

1 A bill to be entitled
2 An act relating to health care facility regulation;
3 creating s. 154.13, F.S.; declaring that a designated
4 facility owned and operated by a public health trust
5 is under the exclusive jurisdiction of the county
6 creating the public health trust; amending ss.
7 381.0031, 381.004, 384.31, 395.009, 400.0625, and
8 409.905, F.S.; eliminating state licensure
9 requirements for clinical laboratories; requiring
10 clinical laboratories to be federally certified;
11 amending s. 383.313, F.S.; revising requirements for a
12 birth center to perform certain laboratory tests;
13 repealing s. 383.335, F.S., relating to partial
14 exemptions from licensure requirements for certain
15 facilities that provide obstetrical and gynecological
16 surgical services; amending s. 395.002, F.S.; revising
17 and deleting definitions; creating s. 395.0091, F.S.;
18 authorizing the Agency for Health Care Administration
19 to adopt rules establishing criteria for alternate-
20 site laboratory testing; defining the term "alternate-
21 site testing"; amending ss. 395.0161 and 395.0163,
22 F.S.; deleting licensure and inspection requirements
23 for mobile surgical facilities, to conform to changes
24 made by the act; amending ss. 395.01911, 408.809, and
25 435.04, F.S.; including additional persons subject to

26 background screening requirements; providing an
27 exemption to background screening for purposes of
28 participation in the Medicaid program; amending s.
29 395.0197, F.S.; requiring the manager of a hospital or
30 ambulatory surgical center internal risk management
31 program to demonstrate competence in certain
32 administrative and health care service areas;
33 conforming references; repealing s. 395.1046, F.S.,
34 relating to hospital complaint investigation
35 procedures; amending s. 395.1055, F.S.; requiring
36 hospitals providing specified services to meet agency
37 licensure requirements; requiring background screening
38 for personnel of distinct part nursing units;
39 conforming a reference; repealing ss. 395.10971 and
40 395.10972, F.S., relating to the purpose and
41 establishment of the Health Care Risk Manager Advisory
42 Council; amending s. 395.10973, F.S.; deleting duties
43 of the agency relating to health care risk managers,
44 to conform to changes made by the act; repealing s.
45 395.10974, F.S., relating to licensure of health care
46 risk managers; repealing s. 395.10975, F.S., relating
47 to grounds for denial, suspension, or revocation of a
48 health care risk manager's license; amending s.
49 395.602, F.S.; deleting definitions; amending s.
50 395.603, F.S.; deleting provisions relating to

51 deactivation of general hospital beds by certain rural
52 and emergency care hospitals; repealing s. 395.604,
53 F.S., relating to other rural hospital programs;
54 repealing s. 395.605, F.S., relating to emergency care
55 hospitals; amending s. 395.701, F.S.; revising the
56 definition of the term "hospital" to exclude hospitals
57 operated by state agencies; amending s. 400.464, F.S.;
58 revising licensure requirements for a home health
59 agency; providing conditions for advertising certain
60 services that require licensure; providing for a fine;
61 providing conditions for application for a certificate
62 of exemption from licensure as a home health agency;
63 specifying the duration of the certificate of
64 exemption; authorizing a fee; amending s. 400.471,
65 F.S.; revising home health agency licensure
66 requirements; providing requirements for proof of
67 accreditation for home health agencies applying for
68 change of ownership or addition of skilled care
69 services; amending s. 400.474, F.S.; revising
70 conditions for the imposition of a fine against a home
71 health agency; amending s. 400.476, F.S.; requiring a
72 home health agency providing skilled nursing care to
73 have a director of nursing; amending s. 400.484, F.S.;
74 providing for the imposition of administrative fines
75 on home health agencies for specified classes of

76 | violations; amending s. 400.497, F.S.; authorizing the
77 | agency to adopt rules establishing standards for
78 | certificate of exemption applications; amending s.
79 | 400.506, F.S.; revising penalties for a nurse registry
80 | directed by the agency to cease operation; amending s.
81 | 400.606, F.S.; revising content requirements of the
82 | plan accompanying an initial or change-of-ownership
83 | application for a hospice; amending s. 400.925, F.S.;
84 | revising the definition of the term "home medical
85 | equipment"; amending s. 400.931, F.S.; providing a
86 | timeframe for a home medical equipment provider to
87 | notify the agency of certain personnel changes;
88 | amending s. 400.933, F.S.; authorizing the agency to
89 | accept certain medical oxygen permits issued by the
90 | Department of Business and Professional Regulation in
91 | lieu of agency licensure inspections; amending s.
92 | 400.980, F.S.; revising timeframe requirements for
93 | change of registration information submitted to the
94 | agency by a health care services pool; amending
95 | 400.9935, F.S.; providing that a voluntary certificate
96 | of exemption is not valid for more than 2 years;
97 | amending s. 408.061, F.S.; excluding hospitals
98 | operated by state agencies from certain financial
99 | reporting requirements; conforming a cross-reference;
100 | amending s. 408.07, F.S.; deleting the definition of

101 the term "clinical laboratory"; amending s. 408.20,
 102 F.S.; exempting hospitals operated by state agencies
 103 from assessments against the Health Care Trust Fund to
 104 fund certain agency activities; repealing s. 408.7056,
 105 F.S., relating to the Subscriber Assistance Program;
 106 amending s. 408.803, F.S.; defining the term
 107 "relative" for the Health Care Licensing Procedures
 108 Act; amending s. 408.806, F.S.; requiring additional
 109 information on a licensure application; authorizing
 110 the agency to issue licenses with an abbreviated
 111 licensure period and prorated fee for alignment of
 112 multiple provider license expiration dates; amending
 113 s. 408.810, F.S.; exempting an applicant for change of
 114 ownership from furnishing proof of ability to operate
 115 under certain conditions; authorizing the agency to
 116 adopt rules governing circumstances under which a
 117 controlling interest may act in certain legal
 118 capacities on behalf of a patient or client; defining
 119 the term "publicly traded corporation"; amending s.
 120 408.812, F.S.; citing failure to discharge residents
 121 by the license expiration date as unlicensed activity;
 122 providing that certain unlicensed activity by a
 123 provider constitutes abuse and neglect; requiring the
 124 agency to refer certain findings to the state
 125 attorney; requiring the agency to impose a fine under

126 | certain circumstances; amending s. 409.907, F.S.;

127 | revising grounds on which Medicaid provider

128 | applications may be denied; amending s. 429.02, F.S.;

129 | revising definitions; amending s. 429.04, F.S.;

130 | providing additional exemptions from licensure as an

131 | assisted living facility; imposing a burden of proof

132 | on the person or entity asserting the exemption;

133 | amending s. 429.08, F.S.; providing criminal penalties

134 | and fines for unlicensed ownership, possession, or

135 | control of real property used as an unlicensed

136 | assisted living facility; providing that engaging a

137 | third party to provide certain services at an

138 | unlicensed location constitutes unlicensed activity;

139 | amending s. 429.176, F.S.; prohibiting an assisted

140 | living facility from operating without an

141 | administrator who has completed certain educational

142 | requirements beyond a specified period of time;

143 | amending s. 429.19, F.S.; deleting certain fees

144 | assessed by the agency to cover costs of complaint or

145 | monitoring visits, to conform to changes made by the

146 | act; amending 429.24, F.S.; providing that 30-day

147 | written notice of rate increase is not required in

148 | certain situations; amending s. 429.256, F.S.;

149 | providing that the medication label must be read

150 | unless the resident declines; amending s. 429.28,

151 F.S.; specifying the services included in the
152 provision of assistance with obtaining access to
153 health care in the resident bill of rights; deleting a
154 requirement that the agency conduct at least one
155 monitoring visit in certain circumstances; removing
156 the authority of the agency to perform followup
157 inspections in certain circumstances; removing the
158 authority of the agency to conduct complaint
159 investigations; amending s. 429.294, F.S.; deleting
160 the timeframe within which a facility must provide
161 certain records; amending s. 429.34, F.S.; authorizing
162 the agency to perform inspections and investigations
163 to ensure compliance; authorizing the agency to
164 perform monitoring visits in certain circumstances;
165 amending s. 429.52, F.S.; requiring a facility
166 administrator to complete required training and
167 education within a certain timeframe; amending 435.12,
168 F.S.; extending the screening renewal period for
169 individuals screened after a certain date; extending
170 the retention period of fingerprints by the Department
171 of Law Enforcement unless certain circumstances apply;
172 repealing part I of chapter 483, F.S., relating to
173 clinical laboratories; amending s. 483.294, F.S.;
174 revising agency inspection schedules for multiphasic
175 health testing centers; amending s. 483.801, F.S.;

176 providing an exemption from regulation for persons
 177 employed by certain laboratories; amending s. 483.803,
 178 F.S.; revising definitions relating to clinical
 179 laboratories; conforming a reference; amending s.
 180 641.511, F.S.; revising health maintenance
 181 organization subscriber grievance reporting
 182 requirements; repealing s. 641.60, F.S., relating to
 183 the Statewide Managed Care Ombudsman Committee;
 184 repealing s. 641.65, F.S., relating to district
 185 managed care ombudsman committees; repealing s.
 186 641.67, F.S., relating to public records held by the
 187 district managed care ombudsman committee; repealing
 188 s. 641.68, F.S., relating to an exemption from public
 189 meeting requirements for the district managed care
 190 ombudsman committee; repealing s. 641.70, F.S.,
 191 relating to agency duties with respect to the
 192 Statewide Managed Care Ombudsman Committee and
 193 district managed care ombudsman committees; repealing
 194 s. 641.75, F.S., relating to immunity from liability
 195 and limitation on testimony; amending ss. 20.43,
 196 220.1845, 376.30781, 376.86, 381.0034, 381.0405,
 197 383.30, 383.301, 383.302, 383.305, 383.309, 383.33,
 198 385.211, 394.4787, 395.001, 395.003, 395.7015,
 199 400.9905, 408.033, 408.036, 408.802, 408.820,
 200 409.9116, 409.975, 456.001, 456.057, 458.307, 458.345,

201 483.813, 483.823, 491.003, 627.351, 627.602, 627.6406,
 202 627.64194, 627.6513, 627.6574, 641.185, 641.31,
 203 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,
 204 766.202, 945.36, and 1009.65, F.S.; conforming
 205 references and cross-references; providing an
 206 effective date.

207

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

209

210 Section 1. Paragraph (g) of subsection (3) of section
 211 20.43, Florida Statutes, is amended to read:

212 20.43 Department of Health.—There is created a Department
 213 of Health.

214 (3) The following divisions of the Department of Health
 215 are established:

216 (g) Division of Medical Quality Assurance, which is
 217 responsible for the following boards and professions established
 218 within the division:

219 1. The Board of Acupuncture, created under chapter 457.

220 2. The Board of Medicine, created under chapter 458.

221 3. The Board of Osteopathic Medicine, created under
 222 chapter 459.

223 4. The Board of Chiropractic Medicine, created under
 224 chapter 460.

- 225 5. The Board of Podiatric Medicine, created under chapter
 226 461.
- 227 6. Naturopathy, as provided under chapter 462.
- 228 7. The Board of Optometry, created under chapter 463.
- 229 8. The Board of Nursing, created under part I of chapter
 230 464.
- 231 9. Nursing assistants, as provided under part II of
 232 chapter 464.
- 233 10. The Board of Pharmacy, created under chapter 465.
- 234 11. The Board of Dentistry, created under chapter 466.
- 235 12. Midwifery, as provided under chapter 467.
- 236 13. The Board of Speech-Language Pathology and Audiology,
 237 created under part I of chapter 468.
- 238 14. The Board of Nursing Home Administrators, created
 239 under part II of chapter 468.
- 240 15. The Board of Occupational Therapy, created under part
 241 III of chapter 468.
- 242 16. Respiratory therapy, as provided under part V of
 243 chapter 468.
- 244 17. Dietetics and nutrition practice, as provided under
 245 part X of chapter 468.
- 246 18. The Board of Athletic Training, created under part
 247 XIII of chapter 468.
- 248 19. The Board of Orthotists and Prosthetists, created
 249 under part XIV of chapter 468.

- 250 20. Electrolysis, as provided under chapter 478.
- 251 21. The Board of Massage Therapy, created under chapter
252 480.
- 253 22. The Board of Clinical Laboratory Personnel, created
254 under part II ~~III~~ of chapter 483.
- 255 23. Medical physicists, as provided under part IV of
256 chapter 483.
- 257 24. The Board of Opticianry, created under part I of
258 chapter 484.
- 259 25. The Board of Hearing Aid Specialists, created under
260 part II of chapter 484.
- 261 26. The Board of Physical Therapy Practice, created under
262 chapter 486.
- 263 27. The Board of Psychology, created under chapter 490.
- 264 28. School psychologists, as provided under chapter 490.
- 265 29. The Board of Clinical Social Work, Marriage and Family
266 Therapy, and Mental Health Counseling, created under chapter
267 491.
- 268 30. Emergency medical technicians and paramedics, as
269 provided under part III of chapter 401.
- 270 Section 2. Section 154.13, Florida Statutes, is created to
271 read:
- 272 154.13 Designated facilities; jurisdiction.—Any designated
273 facility owned or operated by a public health trust and located
274 within the boundaries of a municipality shall be under the

275 exclusive jurisdiction of the county creating the public health
 276 trust and shall be without the jurisdiction of said
 277 municipality.

278 Section 3. Paragraph (k) of subsection (2) of section
 279 220.1845, Florida Statutes, is amended to read:

280 220.1845 Contaminated site rehabilitation tax credit.—

281 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

282 (k) In order to encourage the construction and operation
 283 of a new health care facility as defined in s. 408.032 or s.
 284 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
 285 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
 286 may claim an additional 25 percent of the total site
 287 rehabilitation costs, not to exceed \$500,000, if the applicant
 288 meets the requirements of this paragraph. In order to receive
 289 this additional tax credit, the applicant must provide
 290 documentation indicating that the construction of the health
 291 care facility or health care provider by the applicant on the
 292 brownfield site has received a certificate of occupancy or a
 293 license or certificate has been issued for the operation of the
 294 health care facility or health care provider.

295 Section 4. Paragraph (f) of subsection (3) of section
 296 376.30781, Florida Statutes, is amended to read:

297 376.30781 Tax credits for rehabilitation of drycleaning-
 298 solvent-contaminated sites and brownfield sites in designated

299 | brownfield areas; application process; rulemaking authority;
 300 | revocation authority.—

301 | (3)

302 | (f) In order to encourage the construction and operation
 303 | of a new health care facility or a health care provider, as
 304 | defined in s. 408.032 or, s. 408.07, ~~or s. 408.7056~~, on a
 305 | brownfield site, an applicant for a tax credit may claim an
 306 | additional 25 percent of the total site rehabilitation costs,
 307 | not to exceed \$500,000, if the applicant meets the requirements
 308 | of this paragraph. In order to receive this additional tax
 309 | credit, the applicant must provide documentation indicating that
 310 | the construction of the health care facility or health care
 311 | provider by the applicant on the brownfield site has received a
 312 | certificate of occupancy or a license or certificate has been
 313 | issued for the operation of the health care facility or health
 314 | care provider.

315 | Section 5. Subsection (1) of section 376.86, Florida
 316 | Statutes, is amended to read:

317 | 376.86 Brownfield Areas Loan Guarantee Program.—

318 | (1) The Brownfield Areas Loan Guarantee Council is created
 319 | to review and approve or deny, by a majority vote of its
 320 | membership, the situations and circumstances for participation
 321 | in partnerships by agreements with local governments, financial
 322 | institutions, and others associated with the redevelopment of
 323 | brownfield areas pursuant to the Brownfields Redevelopment Act

324 for a limited state guaranty of up to 5 years of loan guarantees
 325 or loan loss reserves issued pursuant to law. The limited state
 326 loan guaranty applies only to 50 percent of the primary lenders
 327 loans for redevelopment projects in brownfield areas. If the
 328 redevelopment project is for affordable housing, as defined in
 329 s. 420.0004, in a brownfield area, the limited state loan
 330 guaranty applies to 75 percent of the primary lender's loan. If
 331 the redevelopment project includes the construction and
 332 operation of a new health care facility or a health care
 333 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~
 334 ~~408.7056,~~ on a brownfield site and the applicant has obtained
 335 documentation in accordance with s. 376.30781 indicating that
 336 the construction of the health care facility or health care
 337 provider by the applicant on the brownfield site has received a
 338 certificate of occupancy or a license or certificate has been
 339 issued for the operation of the health care facility or health
 340 care provider, the limited state loan guaranty applies to 75
 341 percent of the primary lender's loan. A limited state guaranty
 342 of private loans or a loan loss reserve is authorized for
 343 lenders licensed to operate in the state upon a determination by
 344 the council that such an arrangement would be in the public
 345 interest and the likelihood of the success of the loan is great.

346 Section 6. Subsection (2) of section 381.0031, Florida
 347 Statutes, is amended to read:

348 381.0031 Epidemiological research; report of diseases of
 349 public health significance to department.—

350 (2) Any practitioner licensed in this state to practice
 351 medicine, osteopathic medicine, chiropractic medicine,
 352 naturopathy, or veterinary medicine; any hospital licensed under
 353 part I of chapter 395; or any laboratory appropriately certified
 354 by the Centers for Medicare and Medicaid Services under the
 355 federal Clinical Laboratory Improvement Amendments and the
 356 federal rules adopted thereunder ~~licensed under chapter 483~~ that
 357 diagnoses or suspects the existence of a disease of public
 358 health significance shall immediately report the fact to the
 359 Department of Health.

360 Section 7. Subsection (3) of section 381.0034, Florida
 361 Statutes, is amended to read:

362 381.0034 Requirement for instruction on HIV and AIDS.—

363 (3) The department shall require, as a condition of
 364 granting a license under chapter 467 or part II ~~III~~ of chapter
 365 483, that an applicant making initial application for licensure
 366 complete an educational course acceptable to the department on
 367 human immunodeficiency virus and acquired immune deficiency
 368 syndrome. Upon submission of an affidavit showing good cause, an
 369 applicant who has not taken a course at the time of licensure
 370 shall be allowed 6 months to complete this requirement.

371 Section 8. Paragraph (c) of subsection (4) of section
 372 381.004, Florida Statutes, is amended to read:

373 381.004 HIV testing.—

374 (4) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS;
 375 REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM
 376 REGISTRATION.—No county health department and no other person in
 377 this state shall conduct or hold themselves out to the public as
 378 conducting a testing program for acquired immune deficiency
 379 syndrome or human immunodeficiency virus status without first
 380 registering with the Department of Health, reregistering each
 381 year, complying with all other applicable provisions of state
 382 law, and meeting the following requirements:

383 (c) The program shall have all laboratory procedures
 384 performed in a laboratory appropriately certified by the Centers
 385 for Medicare and Medicaid Services under the federal Clinical
 386 Laboratory Improvement Amendments and the federal rules adopted
 387 thereunder ~~licensed under the provisions of chapter 483.~~

388 Section 9. Paragraph (f) of subsection (4) of section
 389 381.0405, Florida Statutes, is amended to read:

390 381.0405 Office of Rural Health.—

391 (4) COORDINATION.—The office shall:

392 (f) Assume responsibility for state coordination of the
 393 Rural Hospital Transition Grant Program, ~~the Essential Access~~
 394 ~~Community Hospital Program,~~ and other federal rural health care
 395 programs.

396 Section 10. Section 383.30, Florida Statutes, is amended
 397 to read:

398 383.30 Birth Center Licensure Act; short title.—Sections
 399 383.30-383.332 ~~383.30-383.335~~ shall be known and may be cited as
 400 the "Birth Center Licensure Act."

401 Section 11. Section 383.301, Florida Statutes, is amended
 402 to read:

403 383.301 Licensure and regulation of birth centers;
 404 legislative intent.—It is the intent of the Legislature to
 405 provide for the protection of public health and safety in the
 406 establishment, maintenance, and operation of birth centers by
 407 providing for licensure of birth centers and for the
 408 development, establishment, and enforcement of minimum standards
 409 with respect to birth centers. The requirements of part II of
 410 chapter 408 shall apply to the provision of services that
 411 require licensure pursuant to ss. 383.30-383.332 ~~383.30-383.335~~
 412 and part II of chapter 408 and to entities licensed by or
 413 applying for such licensure from the Agency for Health Care
 414 Administration pursuant to ss. 383.30-383.332 ~~383.30-383.335~~. A
 415 license issued by the agency is required in order to operate a
 416 birth center in this state.

417 Section 12. Section 383.302, Florida Statutes, is amended
 418 to read:

419 383.302 Definitions of terms used in ss. 383.30-383.332
 420 ~~383.30-383.335~~.—As used in ss. 383.30-383.332 ~~383.30-383.335~~,
 421 the term:

422 (1) "Agency" means the Agency for Health Care
 423 Administration.

424 (2) "Birth center" means any facility, institution, or
 425 place, which is not an ambulatory surgical center or a hospital
 426 or in a hospital, in which births are planned to occur away from
 427 the mother's usual residence following a normal, uncomplicated,
 428 low-risk pregnancy.

429 (3) "Clinical staff" means individuals employed full time
 430 or part time by a birth center who are licensed or certified to
 431 provide care at childbirth.

432 (4) "Consultant" means a physician licensed pursuant to
 433 chapter 458 or chapter 459 who agrees to provide advice and
 434 services to a birth center and who either:

435 (a) Is certified or eligible for certification by the
 436 American Board of Obstetrics and Gynecology, or

437 (b) Has hospital obstetrical privileges.

438 (5) "Governing body" means any individual, group,
 439 corporation, or institution which is responsible for the overall
 440 operation and maintenance of a birth center.

441 (6) "Governmental unit" means the state or any county,
 442 municipality, or other political subdivision or any department,
 443 division, board, or other agency of any of the foregoing.

444 (7) "Licensed facility" means a facility licensed in
 445 accordance with s. 383.305.

446 (8) "Low-risk pregnancy" means a pregnancy which is
 447 expected to result in an uncomplicated birth, as determined
 448 through risk criteria developed by rule of the department, and
 449 which is accompanied by adequate prenatal care.

450 (9) "Person" means any individual, firm, partnership,
 451 corporation, company, association, institution, or joint stock
 452 association and means any legal successor of any of the
 453 foregoing.

454 (10) "Premises" means those buildings, beds, and
 455 facilities located at the main address of the licensee and all
 456 other buildings, beds, and facilities for the provision of
 457 maternity care located in such reasonable proximity to the main
 458 address of the licensee as to appear to the public to be under
 459 the dominion and control of the licensee.

460 Section 13. Subsection (1) of section 383.305, Florida
 461 Statutes, is amended to read:

462 383.305 Licensure; fees.—

463 (1) In accordance with s. 408.805, an applicant or a
 464 licensee shall pay a fee for each license application submitted
 465 under ss. 383.30-383.332 ~~383.30-383.335~~ and part II of chapter
 466 408. The amount of the fee shall be established by rule.

467 Section 14. Subsection (1) of section 383.309, Florida
 468 Statutes, is amended to read:

469 383.309 Minimum standards for birth centers; rules and
 470 enforcement.—

471 (1) The agency shall adopt and enforce rules to administer
 472 ss. 383.30-383.332 ~~383.30-383.335~~ and part II of chapter 408,
 473 which rules shall include, but are not limited to, reasonable
 474 and fair minimum standards for ensuring that:

475 (a) Sufficient numbers and qualified types of personnel
 476 and occupational disciplines are available at all times to
 477 provide necessary and adequate patient care and safety.

478 (b) Infection control, housekeeping, sanitary conditions,
 479 disaster plan, and medical record procedures that will
 480 adequately protect patient care and provide safety are
 481 established and implemented.

482 (c) Licensed facilities are established, organized, and
 483 operated consistent with established programmatic standards.

484 Section 15. Subsection (1) of section 383.313, Florida
 485 Statutes, is amended to read:

486 383.313 Performance of laboratory and surgical services;
 487 use of anesthetic and chemical agents.—

488 (1) LABORATORY SERVICES.—A birth center may collect
 489 specimens for those tests that are requested under protocol. A
 490 birth center must obtain and continuously maintain the
 491 certification by the Centers for Medicare and Medicaid Services
 492 under the federal approved Clinical Laboratory Improvements
 493 Amendments and rules adopted thereunder in order to ~~may~~ perform
 494 ~~simple~~ laboratory tests specified, ~~as defined~~ by rule of the
 495 agency which are appropriate to meet the needs of the patient,

496 ~~and is exempt from the requirements of chapter 483, provided no~~
497 ~~more than five physicians are employed by the birth center and~~
498 ~~testing is conducted exclusively in connection with the~~
499 ~~diagnosis and treatment of clients of the birth center.~~

500 Section 16. Subsection (1) and paragraph (a) of subsection
501 (2) of section 383.33, Florida Statutes, are amended to read:

502 383.33 Administrative penalties; moratorium on
503 admissions.-

504 (1) In addition to the requirements of part II of chapter
505 408, the agency may impose an administrative fine not to exceed
506 \$500 per violation per day for the violation of any provision of
507 ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or
508 applicable rules.

509 (2) In determining the amount of the fine to be levied for
510 a violation, as provided in this section, the following factors
511 shall be considered:

512 (a) The severity of the violation, including the
513 probability that death or serious harm to the health or safety
514 of any person will result or has resulted; the severity of the
515 actual or potential harm; and the extent to which the provisions
516 of ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or
517 applicable rules were violated.

518 Section 17. Section 383.335, Florida Statutes, is
519 repealed.

520 Section 18. Section 384.31, Florida Statutes, is amended
 521 to read:

522 384.31 Testing of pregnant women; duty of the attendant.—
 523 Every person, including every physician licensed under chapter
 524 458 or chapter 459 or midwife licensed under part I of chapter
 525 464 or chapter 467, attending a pregnant woman for conditions
 526 relating to pregnancy during the period of gestation and
 527 delivery shall cause the woman to be tested for sexually
 528 transmissible diseases, including HIV, as specified by
 529 department rule. Testing shall be performed by a laboratory
 530 appropriately certified by the Centers for Medicare and Medicaid
 531 Services under the federal Clinical Laboratory Improvement
 532 Amendments and the federal rules adopted thereunder ~~approved~~ for
 533 such purposes ~~under part I of chapter 483~~. The woman shall be
 534 informed of the tests that will be conducted and of her right to
 535 refuse testing. If a woman objects to testing, a written
 536 statement of objection, signed by the woman, shall be placed in
 537 the woman's medical record and no testing shall occur.

538 Section 19. Subsection (2) of section 385.211, Florida
 539 Statutes, is amended to read:

540 385.211 Refractory and intractable epilepsy treatment and
 541 research at recognized medical centers.—

542 (2) Notwithstanding chapter 893, medical centers
 543 recognized pursuant to s. 381.925, or an academic medical
 544 research institution legally affiliated with a licensed

545 children's specialty hospital as defined in s. 395.002(27)
 546 ~~395.002(28)~~ that contracts with the Department of Health, may
 547 conduct research on cannabidiol and low-THC cannabis. This
 548 research may include, but is not limited to, the agricultural
 549 development, production, clinical research, and use of liquid
 550 medical derivatives of cannabidiol and low-THC cannabis for the
 551 treatment for refractory or intractable epilepsy. The authority
 552 for recognized medical centers to conduct this research is
 553 derived from 21 C.F.R. parts 312 and 316. Current state or
 554 privately obtained research funds may be used to support the
 555 activities described in this section.

556 Section 20. Subsection (7) of section 394.4787, Florida
 557 Statutes, is amended to read:

558 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
 559 and 394.4789.—As used in this section and ss. 394.4786,
 560 394.4788, and 394.4789:

561 (7) "Specialty psychiatric hospital" means a hospital
 562 licensed by the agency pursuant to s. 395.002(27) ~~395.002(28)~~
 563 and part II of chapter 408 as a specialty psychiatric hospital.

564 Section 21. Section 395.001, Florida Statutes, is amended
 565 to read:

566 395.001 Legislative intent.—It is the intent of the
 567 Legislature to provide for the protection of public health and
 568 safety in the establishment, construction, maintenance, and
 569 operation of hospitals and, ambulatory surgical centers, ~~and~~

570 ~~mobile surgical facilities~~ by providing for licensure of same
571 and for the development, establishment, and enforcement of
572 minimum standards with respect thereto.

573 Section 22. Subsection (22) and subsections (24) through
574 (33) of section 395.002, Florida Statutes, are renumbered as
575 subsection (21) and subsections (23) through (32), respectively,
576 subsections (3) and (16) and present subsection (21) are
577 amended, and present subsection (23) is renumbered as subsection
578 (22) of that section and amended, to read:

579 395.002 Definitions.—As used in this chapter:

580 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
581 ~~facility"~~ means a facility the primary purpose of which is to
582 provide elective surgical care, in which the patient is admitted
583 to and discharged from such facility within the same working day
584 and is not permitted to stay overnight, and which is not part of
585 a hospital. However, a facility existing for the primary purpose
586 of performing terminations of pregnancy, an office maintained by
587 a physician for the practice of medicine, or an office
588 maintained for the practice of dentistry shall not be construed
589 to be an ambulatory surgical center, provided that any facility
590 or office which is certified or seeks certification as a
591 Medicare ambulatory surgical center shall be licensed as an
592 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
593 ~~or vehicle in which a physician maintains an office and~~
594 ~~practices surgery, and which can appear to the public to be a~~

595 ~~mobile office because the structure or vehicle operates at more~~
 596 ~~than one address, shall be construed to be a mobile surgical~~
 597 ~~facility.~~

598 (16) "Licensed facility" means a hospital or, ambulatory
 599 surgical center, ~~or mobile surgical facility~~ licensed in
 600 accordance with this chapter.

601 ~~(21) "Mobile surgical facility" is a mobile facility in~~
 602 ~~which licensed health care professionals provide elective~~
 603 ~~surgical care under contract with the Department of Corrections~~
 604 ~~or a private correctional facility operating pursuant to chapter~~
 605 ~~957 and in which inmate patients are admitted to and discharged~~
 606 ~~from said facility within the same working day and are not~~
 607 ~~permitted to stay overnight. However, mobile surgical facilities~~
 608 ~~may only provide health care services to the inmate patients of~~
 609 ~~the Department of Corrections, or inmate patients of a private~~
 610 ~~correctional facility operating pursuant to chapter 957, and not~~
 611 ~~to the general public.~~

612 (22) ~~(23)~~ "Premises" means those buildings, beds, and
 613 equipment located at the address of the licensed facility and
 614 all other buildings, beds, and equipment for the provision of
 615 hospital or, ambulatory surgical, ~~or mobile surgical~~ care
 616 located in such reasonable proximity to the address of the
 617 licensed facility as to appear to the public to be under the
 618 dominion and control of the licensee. For any licensee that is a
 619 teaching hospital as defined in s. 408.07(44) ~~408.07(45)~~,

620 reasonable proximity includes any buildings, beds, services,
621 programs, and equipment under the dominion and control of the
622 licensee that are located at a site with a main address that is
623 within 1 mile of the main address of the licensed facility; and
624 all such buildings, beds, and equipment may, at the request of a
625 licensee or applicant, be included on the facility license as a
626 single premises.

627 Section 23. Paragraphs (a) and (b) of subsection (1) and
628 paragraph (b) of subsection (2) of section 395.003, Florida
629 Statutes, are amended to read:

630 395.003 Licensure; denial, suspension, and revocation.—

631 (1) (a) The requirements of part II of chapter 408 apply to
632 the provision of services that require licensure pursuant to ss.
633 395.001-395.1065 and part II of chapter 408 and to entities
634 licensed by or applying for such licensure from the Agency for
635 Health Care Administration pursuant to ss. 395.001-395.1065. A
636 license issued by the agency is required in order to operate a
637 hospital or, ambulatory surgical center, ~~or mobile surgical~~
638 ~~facility~~ in this state.

639 (b)1. It is unlawful for a person to use or advertise to
640 the public, in any way or by any medium whatsoever, any facility
641 as a "hospital," or "ambulatory surgical center," ~~or "mobile~~
642 ~~surgical facility"~~ unless such facility has first secured a
643 license under the provisions of this part.

644 2. This part does not apply to veterinary hospitals or to
 645 commercial business establishments using the word "hospital," or
 646 "ambulatory surgical center," ~~or "mobile surgical facility"~~ as a
 647 part of a trade name if no treatment of human beings is
 648 performed on the premises of such establishments.

649 (2)

650 (b) The agency shall, at the request of a licensee that is
 651 a teaching hospital as defined in s. 408.07(44) ~~408.07(45)~~,
 652 issue a single license to a licensee for facilities that have
 653 been previously licensed as separate premises, provided such
 654 separately licensed facilities, taken together, constitute the
 655 same premises as defined in s. 395.002(22) ~~395.002(23)~~. Such
 656 license for the single premises shall include all of the beds,
 657 services, and programs that were previously included on the
 658 licenses for the separate premises. The granting of a single
 659 license under this paragraph shall not in any manner reduce the
 660 number of beds, services, or programs operated by the licensee.

661 Section 24. Subsection (1) of section 395.009, Florida
 662 Statutes, is amended to read:

663 395.009 Minimum standards for clinical laboratory test
 664 results and diagnostic X-ray results; prerequisite for issuance
 665 or renewal of license.—

666 (1) As a requirement for issuance or renewal of its
 667 license, each licensed facility shall require that all clinical
 668 laboratory tests performed by or for the licensed facility be

669 performed by a clinical laboratory appropriately certified by
670 the Centers for Medicare and Medicaid Services under the federal
671 Clinical Laboratory Improvement Amendments and the federal rules
672 adopted thereunder ~~licensed under the provisions of chapter 483.~~

673 Section 25. Section 395.0091, Florida Statutes, is created
674 to read:

675 395.0091 Alternate-site testing.—The agency, in
676 consultation with the Board of Clinical Laboratory Personnel,
677 shall adopt by rule the criteria for alternate-site testing to
678 be performed under the supervision of a clinical laboratory
679 director. The elements to be addressed in the rule include, but
680 are not limited to: a hospital internal needs assessment; a
681 protocol of implementation, including tests to be performed and
682 who will perform the tests; criteria to be used in selecting the
683 method of testing to be used for alternate-site testing; minimum
684 training and education requirements for those who will perform
685 alternate-site testing, such as documented training, licensure,
686 certification, or other medical professional background not
687 limited to laboratory professionals; documented in-service
688 training and initial and ongoing competency validation; an
689 appropriate internal and external quality control protocol; an
690 internal mechanism for the central laboratory to identify and
691 track alternate-site testing; and recordkeeping requirements.
692 Alternate-site testing locations must register when the hospital
693 applies to renew its license. For purposes of this section, the

694 term "alternate-site testing" means any laboratory testing done
695 under the administrative control of a hospital, but performed
696 out of the physical or administrative confines of the central
697 laboratory.

698 Section 26. Paragraph (f) of subsection (1) of section
699 395.0161, Florida Statutes, is amended to read:

700 395.0161 Licensure inspection.—

701 (1) In addition to the requirement of s. 408.811, the
702 agency shall make or cause to be made such inspections and
703 investigations as it deems necessary, including:

704 ~~(f) Inspections of mobile surgical facilities at each time~~
705 ~~a facility establishes a new location, prior to the admission of~~
706 ~~patients. However, such inspections shall not be required when a~~
707 ~~mobile surgical facility is moved temporarily to a location~~
708 ~~where medical treatment will not be provided.~~

709 Section 27. Subsection (3) of section 395.0163, Florida
710 Statutes, is amended to read:

711 395.0163 Construction inspections; plan submission and
712 approval; fees.—

713 ~~(3) In addition to the requirements of s. 408.811, the~~
714 ~~agency shall inspect a mobile surgical facility at initial~~
715 ~~licensure and at each time the facility establishes a new~~
716 ~~location, prior to admission of patients. However, such~~
717 ~~inspections shall not be required when a mobile surgical~~

718 ~~facility is moved temporarily to a location where medical~~
719 ~~treatment will not be provided.~~

720 Section 28. Subsection (2), paragraph (c) of subsection
721 (6), and subsections (16) and (17) of section 395.0197, Florida
722 Statutes, are amended to read:

723 395.0197 Internal risk management program.—

724 (2) The internal risk management program is the
725 responsibility of the governing board of the health care
726 facility. Each licensed facility shall hire a risk manager,
727 ~~licensed under s. 395.10974,~~ who is responsible for
728 implementation and oversight of such facility's internal risk
729 management program and who demonstrates competence, by education
730 or experience, in the following areas: as required by this
731 section. A risk manager must not be made responsible for more
732 than four internal risk management programs in separate licensed
733 facilities, unless the facilities are under one corporate
734 ownership or the risk management programs are in rural
735 hospitals.

736 (a) Applicable standards of health care risk management.

737 (b) Applicable federal, state, and local health and safety
738 laws and rules.

739 (c) General risk management administration.

740 (d) Patient care.

741 (e) Medical care.

742 (f) Personal and social care.

743 | (g) Accident prevention.

744 | (h) Departmental organization and management.

745 | (i) Community interrelationships.

746 | (j) Medical terminology.

747 | (6)

748 | (c) The report submitted to the agency shall also contain
 749 | the name ~~and license number~~ of the risk manager of the licensed
 750 | facility, a copy of its policy and procedures which govern the
 751 | measures taken by the facility and its risk manager to reduce
 752 | the risk of injuries and adverse incidents, and the results of
 753 | such measures. The annual report is confidential and is not
 754 | available to the public pursuant to s. 119.07(1) or any other
 755 | law providing access to public records. The annual report is not
 756 | discoverable or admissible in any civil or administrative
 757 | action, except in disciplinary proceedings by the agency or the
 758 | appropriate regulatory board. The annual report is not available
 759 | to the public as part of the record of investigation for and
 760 | prosecution in disciplinary proceedings made available to the
 761 | public by the agency or the appropriate regulatory board.
 762 | However, the agency or the appropriate regulatory board shall
 763 | make available, upon written request by a health care
 764 | professional against whom probable cause has been found, any
 765 | such records which form the basis of the determination of
 766 | probable cause.

767 (16) There shall be no monetary liability on the part of,
768 and no cause of action for damages shall arise against, any risk
769 manager, ~~licensed under s. 395.10974,~~ for the implementation and
770 oversight of the internal risk management program in a facility
771 licensed under this chapter or chapter 390 as required by this
772 section, for any act or proceeding undertaken or performed
773 within the scope of the functions of such internal risk
774 management program if the risk manager acts without intentional
775 fraud.

776 (17) A privilege against civil liability is hereby granted
777 to any ~~licensed~~ risk manager or licensed facility with regard to
778 information furnished pursuant to this chapter, unless the
779 ~~licensed~~ risk manager or facility acted in bad faith or with
780 malice in providing such information.

781 Section 29. Section 395.1046, Florida Statutes, is
782 repealed.

783 Section 30. Subsections (2) and (3) of section 395.1055,
784 Florida Statutes, are amended, and paragraph (i) is added to
785 subsection (1) of that section, to read:

786 395.1055 Rules and enforcement.—

787 (1) The agency shall adopt rules pursuant to ss.
788 120.536(1) and 120.54 to implement the provisions of this part,
789 which shall include reasonable and fair minimum standards for
790 ensuring that:

791 (i) All hospitals providing pediatric cardiac
792 catheterization, pediatric open-heart surgery, organ
793 transplantation, neonatal intensive care services, psychiatric
794 services, or comprehensive medical rehabilitation meet the
795 minimum licensure requirements adopted by the agency. Such
796 licensure requirements shall include quality of care, nurse
797 staffing, physician staffing, physical plant, equipment,
798 emergency transportation, and data reporting standards.

799 (2) Separate standards may be provided for general and
800 specialty hospitals, ambulatory surgical centers, ~~mobile~~
801 ~~surgical facilities,~~ and statutory rural hospitals as defined in
802 s. 395.602.

803 (3) The agency shall adopt rules with respect to the care
804 and treatment of patients residing in distinct part nursing
805 units of hospitals which are certified for participation in
806 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social
807 Security Act skilled nursing facility program. Such rules shall
808 take into account the types of patients treated in hospital
809 skilled nursing units, including typical patient acuity levels
810 and the average length of stay in such units, and shall be
811 limited to the appropriate portions of the Omnibus Budget
812 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
813 1987), Title IV (Medicare, Medicaid, and Other Health-Related
814 Programs), Subtitle C (Nursing Home Reform), as amended. The
815 agency shall require level 2 background screening as specified

816 in s. 408.809(1)(e) and pursuant to chapter 435 and s. 408.809
817 for personnel of distinct part nursing units.

818 Section 31. Section 395.10971, Florida Statutes, is
819 repealed.

820 Section 32. Section 395.10972, Florida Statutes, is
821 repealed.

822 Section 33. Section 395.10973, Florida Statutes, is
823 amended to read:

824 395.10973 Powers and duties of the agency.—It is the
825 function of the agency to:

826 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
827 implement the provisions of this part and part II of chapter 408
828 conferring duties upon it.

829 ~~(2) Develop, impose, and enforce specific standards within~~
830 ~~the scope of the general qualifications established by this part~~
831 ~~which must be met by individuals in order to receive licenses as~~
832 ~~health care risk managers. These standards shall be designed to~~
833 ~~ensure that health care risk managers are individuals of good~~
834 ~~character and otherwise suitable and, by training or experience~~
835 ~~in the field of health care risk management, qualified in~~
836 ~~accordance with the provisions of this part to serve as health~~
837 ~~care risk managers, within statutory requirements.~~

838 ~~(3) Develop a method for determining whether an individual~~
839 ~~meets the standards set forth in s. 395.10974.~~

840 ~~(4) Issue licenses to qualified individuals meeting the~~
 841 ~~standards set forth in s. 395.10974.~~

842 ~~(5) Receive, investigate, and take appropriate action with~~
 843 ~~respect to any charge or complaint filed with the agency to the~~
 844 ~~effect that a certified health care risk manager has failed to~~
 845 ~~comply with the requirements or standards adopted by rule by the~~
 846 ~~agency or to comply with the provisions of this part.~~

847 ~~(6) Establish procedures for providing periodic reports on~~
 848 ~~persons certified or disciplined by the agency under this part.~~

849 (2)~~(7)~~ Develop a model risk management program for health
 850 care facilities which will satisfy the requirements of s.
 851 395.0197.

852 (3)~~(8)~~ Enforce the special-occupancy provisions of the
 853 Florida Building Code which apply to hospitals, intermediate
 854 residential treatment facilities, and ambulatory surgical
 855 centers in conducting any inspection authorized by this chapter
 856 and part II of chapter 408.

857 Section 34. Section 395.10974, Florida Statutes, is
 858 repealed.

859 Section 35. Section 395.10975, Florida Statutes, is
 860 repealed.

861 Section 36. Subsection (2) of section 395.602, Florida
 862 Statutes, is amended to read:

863 395.602 Rural hospitals.—

864 (2) DEFINITIONS.—As used in this part, the term:

865 ~~(a) "Emergency care hospital" means a medical facility~~
866 ~~which provides:~~

- 867 ~~1. Emergency medical treatment; and~~
- 868 ~~2. Inpatient care to ill or injured persons prior to their~~
869 ~~transportation to another hospital or provides inpatient medical~~
870 ~~care to persons needing care for a period of up to 96 hours. The~~
871 ~~96-hour limitation on inpatient care does not apply to respite,~~
872 ~~skilled nursing, hospice, or other nonacute care patients.~~

873 ~~(b) "Essential access community hospital" means any~~
874 ~~facility which:~~

- 875 ~~1. Has at least 100 beds;~~
- 876 ~~2. Is located more than 35 miles from any other essential~~
877 ~~access community hospital, rural referral center, or urban~~
878 ~~hospital meeting criteria for classification as a regional~~
879 ~~referral center;~~
- 880 ~~3. Is part of a network that includes rural primary care~~
881 ~~hospitals;~~
- 882 ~~4. Provides emergency and medical backup services to rural~~
883 ~~primary care hospitals in its rural health network;~~
- 884 ~~5. Extends staff privileges to rural primary care hospital~~
885 ~~physicians in its network; and~~
- 886 ~~6. Accepts patients transferred from rural primary care~~
887 ~~hospitals in its network.~~

888 ~~(c) "Inactive rural hospital bed" means a licensed acute~~
 889 ~~care hospital bed, as defined in s. 395.002(13), that is~~
 890 ~~inactive in that it cannot be occupied by acute care inpatients.~~

891 (a)~~(d)~~ "Rural area health education center" means an area
 892 health education center (AHEC), as authorized by Pub. L. No. 94-
 893 484, which provides services in a county with a population
 894 density of up to ~~no greater than~~ 100 persons per square mile.

895 (b)~~(e)~~ "Rural hospital" means an acute care hospital
 896 licensed under this chapter, having 100 or fewer licensed beds
 897 and an emergency room, which is:

898 1. The sole provider within a county with a population
 899 density of up to 100 persons per square mile;

900 2. An acute care hospital, in a county with a population
 901 density of up to 100 persons per square mile, which is at least
 902 30 minutes of travel time, on normally traveled roads under
 903 normal traffic conditions, from any other acute care hospital
 904 within the same county;

905 3. A hospital supported by a tax district or subdistrict
 906 whose boundaries encompass a population of up to 100 persons per
 907 square mile;

908 4. A hospital classified as a sole community hospital
 909 under 42 C.F.R. s. 412.92 which has up to 175 licensed beds;

910 5. A hospital with a service area that has a population of
 911 up to 100 persons per square mile. As used in this subparagraph,
 912 the term "service area" means the fewest number of zip codes

913 that account for 75 percent of the hospital's discharges for the
914 most recent 5-year period, based on information available from
915 the hospital inpatient discharge database in the Florida Center
916 for Health Information and Transparency at the agency; or

917 6. A hospital designated as a critical access hospital, as
918 defined in s. 408.07.

919

920 Population densities used in this paragraph must be based upon
921 the most recently completed United States census. A hospital
922 that received funds under s. 409.9116 for a quarter beginning no
923 later than July 1, 2002, is deemed to have been and shall
924 continue to be a rural hospital from that date through June 30,
925 2021, if the hospital continues to have up to 100 licensed beds
926 and an emergency room. An acute care hospital that has not
927 previously been designated as a rural hospital and that meets
928 the criteria of this paragraph shall be granted such designation
929 upon application, including supporting documentation, to the
930 agency. A hospital that was licensed as a rural hospital during
931 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
932 rural hospital from the date of designation through June 30,
933 2021, if the hospital continues to have up to 100 licensed beds
934 and an emergency room.

935 ~~(f) "Rural primary care hospital" means any facility~~
936 ~~meeting the criteria in paragraph (e) or s. 395.605 which~~
937 ~~provides:~~

- 938 | ~~1. Twenty-four-hour emergency medical care;~~
 939 | ~~2. Temporary inpatient care for periods of 72 hours or~~
 940 | ~~less to patients requiring stabilization before discharge or~~
 941 | ~~transfer to another hospital. The 72-hour limitation does not~~
 942 | ~~apply to respite, skilled nursing, hospice, or other nonacute~~
 943 | ~~care patients; and~~
 944 | ~~3. Has no more than six licensed acute care inpatient~~
 945 | ~~beds.~~

946 | (c)~~(g)~~ "Swing-bed" means a bed which can be used
 947 | interchangeably as either a hospital, skilled nursing facility
 948 | (SNF), or intermediate care facility (ICF) bed pursuant to 42
 949 | C.F.R. parts 405, 435, 440, 442, and 447.

950 | Section 37. Section 395.603, Florida Statutes, is amended
 951 | to read:

952 | 395.603 ~~Deactivation of general hospital beds; Rural~~
 953 | ~~hospital impact statement.-~~

954 | ~~(1) The agency shall establish, by rule, a process by~~
 955 | ~~which a rural hospital, as defined in s. 395.602, that seeks~~
 956 | ~~licensure as a rural primary care hospital or as an emergency~~
 957 | ~~care hospital, or becomes a certified rural health clinic as~~
 958 | ~~defined in Pub. L. No. 95-210, or becomes a primary care program~~
 959 | ~~such as a county health department, community health center, or~~
 960 | ~~other similar outpatient program that provides preventive and~~
 961 | ~~curative services, may deactivate general hospital beds. Rural~~
 962 | ~~primary care hospitals and emergency care hospitals shall~~

963 ~~maintain the number of actively licensed general hospital beds~~
964 ~~necessary for the facility to be certified for Medicare~~
965 ~~reimbursement. Hospitals that discontinue inpatient care to~~
966 ~~become rural health care clinics or primary care programs shall~~
967 ~~deactivate all licensed general hospital beds. All hospitals,~~
968 ~~clinics, and programs with inactive beds shall provide 24-hour~~
969 ~~emergency medical care by staffing an emergency room. Providers~~
970 ~~with inactive beds shall be subject to the criteria in s.~~
971 ~~395.1041. The agency shall specify in rule requirements for~~
972 ~~making 24-hour emergency care available. Inactive general~~
973 ~~hospital beds shall be included in the acute care bed inventory,~~
974 ~~maintained by the agency for certificate-of-need purposes, for~~
975 ~~10 years from the date of deactivation of the beds. After 10~~
976 ~~years have elapsed, inactive beds shall be excluded from the~~
977 ~~inventory. The agency shall, at the request of the licensee,~~
978 ~~reactivate the inactive general beds upon a showing by the~~
979 ~~licensee that licensure requirements for the inactive general~~
980 ~~beds are met.~~

981 (2) In formulating and implementing policies and rules
982 that may have significant impact on the ability of rural
983 hospitals to continue to provide health care services in rural
984 communities, the agency, the department, or the respective
985 regulatory board adopting policies or rules regarding the
986 licensure or certification of health care professionals shall
987 provide a rural hospital impact statement. The rural hospital

988 | impact statement shall assess the proposed action in light of
 989 | the following questions:

990 | (1)~~(a)~~ Do the health personnel affected by the proposed
 991 | action currently practice in rural hospitals or are they likely
 992 | to in the near future?

993 | (2)~~(b)~~ What are the current numbers of the affected health
 994 | personnel in this state, their geographic distribution, and the
 995 | number practicing in rural hospitals?

996 | (3)~~(c)~~ What are the functions presently performed by the
 997 | affected health personnel, and are such functions presently
 998 | performed in rural hospitals?

999 | (4)~~(d)~~ What impact will the proposed action have on the
 1000 | ability of rural hospitals to recruit the affected personnel to
 1001 | practice in their facilities?

1002 | (5)~~(e)~~ What impact will the proposed action have on the
 1003 | limited financial resources of rural hospitals through increased
 1004 | salaries and benefits necessary to recruit or retain such health
 1005 | personnel?

1006 | (6)~~(f)~~ Is there a less stringent requirement which could
 1007 | apply to practice in rural hospitals?

1008 | (7)~~(g)~~ Will this action create staffing shortages, which
 1009 | could result in a loss to the public of health care services in
 1010 | rural hospitals or result in closure of any rural hospitals?

1011 | Section 38. Section 395.604, Florida Statutes, is
 1012 | repealed.

1013 Section 39. Section 395.605, Florida Statutes, is
 1014 repealed.

1015 Section 40. Paragraph (c) of subsection (1) of section
 1016 395.701, Florida Statutes, is amended to read:

1017 395.701 Annual assessments on net operating revenues for
 1018 inpatient and outpatient services to fund public medical
 1019 assistance; administrative fines for failure to pay assessments
 1020 when due; exemption.—

1021 (1) For the purposes of this section, the term:

1022 (c) "Hospital" means a health care institution as defined
 1023 in s. 395.002(12), but does not include any hospital operated by
 1024 a state ~~the agency or the Department of Corrections.~~

1025 Section 41. Paragraph (b) of subsection (2) of section
 1026 395.7015, Florida Statutes, is amended to read:

1027 395.7015 Annual assessment on health care entities.—

1028 (2) There is imposed an annual assessment against certain
 1029 health care entities as described in this section:

1030 (b) For the purpose of this section, "health care
 1031 entities" include the following:

1032 1. Ambulatory surgical centers ~~and mobile surgical~~
 1033 ~~facilities licensed under s. 395.003. This subsection shall only~~
 1034 ~~apply to mobile surgical facilities operating under contracts~~
 1035 ~~entered into on or after July 1, 1998.~~

1036 2. ~~Clinical laboratories licensed under s. 483.091,~~
 1037 ~~excluding any hospital laboratory defined under s. 483.041(6),~~

1038 ~~any clinical laboratory operated by the state or a political~~
1039 ~~subdivision of the state, any clinical laboratory which~~
1040 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
1041 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
1042 ~~percent or more of its gross revenues from services to charity~~
1043 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
1044 ~~bank procuring, storing, or distributing blood, plasma, or~~
1045 ~~tissue either for future manufacture or research or distributed~~
1046 ~~on a nonprofit basis, and further excluding any clinical~~
1047 ~~laboratory which is wholly owned and operated by 6 or fewer~~
1048 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
1049 ~~459 and who practice in the same group practice, and at which no~~
1050 ~~clinical laboratory work is performed for patients referred by~~
1051 ~~any health care provider who is not a member of the same group.~~

1052 2.3. Diagnostic-imaging centers that are freestanding
1053 outpatient facilities that provide specialized services for the
1054 identification or determination of a disease through examination
1055 and also provide sophisticated radiological services, and in
1056 which services are rendered by a physician licensed by the Board
1057 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
1058 an osteopathic physician licensed by the Board of Osteopathic
1059 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
1060 paragraph, "sophisticated radiological services" means the
1061 following: magnetic resonance imaging; nuclear medicine;
1062 angiography; arteriography; computed tomography; positron

1063 emission tomography; digital vascular imaging; bronchography;
 1064 lymphangiography; splenography; ultrasound, excluding ultrasound
 1065 providers that are part of a private physician's office practice
 1066 or when ultrasound is provided by two or more physicians
 1067 licensed under chapter 458 or chapter 459 who are members of the
 1068 same professional association and who practice in the same
 1069 medical specialties; and such other sophisticated radiological
 1070 services, excluding mammography, as adopted in rule by the
 1071 board.

1072 Section 42. Subsection (1) of section 400.0625, Florida
 1073 Statutes, is amended to read:

1074 400.0625 Minimum standards for clinical laboratory test
 1075 results and diagnostic X-ray results.-

1076 (1) Each nursing home, as a requirement for issuance or
 1077 renewal of its license, shall require that all clinical
 1078 laboratory tests performed for the nursing home be performed by
 1079 a ~~clinical~~ laboratory appropriately certified by the Centers for
 1080 Medicare and Medicaid Services under the federal Clinical
 1081 Laboratory Improvement Amendments and the federal rules adopted
 1082 thereunder ~~licensed under the provisions of chapter 483~~, except
 1083 for such self-testing procedures as are approved by the agency
 1084 by rule. ~~Results of clinical laboratory tests performed prior to~~
 1085 ~~admission which meet the minimum standards provided in s.~~
 1086 ~~483.181(3) shall be accepted in lieu of routine examinations~~

1087 ~~required upon admission and clinical laboratory tests which may~~
1088 ~~be ordered by a physician for residents of the nursing home.~~

1089 Section 43. Subsection (1) and paragraphs (b), (e), and
1090 (f) of subsection (4) of section 400.464, Florida Statutes, are
1091 amended, and subsection (6) is added to that section to read:

1092 400.464 Home health agencies to be licensed; expiration of
1093 license; exemptions; unlawful acts; penalties.—

1094 (1) The requirements of part II of chapter 408 apply to
1095 the provision of services that require licensure pursuant to
1096 this part and part II of chapter 408 and entities licensed or
1097 registered by or applying for such licensure or registration
1098 from the Agency for Health Care Administration pursuant to this
1099 part. A license issued by the agency is required in order to
1100 operate a home health agency in this state. A license issued on
1101 or after July 1, 2017, must specify the home health services the
1102 organization is authorized to perform and indicate whether such
1103 specified services are considered skilled care. The provision or
1104 advertising of services which require licensure pursuant to this
1105 part without such services being specified on the face of the
1106 license issued on or after July 1, 2017, constitutes unlicensed
1107 activity as prohibited under s. 408.812.

1108 (4)

1109 (b) The operation or maintenance of an unlicensed home
1110 health agency or the performance of any home health services in
1111 violation of this part is declared a nuisance, inimical to the

1112 public health, welfare, and safety. The agency or any state
1113 attorney may, in addition to other remedies provided in this
1114 part, bring an action for an injunction to restrain such
1115 violation, or to enjoin the future operation or maintenance of
1116 the home health agency or the provision of home health services
1117 in violation of this part or part II of chapter 408, until
1118 compliance with this part or the rules adopted under this part
1119 has been demonstrated to the satisfaction of the agency.

1120 (e) Any person who owns, operates, or maintains an
1121 unlicensed home health agency and who, ~~within 10 working days~~
1122 after receiving notification from the agency, fails to cease
1123 operation and apply for a license under this part commits a
1124 misdemeanor of the second degree, punishable as provided in s.
1125 775.082 or s. 775.083. Each day of continued operation is a
1126 separate offense.

1127 (f) Any home health agency that fails to cease operation
1128 after agency notification may be fined in accordance with s.
1129 408.812 ~~\$500 for each day of noncompliance.~~

1130 (6) Any person, entity, or organization providing home
1131 health services that is exempt from licensure under subsection
1132 (5), may voluntarily apply for a certificate of exemption from
1133 licensure under its exempt status with the agency on a form that
1134 sets forth its name or names and addresses, a statement of the
1135 reasons why it is exempt from licensure as a home health agency,
1136 and other information deemed necessary by the agency. A

1137 certificate of exemption is valid for a period of not more than
1138 2 years and is not transferable. The agency may charge an
1139 applicant for a certificate of exemption in an amount equal to
1140 \$100 or the actual cost of processing the certificate.

1141 Section 44. Subsections (7), (8), and (9) of section
1142 400.471, Florida Statutes, are renumbered as subsections (6),
1143 (7), and (8), respectively, and subsection (2), present
1144 subsection (6), and paragraph (g) of present subsection (10) are
1145 amended to read:

1146 400.471 Application for license; fee.—

1147 (2) In addition to the requirements of part II of chapter
1148 408, the initial applicant, the applicant for a change of
1149 ownership, and the applicant for the addition of skilled care
1150 services must file with the application satisfactory proof that
1151 the home health agency is in compliance with this part and
1152 applicable rules, including:

1153 (a) A listing of services to be provided, either directly
1154 by the applicant or through contractual arrangements with
1155 existing providers.

1156 (b) The number and discipline of professional staff to be
1157 employed.

1158 ~~(c) Completion of questions concerning volume data on the~~
1159 ~~renewal application as determined by rule.~~

1160 ~~(c)-(d)~~ A business plan, signed by the applicant, which
1161 details the home health agency's methods to obtain patients and
1162 its plan to recruit and maintain staff.

1163 ~~(d)-(e)~~ Evidence of contingency funding as required under
1164 s. 408.8065 ~~equal to 1 month's average operating expenses during~~
1165 ~~the first year of operation.~~

1166 ~~(e)-(f)~~ A balance sheet, income and expense statement, and
1167 statement of cash flows for the first 2 years of operation which
1168 provide evidence of having sufficient assets, credit, and
1169 projected revenues to cover liabilities and expenses. The
1170 applicant has demonstrated financial ability to operate if the
1171 applicant's assets, credit, and projected revenues meet or
1172 exceed projected liabilities and expenses. An applicant may not
1173 project an operating margin of 15 percent or greater for any
1174 month in the first year of operation. All documents required
1175 under this paragraph must be prepared in accordance with
1176 generally accepted accounting principles and compiled and signed
1177 by a certified public accountant.

1178 ~~(f)-(g)~~ All other ownership interests in health care
1179 entities for each controlling interest, as defined in part II of
1180 chapter 408.

1181 ~~(g)-(h)~~ In the case of an application for initial
1182 licensure, an application for a change of ownership, or an
1183 application for the addition of skilled care services,
1184 documentation of accreditation, or an application for

1185 accreditation, from an accrediting organization that is
1186 recognized by the agency as having standards comparable to those
1187 required by this part and part II of chapter 408. A home health
1188 agency that ~~is not Medicare or Medicaid certified and~~ does not
1189 provide skilled care is exempt from this paragraph.
1190 Notwithstanding s. 408.806, an initial applicant ~~that has~~
1191 ~~applied for accreditation~~ must provide proof of accreditation
1192 that is not conditional or provisional and a survey
1193 demonstrating compliance with the requirements of this part,
1194 part II of chapter 408, and applicable rules from an accrediting
1195 organization that is recognized by the agency as having
1196 standards comparable to those required by this part and part II
1197 of chapter 408 within 120 days after the date of the agency's
1198 receipt of the application for licensure ~~or the application~~
1199 ~~shall be withdrawn from further consideration.~~ Such
1200 accreditation must be continuously maintained by the home health
1201 agency to maintain licensure. The agency shall accept, in lieu
1202 of its own periodic licensure survey, the submission of the
1203 survey of an accrediting organization that is recognized by the
1204 agency if the accreditation of the licensed home health agency
1205 is not provisional and if the licensed home health agency
1206 authorizes releases of, and the agency receives the report of,
1207 the accrediting organization.

1208 ~~(6) The agency may not issue a license designated as~~
 1209 ~~certified to a home health agency that fails to satisfy the~~
 1210 ~~requirements of a Medicare certification survey from the agency.~~

1211 (9)~~(10)~~ The agency may not issue a renewal license for a
 1212 home health agency in any county having at least one licensed
 1213 home health agency and that has more than one home health agency
 1214 per 5,000 persons, as indicated by the most recent population
 1215 estimates published by the Legislature's Office of Economic and
 1216 Demographic Research, if the applicant or any controlling
 1217 interest has been administratively sanctioned by the agency
 1218 during the 2 years prior to the submission of the licensure
 1219 renewal application for one or more of the following acts:

1220 (g) Demonstrating a pattern of failing to provide a
 1221 service specified in the home health agency's written agreement
 1222 with a patient or the patient's legal representative, or the
 1223 plan of care for that patient, except ~~unless a reduction in~~
 1224 ~~service is mandated by Medicare, Medicaid, or a state program or~~
 1225 ~~as provided in s. 400.492(3). A pattern may be demonstrated by a~~
 1226 ~~showing of at least three incidents, regardless of the patient~~
 1227 ~~or service, in which the home health agency did not provide a~~
 1228 ~~service specified in a written agreement or plan of care during~~
 1229 ~~a 3-month period;~~

1230 Section 45. Subsection (5) of section 400.474, Florida
 1231 Statutes, is amended to read:

1232 400.474 Administrative penalties.—

1233 (5) The agency shall impose a fine of \$5,000 against a
1234 home health agency that demonstrates a pattern of failing to
1235 provide a service specified in the home health agency's written
1236 agreement with a patient or the patient's legal representative,
1237 or the plan of care for that patient, except ~~unless a reduction~~
1238 ~~in service is mandated by Medicare, Medicaid, or a state program~~
1239 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
1240 by a showing of at least three incidences, regardless of the
1241 patient or service, where the home health agency did not provide
1242 a service specified in a written agreement or plan of care
1243 during a 3-month period. The agency shall impose the fine for
1244 each occurrence. The agency may also impose additional
1245 administrative fines under s. 400.484 for the direct or indirect
1246 harm to a patient, or deny, revoke, or suspend the license of
1247 the home health agency for a pattern of failing to provide a
1248 service specified in the home health agency's written agreement
1249 with a patient or the plan of care for that patient.

1250 Section 46. Paragraph (c) of subsection (2) of section
1251 400.476, Florida Statutes, is amended to read:

1252 400.476 Staffing requirements; notifications; limitations
1253 on staffing services.—

1254 (2) DIRECTOR OF NURSING.—

1255 (c) A home health agency that provides skilled nursing
1256 care must ~~is not Medicare or Medicaid certified and does not~~
1257 ~~provide skilled care or provides only physical, occupational, or~~

1258 ~~speech therapy is not required to have a director of nursing and~~
1259 ~~is exempt from paragraph (b).~~

1260 Section 47. Subsection (2) of section 400.484, Florida
1261 Statutes, is amended to read:

1262 400.484 Right of inspection; violations ~~deficiencies~~;
1263 fines.—

1264 (2) The agency shall impose fines for various classes of
1265 violations ~~deficiencies~~ in accordance with the following
1266 schedule:

1267 (a) Class I violations are defined in s. 408.813 ~~A class I~~
1268 ~~deficiency is any act, omission, or practice that results in a~~
1269 ~~patient's death, disablement, or permanent injury, or places a~~
1270 ~~patient at imminent risk of death, disablement, or permanent~~
1271 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
1272 shall impose an administrative fine in the amount of \$15,000 for
1273 each occurrence and each day that the violation ~~deficiency~~
1274 exists.

1275 (b) Class II violations are defined in s. 408.813 ~~A class~~
1276 ~~II deficiency is any act, omission, or practice that has a~~
1277 ~~direct adverse effect on the health, safety, or security of a~~
1278 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1279 agency shall impose an administrative fine in the amount of
1280 \$5,000 for each occurrence and each day that the violation
1281 ~~deficiency~~ exists.

1282 (c) Class III violations are defined in s. 408.813 ~~A class~~
 1283 ~~III deficiency is any act, omission, or practice that has an~~
 1284 ~~indirect, adverse effect on the health, safety, or security of a~~
 1285 ~~patient.~~ Upon finding an uncorrected or repeated class III
 1286 violation deficiency, the agency shall impose an administrative
 1287 fine not to exceed \$1,000 for each occurrence and each day that
 1288 the uncorrected or repeated violation deficiency exists.

1289 (d) Class IV violations are defined in s. 408.813 ~~A class~~
 1290 ~~IV deficiency is any act, omission, or practice related to~~
 1291 ~~required reports, forms, or documents which does not have the~~
 1292 ~~potential of negatively affecting patients.~~ These violations are
 1293 of a type that the agency determines do not threaten the health,
 1294 safety, or security of patients. Upon finding an uncorrected or
 1295 repeated class IV violation deficiency, the agency shall impose
 1296 an administrative fine not to exceed \$500 for each occurrence
 1297 and each day that the uncorrected or repeated violation
 1298 deficiency exists.

1299 Section 48. Subsection (4) of section 400.497, Florida
 1300 Statutes, is amended to read:

1301 400.497 Rules establishing minimum standards.—The agency
 1302 shall adopt, publish, and enforce rules to implement part II of
 1303 chapter 408 and this part, including, as applicable, ss. 400.506
 1304 and 400.509, which must provide reasonable and fair minimum
 1305 standards relating to:

1306 (4) Licensure application and certificate of exemption,
 1307 and renewal.

1308 Section 49. Subsection (5) and paragraph (a) of subsection
 1309 (15) of section 400.506, Florida Statutes, are amended to read:

1310 400.506 Licensure of nurse registries; requirements;
 1311 penalties.—

1312 (5) (a) In addition to the requirements of s. 408.812, any
 1313 person who owns, operates, or maintains an unlicensed nurse
 1314 registry and who, ~~within 10 working days~~ after receiving
 1315 notification from the agency, fails to cease operation and apply
 1316 for a license under this part commits a misdemeanor of the
 1317 second degree, punishable as provided in s. 775.082 or s.
 1318 775.083. Each day of continued operation is a separate offense.

1319 (b) If a nurse registry fails to cease operation after
 1320 agency notification, the agency may impose a fine in accordance
 1321 with s. 408.812 ~~of \$500 for each day of noncompliance.~~

1322 (15) (a) The agency may deny, suspend, or revoke the
 1323 license of a nurse registry and shall impose a fine of \$5,000
 1324 against a nurse registry that:

1325 1. Provides services to residents in an assisted living
 1326 facility for which the nurse registry does not receive fair
 1327 market value remuneration.

1328 2. Provides staffing to an assisted living facility for
 1329 which the nurse registry does not receive fair market value
 1330 remuneration.

1331 3. Fails to provide the agency, upon request, with copies
1332 of all contracts with assisted living facilities which were
1333 executed within the last 5 years.

1334 ~~4. Gives remuneration to a case manager, discharge
1335 planner, facility based staff member, or third party vendor who
1336 is involved in the discharge planning process of a facility
1337 licensed under chapter 395 or this chapter and from whom the
1338 nurse registry receives referrals. A nurse registry is exempt
1339 from this subparagraph if it does not bill the Florida Medicaid
1340 program or the Medicare program or share a controlling interest
1341 with any entity licensed, registered, or certified under part II
1342 of chapter 408 that bills the Florida Medicaid program or the
1343 Medicare program.~~

1344 ~~5. Gives remuneration to a physician, a member of the
1345 physician's office staff, or an immediate family member of the
1346 physician, and the nurse registry received a patient referral in
1347 the last 12 months from that physician or the physician's office
1348 staff. A nurse registry is exempt from this subparagraph if it
1349 does not bill the Florida Medicaid program or the Medicare
1350 program or share a controlling interest with any entity
1351 licensed, registered, or certified under part II of chapter 408
1352 that bills the Florida Medicaid program or the Medicare program.~~

1353 Section 50. Subsection (1) of section 400.606, Florida
1354 Statutes, is amended to read:

1355 400.606 License; application; renewal; conditional license
 1356 or permit; certificate of need.—

1357 (1) In addition to the requirements of part II of chapter
 1358 408, the initial application and change of ownership application
 1359 must be accompanied by a plan for the delivery of home,
 1360 residential, and homelike inpatient hospice services to
 1361 terminally ill persons and their families. Such plan must
 1362 contain, but need not be limited to:

1363 (a) The estimated average number of terminally ill persons
 1364 to be served monthly.

1365 (b) The geographic area in which hospice services will be
 1366 available.

1367 (c) A listing of services which are or will be provided,
 1368 either directly by the applicant or through contractual
 1369 arrangements with existing providers.

1370 (d) Provisions for the implementation of hospice home care
 1371 within 3 months after licensure.

1372 (e) Provisions for the implementation of hospice homelike
 1373 inpatient care within 12 months after licensure.

1374 (f) The number and disciplines of professional staff to be
 1375 employed.

1376 (g) The name and qualifications of any existing or
 1377 potential contractee.

1378 (h) A plan for attracting and training volunteers.
 1379

1380 ~~If the applicant is an existing licensed health care provider,~~
 1381 ~~the application must be accompanied by a copy of the most recent~~
 1382 ~~profit-loss statement and, if applicable, the most recent~~
 1383 ~~licensure inspection report.~~

1384 Section 51. Subsection (6) of section 400.925, Florida
 1385 Statutes, is amended to read:

1386 400.925 Definitions.—As used in this part, the term:

1387 (6) "Home medical equipment" includes any product as
 1388 defined by the Federal Drug Administration's Drugs, Devices and
 1389 Cosmetics Act, any products reimbursed under the Medicare Part B
 1390 Durable Medical Equipment benefits, or any products reimbursed
 1391 under the Florida Medicaid durable medical equipment program.

1392 Home medical equipment includes:

1393 (a) Oxygen and related respiratory equipment; ~~manual,~~
 1394 ~~motorized, or customized wheelchairs and related seating and~~
 1395 ~~positioning, but does not include prosthetics or orthotics or~~
 1396 ~~any splints, braces, or aids custom fabricated by a licensed~~
 1397 ~~health care practitioner;~~

1398 (b) Motorized scooters;

1399 (c) Personal transfer systems; ~~and~~

1400 (d) Specialty beds, for use by a person with a medical
 1401 need; and

1402 (e) Manual, motorized, or customized wheelchairs and
 1403 related seating and positioning, but does not include

1404 prosthetics or orthotics or any splints, braces, or aids custom
 1405 fabricated by a licensed health care practitioner.

1406 Section 52. Subsection (4) of section 400.931, Florida
 1407 Statutes, is amended to read:

1408 400.931 Application for license; fee.—

1409 (4) When a change of the general manager of a home medical
 1410 equipment provider occurs, the licensee must notify the agency
 1411 of the change within the timeframes established in part II of
 1412 chapter 408 and applicable rules ~~45 days~~.

1413 Section 53. Subsection (2) of section 400.933, Florida
 1414 Statutes, is amended to read:

1415 400.933 Licensure inspections and investigations.—

1416 (2) The agency shall accept, in lieu of its own periodic
 1417 inspections for licensure, submission of the following:

1418 (a) The survey or inspection of an accrediting
 1419 organization, provided the accreditation of the licensed home
 1420 medical equipment provider is not provisional and provided the
 1421 licensed home medical equipment provider authorizes release of,
 1422 and the agency receives the report of, the accrediting
 1423 organization; or

1424 (b) A copy of a valid medical oxygen retail establishment
 1425 permit issued by the Department of Business and Professional
 1426 Regulation Health, pursuant to chapter 499.

1427 Section 54. Subsection (2) of section 400.980, Florida
 1428 Statutes, is amended to read:

1429 400.980 Health care services pools.—

1430 (2) The requirements of part II of chapter 408 apply to
1431 the provision of services that require licensure or registration
1432 pursuant to this part and part II of chapter 408 and to entities
1433 registered by or applying for such registration from the agency
1434 pursuant to this part. Registration or a license issued by the
1435 agency is required for the operation of a health care services
1436 pool in this state. In accordance with s. 408.805, an applicant
1437 or licensee shall pay a fee for each license application
1438 submitted using this part, part II of chapter 408, and
1439 applicable rules. The agency shall adopt rules and provide forms
1440 required for such registration and shall impose a registration
1441 fee in an amount sufficient to cover the cost of administering
1442 this part and part II of chapter 408. In addition to the
1443 requirements in part II of chapter 408, the registrant must
1444 provide the agency with any change of information contained on
1445 the original registration application within the timeframes
1446 established in this part, part II of chapter 408, and applicable
1447 rules ~~14 days prior to the change.~~

1448 Section 55. Paragraphs (a) through (d) of subsection (4)
1449 of section 400.9905, Florida Statutes, are amended to read:

1450 400.9905 Definitions.—

1451 (4) "Clinic" means an entity where health care services
1452 are provided to individuals and which tenders charges for
1453 reimbursement for such services, including a mobile clinic and a

1454 | portable equipment provider. As used in this part, the term does
1455 | not include and the licensure requirements of this part do not
1456 | apply to:

1457 | (a) Entities licensed or registered by the state under
1458 | chapter 395; entities licensed or registered by the state and
1459 | providing only health care services within the scope of services
1460 | authorized under their respective licenses under ss. 383.30-
1461 | 383.332 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397,
1462 | this chapter except part X, chapter 429, chapter 463, chapter
1463 | 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter
1464 | 484, or chapter 651; end-stage renal disease providers
1465 | authorized under 42 C.F.R. part 405, subpart U; providers
1466 | certified under 42 C.F.R. part 485, subpart B or subpart H; or
1467 | any entity that provides neonatal or pediatric hospital-based
1468 | health care services or other health care services by licensed
1469 | practitioners solely within a hospital licensed under chapter
1470 | 395.

1471 | (b) Entities that own, directly or indirectly, entities
1472 | licensed or registered by the state pursuant to chapter 395;
1473 | entities that own, directly or indirectly, entities licensed or
1474 | registered by the state and providing only health care services
1475 | within the scope of services authorized pursuant to their
1476 | respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
1477 | chapter 390, chapter 394, chapter 397, this chapter except part
1478 | X, chapter 429, chapter 463, chapter 465, chapter 466, chapter

1479 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1480 stage renal disease providers authorized under 42 C.F.R. part
1481 405, subpart U; providers certified under 42 C.F.R. part 485,
1482 subpart B or subpart H; or any entity that provides neonatal or
1483 pediatric hospital-based health care services by licensed
1484 practitioners solely within a hospital licensed under chapter
1485 395.

1486 (c) Entities that are owned, directly or indirectly, by an
1487 entity licensed or registered by the state pursuant to chapter
1488 395; entities that are owned, directly or indirectly, by an
1489 entity licensed or registered by the state and providing only
1490 health care services within the scope of services authorized
1491 pursuant to their respective licenses under ss. 383.30-383.332
1492 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397, this
1493 chapter except part X, chapter 429, chapter 463, chapter 465,
1494 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1495 chapter 651; end-stage renal disease providers authorized under
1496 42 C.F.R. part 405, subpart U; providers certified under 42
1497 C.F.R. part 485, subpart B or subpart H; or any entity that
1498 provides neonatal or pediatric hospital-based health care
1499 services by licensed practitioners solely within a hospital
1500 under chapter 395.

1501 (d) Entities that are under common ownership, directly or
1502 indirectly, with an entity licensed or registered by the state
1503 pursuant to chapter 395; entities that are under common

1504 ownership, directly or indirectly, with an entity licensed or
 1505 registered by the state and providing only health care services
 1506 within the scope of services authorized pursuant to their
 1507 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
 1508 chapter 390, chapter 394, chapter 397, this chapter except part
 1509 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
 1510 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
 1511 stage renal disease providers authorized under 42 C.F.R. part
 1512 405, subpart U; providers certified under 42 C.F.R. part 485,
 1513 subpart B or subpart H; or any entity that provides neonatal or
 1514 pediatric hospital-based health care services by licensed
 1515 practitioners solely within a hospital licensed under chapter
 1516 395.

1517
 1518 Notwithstanding this subsection, an entity shall be deemed a
 1519 clinic and must be licensed under this part in order to receive
 1520 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
 1521 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1522 Section 56. Subsection (6) of section 400.9935, Florida
 1523 Statutes, is amended to read:

1524 400.9935 Clinic responsibilities.—

1525 (6) Any person or entity providing health care services
 1526 which is not a clinic, as defined under s. 400.9905, may
 1527 voluntarily apply for a certificate of exemption from licensure
 1528 under its exempt status with the agency on a form that sets

1529 | forth its name or names and addresses, a statement of the
1530 | reasons why it cannot be defined as a clinic, and other
1531 | information deemed necessary by the agency. An exemption is
1532 | valid for a period of not more than 2 years and is not
1533 | transferable. The agency may charge an applicant for a
1534 | certificate of exemption in an amount equal to \$100 or the
1535 | actual cost of processing the certificate, whichever is less. An
1536 | entity seeking a certificate of exemption must publish and
1537 | maintain a schedule of charges for the medical services offered
1538 | to patients. The schedule must include the prices charged to an
1539 | uninsured person paying for such services by cash, check, credit
1540 | card, or debit card. The schedule must be posted in a
1541 | conspicuous place in the reception area of the entity and must
1542 | include, but is not limited to, the 50 services most frequently
1543 | provided by the entity. The schedule may group services by three
1544 | price levels, listing services in each price level. The posting
1545 | must be at least 15 square feet in size. As a condition
1546 | precedent to receiving a certificate of exemption, an applicant
1547 | must provide to the agency documentation of compliance with
1548 | these requirements.

1549 | Section 57. Paragraph (a) of subsection (2) of section
1550 | 408.033, Florida Statutes, is amended to read:

1551 | 408.033 Local and state health planning.—

1552 | (2) FUNDING.—

1553 (a) The Legislature intends that the cost of local health
 1554 councils be borne by assessments on selected health care
 1555 facilities subject to facility licensure by the Agency for
 1556 Health Care Administration, including abortion clinics, assisted
 1557 living facilities, ambulatory surgical centers, birthing
 1558 centers, ~~clinical laboratories except community nonprofit blood~~
 1559 ~~banks and clinical laboratories operated by practitioners for~~
 1560 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
 1561 hospices, hospitals, intermediate care facilities for the
 1562 developmentally disabled, nursing homes, health care clinics,
 1563 and multiphasic testing centers and by assessments on
 1564 organizations subject to certification by the agency pursuant to
 1565 chapter 641, part III, including health maintenance
 1566 organizations and prepaid health clinics. Fees assessed may be
 1567 collected prospectively at the time of licensure renewal and
 1568 prorated for the licensure period.

1569 Section 58. Paragraph (e) of subsection (3) of section
 1570 408.036, Florida Statutes, is amended to read:

1571 408.036 Projects subject to review; exemptions.—

1572 (3) EXEMPTIONS.—Upon request, the following projects are
 1573 subject to exemption from the provisions of subsection (1):

1574 ~~(c) For mobile surgical facilities and related health care~~
 1575 ~~services provided under contract with the Department of~~
 1576 ~~Corrections or a private correctional facility operating~~
 1577 ~~pursuant to chapter 957.~~

1578 Section 59. Subsection (4) of section 408.061, Florida
 1579 Statutes, is amended to read:

1580 408.061 Data collection; uniform systems of financial
 1581 reporting; information relating to physician charges;
 1582 confidential information; immunity.—

1583 (4) Within 120 days after the end of its fiscal year, each
 1584 health care facility, excluding continuing care facilities,
 1585 hospitals operated by state agencies, and nursing homes as
 1586 defined in s. 408.07(13) and (36) ~~408.07(14) and (37)~~, shall
 1587 file with the agency, on forms adopted by the agency and based
 1588 on the uniform system of financial reporting, its actual
 1589 financial experience for that fiscal year, including
 1590 expenditures, revenues, and statistical measures. Such data may
 1591 be based on internal financial reports which are certified to be
 1592 complete and accurate by the provider. However, hospitals'
 1593 actual financial experience shall be their audited actual
 1594 experience. Every nursing home shall submit to the agency, in a
 1595 format designated by the agency, a statistical profile of the
 1596 nursing home residents. The agency, in conjunction with the
 1597 Department of Elderly Affairs and the Department of Health,
 1598 shall review these statistical profiles and develop
 1599 recommendations for the types of residents who might more
 1600 appropriately be placed in their homes or other noninstitutional
 1601 settings.

1602 Section 60. Subsection (11) of section 408.07, Florida
 1603 Statutes, is amended to read:

1604 408.07 Definitions.—As used in this chapter, with the
 1605 exception of ss. 408.031-408.045, the term:

1606 ~~(11) "Clinical laboratory" means a facility licensed under~~
 1607 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
 1608 ~~483.041(6); any clinical laboratory operated by the state or a~~
 1609 ~~political subdivision of the state; any blood or tissue bank~~
 1610 ~~where the majority of revenues are received from the sale of~~
 1611 ~~blood or tissue and where blood, plasma, or tissue is procured~~
 1612 ~~from volunteer donors and donated, processed, stored, or~~
 1613 ~~distributed on a nonprofit basis; and any clinical laboratory~~
 1614 ~~which is wholly owned and operated by physicians who are~~
 1615 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
 1616 ~~in the same group practice, and at which no clinical laboratory~~
 1617 ~~work is performed for patients referred by any health care~~
 1618 ~~provider who is not a member of that same group practice.~~

1619 Section 61. Subsection (4) of section 408.20, Florida
 1620 Statutes, is amended to read:

1621 408.20 Assessments; Health Care Trust Fund.—

1622 (4) Hospitals operated by a state agency ~~the Department of~~
 1623 ~~Children and Families, the Department of Health, or the~~
 1624 ~~Department of Corrections~~ are exempt from the assessments
 1625 required under this section.

1626 Section 62. Section 408.7056, Florida Statutes, is
 1627 repealed.

1628 Section 63. Subsections (10), (11), and (27) of section
 1629 408.802, Florida Statutes, are amended to read:

1630 408.802 Applicability.—The provisions of this part apply
 1631 to the provision of services that require licensure as defined
 1632 in this part and to the following entities licensed, registered,
 1633 or certified by the agency, as described in chapters 112, 383,
 1634 390, 394, 395, 400, 429, 440, 483, and 765:

1635 ~~(10) Mobile surgical facilities, as provided under part I~~
 1636 ~~of chapter 395.~~

1637 ~~(11) Health care risk managers, as provided under part I~~
 1638 ~~of chapter 395.~~

1639 ~~(27) Clinical laboratories, as provided under part I of~~
 1640 ~~chapter 483.~~

1641 Section 64. Subsections (12) and (13) of section 408.803,
 1642 Florida Statutes, are renumbered as subsections (13) and (14),
 1643 respectively, and a new subsection (12) is added to that section
 1644 to read:

1645 408.803 Definitions.—As used in this part, the term:

1646 (12) "Relative" means an individual who is the father,
 1647 mother, stepfather, stepmother, son, daughter, brother, sister,
 1648 grandmother, grandfather, great-grandmother, great-grandfather,
 1649 grandson, granddaughter, uncle, aunt, first cousin, nephew,
 1650 niece, husband, wife, father-in-law, mother-in-law, son-in-law,

1651 daughter-in-law, brother-in-law, sister-in-law, stepson,
 1652 stepdaughter, stepbrother, stepsister, half-brother, or half-
 1653 sister of a patient or client.

1654 Section 65. Paragraph (c) of subsection (7) of section
 1655 408.806, Florida Statutes, is amended, and subsection (9) is
 1656 added to that section to read:

1657 408.806 License application process.—

1658 (7)

1659 (c) If an inspection is required by the authorizing
 1660 statute for a license application other than an initial
 1661 application, the inspection must be unannounced. This paragraph
 1662 does not apply to inspections required pursuant to ss. 383.324,
 1663 395.0161(4) and, 429.67(6), ~~and 483.061(2)~~.

1664 (9) A licensee that holds a license for multiple providers
 1665 licensed by the agency may request that all related license
 1666 expiration dates be aligned. The agency may issue a license for
 1667 an abbreviated licensure period with a prorated licensure fee.

1668 Section 66. Paragraphs (d) and (e) of subsection (1) of
 1669 section 408.809, Florida Statutes, are amended to read:

1670 408.809 Background screening; prohibited offenses.—

1671 (1) Level 2 background screening pursuant to chapter 435
 1672 must be conducted through the agency on each of the following
 1673 persons, who are considered employees for the purposes of
 1674 conducting screening under chapter 435:

1675 (d) Any person who is a controlling interest ~~if the agency~~
1676 ~~has reason to believe that such person has been convicted of any~~
1677 ~~offense prohibited by s. 435.04. For each controlling interest~~
1678 ~~who has been convicted of any such offense, the licensee shall~~
1679 ~~submit to the agency a description and explanation of the~~
1680 ~~conviction at the time of license application.~~

1681 (e) Any person, as required by authorizing statutes,
1682 seeking employment with a licensee or provider who is expected
1683 to, or whose responsibilities may require him or her to, provide
1684 personal care or services directly to clients or have access to
1685 client funds, personal property, or living areas; ~~and~~ any
1686 person, as required by authorizing statutes, contracting with a
1687 licensee or provider whose responsibilities require him or her
1688 to provide personal care or personal services directly to
1689 clients; and any person, as required by authorizing statutes,
1690 contracting with a licensee or provider to work 20 hours a week
1691 or more and who has access to client funds, personal property,
1692 or living areas. Evidence of contractor screening may be
1693 retained by the contractor's employer or the licensee.

1694 Section 67. Subsection (8) of section 408.810, Florida
1695 Statutes, is amended, and subsections (11), (12), and (13) are
1696 added to that section to read:

1697 408.810 Minimum licensure requirements.—In addition to the
1698 licensure requirements specified in this part, authorizing
1699 statutes, and applicable rules, each applicant and licensee must

1700 comply with the requirements of this section in order to obtain
1701 and maintain a license.

1702 (8) Upon application for initial licensure or change of
1703 ownership licensure, the applicant shall furnish satisfactory
1704 proof of the applicant's financial ability to operate in
1705 accordance with the requirements of this part, authorizing
1706 statutes, and applicable rules. The agency shall establish
1707 standards for this purpose, including information concerning the
1708 applicant's controlling interests. The agency shall also
1709 establish documentation requirements, to be completed by each
1710 applicant, that show anticipated provider revenues and
1711 expenditures, the basis for financing the anticipated cash-flow
1712 requirements of the provider, and an applicant's access to
1713 contingency financing. A current certificate of authority,
1714 pursuant to chapter 651, may be provided as proof of financial
1715 ability to operate. The agency may require a licensee to provide
1716 proof of financial ability to operate at any time if there is
1717 evidence of financial instability, including, but not limited
1718 to, unpaid expenses necessary for the basic operations of the
1719 provider. An applicant applying for change of ownership
1720 licensure is exempt from furnishing proof of the applicant's
1721 financial ability to operate if the provider has been licensed
1722 for at least 5 years, and:

1723 (a) The licensee change is a result of a corporate
1724 reorganization under which the controlling interest is unchanged

1725 and the applicant submits organization charts that represent the
1726 current and proposed structure of the reorganized corporation;
1727 or

1728 (b) The licensee change is due solely to the death of a
1729 controlling interest, and the surviving controlling interests
1730 continue to hold at least 51 percent of ownership after the
1731 change of ownership.

1732 (11) The agency may adopt rules that govern the
1733 circumstances under which a controlling interest, an
1734 administrator, an employee, a contractor, or a representative
1735 thereof who is not a relative of the client may act as an agent
1736 of a client in authorizing consent for medical treatment,
1737 assignment of benefits, and release of information. Such rules
1738 may include requirements related to disclosure, bonding,
1739 restrictions, and client protections.

1740 (12) The licensee shall ensure that a person may not hold
1741 any ownership interest, either directly or indirectly,
1742 regardless of ownership structure, if such person:

1743 (a) Has a disqualifying offense pursuant to s. 408.809; or

1744 (b) Holds or has held any ownership interest, either
1745 directly or indirectly, regardless of ownership structure, in a
1746 provider that had a license revoked or an application denied
1747 pursuant to s. 408.815.

1748 (13) If the licensee is a publicly traded corporation or
1749 is wholly owned, directly or indirectly, by a publicly traded

1750 corporation, subsection (12) does not apply to those persons
1751 whose sole relationship with the corporation is as a shareholder
1752 of publicly traded shares. As used in this subsection, the term
1753 "publicly traded corporation" means a corporation that issues
1754 securities traded on an exchange registered with the United
1755 States Securities and Exchange Commission as a national
1756 securities exchange.

1757 Section 68. Section 408.812, Florida Statutes, is amended
1758 to read:

1759 408.812 Unlicensed activity.—

1760 (1) A person or entity may not offer or advertise services
1761 that require licensure as defined by this part, authorizing
1762 statutes, or applicable rules to the public without obtaining a
1763 valid license from the agency. A licenseholder may not advertise
1764 or hold out to the public that he or she holds a license for
1765 other than that for which he or she actually holds the license.

1766 (2) The operation or maintenance of an unlicensed provider
1767 or the performance of any services that require licensure
1768 without proper licensure is a violation of this part and
1769 authorizing statutes. Unlicensed activity constitutes harm that
1770 materially affects the health, safety, and welfare of clients
1771 and constitutes abuse and neglect, as defined in s. 415.102. The
1772 agency or any state attorney may, in addition to other remedies
1773 provided in this part, bring an action for an injunction to
1774 restrain such violation, or to enjoin the future operation or

1775 maintenance of the unlicensed provider or the performance of any
1776 services in violation of this part and authorizing statutes,
1777 until compliance with this part, authorizing statutes, and
1778 agency rules has been demonstrated to the satisfaction of the
1779 agency.

1780 (3) It is unlawful for any person or entity to own,
1781 operate, or maintain an unlicensed provider. If after receiving
1782 notification from the agency, such person or entity fails to
1783 cease operation ~~and apply for a license under this part and~~
1784 ~~authorizing statutes~~, the person or entity shall be subject to
1785 penalties as prescribed by authorizing statutes and applicable
1786 rules. Each day of ~~continued~~ operation is a separate offense.

1787 (4) Any person or entity that fails to cease operation
1788 after agency notification may be fined \$1,000 for each day of
1789 noncompliance.

1790 (5) When a controlling interest or licensee has an
1791 interest in more than one provider and fails to license a
1792 provider rendering services that require licensure, the agency
1793 may revoke all licenses and impose actions under s. 408.814 and,
1794 regardless of correction, impose a fine of \$1,000 per day,
1795 unless otherwise specified by authorizing statutes, against each
1796 licensee until such time as the appropriate license is obtained
1797 or the unlicensed activity ceases ~~for the unlicensed operation~~.

1798 (6) In addition to granting injunctive relief pursuant to
1799 subsection (2), if the agency determines that a person or entity

1800 is operating or maintaining a provider without obtaining a
 1801 license and determines that a condition exists that poses a
 1802 threat to the health, safety, or welfare of a client of the
 1803 provider, the person or entity is subject to the same actions
 1804 and fines imposed against a licensee as specified in this part,
 1805 authorizing statutes, and agency rules.

1806 (7) Any person aware of the operation of an unlicensed
 1807 provider must report that provider to the agency.

1808 Section 69. Subsections (10), (11), and (26) of section
 1809 408.820, Florida Statutes, are amended to read:

1810 ~~(10) Mobile surgical facilities, as provided under part I~~
 1811 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

1812 ~~(11) Health care risk managers, as provided under part I~~
 1813 ~~of chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~
 1814 ~~and 408.811.~~

1815 ~~(26) Clinical laboratories, as provided under part I of~~
 1816 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

1817 Section 70. Subsection (7) of section 409.905, Florida
 1818 Statutes, is amended to read:

1819 409.905 Mandatory Medicaid services.—The agency may make
 1820 payments for the following services, which are required of the
 1821 state by Title XIX of the Social Security Act, furnished by
 1822 Medicaid providers to recipients who are determined to be
 1823 eligible on the dates on which the services were provided. Any
 1824 service under this section shall be provided only when medically

1825 necessary and in accordance with state and federal law.
 1826 Mandatory services rendered by providers in mobile units to
 1827 Medicaid recipients may be restricted by the agency. Nothing in
 1828 this section shall be construed to prevent or limit the agency
 1829 from adjusting fees, reimbursement rates, lengths of stay,
 1830 number of visits, number of services, or any other adjustments
 1831 necessary to comply with the availability of moneys and any
 1832 limitations or directions provided for in the General
 1833 Appropriations Act or chapter 216.

1834 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
 1835 for medically necessary diagnostic laboratory procedures ordered
 1836 by a licensed physician or other licensed practitioner of the
 1837 healing arts which are provided for a recipient in a laboratory
 1838 that meets the requirements for Medicare participation and is
 1839 appropriately certified by the Centers for Medicare and Medicaid
 1840 Services under the federal Clinical Laboratory Improvement
 1841 Amendments and the federal rules adopted thereunder ~~licensed~~
 1842 ~~under chapter 483, if required.~~

1843 Section 71. Paragraphs (c) through (i) of subsection (10)
 1844 of section 409.907, Florida Statutes, are amended to read:

1845 409.907 Medicaid provider agreements.—The agency may make
 1846 payments for medical assistance and related services rendered to
 1847 Medicaid recipients only to an individual or entity who has a
 1848 provider agreement in effect with the agency, who is performing
 1849 services or supplying goods in accordance with federal, state,

1850 and local law, and who agrees that no person shall, on the
 1851 grounds of handicap, race, color, or national origin, or for any
 1852 other reason, be subjected to discrimination under any program
 1853 or activity for which the provider receives payment from the
 1854 agency.

1855 (10) The agency may consider whether the provider, or any
 1856 officer, director, agent, managing employee, or affiliated
 1857 person, or any partner or shareholder having an ownership
 1858 interest equal to 5 percent or greater in the provider if the
 1859 provider is a corporation, partnership, or other business
 1860 entity, has:

1861 ~~(c) Been convicted of a criminal offense relating to the~~
 1862 ~~delivery of any goods or services under Medicaid or Medicare or~~
 1863 ~~any other public or private health care or health insurance~~
 1864 ~~program including the performance of management or~~
 1865 ~~administrative services relating to the delivery of goods or~~
 1866 ~~services under any such program;~~

1867 ~~(d) Been convicted under federal or state law of a~~
 1868 ~~criminal offense related to the neglect or abuse of a patient in~~
 1869 ~~connection with the delivery of any health care goods or~~
 1870 ~~services;~~

1871 ~~(e) Been convicted under federal or state law of a~~
 1872 ~~criminal offense relating to the unlawful manufacture,~~
 1873 ~~distribution, prescription, or dispensing of a controlled~~
 1874 ~~substance;~~

1875 ~~(f) Been convicted of any criminal offense relating to~~
 1876 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~
 1877 ~~or other financial misconduct;~~

1878 ~~(g) Been convicted under federal or state law of a crime~~
 1879 ~~punishable by imprisonment of a year or more which involves~~
 1880 ~~moral turpitude;~~

1881 ~~(h) Been convicted in connection with the interference or~~
 1882 ~~obstruction of any investigation into any criminal offense~~
 1883 ~~listed in this subsection;~~

1884 ~~(i) Been found to have violated federal or state laws,~~
 1885 ~~rules, or regulations governing Florida's Medicaid program or~~
 1886 ~~any other state's Medicaid program, the Medicare program, or any~~
 1887 ~~other publicly funded federal or state health care or health~~
 1888 ~~insurance program, and been sanctioned accordingly;~~

1889 Section 72. Subsection (6) of section 409.9116, Florida
 1890 Statutes, is amended to read:

1891 409.9116 Disproportionate share/financial assistance
 1892 program for rural hospitals.—In addition to the payments made
 1893 under s. 409.911, the Agency for Health Care Administration
 1894 shall administer a federally matched disproportionate share
 1895 program and a state-funded financial assistance program for
 1896 statutory rural hospitals. The agency shall make
 1897 disproportionate share payments to statutory rural hospitals
 1898 that qualify for such payments and financial assistance payments
 1899 to statutory rural hospitals that do not qualify for

1900 disproportionate share payments. The disproportionate share
 1901 program payments shall be limited by and conform with federal
 1902 requirements. Funds shall be distributed quarterly in each
 1903 fiscal year for which an appropriation is made. Notwithstanding
 1904 the provisions of s. 409.915, counties are exempt from
 1905 contributing toward the cost of this special reimbursement for
 1906 hospitals serving a disproportionate share of low-income
 1907 patients.

1908 (6) This section applies only to hospitals that were
 1909 defined as statutory rural hospitals, or their successor-in-
 1910 interest hospital, prior to January 1, 2001. Any additional
 1911 hospital that is defined as a statutory rural hospital, or its
 1912 successor-in-interest hospital, on or after January 1, 2001, is
 1913 not eligible for programs under this section unless additional
 1914 funds are appropriated each fiscal year specifically to the
 1915 rural hospital disproportionate share and financial assistance
 1916 programs in an amount necessary to prevent any hospital, or its
 1917 successor-in-interest hospital, eligible for the programs prior
 1918 to January 1, 2001, from incurring a reduction in payments
 1919 because of the eligibility of an additional hospital to
 1920 participate in the programs. A hospital, or its successor-in-
 1921 interest hospital, which received funds pursuant to this section
 1922 before January 1, 2001, and which qualifies under s.
 1923 395.602(2)(b) ~~395.602(2)(e)~~, shall be included in the programs

1924 under this section and is not required to seek additional
 1925 appropriations under this subsection.

1926 Section 73. Paragraphs (a) and (b) of subsection (1) of
 1927 section 409.975, Florida Statutes, are amended to read:

1928 409.975 Managed care plan accountability.—In addition to
 1929 the requirements of s. 409.967, plans and providers
 1930 participating in the managed medical assistance program shall
 1931 comply with the requirements of this section.

1932 (1) PROVIDER NETWORKS.—Managed care plans must develop and
 1933 maintain provider networks that meet the medical needs of their
 1934 enrollees in accordance with standards established pursuant to
 1935 s. 409.967(2)(c). Except as provided in this section, managed
 1936 care plans may limit the providers in their networks based on
 1937 credentials, quality indicators, and price.

1938 (a) Plans must include all providers in the region that
 1939 are classified by the agency as essential Medicaid providers,
 1940 unless the agency approves, in writing, an alternative
 1941 arrangement for securing the types of services offered by the
 1942 essential providers. Providers are essential for serving
 1943 Medicaid enrollees if they offer services that are not available
 1944 from any other provider within a reasonable access standard, or
 1945 if they provided a substantial share of the total units of a
 1946 particular service used by Medicaid patients within the region
 1947 during the last 3 years and the combined capacity of other
 1948 service providers in the region is insufficient to meet the

1949 total needs of the Medicaid patients. The agency may not
 1950 classify physicians and other practitioners as essential
 1951 providers. The agency, at a minimum, shall determine which
 1952 providers in the following categories are essential Medicaid
 1953 providers:

- 1954 1. Federally qualified health centers.
- 1955 2. Statutory teaching hospitals as defined in s.
 1956 408.07(44) ~~408.07(45)~~.
- 1957 3. Hospitals that are trauma centers as defined in s.
 1958 395.4001(14).
- 1959 4. Hospitals located at least 25 miles from any other
 1960 hospital with similar services.

1961
 1962 Managed care plans that have not contracted with all essential
 1963 providers in the region as of the first date of recipient
 1964 enrollment, or with whom an essential provider has terminated
 1965 its contract, must negotiate in good faith with such essential
 1966 providers for 1 year or until an agreement is reached, whichever
 1967 is first. Payments for services rendered by a nonparticipating
 1968 essential provider shall be made at the applicable Medicaid rate
 1969 as of the first day of the contract between the agency and the
 1970 plan. A rate schedule for all essential providers shall be
 1971 attached to the contract between the agency and the plan. After
 1972 1 year, managed care plans that are unable to contract with
 1973 essential providers shall notify the agency and propose an

1974 alternative arrangement for securing the essential services for
 1975 Medicaid enrollees. The arrangement must rely on contracts with
 1976 other participating providers, regardless of whether those
 1977 providers are located within the same region as the
 1978 nonparticipating essential service provider. If the alternative
 1979 arrangement is approved by the agency, payments to
 1980 nonparticipating essential providers after the date of the
 1981 agency's approval shall equal 90 percent of the applicable
 1982 Medicaid rate. Except for payment for emergency services, if the
 1983 alternative arrangement is not approved by the agency, payment
 1984 to nonparticipating essential providers shall equal 110 percent
 1985 of the applicable Medicaid rate.

1986 (b) Certain providers are statewide resources and
 1987 essential providers for all managed care plans in all regions.
 1988 All managed care plans must include these essential providers in
 1989 their networks. Statewide essential providers include:

- 1990 1. Faculty plans of Florida medical schools.
- 1991 2. Regional perinatal intensive care centers as defined in
 1992 s. 383.16(2).
- 1993 3. Hospitals licensed as specialty children's hospitals as
 1994 defined in s. 395.002(27) ~~395.002(28)~~.
- 1995 4. Accredited and integrated systems serving medically
 1996 complex children which comprise separately licensed, but
 1997 commonly owned, health care providers delivering at least the
 1998 following services: medical group home, in-home and outpatient

1999 nursing care and therapies, pharmacy services, durable medical
 2000 equipment, and Prescribed Pediatric Extended Care.

2001
 2002 Managed care plans that have not contracted with all statewide
 2003 essential providers in all regions as of the first date of
 2004 recipient enrollment must continue to negotiate in good faith.
 2005 Payments to physicians on the faculty of nonparticipating
 2006 Florida medical schools shall be made at the applicable Medicaid
 2007 rate. Payments for services rendered by regional perinatal
 2008 intensive care centers shall be made at the applicable Medicaid
 2009 rate as of the first day of the contract between the agency and
 2010 the plan. Except for payments for emergency services, payments
 2011 to nonparticipating specialty children's hospitals shall equal
 2012 the highest rate established by contract between that provider
 2013 and any other Medicaid managed care plan.

2014 Section 74. Subsections (5) and (17) of section 429.02,
 2015 Florida Statutes, are amended to read:

2016 429.02 Definitions.—When used in this part, the term:

2017 (5) "Assisted living facility" means any building or
 2018 buildings, section or distinct part of a building, private home,
 2019 boarding home, home for the aged, or other residential facility,
 2020 whether operated for profit or not, which, undertakes through
 2021 its ownership or management, provides ~~to provide~~ housing, meals,
 2022 and one or more personal services for a period exceeding 24

2023 hours to one or more adults who are not relatives of the owner
 2024 or administrator.

2025 (17) "Personal services" means direct physical assistance
 2026 with or supervision of the activities of daily living, ~~and~~ the
 2027 self-administration of medication or ~~and~~ other similar services
 2028 which the department may define by rule. "Personal services" may
 2029 ~~shall~~ not be construed to mean the provision of medical,
 2030 nursing, dental, or mental health services.

2031 Section 75. Paragraphs (b) and (d) of subsection (2) of
 2032 section 429.04, Florida Statutes, are amended, and subsection
 2033 (3) is added to that section, to read:

2034 429.04 Facilities to be licensed; exemptions.—

2035 (2) The following are exempt from licensure under this
 2036 part:

2037 (b) Any facility or part of a facility licensed by the
 2038 Agency for Persons with Disabilities under chapter 393, a mental
 2039 health facility licensed under ~~or~~ chapter 394, a hospital
 2040 licensed under chapter 395, a nursing home licensed under part
 2041 II of chapter 400, an inpatient hospice licensed under part IV
 2042 of chapter 400, a home for special services licensed under part
 2043 V of chapter 400, an intermediate care facility licensed under
 2044 part VIII of chapter 400, or a transitional living facility
 2045 licensed under part XI of chapter 400.

2046 (d) Any person who provides housing, meals, and one or
 2047 more personal services on a 24-hour basis in the person's own

2048 | home to not more than two adults who do not receive optional
2049 | state supplementation. The person who provides the housing,
2050 | meals, and personal services must own or rent the home and must
2051 | have established the home as the person's permanent residence.
2052 | Any person holding a homestead exemption at an address other
2053 | than that at which the person asserts this exemption shall be
2054 | presumed to not have established permanent residence under this
2055 | exemption reside therein. This exemption does not apply to a
2056 | person or entity that previously held a license issued by the
2057 | agency and such license was revoked or licensure renewal was
2058 | denied by final order of the agency, or when the person or
2059 | entity voluntarily relinquished a license during agency
2060 | enforcement proceedings.

2061 | (3) Upon agency investigation of unlicensed activity, any
2062 | person or entity asserting an exemption pursuant to this section
2063 | shall have the burden of providing documentation substantiating
2064 | that the person or entity is entitled to the exemption.

2065 | Section 76. Paragraphs (b) and (d) of subsection (1) of
2066 | section 429.08, Florida Statutes, are amended to read:

2067 | 429.08 Unlicensed facilities; referral of person for
2068 | residency to unlicensed facility; penalties.—

2069 | (1)

2070 | (b) ~~Except as provided under paragraph (d),~~ Any person who
2071 | owns, rents, or otherwise maintains a building or property that
2072 | operates, or maintains an unlicensed assisted living facility

2073 commits a felony of the third degree, punishable as provided in
2074 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2075 operation is a separate offense.

2076 (d) In addition to the requirements of s. 408.812, any
2077 person who owns, operates, or maintains an unlicensed assisted
2078 living facility after receiving notice from the agency ~~due to a~~
2079 ~~change in this part or a modification in rule within 6 months~~
2080 ~~after the effective date of such change and who, within 10~~
2081 ~~working days after receiving notification from the agency, fails~~
2082 ~~to cease operation or apply for a license under this part~~
2083 commits a felony of the third degree, punishable as provided in
2084 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2085 operation is a separate offense.

2086 Section 77. Section 429.176, Florida Statutes, is amended
2087 to read:

2088 429.176 Notice of change of administrator.—If, during the
2089 period for which a license is issued, the owner changes
2090 administrators, the owner must notify the agency of the change
2091 within 10 days and provide documentation within 90 days that the
2092 new administrator has completed the applicable core educational
2093 requirements under s. 429.52. A facility may not be operated for
2094 more than 120 consecutive days without an administrator who has
2095 completed the core educational requirements.

2096 Section 78. Subsection (7) of section 429.19, Florida
2097 Statutes, is amended to read:

2098 429.19 Violations; imposition of administrative fines;
 2099 grounds.—

2100 ~~(7) In addition to any administrative fines imposed, the~~
 2101 ~~agency may assess a survey fee, equal to the lesser of one half~~
 2102 ~~of the facility's biennial license and bed fee or \$500, to cover~~
 2103 ~~the cost of conducting initial complaint investigations that~~
 2104 ~~result in the finding of a violation that was the subject of the~~
 2105 ~~complaint or monitoring visits conducted under s. 429.28(3)(c)~~
 2106 ~~to verify the correction of the violations.~~

2107 Section 79. Subsection (2) of section 429.24, Florida
 2108 Statutes, is amended to read:

2109 429.24 Contracts.—

2110 (2) Each contract must contain express provisions
 2111 specifically setting forth the services and accommodations to be
 2112 provided by the facility; the rates or charges; provision for at
 2113 least 30 days' written notice of a rate increase; the rights,
 2114 duties, and obligations of the residents, other than those
 2115 specified in s. 429.28; and other matters that the parties deem
 2116 appropriate. A new service or accommodation amended to or
 2117 implemented in a resident's contract, for which the resident was
 2118 not previously charged, does not require a 30-day written notice
 2119 of a rate increase. Whenever money is deposited or advanced by a
 2120 resident in a contract as security for performance of the
 2121 contract agreement or as advance rent for other than the next
 2122 immediate rental period:

2123 (a) Such funds shall be deposited in a banking institution
 2124 in this state that is located, if possible, in the same
 2125 community in which the facility is located; shall be kept
 2126 separate from the funds and property of the facility; may not be
 2127 represented as part of the assets of the facility on financial
 2128 statements; and shall be used, or otherwise expended, only for
 2129 the account of the resident.

2130 (b) The licensee shall, within 30 days of receipt of
 2131 advance rent or a security deposit, notify the resident or
 2132 residents in writing of the manner in which the licensee is
 2133 holding the advance rent or security deposit and state the name
 2134 and address of the depository where the moneys are being held.
 2135 The licensee shall notify residents of the facility's policy on
 2136 advance deposits.

2137 Section 80. Paragraph (b) of subsection (3) of section
 2138 429.256, Florida Statutes, is amended to read:

2139 429.256 Assistance with self-administration of
 2140 medication.—

2141 (3) Assistance with self-administration of medication
 2142 includes:

2143 (b) In the presence of the resident, ~~reading the label,~~
 2144 opening the container, removing a prescribed amount of
 2145 medication from the container, ~~and~~ closing the container, and,
 2146 unless the resident declines, at each time of assistance,
 2147 reading the label to the resident.

2148 Section 81. Paragraphs (e) and (j) of subsection (1) and
2149 paragraphs (c), (d), and (e) of subsection (3) of section
2150 429.28, Florida Statutes, are amended to read:

2151 429.28 Resident bill of rights.—

2152 (1) No resident of a facility shall be deprived of any
2153 civil or legal rights, benefits, or privileges guaranteed by
2154 law, the Constitution of the State of Florida, or the
2155 Constitution of the United States as a resident of a facility.
2156 Every resident of a facility shall have the right to:

2157 (e) Freedom to participate in and benefit from community
2158 services and activities and to pursue ~~achieve~~ the highest
2159 possible level of independence, autonomy, and interaction within
2160 the community.

2161 (j) Assistance with obtaining access to adequate and
2162 appropriate health care, which means the management of
2163 medications, assistance in making appointments for health care
2164 services, the provision of or arrangement of transportation to
2165 health care appointments, and the performance of health care
2166 services in accordance with s. 429.255 that are consistent with
2167 established and recognized standards within the community.

2168 (3)

2169 ~~(c) During any calendar year in which no survey is~~
2170 ~~conducted, the agency shall conduct at least one monitoring~~
2171 ~~visit of each facility cited in the previous year for a class I~~

2172 ~~or class II violation, or more than three uncorrected class III~~
2173 ~~violations.~~

2174 ~~(d) The agency may conduct periodic followup inspections~~
2175 ~~as necessary to monitor the compliance of facilities with a~~
2176 ~~history of any class I, class II, or class III violations that~~
2177 ~~threaten the health, safety, or security of residents.~~

2178 ~~(e) The agency may conduct complaint investigations as~~
2179 ~~warranted to investigate any allegations of noncompliance with~~
2180 ~~requirements required under this part or rules adopted under~~
2181 ~~this part.~~

2182 Section 82. Subsection (1) of section 429.294, Florida
2183 Statutes, is amended to read:

2184 429.294 Availability of facility records for investigation
2185 of resident's rights violations and defenses; penalty.—

2186 (1) Failure to provide complete copies of a resident's
2187 records, including, but not limited to, all medical records and
2188 the resident's chart, within the control or possession of the
2189 facility ~~within 10 days~~, in accordance with the provisions of
2190 §s. 400.145, shall constitute evidence of failure of that party
2191 to comply with good faith discovery requirements and shall waive
2192 the good faith certificate and presuit notice requirements under
2193 this part by the requesting party.

2194 Section 83. Subsection (2) of section 429.34, Florida
2195 Statutes, is amended to read:

2196 429.34 Right of entry and inspection.—

2197 (2) (a) In addition to the requirements of s. 408.811, the
 2198 agency may inspect and investigate facilities as necessary to
 2199 determine compliance with this part, part II of chapter 408, and
 2200 rules adopted thereunder. ~~The agency shall inspect each licensed~~
 2201 ~~assisted living facility at least once every 24 months to~~
 2202 ~~determine compliance with this chapter and related rules.~~ If an
 2203 assisted living facility is cited for a class I violation or
 2204 three or more class II violations arising from separate surveys
 2205 within a 60-day period or due to unrelated circumstances during
 2206 the same survey, the agency must conduct an additional licensure
 2207 inspection within 6 months.

2208 (b) During any calendar year in which a survey is not
 2209 conducted, the agency may conduct at least one monitoring visit
 2210 of each facility cited in the previous year for a class I or
 2211 class II violation or for more than three uncorrected class III
 2212 violations.

2213 Section 84. Subsection (4) of section 429.52, Florida
 2214 Statutes, is amended to read:

2215 429.52 Staff training and educational programs; core
 2216 educational requirement.—

2217 (4) Effective January 1, 2004, a new facility
 2218 administrator must complete the required training and education,
 2219 including the competency test, within 90 days after the date of
 2220 employment ~~a reasonable time after being employed~~ as an
 2221 administrator, ~~as determined by the department.~~ Failure to do so

2222 is a violation of this part and subjects the violator to an
2223 administrative fine as prescribed in s. 429.19. Administrators
2224 licensed in accordance with part II of chapter 468 are exempt
2225 from this requirement. Other licensed professionals may be
2226 exempted, as determined by the department by rule.

2227 Section 85. Subsection (3) of section 435.04, Florida
2228 Statutes, is amended, and subsection (4) is added to that
2229 section, to read:

2230 435.04 Level 2 screening standards.—

2231 (3) The security background investigations under this
2232 section must ensure that no person subject to this section has
2233 been arrested for and is awaiting final disposition of, been
2234 found guilty of, regardless of adjudication, or entered a plea
2235 of nolo contendere or guilty to, any offense that constitutes
2236 domestic violence as defined in s. 741.28, whether such act was
2237 committed in this state or in another jurisdiction.

2238 (4) For the purpose of screening applicable to
2239 participation in the Medicaid program, the security background
2240 investigations under this section must ensure that no person
2241 subject to this section has been arrested for and is awaiting
2242 final disposition of, has been found guilty of, regardless of
2243 adjudication, or entered a plea of nolo contendere or guilty to,
2244 or has been adjudicated delinquent and the record has not been
2245 sealed or expunged for, any offense prohibited under any of the

- 2246 following provisions of state law or a similar law of another
2247 jurisdiction:
- 2248 (a) Federal or state law of a criminal offense relating
2249 to:
- 2250 1. The delivery of any goods or services under Medicaid or
2251 Medicare or any other public or private health care program or
2252 health insurance program, including the performance of
2253 management or administrative services relating to the delivery
2254 of goods or services under any such program;
- 2255 2. Neglect or abuse of a patient in connection with the
2256 delivery of any health care good or service;
- 2257 3. Unlawful manufacture, distribution, prescription, or
2258 dispensing of a controlled substance;
- 2259 4. Fraud, theft, embezzlement, breach of fiduciary
2260 responsibility, or other financial misconduct;
- 2261 5. Moral turpitude, if punishable by imprisonment of a
2262 year or more;
- 2263 6. Section 817.569, relating to criminal use of a public
2264 record or public records information;
- 2265 7. Section 838.016, relating to unlawful compensation or
2266 reward for official behavior;
- 2267 8. Section 838.021, relating to corruption by threat
2268 against a public servant;
- 2269 9. Section 838.022, relating to official misconduct;
2270 10. Section 838.22, relating to bid tampering;

2271 11. Section 839.13, relating to falsifying records;
 2272 12. Section 839.26, relating to misuse of confidential
 2273 information; or
 2274 13. Interfering with or obstructing an investigation into
 2275 any criminal offense listed in this subsection.
 2276 (b) Violation of federal or state laws, rules, or
 2277 regulations governing Florida's Medicaid program or any other
 2278 state's Medicaid program, the Medicare program, or any other
 2279 publicly funded federal or state health care or health insurance
 2280 program, and been sanctioned accordingly.
 2281 Section 86. Paragraph (a) of subsection (2) of section
 2282 435.12, Florida Statutes, is amended to read:
 2283 435.12 Care Provider Background Screening Clearinghouse.-
 2284 (2) (a) To ensure that the information in the clearinghouse
 2285 is current, the fingerprints of an employee required to be
 2286 screened by a specified agency and included in the clearinghouse
 2287 must be:
 2288 1. Retained by the Department of Law Enforcement pursuant
 2289 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
 2290 Enforcement must report the results of searching those
 2291 fingerprints against state incoming arrest fingerprint
 2292 submissions to the Agency for Health Care Administration for
 2293 inclusion in the clearinghouse.
 2294 2. Retained by the Federal Bureau of Investigation in the
 2295 national retained print arrest notification program as soon as

2296 the Department of Law Enforcement begins participation in such
2297 program. Arrest prints will be searched against retained prints
2298 at the Federal Bureau of Investigation and notification of
2299 arrests will be forwarded to the Florida Department of Law
2300 Enforcement and reported to the Agency for Health Care
2301 Administration for inclusion in the clearinghouse.

2302 3. Resubmitted for a Federal Bureau of Investigation
2303 national criminal history check every 5 years until such time as
2304 the fingerprints are retained by the Federal Bureau of
2305 Investigation.

2306 4. Subject to retention on a 5-year renewal basis with
2307 fees collected at the time of initial submission or resubmission
2308 of fingerprints.

2309 a. A person who was screened and qualified according to
2310 standards established in s. 435.04 after December 31, 2012, by a
2311 specified agency may extend the screening renewal period until
2312 January 1, 2020, unless the national retained print arrest
2313 notification program is implemented prior to that date.

2314 b. The retention of fingerprints by the Department of Law
2315 Enforcement pursuant to s. 943.05(2)(g) and (h) and (3), will be
2316 extended until January 1, 2020, unless the national retained
2317 print arrest notification program is implemented prior to that
2318 date.

2319 5. Submitted with a photograph of the person taken at the
2320 time the fingerprints are submitted.

2321 Section 87. Subsection (4) of section 456.001, Florida
 2322 Statutes, is amended to read:
 2323 456.001 Definitions.—As used in this chapter, the term:
 2324 (4) "Health care practitioner" means any person licensed
 2325 under chapter 457; chapter 458; chapter 459; chapter 460;
 2326 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
 2327 chapter 466; chapter 467; part I, part II, part III, part V,
 2328 part X, part XIII, or part XIV of chapter 468; chapter 478;
 2329 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
 2330 chapter 484; chapter 486; chapter 490; or chapter 491.

2331 Section 88. Paragraph (i) of subsection (2) of section
 2332 456.057, Florida Statutes, is amended to read:
 2333 456.057 Ownership and control of patient records; report
 2334 or copies of records to be furnished; disclosure of
 2335 information.—

2336 (2) As used in this section, the terms "records owner,"
 2337 "health care practitioner," and "health care practitioner's
 2338 employer" do not include any of the following persons or
 2339 entities; furthermore, the following persons or entities are not
 2340 authorized to acquire or own medical records, but are authorized
 2341 under the confidentiality and disclosure requirements of this
 2342 section to maintain those documents required by the part or
 2343 chapter under which they are licensed or regulated:

2344 (i) Medical physicists licensed under part III ~~IV~~ of
 2345 chapter 483.

2346 Section 89. Subsection (2) of section 458.307, Florida
 2347 Statutes, is amended to read:

2348 458.307 Board of Medicine.—

2349 (2) Twelve members of the board must be licensed
 2350 physicians in good standing in this state who are residents of
 2351 the state and who have been engaged in the active practice or
 2352 teaching of medicine for at least 4 years immediately preceding
 2353 their appointment. One of the physicians must be on the full-
 2354 time faculty of a medical school in this state, and one of the
 2355 physicians must be in private practice and on the full-time
 2356 staff of a statutory teaching hospital in this state as defined
 2357 in s. 408.07. At least one of the physicians must be a graduate
 2358 of a foreign medical school. The remaining three members must be
 2359 residents of the state who are not, and never have been,
 2360 licensed health care practitioners. One member must be a health
 2361 care risk manager ~~licensed under s. 395.10974~~. At least one
 2362 member of the board must be 60 years of age or older.

2363 Section 90. Subsection (1) of section 458.345, Florida
 2364 Statutes, is amended to read:

2365 458.345 Registration of resident physicians, interns, and
 2366 fellows; list of hospital employees; prescribing of medicinal
 2367 drugs; penalty.—

2368 (1) Any person desiring to practice as a resident
 2369 physician, assistant resident physician, house physician,
 2370 intern, or fellow in fellowship training which leads to

2371 subspecialty board certification in this state, or any person
 2372 desiring to practice as a resident physician, assistant resident
 2373 physician, house physician, intern, or fellow in fellowship
 2374 training in a teaching hospital in this state as defined in s.
 2375 408.07(44) ~~408.07(45)~~ or s. 395.805(2), who does not hold a
 2376 valid, active license issued under this chapter shall apply to
 2377 the department to be registered and shall remit a fee not to
 2378 exceed \$300 as set by the board. The department shall register
 2379 any applicant the board certifies has met the following
 2380 requirements:

- 2381 (a) Is at least 21 years of age.
- 2382 (b) Has not committed any act or offense within or without
 2383 the state which would constitute the basis for refusal to
 2384 certify an application for licensure pursuant to s. 458.331.
- 2385 (c) Is a graduate of a medical school or college as
 2386 specified in s. 458.311(1)(f).

2387 Section 91. Part I of chapter 483, Florida Statutes,
 2388 consisting of sections 483.011, 483.021, 483.031, 483.035,
 2389 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
 2390 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
 2391 is repealed.

2392 Section 92. Section 483.294, Florida Statutes, is amended
 2393 to read:

2394 483.294 Inspection of centers.—In accordance with s.
 2395 408.811, the agency shall, ~~at least once annually,~~ inspect the

2396 premises and operations of all centers subject to licensure
 2397 under this part.

2398 Section 93. Subsection (3) of section 483.801, Florida
 2399 Statutes, is amended to read:

2400 483.801 Exemptions.—This part applies to all clinical
 2401 laboratories and clinical laboratory personnel within this
 2402 state, except:

2403 (3) Persons engaged in testing performed by laboratories
 2404 that are wholly owned and operated by one or more practitioners
 2405 who are licensed under chapter 458, chapter 459, chapter 460,
 2406 chapter 461, chapter 462, chapter 463, or chapter 466 and who
 2407 practice in the same group practice, and in which no clinical
 2408 laboratory work is performed for patients referred by any health
 2409 care provider who is not a member of the same group ~~regulated~~
 2410 ~~under s. 483.035(1) or exempt from regulation under s.~~
 2411 ~~483.031(2).~~

2412 Section 94. Subsections (2), (3), and (4) of section
 2413 483.803, Florida Statutes, are amended to read:

2414 483.803 Definitions.—As used in this part, the term:

2415 (2) "Clinical laboratory" means the physical location in
 2416 which one or more of the following services are performed to
 2417 provide information or materials for use in the diagnosis,
 2418 prevention, or treatment of a disease or the identification or
 2419 assessment of a medical or physical condition:

2420 (a) Clinical laboratory services are the examinations of
 2421 fluids or other materials taken from the human body.

2422 (b) Anatomic laboratory services are the examinations of
 2423 tissue taken from the human body.

2424 (c) Cytology laboratory services are the examinations of
 2425 cells from individual tissues or fluid taken from the human body
 2426 ~~a clinical laboratory as defined in s. 483.041.~~

2427 (3) "Clinical laboratory examination" means a procedure
 2428 performed to deliver the services defined in subsection (2),
 2429 including the oversight or interpretation thereof ~~clinical~~
 2430 ~~laboratory examination as defined in s. 483.041.~~

2431 (4) "Clinical laboratory personnel" includes a clinical
 2432 laboratory director, supervisor, technologist, blood gas
 2433 analyst, or technician who performs or is responsible for
 2434 laboratory test procedures, but the term does not include
 2435 trainees, persons who perform screening for blood banks or
 2436 plasmapheresis centers, phlebotomists, or persons employed by a
 2437 clinical laboratory to perform manual pretesting duties or
 2438 clerical, personnel, or other administrative responsibilities,
 2439 ~~or persons engaged in testing performed by laboratories~~
 2440 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
 2441 ~~483.031(2).~~

2442 Section 95. Section 483.813, Florida Statutes, is amended
 2443 to read:

2444 483.813 Clinical laboratory personnel license.—A person
 2445 may not conduct a clinical laboratory examination or report the
 2446 results of such examination unless such person is licensed under
 2447 this part to perform such procedures. However, this provision
 2448 does not apply to any practitioner of the healing arts
 2449 authorized to practice in this state ~~or to persons engaged in~~
 2450 ~~testing performed by laboratories regulated under s. 483.035(1)~~
 2451 ~~or exempt from regulation under s. 483.031(2)~~. The department
 2452 may grant a temporary license to any candidate it deems properly
 2453 qualified, for a period not to exceed 1 year.

2454 Section 96. Subsection (2) of section 483.823, Florida
 2455 Statutes, is amended to read:

2456 483.823 Qualifications of clinical laboratory personnel.—

2457 (2) Personnel qualifications may require appropriate
 2458 education, training, or experience or the passing of an
 2459 examination in appropriate subjects or any combination of these,
 2460 but no practitioner of the healing arts licensed to practice in
 2461 this state is required to obtain any license under this part or
 2462 to pay any fee hereunder ~~except the fee required for clinical~~
 2463 ~~laboratory licensure~~.

2464 Section 97. Paragraph (c) of subsection (7), paragraph (c)
 2465 of subsection (8), and paragraph (c) of subsection (9) of
 2466 section 491.003, Florida Statutes, are amended to read:

2467 491.003 Definitions.—As used in this chapter:

2468 (7) The "practice of clinical social work" is defined as
2469 the use of scientific and applied knowledge, theories, and
2470 methods for the purpose of describing, preventing, evaluating,
2471 and treating individual, couple, marital, family, or group
2472 behavior, based on the person-in-situation perspective of
2473 psychosocial development, normal and abnormal behavior,
2474 psychopathology, unconscious motivation, interpersonal
2475 relationships, environmental stress, differential assessment,
2476 differential planning, and data gathering. The purpose of such
2477 services is the prevention and treatment of undesired behavior
2478 and enhancement of mental health. The practice of clinical
2479 social work includes methods of a psychological nature used to
2480 evaluate, assess, diagnose, treat, and prevent emotional and
2481 mental disorders and dysfunctions (whether cognitive, affective,
2482 or behavioral), sexual dysfunction, behavioral disorders,
2483 alcoholism, and substance abuse. The practice of clinical social
2484 work includes, but is not limited to, psychotherapy,
2485 hypnotherapy, and sex therapy. The practice of clinical social
2486 work also includes counseling, behavior modification,
2487 consultation, client-centered advocacy, crisis intervention, and
2488 the provision of needed information and education to clients,
2489 when using methods of a psychological nature to evaluate,
2490 assess, diagnose, treat, and prevent emotional and mental
2491 disorders and dysfunctions (whether cognitive, affective, or
2492 behavioral), sexual dysfunction, behavioral disorders,

2493 alcoholism, or substance abuse. The practice of clinical social
2494 work may also include clinical research into more effective
2495 psychotherapeutic modalities for the treatment and prevention of
2496 such conditions.

2497 (c) The terms "diagnose" and "treat," as used in this
2498 chapter, when considered in isolation or in conjunction with any
2499 provision of the rules of the board, shall not be construed to
2500 permit the performance of any act which clinical social workers
2501 are not educated and trained to perform, including, but not
2502 limited to, admitting persons to hospitals for treatment of the
2503 foregoing conditions, treating persons in hospitals without
2504 medical supervision, prescribing medicinal drugs as defined in
2505 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
2506 ~~to chapter 483~~, or radiological procedures, or use of
2507 electroconvulsive therapy. In addition, this definition shall
2508 not be construed to permit any person licensed, provisionally
2509 licensed, registered, or certified pursuant to this chapter to
2510 describe or label any test, report, or procedure as
2511 "psychological," except to relate specifically to the definition
2512 of practice authorized in this subsection.

2513 (8) The "practice of marriage and family therapy" is
2514 defined as the use of scientific and applied marriage and family
2515 theories, methods, and procedures for the purpose of describing,
2516 evaluating, and modifying marital, family, and individual
2517 behavior, within the context of marital and family systems,

2518 | including the context of marital formation and dissolution, and
2519 | is based on marriage and family systems theory, marriage and
2520 | family development, human development, normal and abnormal
2521 | behavior, psychopathology, human sexuality, psychotherapeutic
2522 | and marriage and family therapy theories and techniques. The
2523 | practice of marriage and family therapy includes methods of a
2524 | psychological nature used to evaluate, assess, diagnose, treat,
2525 | and prevent emotional and mental disorders or dysfunctions
2526 | (whether cognitive, affective, or behavioral), sexual
2527 | dysfunction, behavioral disorders, alcoholism, and substance
2528 | abuse. The practice of marriage and family therapy includes, but
2529 | is not limited to, marriage and family therapy, psychotherapy,
2530 | including behavioral family therapy, hypnotherapy, and sex
2531 | therapy. The practice of marriage and family therapy also
2532 | includes counseling, behavior modification, consultation,
2533 | client-centered advocacy, crisis intervention, and the provision
2534 | of needed information and education to clients, when using
2535 | methods of a psychological nature to evaluate, assess, diagnose,
2536 | treat, and prevent emotional and mental disorders and
2537 | dysfunctions (whether cognitive, affective, or behavioral),
2538 | sexual dysfunction, behavioral disorders, alcoholism, or
2539 | substance abuse. The practice of marriage and family therapy may
2540 | also include clinical research into more effective
2541 | psychotherapeutic modalities for the treatment and prevention of
2542 | such conditions.

2543 (c) The terms "diagnose" and "treat," as used in this
2544 chapter, when considered in isolation or in conjunction with any
2545 provision of the rules of the board, shall not be construed to
2546 permit the performance of any act which marriage and family
2547 therapists are not educated and trained to perform, including,
2548 but not limited to, admitting persons to hospitals for treatment
2549 of the foregoing conditions, treating persons in hospitals
2550 without medical supervision, prescribing medicinal drugs as
2551 defined in chapter 465, authorizing clinical laboratory
2552 procedures ~~pursuant to chapter 483~~, or radiological procedures,
2553 or use of electroconvulsive therapy. In addition, this
2554 definition shall not be construed to permit any person licensed,
2555 provisionally licensed, registered, or certified pursuant to
2556 this chapter to describe or label any test, report, or procedure
2557 as "psychological," except to relate specifically to the
2558 definition of practice authorized in this subsection.

2559 (9) The "practice of mental health counseling" is defined
2560 as the use of scientific and applied behavioral science
2561 theories, methods, and techniques for the purpose of describing,
2562 preventing, and treating undesired behavior and enhancing mental
2563 health and human development and is based on the person-in-
2564 situation perspectives derived from research and theory in
2565 personality, family, group, and organizational dynamics and
2566 development, career planning, cultural diversity, human growth
2567 and development, human sexuality, normal and abnormal behavior,

2568 psychopathology, psychotherapy, and rehabilitation. The practice
2569 of mental health counseling includes methods of a psychological
2570 nature used to evaluate, assess, diagnose, and treat emotional
2571 and mental dysfunctions or disorders (whether cognitive,
2572 affective, or behavioral), behavioral disorders, interpersonal
2573 relationships, sexual dysfunction, alcoholism, and substance
2574 abuse. The practice of mental health counseling includes, but is
2575 not limited to, psychotherapy, hypnotherapy, and sex therapy.
2576 The practice of mental health counseling also includes
2577 counseling, behavior modification, consultation, client-centered
2578 advocacy, crisis intervention, and the provision of needed
2579 information and education to clients, when using methods of a
2580 psychological nature to evaluate, assess, diagnose, treat, and
2581 prevent emotional and mental disorders and dysfunctions (whether
2582 cognitive, affective, or behavioral), behavioral disorders,
2583 sexual dysfunction, alcoholism, or substance abuse. The practice
2584 of mental health counseling may also include clinical research
2585 into more effective psychotherapeutic modalities for the
2586 treatment and prevention of such conditions.

2587 (c) The terms "diagnose" and "treat," as used in this
2588 chapter, when considered in isolation or in conjunction with any
2589 provision of the rules of the board, shall not be construed to
2590 permit the performance of any act which mental health counselors
2591 are not educated and trained to perform, including, but not
2592 limited to, admitting persons to hospitals for treatment of the

2593 foregoing conditions, treating persons in hospitals without
 2594 medical supervision, prescribing medicinal drugs as defined in
 2595 chapter 465, authorizing clinical laboratory procedures pursuant
 2596 to ~~chapter 483~~, or radiological procedures, or use of
 2597 electroconvulsive therapy. In addition, this definition shall
 2598 not be construed to permit any person licensed, provisionally
 2599 licensed, registered, or certified pursuant to this chapter to
 2600 describe or label any test, report, or procedure as
 2601 "psychological," except to relate specifically to the definition
 2602 of practice authorized in this subsection.

2603 Section 98. Paragraph (h) of subsection (4) of section
 2604 627.351, Florida Statutes, is amended to read:

2605 627.351 Insurance risk apportionment plans.—

2606 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

2607 (h) As used in this subsection:

2608 1. "Health care provider" means hospitals licensed under
 2609 chapter 395; physicians licensed under chapter 458; osteopathic
 2610 physicians licensed under chapter 459; podiatric physicians
 2611 licensed under chapter 461; dentists licensed under chapter 466;
 2612 chiropractic physicians licensed under chapter 460; naturopaths
 2613 licensed under chapter 462; nurses licensed under part I of
 2614 chapter 464; midwives licensed under chapter 467; ~~clinical~~
 2615 ~~laboratories registered under chapter 483~~; physician assistants
 2616 licensed under chapter 458 or chapter 459; physical therapists
 2617 and physical therapist assistants licensed under chapter 486;

2618 health maintenance organizations certificated under part I of
2619 chapter 641; ambulatory surgical centers licensed under chapter
2620 395; other medical facilities as defined in subparagraph 2.;
2621 blood banks, plasma centers, industrial clinics, and renal
2622 dialysis facilities; or professional associations, partnerships,
2623 corporations, joint ventures, or other associations for
2624 professional activity by health care providers.

2625 2. "Other medical facility" means a facility the primary
2626 purpose of which is to provide human medical diagnostic services
2627 or a facility providing nonsurgical human medical treatment, to
2628 which facility the patient is admitted and from which facility
2629 the patient is discharged within the same working day, and which
2630 facility is not part of a hospital. However, a facility existing
2631 for the primary purpose of performing terminations of pregnancy
2632 or an office maintained by a physician or dentist for the
2633 practice of medicine shall not be construed to be an "other
2634 medical facility."

2635 3. "Health care facility" means any hospital licensed
2636 under chapter 395, health maintenance organization certificated
2637 under part I of chapter 641, ambulatory surgical center licensed
2638 under chapter 395, or other medical facility as defined in
2639 subparagraph 2.

2640 Section 99. Paragraph (h) of subsection (1) of section
2641 627.602, Florida Statutes, is amended to read:

2642 627.602 Scope, format of policy.—

2643 (1) Each health insurance policy delivered or issued for
 2644 delivery to any person in this state must comply with all
 2645 applicable provisions of this code and all of the following
 2646 requirements:

2647 (h) Section 641.312 and the provisions of the Employee
 2648 Retirement Income Security Act of 1974, as implemented by 29
 2649 C.F.R. s. 2560.503-1, relating to internal grievances. This
 2650 paragraph does not apply ~~to a health insurance policy that is~~
 2651 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
 2652 ~~or~~ to the types of benefits or coverages provided under s.
 2653 627.6513(1)-(14) issued in any market.

2654 Section 100. Subsection (1) of section 627.6406, Florida
 2655 Statutes, is amended to read:

2656 627.6406 Maternity care.—

2657 (1) Any policy of health insurance that provides coverage
 2658 for maternity care must also cover the services of certified
 2659 nurse-midwives and midwives licensed pursuant to chapter 467,
 2660 and the services of birth centers licensed under ss. 383.30-
 2661 383.332 ~~383.30-383.335~~.

2662 Section 101. Paragraphs (b) and (e) of subsection (1) of
 2663 section 627.64194, Florida Statutes, are amended to read:

2664 627.64194 Coverage requirements for services provided by
 2665 nonparticipating providers; payment collection limitations.—

2666 (1) As used in this section, the term:

2667 (b) "Facility" means a licensed facility as defined in s.
2668 395.002(16) and an urgent care center as defined in s.
2669 395.002(29) ~~395.002(30)~~.

2670 (e) "Nonparticipating provider" means a provider who is
2671 not a preferred provider as defined in s. 627.6471 or a provider
2672 who is not an exclusive provider as defined in s. 627.6472. For
2673 purposes of covered emergency services under this section, a
2674 facility licensed under chapter 395 or an urgent care center
2675 defined in s. 395.002(29) ~~395.002(30)~~ is a nonparticipating
2676 provider if the facility has not contracted with an insurer to
2677 provide emergency services to its insureds at a specified rate.

2678 Section 102. Section 627.6513, Florida Statutes, is
2679 amended to read:

2680 627.6513 Scope.—Section 641.312 and the provisions of the
2681 Employee Retirement Income Security Act of 1974, as implemented
2682 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
2683 apply to all group health insurance policies issued under this
2684 part. This section does not apply to ~~a group health insurance~~
2685 ~~policy that is subject to the Subscriber Assistance Program in~~
2686 ~~s. 408.7056 or to:~~

2687 (1) Coverage only for accident insurance, or disability
2688 income insurance, or any combination thereof.

2689 (2) Coverage issued as a supplement to liability
2690 insurance.

- 2691 (3) Liability insurance, including general liability
 2692 insurance and automobile liability insurance.
- 2693 (4) Workers' compensation or similar insurance.
- 2694 (5) Automobile medical payment insurance.
- 2695 (6) Credit-only insurance.
- 2696 (7) Coverage for onsite medical clinics, including prepaid
 2697 health clinics under part II of chapter 641.
- 2698 (8) Other similar insurance coverage, specified in rules
 2699 adopted by the commission, under which benefits for medical care
 2700 are secondary or incidental to other insurance benefits. To the
 2701 extent possible, such rules must be consistent with regulations
 2702 adopted by the United States Department of Health and Human
 2703 Services.
- 2704 (9) Limited scope dental or vision benefits, if offered
 2705 separately.
- 2706 (10) Benefits for long-term care, nursing home care, home
 2707 health care, or community-based care, or any combination
 2708 thereof, if offered separately.
- 2709 (11) Other similar, limited benefits, if offered
 2710 separately, as specified in rules adopted by the commission.
- 2711 (12) Coverage only for a specified disease or illness, if
 2712 offered as independent, noncoordinated benefits.
- 2713 (13) Hospital indemnity or other fixed indemnity
 2714 insurance, if offered as independent, noncoordinated benefits.

2715 (14) Benefits provided through a Medicare supplemental
2716 health insurance policy, as defined under s. 1882(g)(1) of the
2717 Social Security Act, coverage supplemental to the coverage
2718 provided under 10 U.S.C. chapter 55, and similar supplemental
2719 coverage provided to coverage under a group health plan, which
2720 are offered as a separate insurance policy and as independent,
2721 noncoordinated benefits.

2722 Section 103. Subsection (1) of section 627.6574, Florida
2723 Statutes, is amended to read:

2724 627.6574 Maternity care.—

2725 (1) Any group, blanket, or franchise policy of health
2726 insurance that provides coverage for maternity care must also
2727 cover the services of certified nurse-midwives and midwives
2728 licensed pursuant to chapter 467, and the services of birth
2729 centers licensed under ss. 383.30-383.332 ~~383.30-383.335~~.

2730 Section 104. Paragraph (j) of subsection (1) of section
2731 641.185, Florida Statutes, is amended to read:

2732 641.185 Health maintenance organization subscriber
2733 protections.—

2734 (1) With respect to the provisions of this part and part
2735 III, the principles expressed in the following statements shall
2736 serve as standards to be followed by the commission, the office,
2737 the department, and the Agency for Health Care Administration in
2738 exercising their powers and duties, in exercising administrative

2739 discretion, in administrative interpretations of the law, in
 2740 enforcing its provisions, and in adopting rules:

2741 ~~(j) A health maintenance organization should receive~~
 2742 ~~timely and, if necessary, urgent review by an independent state~~
 2743 ~~external review organization for unresolved grievances and~~
 2744 ~~appeals pursuant to s. 408.7056.~~

2745 Section 105. Paragraph (a) of subsection (18) of section
 2746 641.31, Florida Statutes, is amended to read:

2747 641.31 Health maintenance contracts.—

2748 (18) (a) Health maintenance contracts that provide
 2749 coverage, benefits, or services for maternity care must provide,
 2750 as an option to the subscriber, the services of nurse-midwives
 2751 and midwives licensed pursuant to chapter 467, and the services
 2752 of birth centers licensed pursuant to ss. 383.30-383.332 ~~383.30-~~
 2753 ~~383.335~~, if such services are available within the service area.

2754 Section 106. Section 641.312, Florida Statutes, is amended
 2755 to read:

2756 641.312 Scope.—The Office of Insurance Regulation may
 2757 adopt rules to administer the provisions of the National
 2758 Association of Insurance Commissioners' Uniform Health Carrier
 2759 External Review Model Act, issued by the National Association of
 2760 Insurance Commissioners and dated April 2010. This section does
 2761 not apply to ~~a health maintenance contract that is subject to~~
 2762 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~

2763 types of benefits or coverages provided under s. 627.6513(1)-
2764 (14) issued in any market.

2765 Section 107. Subsection (4) of section 641.3154, Florida
2766 Statutes, is amended to read:

2767 641.3154 Organization liability; provider billing
2768 prohibited.-

2769 (4) A provider or any representative of a provider,
2770 regardless of whether the provider is under contract with the
2771 health maintenance organization, may not collect or attempt to
2772 collect money from, maintain any action at law against, or
2773 report to a credit agency a subscriber of an organization for
2774 payment of services for which the organization is liable, if the
2775 provider in good faith knows or should know that the
2776 organization is liable. This prohibition applies during the
2777 pendency of any claim for payment made by the provider to the
2778 organization for payment of the services and any legal
2779 proceedings or dispute resolution process to determine whether
2780 the organization is liable for the services if the provider is
2781 informed that such proceedings are taking place. It is presumed
2782 that a provider does not know and should not know that an
2783 organization is liable unless:

2784 (a) The provider is informed by the organization that it
2785 accepts liability;

2786 (b) A court of competent jurisdiction determines that the
2787 organization is liable; or

2788 ~~(c) The office or agency makes a final determination that~~
 2789 ~~the organization is required to pay for such services subsequent~~
 2790 ~~to a recommendation made by the Subscriber Assistance Panel~~
 2791 ~~pursuant to s. 408.7056; or~~

2792 (c)~~(d)~~ The agency issues a final order that the
 2793 organization is required to pay for such services subsequent to
 2794 a recommendation made by a resolution organization pursuant to
 2795 s. 408.7057.

2796 Section 108. Paragraph (c) of subsection (5) of section
 2797 641.51, Florida Statutes, is amended to read:

2798 641.51 Quality assurance program; second medical opinion
 2799 requirement.—

2800 (5)

2801 (c) For second opinions provided by contract physicians
 2802 the organization is prohibited from charging a fee to the
 2803 subscriber in an amount in excess of the subscriber fees
 2804 established by contract for referral contract physicians. The
 2805 organization shall pay the amount of all charges, which are
 2806 usual, reasonable, and customary in the community, for second
 2807 opinion services performed by a physician not under contract
 2808 with the organization, but may require the subscriber to be
 2809 responsible for up to 40 percent of such amount. The
 2810 organization may require that any tests deemed necessary by a
 2811 noncontract physician shall be conducted by the organization.
 2812 The organization may deny reimbursement rights granted under

2813 | this section in the event the subscriber seeks in excess of
2814 | three such referrals per year if such subsequent referral costs
2815 | are deemed by the organization to be evidence that the
2816 | subscriber has unreasonably overutilized the second opinion
2817 | privilege. A subscriber thus denied reimbursement under this
2818 | section shall have recourse to grievance procedures as specified
2819 | in ss. ~~408.7056~~, 641.495~~7~~, and 641.511. The organization's
2820 | physician's professional judgment concerning the treatment of a
2821 | subscriber derived after review of a second opinion shall be
2822 | controlling as to the treatment obligations of the health
2823 | maintenance organization. Treatment not authorized by the health
2824 | maintenance organization shall be at the subscriber's expense.

2825 | Section 109. Subsection (1), paragraph (e) of subsection
2826 | (3), paragraph (d) of subsection (4), paragraph (g) of
2827 | subsection (6), and subsections (7) through (12) of section
2828 | 641.511, Florida Statutes, are amended to read:

2829 | 641.511 Subscriber grievance reporting and resolution
2830 | requirements.—

2831 | (1) Every organization must have a grievance procedure
2832 | available to its subscribers for the purpose of addressing
2833 | complaints and grievances. Every organization must notify its
2834 | subscribers that a subscriber must submit a grievance within 1
2835 | year after the date of occurrence of the action that initiated
2836 | the grievance, ~~and may submit the grievance for review to the~~
2837 | ~~Subscriber Assistance Program panel as provided in s. 408.7056~~

2838 ~~after receiving a final disposition of the grievance through the~~
2839 ~~organization's grievance process.~~ An organization shall maintain
2840 records of all grievances and shall report annually to the
2841 agency the total number of grievances handled, a categorization
2842 of the cases underlying the grievances, and the final
2843 disposition of the grievances.

2844 (3) Each organization's grievance procedure, as required
2845 under subsection (1), must include, at a minimum:

2846 (e) A notice that a subscriber may voluntarily pursue
2847 binding arbitration in accordance with the terms of the contract
2848 if offered by the organization, after completing the
2849 organization's grievance procedure ~~and as an alternative to the~~
2850 ~~Subscriber Assistance Program.~~ Such notice shall include an
2851 explanation that the subscriber may incur some costs if the
2852 subscriber pursues binding arbitration, depending upon the terms
2853 of the subscriber's contract.

2854 (4)

2855 ~~(d) In any case when the review process does not resolve a~~
2856 ~~difference of opinion between the organization and the~~
2857 ~~subscriber or the provider acting on behalf of the subscriber,~~
2858 ~~the subscriber or the provider acting on behalf of the~~
2859 ~~subscriber may submit a written grievance to the Subscriber~~
2860 ~~Assistance Program.~~

2861 (6)

2862 ~~(g) In any case when the expedited review process does not~~
2863 ~~resolve a difference of opinion between the organization and the~~
2864 ~~subscriber or the provider acting on behalf of the subscriber,~~
2865 ~~the subscriber or the provider acting on behalf of the~~
2866 ~~subscriber may submit a written grievance to the Subscriber~~
2867 ~~Assistance Program.~~

2868 ~~(7) Each organization shall send to the agency a copy of~~
2869 ~~its quarterly grievance reports submitted to the office pursuant~~
2870 ~~to s. 408.7056(12).~~

2871 ~~(7)(8)~~ (7) The agency shall investigate all reports of
2872 unresolved quality of care grievances received from:

2873 ~~(a)~~ annual and quarterly grievance reports submitted by
2874 the organization to the office.

2875 ~~(b)~~ Review requests of subscribers whose grievances remain
2876 unresolved after the subscriber has followed the full grievance
2877 procedure of the organization.

2878 ~~(9)(a)~~ The agency shall advise subscribers with grievances
2879 to follow their organization's formal grievance process for
2880 resolution prior to review by the Subscriber Assistance Program.
2881 The subscriber may, however, submit a copy of the grievance to
2882 the agency at any time during the process.

2883 ~~(b)~~ Requiring completion of the organization's grievance
2884 process before the Subscriber Assistance Program panel's review
2885 does not preclude the agency from investigating any complaint or
2886 grievance before the organization makes its final determination.

2887 ~~(10) Each organization must notify the subscriber in a~~
2888 ~~final decision letter that the subscriber may request review of~~
2889 ~~the organization's decision concerning the grievance by the~~
2890 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~
2891 ~~the grievance is not resolved to the satisfaction of the~~
2892 ~~subscriber. The final decision letter must inform the subscriber~~
2893 ~~that the request for review must be made within 365 days after~~
2894 ~~receipt of the final decision letter, must explain how to~~
2895 ~~initiate such a review, and must include the addresses and toll-~~
2896 ~~free telephone numbers of the agency and the Subscriber~~
2897 ~~Assistance Program.~~

2898 (8)~~(11)~~ Each organization, as part of its contract with
2899 any provider, must require the provider to post a consumer
2900 assistance notice prominently displayed in the reception area of
2901 the provider and clearly noticeable by all patients. The
2902 consumer assistance notice must state the addresses and toll-
2903 free telephone numbers of the Agency for Health Care
2904 Administration, ~~the Subscriber Assistance Program,~~ and the
2905 Department of Financial Services. The consumer assistance notice
2906 must also clearly state that the address and toll-free telephone
2907 number of the organization's grievance department shall be
2908 provided upon request. The agency may adopt rules to implement
2909 this section.

2910 (9)~~(12)~~ The agency may impose administrative sanction, in
 2911 accordance with s. 641.52, against an organization for
 2912 noncompliance with this section.

2913 Section 110. Subsection (1) of section 641.515, Florida
 2914 Statutes, is amended to read:

2915 641.515 Investigation by the agency.—

2916 (1) The agency shall investigate further any quality of
 2917 care issue contained in recommendations and reports submitted
 2918 pursuant to s. ~~ss. 408.7056~~ and 641.511. The agency shall also
 2919 investigate further any information that indicates that the
 2920 organization does not meet accreditation standards or the
 2921 standards of the review organization performing the external
 2922 quality assurance assessment pursuant to reports submitted under
 2923 s. 641.512. Every organization shall submit its books and
 2924 records and take other appropriate action as may be necessary to
 2925 facilitate an examination. The agency shall have access to the
 2926 organization's medical records of individuals and records of
 2927 employed and contracted physicians, with the consent of the
 2928 subscriber or by court order, as necessary to carry out the
 2929 provisions of this part.

2930 Section 111. Subsection (2) of section 641.55, Florida
 2931 Statutes, is amended to read:

2932 641.55 Internal risk management program.—

2933 (2) The risk management program shall be the
 2934 responsibility of the governing authority or board of the

2935 organization. Every organization which has an annual premium
 2936 volume of \$10 million or more and which directly provides health
 2937 care in a building owned or leased by the organization shall
 2938 hire a risk manager, ~~certified under ss. 395.10971-395.10975,~~
 2939 who shall be responsible for implementation of the
 2940 organization's risk management program required by this section.
 2941 A part-time risk manager shall not be responsible for risk
 2942 management programs in more than four organizations or
 2943 facilities. Every organization which does not directly provide
 2944 health care in a building owned or leased by the organization
 2945 and every organization with an annual premium volume of less
 2946 than \$10 million shall designate an officer or employee of the
 2947 organization to serve as the risk manager.

2948
 2949 The gross data compiled under this section or s. 395.0197 shall
 2950 be furnished by the agency upon request to organizations to be
 2951 utilized for risk management purposes. The agency shall adopt
 2952 rules necessary to carry out the provisions of this section.

2953 Section 112. Section 641.60, Florida Statutes, is
 2954 repealed.

2955 Section 113. Section 641.65, Florida Statutes, is
 2956 repealed.

2957 Section 114. Section 641.67, Florida Statutes, is
 2958 repealed.

2959 Section 115. Section 641.68, Florida Statutes, is
 2960 repealed.

2961 Section 116. Section 641.70, Florida Statutes, is
 2962 repealed.

2963 Section 117. Section 641.75, Florida Statutes, is
 2964 repealed.

2965 Section 118. Paragraph (b) of subsection (6) of section
 2966 766.118, Florida Statutes, is amended to read:

2967 766.118 Determination of noneconomic damages.—

2968 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
 2969 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
 2970 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
 2971 respect to a cause of action for personal injury or wrongful
 2972 death arising from medical negligence of a practitioner
 2973 committed in the course of providing medical services and
 2974 medical care to a Medicaid recipient, regardless of the number
 2975 of such practitioner defendants providing the services and care,
 2976 noneconomic damages may not exceed \$300,000 per claimant, unless
 2977 the claimant pleads and proves, by clear and convincing
 2978 evidence, that the practitioner acted in a wrongful manner. A
 2979 practitioner providing medical services and medical care to a
 2980 Medicaid recipient is not liable for more than \$200,000 in
 2981 noneconomic damages, regardless of the number of claimants,
 2982 unless the claimant pleads and proves, by clear and convincing
 2983 evidence, that the practitioner acted in a wrongful manner. The

2984 fact that a claimant proves that a practitioner acted in a
 2985 wrongful manner does not preclude the application of the
 2986 limitation on noneconomic damages prescribed elsewhere in this
 2987 section. For purposes of this subsection:

2988 (b) The term "practitioner," in addition to the meaning
 2989 prescribed in subsection (1), includes any hospital or
 2990 ambulatory surgical center, ~~or mobile surgical facility~~ as
 2991 defined and licensed under chapter 395.

2992 Section 119. Subsection (4) of section 766.202, Florida
 2993 Statutes, is amended to read:

2994 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
 2995 766.201-766.212, the term:

2996 (4) "Health care provider" means any hospital or
 2997 ambulatory surgical center, ~~or mobile surgical facility~~ as
 2998 defined and licensed under chapter 395; a birth center licensed
 2999 under chapter 383; any person licensed under chapter 458,
 3000 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 3001 part I of chapter 464, chapter 466, chapter 467, part XIV of
 3002 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
 3003 ~~chapter 483~~; a health maintenance organization certificated
 3004 under part I of chapter 641; a blood bank; a plasma center; an
 3005 industrial clinic; a renal dialysis facility; or a professional
 3006 association partnership, corporation, joint venture, or other
 3007 association for professional activity by health care providers.

3008 Section 120. Subsection (1) of section 945.36, Florida
 3009 Statutes, is amended to read:

3010 945.36 ~~Exemption from health testing regulations for~~ Law
 3011 enforcement personnel authorized to conduct ~~conducting~~ drug
 3012 tests on inmates and releasees.—

3013 (1) Any law enforcement officer, state or county probation
 3014 officer, or employee of the Department of Corrections, who is
 3015 certified by the Department of Corrections pursuant to
 3016 subsection (2) may administer, ~~is exempt from part I of chapter~~
 3017 ~~483, for the limited purpose of administering~~ a urine screen
 3018 drug test to:

- 3019 (a) Persons during incarceration;
- 3020 (b) Persons released as a condition of probation for
- 3021 either a felony or misdemeanor;
- 3022 (c) Persons released as a condition of community control;
- 3023 (d) Persons released as a condition of conditional
- 3024 release;
- 3025 (e) Persons released as a condition of parole;
- 3026 (f) Persons released as a condition of provisional
- 3027 release;
- 3028 (g) Persons released as a condition of pretrial release;
- 3029 or
- 3030 (h) Persons released as a condition of control release.

3031 Section 121. Paragraph (b) of subsection (2) of section
 3032 1009.65, Florida Statutes, is amended to read:

3033 | 1009.65 Medical Education Reimbursement and Loan Repayment
 3034 | Program.—

3035 | (2) From the funds available, the Department of Health
 3036 | shall make payments to selected medical professionals as
 3037 | follows:

3038 | (b) All payments shall be contingent on continued proof of
 3039 | primary care practice in an area defined in s. 395.602(2)(b)
 3040 | ~~395.602(2)(e)~~, or an underserved area designated by the
 3041 | Department of Health, provided the practitioner accepts Medicaid
 3042 | reimbursement if eligible for such reimbursement. Correctional
 3043 | facilities, state hospitals, and other state institutions that
 3044 | employ medical personnel shall be designated by the Department
 3045 | of Health as underserved locations. Locations with high
 3046 | incidences of infant mortality, high morbidity, or low Medicaid
 3047 | participation by health care professionals may be designated as
 3048 | underserved.

3049 | Section 122. This act shall take effect July 1, 2017.