704 (2) The rules must specify, but are not limited to,
705 reasonable and fair standards relating ~~Such standards shall~~
706 ~~relate to:~~

707 (a) The assurance that PPEC services are family centered
708 and provide individualized medical, developmental, and family
709 training services.

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

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

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

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

725 (f) Programs and basic services promoting and maintaining

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726 the health and development of the children served and meeting
727 the training needs of the children's legal guardians.

728 (g) Supportive, contracted, other operational, and
729 transportation services.

730 (h) Maintenance of appropriate medical records, data, and
731 information relative to the children and programs. Such records
732 shall be maintained in the facility for inspection by the
733 agency.

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

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

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

739 Section 14. Section 400.9141, Florida Statutes, is created
740 to read:

741 400.9141 Limitations.-

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

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

746 Section 15. Paragraph (a) of subsection (20) of section
747 400.934, Florida Statutes, is amended to read:

748 400.934 Minimum standards.-As a requirement of licensure,
749 home medical equipment providers shall:

750 (20) (a) Prepare and maintain a comprehensive emergency
751 management plan that meets minimum criteria established by
752 agency rule, including criteria for the maintenance of patient
753 equipment and supply lists that accompany patients who are
754 transported from their homes. Such rules shall be formulated in

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755 consultation with the Department of Health and the Division of
756 Emergency Management ~~under s. 400.935~~. The plan shall be updated
757 annually and shall provide for continuing home medical equipment
758 services for life-supporting or life-sustaining equipment, as
759 defined in s. 400.925, during an emergency that interrupts home
760 medical equipment services in a patient's home. The plan must
761 ~~shall~~ include:

762 1. The means by which the home medical equipment provider
763 will continue to provide equipment to perform the same type and
764 quantity of services to its patients who evacuate to special
765 needs shelters which were being provided to those patients
766 before ~~prior to~~ evacuation.

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

770 a. Notification of staff when emergency response measures
771 are initiated.

772 b. Communication between staff members, county health
773 departments, and local emergency management agencies, which
774 includes provisions for a backup communications system.

775 c. Identification of resources necessary to continue
776 essential care or services or referrals to other organizations
777 subject to written agreement.

778 d. Contacting and prioritizing patients in need of
779 continued medical equipment services and supplies.

780 Section 16. Section 400.935, Florida Statutes, is amended
781 to read:

782 400.935 Rule authority ~~Rules establishing minimum~~
783 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules as

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784 necessary to implement this part and part II of chapter 408. The
785 rules must specify, but not be limited to, ~~which must provide~~
786 reasonable and fair minimum standards relating to:

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

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

790 (2)~~(3)~~ The administration of the home medical equipment
791 provider.

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

793 (3)~~(5)~~ Ensuring that the home medical equipment and
794 services provided by a home medical equipment provider are in
795 accordance with the plan of treatment established for each
796 patient, when provided as a part of a plan of treatment.

797 (4)~~(6)~~ Contractual arrangements for the provision of home
798 medical equipment and services by providers not employed by the
799 home medical equipment provider providing for the consumer's
800 needs.

801 (5)~~(7)~~ Physical location and zoning requirements.

802 (6)~~(8)~~ Home medical equipment requiring home medical
803 equipment services.

804 ~~(9) Preparation of the comprehensive emergency management~~
805 ~~plan under s. 400.934 and the establishment of minimum criteria~~
806 ~~for the plan, including the maintenance of patient equipment and~~
807 ~~supply lists that can accompany patients who are transported~~
808 ~~from their homes. Such rules shall be formulated in consultation~~
809 ~~with the Department of Health and the Division of Emergency~~
810 ~~Management.~~

811 Section 17. Subsection (5) of section 400.962, Florida
812 Statutes, is amended to read:

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813 400.962 License required; license application.-

814 (5) The applicant must agree to provide or arrange for
815 active treatment services by an interdisciplinary team in order
816 to maximize individual independence or prevent regression or
817 loss of functional status. ~~Standards for active treatment shall~~
818 ~~be adopted by the Agency for Health Care Administration by rule~~
819 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services
820 shall be provided in accordance with the individual support plan
821 and shall be reimbursed as part of the per diem rate as paid
822 under the Medicaid program.

823 Section 18. Subsections (2) and (3) of section 400.967,
824 Florida Statutes, are amended to read:

825 400.967 Rules and classification of deficiencies.-

826 (2) ~~Pursuant to the intention of the Legislature,~~ The
827 agency, in consultation with the Agency for Persons with
828 Disabilities and the Department of Elderly Affairs, may ~~shall~~
829 adopt and enforce rules as necessary to administer this part and
830 part II of chapter 408, which ~~shall~~ include ~~reasonable and fair~~
831 criteria governing:

832 (a) The location and construction of the facility;
833 including fire and life safety, plumbing, heating, cooling,
834 lighting, ventilation, and other housing conditions that ensure
835 the health, safety, and comfort of residents. The agency shall
836 establish standards for facilities and equipment to increase the
837 extent to which new facilities, and a new wing or floor added to
838 an existing facility after July 1, 2000, are structurally
839 capable of serving as shelters only for residents, staff, and
840 families of residents and staff, and equipped to be self-
841 supporting during and immediately following disasters. The

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842 agency shall update or revise the criteria as the need arises.
843 ~~All~~ Facilities must comply with the ~~those~~ lifesafety code
844 requirements and building code standards applicable when ~~at the~~
845 ~~time of approval of~~ their construction plans are approved. The
846 agency may require alterations to a building if it determines
847 that an existing condition constitutes a ~~distinct~~ hazard to
848 life, health, or safety. The agency may state the ~~shall adopt~~
849 ~~fair and reasonable rules setting forth~~ conditions under which
850 existing facilities undergoing additions, alterations,
851 conversions, renovations, or repairs are required to comply with
852 the most recent updated or revised standards.

853 (b) The number and qualifications of all personnel,
854 including management, medical, nursing, and other personnel,
855 having responsibility for any part of the care given to
856 residents.

857 (c) ~~All~~ Sanitary conditions within the facility and its
858 surroundings, including water supply, sewage disposal, food
859 handling, and general hygiene, which ~~will~~ ensure the health and
860 comfort of residents.

861 (d) ~~The~~ Equipment essential to the health and welfare of
862 the residents.

863 (e) A uniform accounting system.

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

866 (g) The preparation and annual update of a comprehensive
867 emergency management plan. After consultation with the Division
868 of Emergency Management, the agency may establish ~~shall adopt~~
869 ~~rules establishing~~ minimum criteria for ~~the plan after~~
870 ~~consultation with the Division of Emergency Management. At a~~

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871 ~~minimum, the rules must provide for~~ plan components that address
872 emergency evacuation transportation; adequate sheltering
873 arrangements; postdisaster activities, including emergency
874 power, food, and water; postdisaster transportation; supplies;
875 staffing; emergency equipment; individual identification of
876 residents and transfer of records; and responding to family
877 inquiries. The comprehensive emergency management plan is
878 subject to review and approval by the local emergency management
879 agency. During the ~~its~~ review, the local emergency management
880 agency shall ensure that the following agencies, at a minimum,
881 are given the opportunity to review the plan: the Department of
882 Elderly Affairs, the Agency for Persons with Disabilities, the
883 Agency for Health Care Administration, and the Division of
884 Emergency Management. ~~Also,~~ Appropriate volunteer organizations
885 must also be given the opportunity to review the plan. The local
886 emergency management agency shall complete its review within 60
887 days and ~~either~~ approve the plan or advise the facility of
888 necessary revisions.

889 (h) The use of restraint and seclusion. Such criteria ~~rules~~
890 must be consistent with recognized best practices; prohibit
891 inherently dangerous restraint or seclusion procedures;
892 establish limitations on the use and duration of restraint and
893 seclusion; establish measures to ensure the safety of clients
894 and staff during an incident of restraint or seclusion;
895 establish procedures for staff to follow before, during, and
896 after incidents of restraint or seclusion, including
897 individualized plans for the use of restraints or seclusion in
898 emergency situations; establish professional qualifications of
899 and training for staff who may order or be engaged in the use of

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900 restraint or seclusion; establish requirements for facility data
901 collection and reporting relating to the use of restraint and
902 seclusion; and establish procedures relating to the
903 documentation of the use of restraint or seclusion in the
904 client's facility or program record.

905 (3) ~~If The agency shall adopt rules to provide that, when~~
906 the criteria established under this part and part II of chapter
907 408 are not met, such deficiencies shall be classified according
908 to the nature of the deficiency. The agency shall indicate the
909 classification on the face of the notice of deficiencies as
910 follows:

911 (a) Class I deficiencies are those which the agency
912 determines present an imminent danger to ~~the~~ residents or guests
913 of the facility or a substantial probability that death or
914 serious physical harm will ~~would~~ result therefrom. The condition
915 or practice constituting a class I violation must be abated or
916 eliminated immediately, unless the agency determines that a
917 fixed period of time, ~~as determined by the agency,~~ is required
918 for correction. A class I deficiency is subject to a civil
919 penalty in an amount of at least ~~not less than~~ \$5,000 but not
920 more than ~~and not exceeding~~ \$10,000 for each deficiency. A fine
921 may be levied notwithstanding the correction of the deficiency.

922 (b) Class II deficiencies are those which the agency
923 determines have a direct or immediate relationship to the
924 health, safety, or security of ~~the~~ facility residents but do not
925 meet the criteria established for, ~~other than~~ class I
926 deficiencies. A class II deficiency is subject to a civil
927 penalty in an amount of at least ~~not less than~~ \$1,000 and not
928 more than ~~not exceeding~~ \$5,000 for each deficiency. A citation

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929 for a class II deficiency must ~~shall~~ specify the time within
930 which the deficiency must be corrected. If a class II deficiency
931 is corrected within the time specified, a ~~no~~ civil penalty may
932 not ~~shall~~ be imposed, unless it is a repeated offense.

933 (c) Class III deficiencies are those which the agency
934 determines to have an indirect or potential relationship to the
935 health, safety, or security of ~~the~~ facility residents but do not
936 meet the criteria for, ~~other than~~ class I or class II
937 deficiencies. A class III deficiency is subject to a civil
938 penalty of at least ~~not less than~~ \$500 and not more than
939 ~~exceeding~~ \$1,000 for each deficiency. A citation for a class III
940 deficiency must ~~shall~~ specify the time within which the
941 deficiency must be corrected. If a class III deficiency is
942 corrected within the time specified, a ~~no~~ civil penalty may not
943 ~~shall~~ be imposed, unless it is a repeated offense.

944 Section 19. Subsection (2) of section 400.980, Florida
945 Statutes, is amended to read:

946 400.980 Health care services pools.—

947 (2) The requirements of part II of chapter 408 apply to the
948 provision of services that require licensure or registration
949 pursuant to this part and part II of chapter 408 and to entities
950 registered by or applying for such registration from the agency
951 pursuant to this part. Registration or a license issued by the
952 agency is required for the operation of a health care services
953 pool in this state. In accordance with s. 408.805, an applicant
954 or licensee shall pay a fee for each license application
955 submitted using this part, part II of chapter 408, and
956 applicable rules. The agency shall ~~adopt rules and~~ provide forms
957 required for such registration and shall impose a registration

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958 fee in an amount sufficient to cover the cost of administering
959 this part and part II of chapter 408. In addition to the
960 requirements in part II of chapter 408, the registrant must
961 provide the agency with any change of information contained on
962 the original registration application within 14 days before
963 ~~prior to~~ the change.

964 Section 20. Subsection (43) of section 409.912, Florida
965 Statutes, is amended to read:

966 409.912 Cost-effective purchasing of health care.—The
967 agency shall purchase goods and services for Medicaid recipients
968 in the most cost-effective manner consistent with the delivery
969 of quality medical care. To ensure that medical services are
970 effectively utilized, the agency may, in any case, require a
971 confirmation or second physician's opinion of the correct
972 diagnosis for purposes of authorizing future services under the
973 Medicaid program. This section does not restrict access to
974 emergency services or poststabilization care services as defined
975 in 42 C.F.R. part 438.114. Such confirmation or second opinion
976 shall be rendered in a manner approved by the agency. The agency
977 shall maximize the use of prepaid per capita and prepaid
978 aggregate fixed-sum basis services when appropriate and other
979 alternative service delivery and reimbursement methodologies,
980 including competitive bidding pursuant to s. 287.057, designed
981 to facilitate the cost-effective purchase of a case-managed
982 continuum of care. The agency shall also require providers to
983 minimize the exposure of recipients to the need for acute
984 inpatient, custodial, and other institutional care and the
985 inappropriate or unnecessary use of high-cost services. The
986 agency shall contract with a vendor to monitor and evaluate the

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987 clinical practice patterns of providers in order to identify
988 trends that are outside the normal practice patterns of a
989 provider's professional peers or the national guidelines of a
990 provider's professional association. The vendor must be able to
991 provide information and counseling to a provider whose practice
992 patterns are outside the norms, in consultation with the agency,
993 to improve patient care and reduce inappropriate utilization.
994 The agency may mandate prior authorization, drug therapy
995 management, or disease management participation for certain
996 populations of Medicaid beneficiaries, certain drug classes, or
997 particular drugs to prevent fraud, abuse, overuse, and possible
998 dangerous drug interactions. The Pharmaceutical and Therapeutics
999 Committee shall make recommendations to the agency on drugs for
1000 which prior authorization is required. The agency shall inform
1001 the Pharmaceutical and Therapeutics Committee of its decisions
1002 regarding drugs subject to prior authorization. The agency is
1003 authorized to limit the entities it contracts with or enrolls as
1004 Medicaid providers by developing a provider network through
1005 provider credentialing. The agency may competitively bid single-
1006 source-provider contracts if procurement of goods or services
1007 results in demonstrated cost savings to the state without
1008 limiting access to care. The agency may limit its network based
1009 on the assessment of beneficiary access to care, provider
1010 availability, provider quality standards, time and distance
1011 standards for access to care, the cultural competence of the
1012 provider network, demographic characteristics of Medicaid
1013 beneficiaries, practice and provider-to-beneficiary standards,
1014 appointment wait times, beneficiary use of services, provider
1015 turnover, provider profiling, provider licensure history,

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1016 previous program integrity investigations and findings, peer
1017 review, provider Medicaid policy and billing compliance records,
1018 clinical and medical record audits, and other factors. Providers
1019 are not entitled to enrollment in the Medicaid provider network.
1020 The agency shall determine instances in which allowing Medicaid
1021 beneficiaries to purchase durable medical equipment and other
1022 goods is less expensive to the Medicaid program than long-term
1023 rental of the equipment or goods. The agency may establish rules
1024 to facilitate purchases in lieu of long-term rentals in order to
1025 protect against fraud and abuse in the Medicaid program as
1026 defined in s. 409.913. The agency may seek federal waivers
1027 necessary to administer these policies.

1028 (43) Subject to the availability of funds, the agency shall
1029 mandate a recipient's participation in a provider lock-in
1030 program, when appropriate, if a recipient is found by the agency
1031 to have used Medicaid goods or services at a frequency or amount
1032 not medically necessary, limiting the receipt of goods or
1033 services to medically necessary providers after the 21-day
1034 appeal process has ended, for at least ~~a period of not less than~~
1035 1 year. The lock-in programs must ~~shall~~ include, but are not
1036 limited to, pharmacies, medical doctors, and infusion clinics.
1037 The limitation does not apply to emergency services and care
1038 provided to the recipient in a hospital emergency department.
1039 The agency shall seek any federal waivers necessary to implement
1040 this subsection. ~~The agency shall adopt any rules necessary to~~
1041 ~~comply with or administer this subsection.~~ This subsection
1042 expires October 1, 2014.

1043 Section 21. Paragraph (e) of subsection (2) of section
1044 409.972, Florida Statutes, is amended to read:

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1045 409.972 Mandatory and voluntary enrollment.—

1046 (2) The following Medicaid-eligible persons are exempt from
1047 mandatory managed care enrollment required by s. 409.965, and
1048 may voluntarily choose to participate in the managed medical
1049 assistance program:

1050 (e) Medicaid recipients enrolled in the home and community
1051 based services waiver pursuant to chapter 393, ~~and~~ Medicaid
1052 recipients waiting for waiver services, and Medicaid recipients
1053 under the age of 21 who are not receiving waiver services but
1054 are authorized by the Agency for Persons with Disabilities or
1055 the Department of Children and Families to reside in a group
1056 home facility licensed pursuant to chapter 393.

1057 Section 22. Subsection (4) of section 429.255, Florida
1058 Statutes, is amended to read:

1059 429.255 Use of personnel; emergency care.—

1060 (4) Facility staff may withhold or withdraw cardiopulmonary
1061 resuscitation or the use of an automated external defibrillator
1062 if presented with an order not to resuscitate executed pursuant
1063 to s. 401.45. ~~The department shall adopt rules providing for the~~
1064 ~~implementation of such orders.~~ Facility staff and facilities are
1065 ~~shall not be~~ subject to criminal prosecution or civil liability,
1066 nor ~~be~~ considered to have engaged in negligent or unprofessional
1067 conduct, for withholding or withdrawing cardiopulmonary
1068 resuscitation or use of an automated external defibrillator
1069 pursuant to such an order and rules adopted by the department.
1070 The absence of an order to resuscitate executed pursuant to s.
1071 401.45 does not preclude a physician from withholding or
1072 withdrawing cardiopulmonary resuscitation or use of an automated
1073 external defibrillator as otherwise permitted by law.

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1074 Section 23. Subsection (3) of section 429.73, Florida
1075 Statutes, is amended to read:

1076 429.73 Rules and standards relating to adult family-care
1077 homes.—

1078 (3) ~~The department shall adopt rules providing for the~~
1079 ~~implementation of orders not to resuscitate.~~ The provider may
1080 withhold or withdraw cardiopulmonary resuscitation if presented
1081 with an order not to resuscitate executed pursuant to s. 401.45.
1082 The provider is ~~shall~~ not ~~be~~ subject to criminal prosecution or
1083 civil liability, nor ~~be~~ considered to have engaged in negligent
1084 or unprofessional conduct, for withholding or withdrawing
1085 cardiopulmonary resuscitation pursuant to such an order and
1086 applicable rules.

1087 Section 24. Subsection (10) of section 440.102, Florida
1088 Statutes, is amended to read:

1089 440.102 Drug-free workplace program requirements.—The
1090 following provisions apply to a drug-free workplace program
1091 implemented pursuant to law or to rules adopted by the Agency
1092 for Health Care Administration:

1093 (10) RULES. ~~The Agency for Health Care Administration shall~~
1094 ~~adopt rules~~ Pursuant to s. 112.0455, part II of chapter 408, and
1095 using criteria established by the United States Department of
1096 Health and Human Services, the agency shall adopt rules as
1097 ~~general guidelines~~ for modeling drug-free workplace
1098 laboratories, including ~~concerning~~, but not limited to:

1099 (a) Standards for licensing drug-testing laboratories and
1100 suspension and revocation of such licenses.

1101 (b) Urine, hair, blood, and other body specimens and
1102 minimum specimen amounts that are appropriate for drug testing.

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1103 (c) Methods of analysis and procedures to ensure reliable
1104 drug-testing results, including standards for initial tests and
1105 confirmation tests.

1106 (d) Minimum cutoff detection levels for each drug or
1107 metabolites of such drug for the purposes of determining a
1108 positive test result.

1109 (e) Chain-of-custody procedures to ensure proper
1110 identification, labeling, and handling of specimens tested.

1111 (f) Retention, storage, and transportation procedures to
1112 ensure reliable results on confirmation tests and retests.

1113 Section 25. Subsection (2) of section 483.245, Florida
1114 Statutes, is amended to read:

1115 483.245 Rebates prohibited; penalties.—

1116 (2) The agency may establish and ~~shall adopt rules that~~
1117 assess administrative penalties for acts prohibited by
1118 subsection (1). If ~~In the case of~~ an entity is licensed by the
1119 agency, such penalties may include any disciplinary action
1120 available to the agency under the appropriate licensing laws. If
1121 ~~In the case of~~ an entity is not licensed by the agency, such
1122 penalties may include:

1123 (a) A fine not to exceed \$1,000;

1124 (b) If applicable, a recommendation by the agency to the
1125 appropriate licensing board that disciplinary action be taken.

1126 Section 26. Subsections (1) and (2) of section 765.541,
1127 Florida Statutes, are amended to read:

1128 765.541 Licensure ~~Certification~~ of procurement
1129 organizations; agency responsibilities.—The agency shall:

1130 (1) Establish a program for the licensure ~~certification~~ of
1131 organizations, corporations, or other entities engaged in the

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1132 procurement of organs, tissues, and eyes within the state for
1133 transplantation.

1134 (2) Adopt rules as necessary to implement ~~that set forth~~
1135 ~~appropriate standards and guidelines for the program in~~
1136 ~~accordance with~~ ss. 765.541-765.546 and part II of chapter 408.
1137 ~~These~~ Standards and guidelines for the program adopted by the
1138 agency must be substantially based on the ~~existing~~ laws of the
1139 Federal Government and this state, and the ~~existing~~ standards
1140 and guidelines of one or more nationally recognized
1141 accreditation organizations or federally regulated networks
1142 determined by the agency to possess reasonable expertise in
1143 organ procurement if such guidelines are consistent with the
1144 requirements of ss. 765.541-765.546. ~~the United Network for~~
1145 ~~Organ Sharing (UNOS), the American Association of Tissue Banks~~
1146 ~~(AATB), the South-Eastern Organ Procurement Foundation (SEOPF),~~
1147 ~~the North American Transplant Coordinators Organization (NATCO),~~
1148 ~~and the Eye Bank Association of America (EBAA).~~ In addition, the
1149 agency shall, before adopting these standards and guidelines,
1150 seek input from all procurement organizations based in this
1151 state.

1152 Section 27. Subsection (2) of section 765.544, Florida
1153 Statutes, is amended to read:

1154 765.544 Fees; organ and tissue donor education and
1155 procurement.—

1156 (2) ~~The agency shall specify by rule the administrative~~
1157 ~~penalties for the purpose of ensuring adherence to the standards~~
1158 ~~of quality and practice required by this chapter, part II of~~
1159 ~~chapter 408, and applicable rules of the agency for continued~~
1160 ~~certification.~~

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1161

Section 28. This act shall take effect July 1, 2014.