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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2017	.	
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Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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11 (g) Division of Medical Quality Assurance, which is
12 responsible for the following boards and professions established
13 within the division:

- 14 1. The Board of Acupuncture, created under chapter 457.
- 15 2. The Board of Medicine, created under chapter 458.
- 16 3. The Board of Osteopathic Medicine, created under chapter
17 459.
- 18 4. The Board of Chiropractic Medicine, created under
19 chapter 460.
- 20 5. The Board of Podiatric Medicine, created under chapter
21 461.
- 22 6. Naturopathy, as provided under chapter 462.
- 23 7. The Board of Optometry, created under chapter 463.
- 24 8. The Board of Nursing, created under part I of chapter
25 464.
- 26 9. Nursing assistants, as provided under part II of chapter
27 464.
- 28 10. The Board of Pharmacy, created under chapter 465.
- 29 11. The Board of Dentistry, created under chapter 466.
- 30 12. Midwifery, as provided under chapter 467.
- 31 13. The Board of Speech-Language Pathology and Audiology,
32 created under part I of chapter 468.
- 33 14. The Board of Nursing Home Administrators, created under
34 part II of chapter 468.
- 35 15. The Board of Occupational Therapy, created under part
36 III of chapter 468.
- 37 16. Respiratory therapy, as provided under part V of
38 chapter 468.
- 39 17. Dietetics and nutrition practice, as provided under



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40 part X of chapter 468.

41 18. The Board of Athletic Training, created under part XIII
42 of chapter 468.

43 19. The Board of Orthotists and Prosthetists, created under
44 part XIV of chapter 468.

45 20. Electrolysis, as provided under chapter 478.

46 21. The Board of Massage Therapy, created under chapter
47 480.

48 22. The Board of Clinical Laboratory Personnel, created
49 under part II ~~III~~ of chapter 483.

50 23. Medical physicists, as provided under part IV of
51 chapter 483.

52 24. The Board of Opticianry, created under part I of
53 chapter 484.

54 25. The Board of Hearing Aid Specialists, created under
55 part II of chapter 484.

56 26. The Board of Physical Therapy Practice, created under
57 chapter 486.

58 27. The Board of Psychology, created under chapter 490.

59 28. School psychologists, as provided under chapter 490.

60 29. The Board of Clinical Social Work, Marriage and Family
61 Therapy, and Mental Health Counseling, created under chapter
62 491.

63 30. Emergency medical technicians and paramedics, as
64 provided under part III of chapter 401.

65 Section 2. Section 154.13, Florida Statutes, is created to
66 read:

67 154.13 Designated facilities; jurisdiction.—Any designated
68 facility owned or operated by a public health trust and located



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69 within the boundaries of a municipality is under the exclusive
70 jurisdiction of the county creating the public health trust and
71 is not within the jurisdiction of the municipality.

72 Section 3. Paragraph (k) of subsection (2) of section
73 220.1845, Florida Statutes, is amended to read:

74 220.1845 Contaminated site rehabilitation tax credit.—

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

76 (k) In order to encourage the construction and operation of
77 a new health care facility as defined in s. 408.032 or s.
78 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
79 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
80 may claim an additional 25 percent of the total site
81 rehabilitation costs, not to exceed \$500,000, if the applicant
82 meets the requirements of this paragraph. In order to receive
83 this additional tax credit, the applicant must provide
84 documentation indicating that the construction of the health
85 care facility or health care provider by the applicant on the
86 brownfield site has received a certificate of occupancy or a
87 license or certificate has been issued for the operation of the
88 health care facility or health care provider.

89 Section 4. Paragraph (f) of subsection (3) of section
90 376.30781, Florida Statutes, is amended to read:

91 376.30781 Tax credits for rehabilitation of drycleaning-
92 solvent-contaminated sites and brownfield sites in designated
93 brownfield areas; application process; rulemaking authority;
94 revocation authority.—

95 (3)

96 (f) In order to encourage the construction and operation of
97 a new health care facility or a health care provider, as defined



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98 in s. 408.032 or s. 408.07, ~~or s. 408.7056~~, on a brownfield
99 site, an applicant for a tax credit may claim an additional 25
100 percent of the total site rehabilitation costs, not to exceed
101 \$500,000, if the applicant meets the requirements of this
102 paragraph. In order to receive this additional tax credit, the
103 applicant must provide documentation indicating that the
104 construction of the health care facility or health care provider
105 by the applicant on the brownfield site has received a
106 certificate of occupancy or a license or certificate has been
107 issued for the operation of the health care facility or health
108 care provider.

109 Section 5. Subsection (1) of section 376.86, Florida
110 Statutes, is amended to read:

111 376.86 Brownfield Areas Loan Guarantee Program.—

112 (1) The Brownfield Areas Loan Guarantee Council is created
113 to review and approve or deny, by a majority vote of its
114 membership, the situations and circumstances for participation
115 in partnerships by agreements with local governments, financial
116 institutions, and others associated with the redevelopment of
117 brownfield areas pursuant to the Brownfields Redevelopment Act
118 for a limited state guaranty of up to 5 years of loan guarantees
119 or loan loss reserves issued pursuant to law. The limited state
120 loan guaranty applies only to 50 percent of the primary lenders
121 loans for redevelopment projects in brownfield areas. If the
122 redevelopment project is for affordable housing, as defined in
123 s. 420.0004, in a brownfield area, the limited state loan
124 guaranty applies to 75 percent of the primary lender's loan. If
125 the redevelopment project includes the construction and
126 operation of a new health care facility or a health care



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127 provider, as defined in s. 408.032 ~~or~~ s. 408.07, ~~or s.~~
128 ~~408.7056~~, on a brownfield site and the applicant has obtained
129 documentation in accordance with s. 376.30781 indicating that
130 the construction of the health care facility or health care
131 provider by the applicant on the brownfield site has received a
132 certificate of occupancy or a license or certificate has been
133 issued for the operation of the health care facility or health
134 care provider, the limited state loan guaranty applies to 75
135 percent of the primary lender's loan. A limited state guaranty
136 of private loans or a loan loss reserve is authorized for
137 lenders licensed to operate in the state upon a determination by
138 the council that such an arrangement would be in the public
139 interest and the likelihood of the success of the loan is great.

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

142 381.0031 Epidemiological research; report of diseases of
143 public health significance to department.-

144 (2) Any practitioner licensed in this state to practice
145 medicine, osteopathic medicine, chiropractic medicine,
146 naturopathy, or veterinary medicine; any hospital licensed under
147 part I of chapter 395; or any laboratory appropriately certified
148 by the Centers for Medicare and Medicaid Services under the
149 federal Clinical Laboratory Improvement Amendments and the
150 federal rules adopted thereunder which ~~licensed under chapter~~
151 ~~483~~ that diagnoses or suspects the existence of a disease of
152 public health significance shall immediately report the fact to
153 the Department of Health.

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



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156 381.0034 Requirement for instruction on HIV and AIDS.—

157 (3) The department shall require, as a condition of
158 granting a license under chapter 467 or part II ~~III~~ of chapter
159 483, that an applicant making initial application for licensure
160 complete an educational course acceptable to the department on
161 human immunodeficiency virus and acquired immune deficiency
162 syndrome. Upon submission of an affidavit showing good cause, an
163 applicant who has not taken a course at the time of licensure
164 shall be allowed 6 months to complete this requirement.

165 Section 8. Paragraph (c) of subsection (4) of section
166 381.004, Florida Statutes, is amended to read:

167 381.004 HIV testing.—

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

177 (c) The program shall have all laboratory procedures
178 performed in a laboratory appropriately certified by the Centers
179 for Medicare and Medicaid Services under the federal Clinical
180 Laboratory Improvement Amendments and the federal rules adopted
181 thereunder ~~licensed under the provisions of chapter 483.~~

182 Section 9. Paragraph (f) of subsection (4) of section
183 381.0405, Florida Statutes, is amended to read:

184 381.0405 Office of Rural Health.—



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185 (4) COORDINATION.—The office shall:

186 (f) Assume responsibility for state coordination of the
187 Rural Hospital Transition Grant Program, ~~the Essential Access~~
188 ~~Community Hospital Program,~~ and other federal rural health care
189 programs.

190 Section 10. Section 383.30, Florida Statutes, is amended to
191 read:

192 383.30 Birth Center Licensure Act; short title.—Sections
193 383.30-383.332 ~~383.335~~ shall be known and may be cited as the
194 "Birth Center Licensure Act."

195 Section 11. Section 383.301, Florida Statutes, is amended
196 to read:

197 383.301 Licensure and regulation of birth centers;
198 legislative intent.—It is the intent of the Legislature to
199 provide for the protection of public health and safety in the
200 establishment, maintenance, and operation of birth centers by
201 providing for licensure of birth centers and for the
202 development, establishment, and enforcement of minimum standards
203 with respect to birth centers. The requirements of part II of
204 chapter 408 shall apply to the provision of services that
205 require licensure pursuant to ss. 383.30-383.332 ~~383.335~~ and
206 part II of chapter 408 and to entities licensed by or applying
207 for such licensure from the Agency for Health Care
208 Administration pursuant to ss. 383.30-383.332 ~~383.335~~. A license
209 issued by the agency is required in order to operate a birth
210 center in this state.

211 Section 12. Section 383.302, Florida Statutes, is amended
212 to read:

213 383.302 Definitions of terms used in ss. 383.30-383.332



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214 ~~383.335.~~—As used in ss. 383.30–383.332 ~~383.335~~, the term:

215 (1) “Agency” means the Agency for Health Care
216 Administration.

217 (2) “Birth center” means any facility, institution, or
218 place, which is not an ambulatory surgical center or a hospital
219 or in a hospital, in which births are planned to occur away from
220 the mother’s usual residence following a normal, uncomplicated,
221 low-risk pregnancy.

222 (3) “Clinical staff” means individuals employed full time
223 or part time by a birth center who are licensed or certified to
224 provide care at childbirth.

225 (4) “Consultant” means a physician licensed pursuant to
226 chapter 458 or chapter 459 who agrees to provide advice and
227 services to a birth center and who either:

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

230 (b) Has hospital obstetrical privileges.

231 (5) “Governing body” means any individual, group,
232 corporation, or institution which is responsible for the overall
233 operation and maintenance of a birth center.

234 (6) “Governmental unit” means the state or any county,
235 municipality, or other political subdivision or any department,
236 division, board, or other agency of any of the foregoing.

237 (7) “Licensed facility” means a facility licensed in
238 accordance with s. 383.305.

239 (8) “Low-risk pregnancy” means a pregnancy which is
240 expected to result in an uncomplicated birth, as determined
241 through risk criteria developed by rule of the department, and
242 which is accompanied by adequate prenatal care.



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243 (9) "Person" means any individual, firm, partnership,
244 corporation, company, association, institution, or joint stock
245 association and means any legal successor of any of the
246 foregoing.

247 (10) "Premises" means those buildings, beds, and facilities
248 located at the main address of the licensee and all other
249 buildings, beds, and facilities for the provision of maternity
250 care located in such reasonable proximity to the main address of
251 the licensee as to appear to the public to be under the dominion
252 and control of the licensee.

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

255 383.305 Licensure; fees.—

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

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

262 383.309 Minimum standards for birth centers; rules and
263 enforcement.—

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

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

271 (b) Infection control, housekeeping, sanitary conditions,



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272 disaster plan, and medical record procedures that will
273 adequately protect patient care and provide safety are
274 established and implemented.

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

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

279 383.313 Performance of laboratory and surgical services;
280 use of anesthetic and chemical agents.—

281 (1) LABORATORY SERVICES.—A birth center may collect
282 specimens for those tests that are requested under protocol. A
283 birth center must obtain and continuously maintain certification
284 by the Centers for Medicare and Medicaid Services under the
285 federal Clinical Laboratory Improvements Amendments and rules
286 adopted thereunder in order to may perform ~~simple~~ laboratory
287 tests specified, as defined by rule of the agency, and which are
288 appropriate to meet the needs of the patient ~~is exempt from the~~
289 ~~requirements of chapter 483, provided no more than five~~
290 ~~physicians are employed by the birth center and testing is~~
291 ~~conducted exclusively in connection with the diagnosis and~~
292 ~~treatment of clients of the birth center.~~

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

295 383.33 Administrative penalties; moratorium on admissions.—

296 (1) In addition to the requirements of part II of chapter
297 408, the agency may impose an administrative fine not to exceed
298 \$500 per violation per day for the violation of any provision of
299 ss. 383.30-383.332 ~~383.335~~, part II of chapter 408, or
300 applicable rules.



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

304 (a) The severity of the violation, including the
305 probability that death or serious harm to the health or safety
306 of any person will result or has resulted; the severity of the
307 actual or potential harm; and the extent to which the provisions
308 of ss. 383.30-383.332 ~~383.335~~, part II of chapter 408, or
309 applicable rules were violated.

310 Section 17. Section 383.335, Florida Statutes, is repealed.

311 Section 18. Section 384.31, Florida Statutes, is amended to
312 read:

313 384.31 Testing of pregnant women; duty of the attendant.—
314 Every person, including every physician licensed under chapter
315 458 or chapter 459 or midwife licensed under part I of chapter
316 464 or chapter 467, attending a pregnant woman for conditions
317 relating to pregnancy during the period of gestation and
318 delivery shall cause the woman to be tested for sexually
319 transmissible diseases, including HIV, as specified by
320 department rule. Testing shall be performed by a laboratory
321 appropriately certified by the Centers for Medicare and Medicaid
322 Services under the federal Clinical Laboratory Improvement
323 Amendments and the federal rules adopted thereunder ~~approved~~ for
324 such purposes ~~under part I of chapter 483~~. The woman shall be
325 informed of the tests that will be conducted and of her right to
326 refuse testing. If a woman objects to testing, a written
327 statement of objection, signed by the woman, shall be placed in
328 the woman's medical record and no testing shall occur.

329 Section 19. Subsection (2) of section 385.211, Florida



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330 Statutes, is amended to read:

331 385.211 Refractory and intractable epilepsy treatment and
332 research at recognized medical centers.—

333 (2) Notwithstanding chapter 893, medical centers recognized
334 pursuant to s. 381.925, or an academic medical research
335 institution legally affiliated with a licensed children's
336 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~
337 that contracts with the Department of Health, may conduct
338 research on cannabidiol and low-THC cannabis. This research may
339 include, but is not limited to, the agricultural development,
340 production, clinical research, and use of liquid medical
341 derivatives of cannabidiol and low-THC cannabis for the
342 treatment for refractory or intractable epilepsy. The authority
343 for recognized medical centers to conduct this research is
344 derived from 21 C.F.R. parts 312 and 316. Current state or
345 privately obtained research funds may be used to support the
346 activities described in this section.

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

349 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
350 394.4789.—As used in this section and ss. 394.4786, 394.4788,
351 and 394.4789:

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

355 Section 21. Section 395.001, Florida Statutes, is amended
356 to read:

357 395.001 Legislative intent.—It is the intent of the
358 Legislature to provide for the protection of public health and



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359 safety in the establishment, construction, maintenance, and
360 operation of hospitals and, ambulatory surgical centers, ~~and~~
361 ~~mobile surgical facilities~~ by providing for licensure of same
362 and for the development, establishment, and enforcement of
363 minimum standards with respect thereto.

364 Section 22. Present subsections (22) through (33) of
365 section 395.002, Florida Statutes, are renumbered as subsections
366 (21) through (32), respectively, and subsections (3) and (16)
367 and present subsections (21) and (23) of that section are
368 amended, to read:

369 395.002 Definitions.—As used in this chapter:

370 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
371 ~~facility"~~ means a facility the primary purpose of which is to
372 provide elective surgical care, in which the patient is admitted
373 to and discharged from such facility within the same working day
374 and is not permitted to stay overnight, and which is not part of
375 a hospital. However, a facility existing for the primary purpose
376 of performing terminations of pregnancy, an office maintained by
377 a physician for the practice of medicine, or an office
378 maintained for the practice of dentistry shall not be construed
379 to be an ambulatory surgical center, provided that any facility
380 or office which is certified or seeks certification as a
381 Medicare ambulatory surgical center shall be licensed as an
382 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
383 ~~or vehicle in which a physician maintains an office and~~
384 ~~practices surgery, and which can appear to the public to be a~~
385 ~~mobile office because the structure or vehicle operates at more~~
386 ~~than one address, shall be construed to be a mobile surgical~~
387 ~~facility.~~



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388 (16) "Licensed facility" means a hospital or, ambulatory
389 surgical center, ~~or mobile surgical facility~~ licensed in
390 accordance with this chapter.

391 ~~(21) "Mobile surgical facility" is a mobile facility in~~
392 ~~which licensed health care professionals provide elective~~
393 ~~surgical care under contract with the Department of Corrections~~
394 ~~or a private correctional facility operating pursuant to chapter~~
395 ~~957 and in which inmate patients are admitted to and discharged~~
396 ~~from said facility within the same working day and are not~~
397 ~~permitted to stay overnight. However, mobile surgical facilities~~
398 ~~may only provide health care services to the inmate patients of~~
399 ~~the Department of Corrections, or inmate patients of a private~~
400 ~~correctional facility operating pursuant to chapter 957, and not~~
401 ~~to the general public.~~

402 (22) ~~(23)~~ "Premises" means those buildings, beds, and
403 equipment located at the address of the licensed facility and
404 all other buildings, beds, and equipment for the provision of
405 hospital or, ambulatory surgical, ~~or mobile surgical~~ care
406 located in such reasonable proximity to the address of the
407 licensed facility as to appear to the public to be under the
408 dominion and control of the licensee. For any licensee that is a
409 teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,
410 reasonable proximity includes any buildings, beds, services,
411 programs, and equipment under the dominion and control of the
412 licensee that are located at a site with a main address that is
413 within 1 mile of the main address of the licensed facility; and
414 all such buildings, beds, and equipment may, at the request of a
415 licensee or applicant, be included on the facility license as a
416 single premises.



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

420 395.003 Licensure; denial, suspension, and revocation.—

421 (1) (a) The requirements of part II of chapter 408 apply to
422 the provision of services that require licensure pursuant to ss.
423 395.001-395.1065 and part II of chapter 408 and to entities
424 licensed by or applying for such licensure from the Agency for
425 Health Care Administration pursuant to ss. 395.001-395.1065. A
426 license issued by the agency is required in order to operate a
427 hospital or ambulatory surgical center, ~~or mobile surgical~~
428 ~~facility~~ in this state.

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

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

439 (2)

440 (b) The agency shall, at the request of a licensee that is
441 a teaching hospital as defined in s. 408.07(44) ~~s. 408.07(45)~~,
442 issue a single license to a licensee for facilities that have
443 been previously licensed as separate premises, provided such
444 separately licensed facilities, taken together, constitute the
445 same premises as defined in s. 395.002(22) ~~s. 395.002(23)~~. Such



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446 license for the single premises shall include all of the beds,
447 services, and programs that were previously included on the
448 licenses for the separate premises. The granting of a single
449 license under this paragraph shall not in any manner reduce the
450 number of beds, services, or programs operated by the licensee.

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

453 395.009 Minimum standards for clinical laboratory test
454 results and diagnostic X-ray results; prerequisite for issuance
455 or renewal of license.-

456 (1) As a requirement for issuance or renewal of its
457 license, each licensed facility shall require that all clinical
458 laboratory tests performed by or for the licensed facility be
459 performed by a clinical laboratory appropriately certified by
460 the Centers for Medicare and Medicaid Services under the federal
461 Clinical Laboratory Improvement Amendments and the federal rules
462 adopted thereunder licensed under the provisions of chapter 483.

463 Section 25. Section 395.0091, Florida Statutes, is created
464 to read:

465 395.0091 Alternate-site testing.-The agency, in
466 consultation with the Board of Clinical Laboratory Personnel,
467 shall adopt by rule the criteria for alternate-site testing to
468 be performed under the supervision of a clinical laboratory
469 director. At a minimum, the criteria must address: hospital
470 internal needs assessment; a protocol for implementation,
471 including the identification of tests to be performed and who
472 will perform them; selection of the method of testing to be used
473 for alternate-site testing; minimum training and education
474 requirements for those who will perform alternate-site testing,



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475 such as documented training, licensure, certification, or other
476 medical professional background not limited to laboratory
477 professionals; documented inservice training and initial and
478 ongoing competency validation; an appropriate internal and
479 external quality control protocol; an internal mechanism for the
480 central laboratory to identify and track alternate-site testing;
481 and recordkeeping requirements. Alternate-site testing locations
482 must register when the hospital applies to renew its license.
483 For purposes of this section, the term "alternate-site testing"
484 means any laboratory testing done under the administrative
485 control of a hospital, but performed out of the physical or
486 administrative confines of the central laboratory.

487 Section 26. Paragraph (f) of subsection (1) of section
488 395.0161, Florida Statutes, is amended to read:

489 395.0161 Licensure inspection.—

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

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

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

500 395.0163 Construction inspections; plan submission and
501 approval; fees.—

502 ~~(3) In addition to the requirements of s. 408.811, the~~
503 ~~agency shall inspect a mobile surgical facility at initial~~



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504 ~~licensure and at each time the facility establishes a new~~
505 ~~location, prior to admission of patients. However, such~~
506 ~~inspections shall not be required when a mobile surgical~~
507 ~~facility is moved temporarily to a location where medical~~
508 ~~treatment will not be provided.~~

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

512 395.0197 Internal risk management program.—

513 (2) The internal risk management program is the
514 responsibility of the governing board of the health care
515 facility. Each licensed facility shall hire a risk manager,
516 ~~licensed under s. 395.10974,~~ who is responsible for
517 implementation and oversight of such facility's internal risk
518 management program and who demonstrates competence, by education
519 or experience, in all of the following areas: as required by
520 ~~this section. A risk manager must not be made responsible for~~
521 ~~more than four internal risk management programs in separate~~
522 ~~licensed facilities, unless the facilities are under one~~
523 ~~corporate ownership or the risk management programs are in rural~~
524 ~~hospitals.~~

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

526 (b) Applicable federal, state, and local health and safety
527 laws and rules.

528 (c) General risk management administration.

529 (d) Patient care.

530 (e) Medical care.

531 (f) Personal and social care.

532 (g) Accident prevention.



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533 (h) Departmental organization and management.

534 (i) Community interrelationships.

535 (j) Medical terminology.

536 (6)

537 (c) The report submitted to the agency shall also contain
538 the name ~~and license number~~ of the risk manager of the licensed
539 facility, a copy of its policy and procedures which govern the
540 measures taken by the facility and its risk manager to reduce
541 the risk of injuries and adverse incidents, and the results of
542 such measures. The annual report is confidential and is not
543 available to the public pursuant to s. 119.07(1) or any other
544 law providing access to public records. The annual report is not
545 discoverable or admissible in any civil or administrative
546 action, except in disciplinary proceedings by the agency or the
547 appropriate regulatory board. The annual report is not available
548 to the public as part of the record of investigation for and
549 prosecution in disciplinary proceedings made available to the
550 public by the agency or the appropriate regulatory board.
551 However, the agency or the appropriate regulatory board shall
552 make available, upon written request by a health care
553 professional against whom probable cause has been found, any
554 such records which form the basis of the determination of
555 probable cause.

556 (16) There shall be no monetary liability on the part of,
557 and no cause of action for damages shall arise against, any risk
558 manager, ~~licensed under s. 395.10974,~~ for the implementation and
559 oversight of the internal risk management program in a facility
560 licensed under this chapter or chapter 390 as required by this
561 section, for any act or proceeding undertaken or performed



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562 within the scope of the functions of such internal risk
563 management program if the risk manager acts without intentional
564 fraud.

565 (17) A privilege against civil liability is hereby granted
566 to any ~~licensed~~ risk manager or licensed facility with regard to
567 information furnished pursuant to this chapter, unless the
568 ~~licensed~~ risk manager or facility acted in bad faith or with
569 malice in providing such information.

570 Section 29. Section 395.1046, Florida Statutes, is
571 repealed.

572 Section 30. Subsections (2) and (3) of section 395.1055,
573 Florida Statutes, are amended, and paragraph (i) is added to
574 subsection (1), to read:

575 395.1055 Rules and enforcement.—

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

579 (i) All hospitals providing pediatric cardiac
580 catheterization, pediatric open-heart surgery, organ
581 transplantation, neonatal intensive care services, psychiatric
582 services, or comprehensive medical rehabilitation meet the
583 minimum licensure requirements adopted by the agency. Such
584 licensure requirements must include quality of care, nurse
585 staffing, physician staffing, physical plant, equipment,
586 emergency transportation, and data reporting standards.

587 (2) Separate standards may be provided for general and
588 specialty hospitals, ambulatory surgical centers, ~~mobile~~
589 ~~surgical facilities,~~ and statutory rural hospitals as defined in
590 s. 395.602.



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591 (3) The agency shall adopt rules with respect to the care
592 and treatment of patients residing in distinct part nursing
593 units of hospitals which are certified for participation in
594 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social
595 Security Act skilled nursing facility program. Such rules shall
596 take into account the types of patients treated in hospital
597 skilled nursing units, including typical patient acuity levels
598 and the average length of stay in such units, and shall be
599 limited to the appropriate portions of the Omnibus Budget
600 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
601 1987), Title IV (Medicare, Medicaid, and Other Health-Related
602 Programs), Subtitle C (Nursing Home Reform), as amended. The
603 agency shall require level 2 background screening as specified
604 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for
605 personnel of distinct part nursing units.

606 Section 31. Section 395.10971, Florida Statutes, is
607 repealed.

608 Section 32. Section 395.10972, Florida Statutes, is
609 repealed.

610 Section 33. Section 395.10973, Florida Statutes, is amended
611 to read:

612 395.10973 Powers and duties of the agency.—It is the
613 function of the agency to:

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

617 ~~(2) Develop, impose, and enforce specific standards within~~
618 ~~the scope of the general qualifications established by this part~~
619 ~~which must be met by individuals in order to receive licenses as~~



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620 ~~health care risk managers. These standards shall be designed to~~
621 ~~ensure that health care risk managers are individuals of good~~
622 ~~character and otherwise suitable and, by training or experience~~
623 ~~in the field of health care risk management, qualified in~~
624 ~~accordance with the provisions of this part to serve as health~~
625 ~~care risk managers, within statutory requirements.~~

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

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

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

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

637 ~~(2)-(7)~~ Develop a model risk management program for health
638 care facilities which will satisfy the requirements of s.
639 395.0197.

640 ~~(3)-(8)~~ Enforce the special-occupancy provisions of the
641 Florida Building Code which apply to hospitals, intermediate
642 residential treatment facilities, and ambulatory surgical
643 centers in conducting any inspection authorized by this chapter
644 and part II of chapter 408.

645 Section 34. Section 395.10974, Florida Statutes, is
646 repealed.

647 Section 35. Section 395.10975, Florida Statutes, is
648 repealed.



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

651 395.602 Rural hospitals.—

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

653 ~~(a) "Emergency care hospital" means a medical facility~~
654 ~~which provides:~~

655 ~~1. Emergency medical treatment; and~~

656 ~~2. Inpatient care to ill or injured persons prior to their~~
657 ~~transportation to another hospital or provides inpatient medical~~
658 ~~care to persons needing care for a period of up to 96 hours. The~~
659 ~~96-hour limitation on inpatient care does not apply to respite,~~
660 ~~skilled nursing, hospice, or other nonacute care patients.~~

661 ~~(b) "Essential access community hospital" means any~~
662 ~~facility which:~~

663 ~~1. Has at least 100 beds;~~

664 ~~2. Is located more than 35 miles from any other essential~~
665 ~~access community hospital, rural referral center, or urban~~
666 ~~hospital meeting criteria for classification as a regional~~
667 ~~referral center;~~

668 ~~3. Is part of a network that includes rural primary care~~
669 ~~hospitals;~~

670 ~~4. Provides emergency and medical backup services to rural~~
671 ~~primary care hospitals in its rural health network;~~

672 ~~5. Extends staff privileges to rural primary care hospital~~
673 ~~physicians in its network; and~~

674 ~~6. Accepts patients transferred from rural primary care~~
675 ~~hospitals in its network.~~

676 ~~(c) "Inactive rural hospital bed" means a licensed acute~~
677 ~~care hospital bed, as defined in s. 395.002(13), that is~~



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678 ~~inactive in that it cannot be occupied by acute care inpatients.~~

679 (a)~~(d)~~ "Rural area health education center" means an area
680 health education center (AHEC), as authorized by Pub. L. No. 94-
681 484, which provides services in a county with a population
682 density of up to ~~no greater than~~ 100 persons per square mile.

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

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

688 2. An acute care hospital, in a county with a population
689 density of up to 100 persons per square mile, which is at least
690 30 minutes of travel time, on normally traveled roads under
691 normal traffic conditions, from any other acute care hospital
692 within the same county;

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

696 4. A hospital classified as a sole community hospital under
697 42 C.F.R. s. 412.92 which has up to 175 licensed beds;

698 5. A hospital with a service area that has a population of
699 up to 100 persons per square mile. As used in this subparagraph,
700 the term "service area" means the fewest number of zip codes
701 that account for 75 percent of the hospital's discharges for the
702 most recent 5-year period, based on information available from
703 the hospital inpatient discharge database in the Florida Center
704 for Health Information and Transparency at the agency; or

705 6. A hospital designated as a critical access hospital, as
706 defined in s. 408.07.



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707
708 Population densities used in this paragraph must be based upon
709 the most recently completed United States census. A hospital
710 that received funds under s. 409.9116 for a quarter beginning no
711 later than July 1, 2002, is deemed to have been and shall
712 continue to be a rural hospital from that date through June 30,
713 2021, if the hospital continues to have up to 100 licensed beds
714 and an emergency room. An acute care hospital that has not
715 previously been designated as a rural hospital and that meets
716 the criteria of this paragraph shall be granted such designation
717 upon application, including supporting documentation, to the
718 agency. A hospital that was licensed as a rural hospital during
719 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
720 rural hospital from the date of designation through June 30,
721 2021, if the hospital continues to have up to 100 licensed beds
722 and an emergency room.

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

- 726 ~~1. Twenty-four-hour emergency medical care;~~
727 ~~2. Temporary inpatient care for periods of 72 hours or less~~
728 ~~to patients requiring stabilization before discharge or transfer~~
729 ~~to another hospital. The 72-hour limitation does not apply to~~
730 ~~respite, skilled nursing, hospice, or other nonacute care~~
731 ~~patients; and~~
732 ~~3. Has no more than six licensed acute care inpatient beds.~~

733 (c)(g) "Swing-bed" means a bed which can be used
734 interchangeably as either a hospital, skilled nursing facility
735 (SNF), or intermediate care facility (ICF) bed pursuant to 42



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736 C.F.R. parts 405, 435, 440, 442, and 447.

737 Section 37. Section 395.603, Florida Statutes, is amended
738 to read:

739 395.603 ~~Deactivation of general hospital beds;~~ Rural
740 hospital impact statement.-

741 ~~(1) The agency shall establish, by rule, a process by which~~
742 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~
743 ~~as a rural primary care hospital or as an emergency care~~
744 ~~hospital, or becomes a certified rural health clinic as defined~~
745 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~
746 ~~a county health department, community health center, or other~~
747 ~~similar outpatient program that provides preventive and curative~~
748 ~~services, may deactivate general hospital beds. Rural primary~~
749 ~~care hospitals and emergency care hospitals shall maintain the~~
750 ~~number of actively licensed general hospital beds necessary for~~
751 ~~the facility to be certified for Medicare reimbursement.~~
752 ~~Hospitals that discontinue inpatient care to become rural health~~
753 ~~care clinics or primary care programs shall deactivate all~~
754 ~~licensed general hospital beds. All hospitals, clinics, and~~
755 ~~programs with inactive beds shall provide 24-hour emergency~~
756 ~~medical care by staffing an emergency room. Providers with~~
757 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~
758 ~~The agency shall specify in rule requirements for making 24-hour~~
759 ~~emergency care available. Inactive general hospital beds shall~~
760 ~~be included in the acute care bed inventory, maintained by the~~
761 ~~agency for certificate-of-need purposes, for 10 years from the~~
762 ~~date of deactivation of the beds. After 10 years have elapsed,~~
763 ~~inactive beds shall be excluded from the inventory. The agency~~
764 ~~shall, at the request of the licensee, reactivate the inactive~~



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765 ~~general beds upon a showing by the licensee that licensure~~
766 ~~requirements for the inactive general beds are met.~~

767 ~~(2)~~ In formulating and implementing policies and rules that
768 may have significant impact on the ability of rural hospitals to
769 continue to provide health care services in rural communities,
770 the agency, the department, or the respective regulatory board
771 adopting policies or rules regarding the licensure or
772 certification of health care professionals shall provide a rural
773 hospital impact statement. The rural hospital impact statement
774 shall assess the proposed action in light of the following
775 questions:

776 (1)~~(a)~~ Do the health personnel affected by the proposed
777 action currently practice in rural hospitals or are they likely
778 to in the near future?

779 (2)~~(b)~~ What are the current numbers of the affected health
780 personnel in this state, their geographic distribution, and the
781 number practicing in rural hospitals?

782 (3)~~(c)~~ What are the functions presently performed by the
783 affected health personnel, and are such functions presently
784 performed in rural hospitals?

785 (4)~~(d)~~ What impact will the proposed action have on the
786 ability of rural hospitals to recruit the affected personnel to
787 practice in their facilities?

788 (5)~~(e)~~ What impact will the proposed action have on the
789 limited financial resources of rural hospitals through increased
790 salaries and benefits necessary to recruit or retain such health
791 personnel?

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



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

797 Section 38. Section 395.604, Florida Statutes, is repealed.

798 Section 39. Section 395.605, Florida Statutes, is repealed.

799 Section 40. Paragraph (c) of subsection (1) of section
800 395.701, Florida Statutes, is amended to read:

801 395.701 Annual assessments on net operating revenues for
802 inpatient and outpatient services to fund public medical
803 assistance; administrative fines for failure to pay assessments
804 when due; exemption.—

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

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

809 Section 41. Paragraph (b) of subsection (2) of section
810 395.7015, Florida Statutes, is amended to read:

811 395.7015 Annual assessment on health care entities.—

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

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

816 1. Ambulatory surgical centers ~~and mobile surgical~~
817 ~~facilities licensed under s. 395.003. This subsection shall only~~
818 ~~apply to mobile surgical facilities operating under contracts~~
819 ~~entered into on or after July 1, 1998.~~

820 2. ~~Clinical laboratories licensed under s. 483.091,~~
821 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
822 ~~any clinical laboratory operated by the state or a political~~



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823 ~~subdivision of the state, any clinical laboratory which~~
824 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
825 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
826 ~~percent or more of its gross revenues from services to charity~~
827 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
828 ~~bank procuring, storing, or distributing blood, plasma, or~~
829 ~~tissue either for future manufacture or research or distributed~~
830 ~~on a nonprofit basis, and further excluding any clinical~~
831 ~~laboratory which is wholly owned and operated by 6 or fewer~~
832 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
833 ~~459 and who practice in the same group practice, and at which no~~
834 ~~clinical laboratory work is performed for patients referred by~~
835 ~~any health care provider who is not a member of the same group.~~

836 2.3. Diagnostic-imaging centers that are freestanding
837 outpatient facilities that provide specialized services for the
838 identification or determination of a disease through examination
839 and also provide sophisticated radiological services, and in
840 which services are rendered by a physician licensed by the Board
841 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
842 an osteopathic physician licensed by the Board of Osteopathic
843 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
844 paragraph, "sophisticated radiological services" means the
845 following: magnetic resonance imaging; nuclear medicine;
846 angiography; arteriography; computed tomography; positron
847 emission tomography; digital vascular imaging; bronchography;
848 lymphangiography; splenography; ultrasound, excluding ultrasound
849 providers that are part of a private physician's office practice
850 or when ultrasound is provided by two or more physicians
851 licensed under chapter 458 or chapter 459 who are members of the



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852 same professional association and who practice in the same
853 medical specialties; and such other sophisticated radiological
854 services, excluding mammography, as adopted in rule by the
855 board.

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

858 400.0625 Minimum standards for clinical laboratory test
859 results and diagnostic X-ray results.—

860 (1) Each nursing home, as a requirement for issuance or
861 renewal of its license, shall require that all clinical
862 laboratory tests performed for the nursing home be performed by
863 a ~~clinical~~ laboratory appropriately certified by the Centers for
864 Medicare and Medicaid Services under the federal Clinical
865 Laboratory Improvement Amendments and the federal rules adopted
866 thereunder ~~licensed under the provisions of chapter 483, except~~
867 ~~for such self-testing procedures as are approved by the agency~~
868 ~~by rule. Results of clinical laboratory tests performed prior to~~
869 ~~admission which meet the minimum standards provided in s.~~
870 ~~483.181(3) shall be accepted in lieu of routine examinations~~
871 ~~required upon admission and clinical laboratory tests which may~~
872 ~~be ordered by a physician for residents of the nursing home.~~

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

876 400.464 Home health agencies to be licensed; expiration of
877 license; exemptions; unlawful acts; penalties.—

878 (1) The requirements of part II of chapter 408 apply to the
879 provision of services that require licensure pursuant to this
880 part and part II of chapter 408 and entities licensed or



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881 registered by or applying for such licensure or registration
882 from the Agency for Health Care Administration pursuant to this
883 part. A license issued by the agency is required in order to
884 operate a home health agency in this state. A license issued on
885 or after July 1, 2017, must specify the home health services the
886 organization is authorized to perform and indicate whether such
887 specified services are considered skilled care. The provision or
888 advertising of services that require licensure pursuant to this
889 part without such services being specified on the face of the
890 license issued on or after July 1, 2017, constitutes unlicensed
891 activity as prohibited under s. 408.812.

892 (4)

893 (b) The operation or maintenance of an unlicensed home
894 health agency or the performance of any home health services in
895 violation of this part is declared a nuisance, inimical to the
896 public health, welfare, and safety. The agency or any state
897 attorney may, in addition to other remedies provided in this
898 part, bring an action for an injunction to restrain such
899 violation, or to enjoin the future operation or maintenance of
900 the home health agency or the provision of home health services
901 in violation of this part or part II of chapter 408, until
902 compliance with this part or the rules adopted under this part
903 has been demonstrated to the satisfaction of the agency.

904 (e) Any person who owns, operates, or maintains an
905 unlicensed home health agency and who, ~~within 10 working days~~
906 after receiving notification from the agency, fails to cease
907 operation and apply for a license under this part commits a
908 misdemeanor of the second degree, punishable as provided in s.
909 775.082 or s. 775.083. Each day of continued operation is a



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910 separate offense.

911 (f) Any home health agency that fails to cease operation
912 after agency notification may be fined in accordance with s.
913 408.812 \$500 for each day of noncompliance.

914 (6) Any person, entity, or organization providing home
915 health services which is exempt from licensure under subsection
916 (5) may voluntarily apply for a certificate of exemption from
917 licensure under its exempt status with the agency on a form that
918 specifies its name or names and addresses, a statement of the
919 reasons why it is exempt from licensure as a home health agency,
920 and other information deemed necessary by the agency. A
921 certificate of exemption is valid for a period of not more than
922 2 years and is not transferable. The agency may charge an
923 applicant for a certificate of exemption \$100 or the actual cost
924 of processing the certificate.

925 Section 44. Subsections (7) through (10) of section
926 400.471, Florida Statutes, are redesignated as subsections (6)
927 through (9), respectively, and subsection (2) and present
928 subsections (6) and (10) of that section are amended, to read:

929 400.471 Application for license; fee.—

930 (2) In addition to the requirements of part II of chapter
931 408, the initial applicant, the applicant for a change of
932 ownership, and the applicant for the addition of skilled care
933 services must file with the application satisfactory proof that
934 the home health agency is in compliance with this part and
935 applicable rules, including:

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



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939 (b) The number and discipline of professional staff to be
940 employed.

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

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

946 ~~(d)~~~~(e)~~ Evidence of contingency funding as required under s.
947 408.8065 equal to 1 month's average operating expenses during
948 the first year of operation.

949 ~~(e)~~~~(f)~~ A balance sheet, income and expense statement, and
950 statement of cash flows for the first 2 years of operation which
951 provide evidence of having sufficient assets, credit, and
952 projected revenues to cover liabilities and expenses. The
953 applicant has demonstrated financial ability to operate if the
954 applicant's assets, credit, and projected revenues meet or
955 exceed projected liabilities and expenses. An applicant may not
956 project an operating margin of 15 percent or greater for any
957 month in the first year of operation. All documents required
958 under this paragraph must be prepared in accordance with
959 generally accepted accounting principles and compiled and signed
960 by a certified public accountant.

961 ~~(f)~~~~(g)~~ All other ownership interests in health care
962 entities for each controlling interest, as defined in part II of
963 chapter 408.

964 ~~(g)~~~~(h)~~ In the case of an application for initial licensure,
965 an application for a change of ownership, or an application for
966 the addition of skilled care services, documentation of
967 accreditation, or an application for accreditation, from an



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968 accrediting organization that is recognized by the agency as
969 having standards comparable to those required by this part and
970 part II of chapter 408. A home health agency that ~~is not~~
971 ~~Medicare or Medicaid certified~~ and does not provide skilled care
972 is exempt from this paragraph. Notwithstanding s. 408.806, an
973 initial applicant that has applied for accreditation must
974 provide proof of accreditation that is not conditional or
975 provisional and a survey demonstrating compliance with the
976 requirements of this part, part II of chapter 408, and
977 applicable rules from an accrediting organization that is
978 recognized by the agency as having standards comparable to those
979 required by this part and part II of chapter 408 within 120 days
980 after the date of the agency's receipt of the application for
981 licensure ~~or the application shall be withdrawn from further~~
982 ~~consideration~~. Such accreditation must be continuously
983 maintained by the home health agency to maintain licensure. The
984 agency shall accept, in lieu of its own periodic licensure
985 survey, the submission of the survey of an accrediting
986 organization that is recognized by the agency if the
987 accreditation of the licensed home health agency is not
988 provisional and if the licensed home health agency authorizes
989 releases of, and the agency receives the report of, the
990 accrediting organization.

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

994 (9) ~~(10)~~ The agency may not issue a renewal license for a
995 home health agency in any county having at least one licensed
996 home health agency and that has more than one home health agency



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997 per 5,000 persons, as indicated by the most recent population
998 estimates published by the Legislature's Office of Economic and
999 Demographic Research, if the applicant or any controlling
1000 interest has been administratively sanctioned by the agency
1001 during the 2 years prior to the submission of the licensure
1002 renewal application for one or more of the following acts:

1003 (a) An intentional or negligent act that materially affects
1004 the health or safety of a client of the provider;

1005 (b) Knowingly providing home health services in an
1006 unlicensed assisted living facility or unlicensed adult family-
1007 care home, unless the home health agency or employee reports the
1008 unlicensed facility or home to the agency within 72 hours after
1009 providing the services;

1010 (c) Preparing or maintaining fraudulent patient records,
1011 such as, but not limited to, charting ahead, recording vital
1012 signs or symptoms which were not personally obtained or observed
1013 by the home health agency's staff at the time indicated,
1014 borrowing patients or patient records from other home health
1015 agencies to pass a survey or inspection, or falsifying
1016 signatures;

1017 (d) Failing to provide at least one service directly to a
1018 patient for a period of 60 days;

1019 (e) Demonstrating a pattern of falsifying documents
1020 relating to the training of home health aides or certified
1021 nursing assistants or demonstrating a pattern of falsifying
1022 health statements for staff who provide direct care to patients.
1023 A pattern may be demonstrated by a showing of at least three
1024 fraudulent entries or documents;

1025 (f) Demonstrating a pattern of billing any payor for



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1026 services not provided. A pattern may be demonstrated by a
1027 showing of at least three billings for services not provided
1028 within a 12-month period;

1029 (g) Demonstrating a pattern of failing to provide a service
1030 specified in the home health agency's written agreement with a
1031 patient or the patient's legal representative, or the plan of
1032 care for that patient, ~~except unless a reduction in service is~~
1033 ~~mandated by Medicare, Medicaid, or a state program~~ or as
1034 provided in s. 400.492(3). A pattern may be demonstrated by a
1035 showing of at least three incidents, regardless of the patient
1036 or service, in which the home health agency did not provide a
1037 service specified in a written agreement or plan of care during
1038 a 3-month period;

1039 (h) Giving remuneration to a case manager, discharge
1040 planner, facility-based staff member, or third-party vendor who
1041 is involved in the discharge planning process of a facility
1042 licensed under chapter 395, chapter 429, or this chapter from
1043 whom the home health agency receives referrals or gives
1044 remuneration as prohibited in s. 400.474(6)(a);

1045 (i) Giving cash, or its equivalent, to a Medicare or
1046 Medicaid beneficiary;

1047 (j) Demonstrating a pattern of billing the Medicaid program
1048 for services to Medicaid recipients which are medically
1049 unnecessary as determined by a final order. A pattern may be
1050 demonstrated by a showing of at least two such medically
1051 unnecessary services within one Medicaid program integrity audit
1052 period;

1053 (k) Providing services to residents in an assisted living
1054 facility for which the home health agency does not receive fair



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1055 market value remuneration; or

1056 (1) Providing staffing to an assisted living facility for
1057 which the home health agency does not receive fair market value
1058 remuneration.

1059 Section 45. Subsection (5) of section 400.474, Florida
1060 Statutes, is amended to read:

1061 400.474 Administrative penalties.—

1062 (5) The agency shall impose a fine of \$5,000 against a home
1063 health agency that demonstrates a pattern of failing to provide
1064 a service specified in the home health agency's written
1065 agreement with a patient or the patient's legal representative,
1066 or the plan of care for that patient, except ~~unless a reduction~~
1067 ~~in service is mandated by Medicare, Medicaid, or a state program~~
1068 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
1069 by a showing of at least three incidences, regardless of the
1070 patient or service, where the home health agency did not provide
1071 a service specified in a written agreement or plan of care
1072 during a 3-month period. The agency shall impose the fine for
1073 each occurrence. The agency may also impose additional
1074 administrative fines under s. 400.484 for the direct or indirect
1075 harm to a patient, or deny, revoke, or suspend the license of
1076 the home health agency for a pattern of failing to provide a
1077 service specified in the home health agency's written agreement
1078 with a patient or the plan of care for that patient.

1079 Section 46. Paragraph (c) of subsection (2) of section
1080 400.476, Florida Statutes, is amended to read:

1081 400.476 Staffing requirements; notifications; limitations
1082 on staffing services.—

1083 (2) DIRECTOR OF NURSING.—



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1084 (c) A home health agency that provides skilled nursing care
1085 must is not Medicare or Medicaid certified and does not provide
1086 skilled care or provides only physical, occupational, or speech
1087 therapy is not required to have a director of nursing and is
1088 exempt from paragraph (b).

1089 Section 47. Section 400.484, Florida Statutes, is amended
1090 to read:

1091 400.484 Right of inspection; violations deficiencies;
1092 fines.—

1093 (1) In addition to the requirements of s. 408.811, the
1094 agency may make such inspections and investigations as are
1095 necessary in order to determine the state of compliance with
1096 this part, part II of chapter 408, and applicable rules.

1097 (2) The agency shall impose fines for various classes of
1098 violations deficiencies in accordance with the following
1099 schedule:

1100 (a) Class I violations are defined in s. 408.813 A class I
1101 deficiency is any act, omission, or practice that results in a
1102 patient's death, disablement, or permanent injury, or places a
1103 patient at imminent risk of death, disablement, or permanent
1104 injury. Upon finding a class I violation deficiency, the agency
1105 shall impose an administrative fine in the amount of \$15,000 for
1106 each occurrence and each day that the violation deficiency
1107 exists.

1108 (b) Class II violations are defined in s. 408.813 A class
1109 II deficiency is any act, omission, or practice that has a
1110 direct adverse effect on the health, safety, or security of a
1111 patient. Upon finding a class II violation deficiency, the
1112 agency shall impose an administrative fine in the amount of



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1113 \$5,000 for each occurrence and each day that the violation
1114 ~~deficiency~~ exists.

1115 (c) Class III violations are defined in s. 408.813 ~~A class~~
1116 ~~III deficiency is any act, omission, or practice that has an~~
1117 ~~indirect, adverse effect on the health, safety, or security of a~~
1118 ~~patient.~~ Upon finding an uncorrected or repeated class III
1119 violation deficiency, the agency shall impose an administrative
1120 fine not to exceed \$1,000 for each occurrence and each day that
1121 the uncorrected or repeated violation deficiency exists.

1122 (d) Class IV violations are defined in s. 408.813 ~~A class~~
1123 ~~IV deficiency is any act, omission, or practice related to~~
1124 ~~required reports, forms, or documents which does not have the~~
1125 ~~potential of negatively affecting patients.~~ These violations are
1126 of a type that the agency determines do not threaten the health,
1127 safety, or security of patients. Upon finding an uncorrected or
1128 repeated class IV violation deficiency, the agency shall impose
1129 an administrative fine not to exceed \$500 for each occurrence
1130 and each day that the uncorrected or repeated violation
1131 ~~deficiency~~ exists.

1132 (3) In addition to any other penalties imposed pursuant to
1133 this section or part, the agency may assess costs related to an
1134 investigation that results in a successful prosecution,
1135 excluding costs associated with an attorney's time.

1136 Section 48. Subsection (4) of section 400.497, Florida
1137 Statutes, is amended to read:

1138 400.497 Rules establishing minimum standards.—The agency
1139 shall adopt, publish, and enforce rules to implement part II of
1140 chapter 408 and this part, including, as applicable, ss. 400.506
1141 and 400.509, which must provide reasonable and fair minimum



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1142 standards relating to:

1143 (4) Licensure application and renewal and certificates of
1144 exemption.

1145 Section 49. Subsection (5) and paragraph (a) of subsection
1146 (15) of section 400.506, Florida Statutes, are amended to read:

1147 400.506 Licensure of nurse registries; requirements;
1148 penalties.—

1149 (5) (a) In addition to the requirements of s. 408.812, any
1150 person who owns, operates, or maintains an unlicensed nurse
1151 registry and who, ~~within 10 working days~~ after receiving
1152 notification from the agency, fails to cease operation and apply
1153 for a license under this part commits a misdemeanor of the
1154 second degree, punishable as provided in s. 775.082 or s.
1155 775.083. Each day of continued operation is a separate offense.

1156 (b) If a nurse registry fails to cease operation after
1157 agency notification, the agency may impose a fine in accordance
1158 with s. 408.812 ~~of \$500 for each day of noncompliance.~~

1159 (15) (a) The agency may deny, suspend, or revoke the license
1160 of a nurse registry and shall impose a fine of \$5,000 against a
1161 nurse registry that:

1162 1. Provides services to residents in an assisted living
1163 facility for which the nurse registry does not receive fair
1164 market value remuneration.

1165 2. Provides staffing to an assisted living facility for
1166 which the nurse registry does not receive fair market value
1167 remuneration.

1168 3. Fails to provide the agency, upon request, with copies
1169 of all contracts with assisted living facilities which were
1170 executed within the last 5 years.



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1171 ~~4. Gives remuneration to a case manager, discharge planner,~~
1172 ~~facility-based staff member, or third-party vendor who is~~
1173 ~~involved in the discharge planning process of a facility~~
1174 ~~licensed under chapter 395 or this chapter and from whom the~~
1175 ~~nurse registry receives referrals. A nurse registry is exempt~~
1176 ~~from this subparagraph if it does not bill the Florida Medicaid~~
1177 ~~program or the Medicare program or share a controlling interest~~
1178 ~~with any entity licensed, registered, or certified under part II~~
1179 ~~of chapter 408 that bills the Florida Medicaid program or the~~
1180 ~~Medicare program.~~

1181 ~~5. Gives remuneration to a physician, a member of the~~
1182 ~~physician's office staff, or an immediate family member of the~~
1183 ~~physician, and the nurse registry received a patient referral in~~
1184 ~~the last 12 months from that physician or the physician's office~~
1185 ~~staff. A nurse registry is exempt from this subparagraph if it~~
1186 ~~does not bill the Florida Medicaid program or the Medicare~~
1187 ~~program or share a controlling interest with any entity~~
1188 ~~licensed, registered, or certified under part II of chapter 408~~
1189 ~~that bills the Florida Medicaid program or the Medicare program.~~

1190 Section 50. Subsection (1) of section 400.606, Florida
1191 Statutes, is amended to read:

1192 400.606 License; application; renewal; conditional license
1193 or permit; certificate of need.-

1194 (1) In addition to the requirements of part II of chapter
1195 408, the initial application and change of ownership application
1196 must be accompanied by a plan for the delivery of home,
1197 residential, and homelike inpatient hospice services to
1198 terminally ill persons and their families. Such plan must
1199 contain, but need not be limited to:



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1200 (a) The estimated average number of terminally ill persons
1201 to be served monthly.

1202 (b) The geographic area in which hospice services will be
1203 available.

1204 (c) A listing of services which are or will be provided,
1205 either directly by the applicant or through contractual
1206 arrangements with existing providers.

1207 (d) Provisions for the implementation of hospice home care
1208 within 3 months after licensure.

1209 (e) Provisions for the implementation of hospice homelike
1210 inpatient care within 12 months after licensure.

1211 (f) The number and disciplines of professional staff to be
1212 employed.

1213 (g) The name and qualifications of any existing or
1214 potential contractee.

1215 (h) A plan for attracting and training volunteers.

1216

1217 ~~If the applicant is an existing licensed health care provider,~~
1218 ~~the application must be accompanied by a copy of the most recent~~
1219 ~~profit-loss statement and, if applicable, the most recent~~
1220 ~~licensure inspection report.~~

1221 Section 51. Subsection (6) of section 400.925, Florida
1222 Statutes, is amended to read:

1223 400.925 Definitions.—As used in this part, the term:

1224 (6) "Home medical equipment" includes any product as
1225 defined by the Federal Drug Administration's Drugs, Devices and
1226 Cosmetics Act, any products reimbursed under the Medicare Part B
1227 Durable Medical Equipment benefits, or any products reimbursed
1228 under the Florida Medicaid durable medical equipment program.



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1229 Home medical equipment includes:

1230 (a) Oxygen and related respiratory equipment; ~~manual,~~
1231 ~~motorized, or customized wheelchairs and related seating and~~
1232 ~~positioning, but does not include prosthetics or orthotics or~~
1233 ~~any splints, braces, or aids custom fabricated by a licensed~~
1234 ~~health care practitioner;~~

1235 (b) Motorized scooters;

1236 (c) Personal transfer systems; and

1237 (d) Specialty beds, for use by a person with a medical
1238 need; and

1239 (e) Manual, motorized, or customized wheelchairs and
1240 related seating and positioning, but does not include
1241 prosthetics or orthotics or any splints, braces, or aids custom
1242 fabricated by a licensed health care practitioner.

1243 Section 52. Subsection (4) of section 400.931, Florida
1244 Statutes, is amended to read:

1245 400.931 Application for license; fee.—

1246 (4) When a change of the general manager of a home medical
1247 equipment provider occurs, the licensee must notify the agency
1248 of the change within the timeframes established in part II of
1249 chapter 408 and applicable rules 45 days.

1250 Section 53. Subsection (2) of section 400.933, Florida
1251 Statutes, is amended to read:

1252 400.933 Licensure inspections and investigations.—

1253 (2) The agency shall accept, in lieu of its own periodic
1254 inspections for licensure, submission of the following:

1255 (a) The survey or inspection of an accrediting
1256 organization, provided the accreditation of the licensed home
1257 medical equipment provider is not provisional and provided the



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1258 licensed home medical equipment provider authorizes release of,
1259 and the agency receives the report of, the accrediting
1260 organization; or

1261 (b) A copy of a valid medical oxygen retail establishment
1262 permit issued by the Department of Business and Professional
1263 Regulation Health, pursuant to chapter 499.

1264 Section 54. Subsection (2) of section 400.980, Florida
1265 Statutes, is amended to read:

1266 400.980 Health care services pools.—

1267 (2) The requirements of part II of chapter 408 apply to the
1268 provision of services that require licensure or registration
1269 pursuant to this part and part II of chapter 408 and to entities
1270 registered by or applying for such registration from the agency
1271 pursuant to this part. Registration or a license issued by the
1272 agency is required for the operation of a health care services
1273 pool in this state. In accordance with s. 408.805, an applicant
1274 or licensee shall pay a fee for each license application
1275 submitted using this part, part II of chapter 408, and
1276 applicable rules. The agency shall adopt rules and provide forms
1277 required for such registration and shall impose a registration
1278 fee in an amount sufficient to cover the cost of administering
1279 this part and part II of chapter 408. In addition to the
1280 requirements in part II of chapter 408, the registrant must
1281 provide the agency with any change of information contained on
1282 the original registration application within the timeframes
1283 established in this part, part II of chapter 408, and applicable
1284 rules 14 days prior to the change.

1285 Section 55. Paragraphs (a) through (d) of subsection (4) of
1286 section 400.9905, Florida Statutes, are amended to read:



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1287 400.9905 Definitions.—

1288 (4) "Clinic" means an entity where health care services are
1289 provided to individuals and which tenders charges for
1290 reimbursement for such services, including a mobile clinic and a
1291 portable equipment provider. As used in this part, the term does
1292 not include and the licensure requirements of this part do not
1293 apply to:

1294 (a) Entities licensed or registered by the state under
1295 chapter 395; entities licensed or registered by the state and
1296 providing only health care services within the scope of services
1297 authorized under their respective licenses under ss. 383.30-
1298 383.332 ~~383.335~~, chapter 390, chapter 394, chapter 397, this
1299 chapter except part X, chapter 429, chapter 463, chapter 465,
1300 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1301 chapter 651; end-stage renal disease providers authorized under
1302 42 C.F.R. part 405, subpart U; providers certified under 42
1303 C.F.R. part 485, subpart B or subpart H; or any entity that
1304 provides neonatal or pediatric hospital-based health care
1305 services or other health care services by licensed practitioners
1306 solely within a hospital licensed under chapter 395.

1307 (b) Entities that own, directly or indirectly, entities
1308 licensed or registered by the state pursuant to chapter 395;
1309 entities that own, directly or indirectly, entities licensed or
1310 registered by the state and providing only health care services
1311 within the scope of services authorized pursuant to their
1312 respective licenses under ss. 383.30-383.332 ~~383.335~~, chapter
1313 390, chapter 394, chapter 397, this chapter except part X,
1314 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1315 ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage



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1316 renal disease providers authorized under 42 C.F.R. part 405,
1317 subpart U; providers certified under 42 C.F.R. part 485, subpart
1318 B or subpart H; or any entity that provides neonatal or
1319 pediatric hospital-based health care services by licensed
1320 practitioners solely within a hospital licensed under chapter
1321 395.

1322 (c) Entities that are owned, directly or indirectly, by an
1323 entity licensed or registered by the state pursuant to chapter
1324 395; entities that are owned, directly or indirectly, by an
1325 entity licensed or registered by the state and providing only
1326 health care services within the scope of services authorized
1327 pursuant to their respective licenses under ss. 383.30-383.332
1328 ~~383.335~~, chapter 390, chapter 394, chapter 397, this chapter
1329 except part X, chapter 429, chapter 463, chapter 465, chapter
1330 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or chapter
1331 651; end-stage renal disease providers authorized under 42
1332 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
1333 part 485, subpart B or subpart H; or any entity that provides
1334 neonatal or pediatric hospital-based health care services by
1335 licensed practitioners solely within a hospital under chapter
1336 395.

1337 (d) Entities that are under common ownership, directly or
1338 indirectly, with an entity licensed or registered by the state
1339 pursuant to chapter 395; entities that are under common
1340 ownership, directly or indirectly, with an entity licensed or
1341 registered by the state and providing only health care services
1342 within the scope of services authorized pursuant to their
1343 respective licenses under ss. 383.30-383.332 ~~383.335~~, chapter
1344 390, chapter 394, chapter 397, this chapter except part X,



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1345 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1346 ~~part I of chapter 483~~, chapter 484, or chapter 651; end-stage
1347 renal disease providers authorized under 42 C.F.R. part 405,
1348 subpart U; providers certified under 42 C.F.R. part 485, subpart
1349 B or subpart H; or any entity that provides neonatal or
1350 pediatric hospital-based health care services by licensed
1351 practitioners solely within a hospital licensed under chapter
1352 395.

1353
1354 Notwithstanding this subsection, an entity shall be deemed a
1355 clinic and must be licensed under this part in order to receive
1356 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1357 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1358 Section 56. Subsection (6) of section 400.9935, Florida
1359 Statutes, is amended to read:

1360 400.9935 Clinic responsibilities.—

1361 (6) Any person or entity providing health care services
1362 which is not a clinic, as defined under s. 400.9905, may
1363 voluntarily apply for a certificate of exemption from licensure
1364 under its exempt status with the agency on a form that sets
1365 forth its name or names and addresses, a statement of the
1366 reasons why it cannot be defined as a clinic, and other
1367 information deemed necessary by the agency. An exemption is
1368 valid for a period of not more than 2 years and is not
1369 transferable. The agency may charge an applicant for a
1370 certificate of exemption in an amount equal to \$100 or the
1371 actual cost of processing the certificate, whichever is less. An
1372 entity seeking a certificate of exemption must publish and
1373 maintain a schedule of charges for the medical services offered



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1374 to patients. The schedule must include the prices charged to an
1375 uninsured person paying for such services by cash, check, credit
1376 card, or debit card. The schedule must be posted in a
1377 conspicuous place in the reception area of the entity and must
1378 include, but is not limited to, the 50 services most frequently
1379 provided by the entity. The schedule may group services by three
1380 price levels, listing services in each price level. The posting
1381 must be at least 15 square feet in size. As a condition
1382 precedent to receiving a certificate of exemption, an applicant
1383 must provide to the agency documentation of compliance with
1384 these requirements.

1385 Section 57. Paragraph (a) of subsection (2) of section
1386 408.033, Florida Statutes, is amended to read:

1387 408.033 Local and state health planning.—

1388 (2) FUNDING.—

1389 (a) The Legislature intends that the cost of local health
1390 councils be borne by assessments on selected health care
1391 facilities subject to facility licensure by the Agency for
1392 Health Care Administration, including abortion clinics, assisted
1393 living facilities, ambulatory surgical centers, birthing
1394 centers, ~~clinical laboratories except community nonprofit blood~~
1395 ~~banks and clinical laboratories operated by practitioners for~~
1396 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
1397 hospices, hospitals, intermediate care facilities for the
1398 developmentally disabled, nursing homes, health care clinics,
1399 and multiphasic testing centers and by assessments on
1400 organizations subject to certification by the agency pursuant to
1401 chapter 641, part III, including health maintenance
1402 organizations and prepaid health clinics. Fees assessed may be



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1403 collected prospectively at the time of licensure renewal and
1404 prorated for the licensure period.

1405 Section 58. Paragraphs (e) and (p) of subsection (3) of
1406 section 408.036, Florida Statutes, are amended to read:

1407 408.036 Projects subject to review; exemptions.—

1408 (3) EXEMPTIONS.—Upon request, the following projects are
1409 subject to exemption from the provisions of subsection (1):

1410 ~~(e) For mobile surgical facilities and related health care~~
1411 ~~services provided under contract with the Department of~~
1412 ~~Corrections or a private correctional facility operating~~
1413 ~~pursuant to chapter 957.~~

1414 ~~(p)~~ For replacement of a licensed nursing home on the
1415 same site, or within 5 miles of the same site if within the same
1416 subdistrict, if the number of licensed beds does not increase
1417 except as permitted under paragraph (e) ~~(f)~~.

1418 Section 59. Subsection (4) of section 408.061, Florida
1419 Statutes, is amended to read:

1420 408.061 Data collection; uniform systems of financial
1421 reporting; information relating to physician charges;
1422 confidential information; immunity.—

1423 (4) Within 120 days after the end of its fiscal year, each
1424 health care facility, excluding continuing care facilities,
1425 hospitals operated by state agencies, and nursing homes as
1426 defined in s. 408.07(13) and (36) ~~s. 408.07(14) and (37)~~, shall
1427 file with the agency, on forms adopted by the agency and based
1428 on the uniform system of financial reporting, its actual
1429 financial experience for that fiscal year, including
1430 expenditures, revenues, and statistical measures. Such data may
1431 be based on internal financial reports which are certified to be



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1432 complete and accurate by the provider. However, hospitals'
1433 actual financial experience shall be their audited actual
1434 experience. Every nursing home shall submit to the agency, in a
1435 format designated by the agency, a statistical profile of the
1436 nursing home residents. The agency, in conjunction with the
1437 Department of Elderly Affairs and the Department of Health,
1438 shall review these statistical profiles and develop
1439 recommendations for the types of residents who might more
1440 appropriately be placed in their homes or other noninstitutional
1441 settings.

1442 Section 60. Subsection (11) of section 408.07, Florida
1443 Statutes, is amended to read:

1444 408.07 Definitions.—As used in this chapter, with the
1445 exception of ss. 408.031-408.045, the term:

1446 ~~(11) "Clinical laboratory" means a facility licensed under~~
1447 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
1448 ~~483.041(6); any clinical laboratory operated by the state or a~~
1449 ~~political subdivision of the state; any blood or tissue bank~~
1450 ~~where the majority of revenues are received from the sale of~~
1451 ~~blood or tissue and where blood, plasma, or tissue is procured~~
1452 ~~from volunteer donors and donated, processed, stored, or~~
1453 ~~distributed on a nonprofit basis; and any clinical laboratory~~
1454 ~~which is wholly owned and operated by physicians who are~~
1455 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
1456 ~~in the same group practice, and at which no clinical laboratory~~
1457 ~~work is performed for patients referred by any health care~~
1458 ~~provider who is not a member of that same group practice.~~

1459 Section 61. Subsection (4) of section 408.20, Florida
1460 Statutes, is amended to read:



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1461 408.20 Assessments; Health Care Trust Fund.—
1462 (4) Hospitals operated by a state agency ~~the Department of~~
1463 ~~Children and Families, the Department of Health, or the~~
1464 ~~Department of Corrections~~ are exempt from the assessments
1465 required under this section.
1466 Section 62. Section 408.7056, Florida Statutes, is
1467 repealed.
1468 Section 63. Subsections (10), (11), and (27) of section
1469 408.802, Florida Statutes, are amended to read:
1470 408.802 Applicability.—The provisions of this part apply to
1471 the provision of services that require licensure as defined in
1472 this part and to the following entities licensed, registered, or
1473 certified by the agency, as described in chapters 112, 383, 390,
1474 394, 395, 400, 429, 440, 483, and 765:
1475 ~~(10) Mobile surgical facilities, as provided under part I~~
1476 ~~of chapter 395.~~
1477 ~~(11) Health care risk managers, as provided under part I of~~
1478 ~~chapter 395.~~
1479 ~~(27) Clinical laboratories, as provided under part I of~~
1480 ~~chapter 483.~~
1481 Section 64. Subsections (12) and (13) of section 408.803,
1482 Florida Statutes, are renumbered as subsections (13) and (14),
1483 respectively, and a new subsection (12) is added to that
1484 section, to read:
1485 408.803 Definitions.—As used in this part, the term:
1486 (12) "Relative" means an individual who is the father,
1487 mother, stepfather, stepmother, son, daughter, brother, sister,
1488 grandmother, grandfather, great-grandmother, great-grandfather,
1489 grandson, granddaughter, uncle, aunt, first cousin, nephew,



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1490 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1491 daughter-in-law, brother-in-law, sister-in-law, stepson,
1492 stepdaughter, stepbrother, stepsister, half-brother, or half-
1493 sister of a patient or client.

1494 Section 65. Paragraph (c) of subsection (7) of section
1495 408.806, Florida Statutes, is amended, and subsection (9) is
1496 added to that section, to read:

1497 408.806 License application process.—

1498 (7)

1499 (c) If an inspection is required by the authorizing statute
1500 for a license application other than an initial application, the
1501 inspection must be unannounced. This paragraph does not apply to
1502 inspections required pursuant to ss. 383.324, 395.0161(4) and
1503 429.67(6), and 483.061(2).

1504 (9) A licensee that holds a license for multiple providers
1505 licensed by the agency may request that all related license
1506 expiration dates be aligned. Upon such request, the agency may
1507 issue a license for an abbreviated licensure period with a
1508 prorated licensure fee.

1509 Section 66. Paragraphs (d) and (e) of subsection (1) of
1510 section 408.809, Florida Statutes, are amended to read:

1511 408.809 Background screening; prohibited offenses.—

1512 (1) Level 2 background screening pursuant to chapter 435
1513 must be conducted through the agency on each of the following
1514 persons, who are considered employees for the purposes of
1515 conducting screening under chapter 435:

1516 (d) Any person who is a controlling interest ~~if the agency~~
1517 ~~has reason to believe that such person has been convicted of any~~
1518 ~~offense prohibited by s. 435.04. For each controlling interest~~



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1519 ~~who has been convicted of any such offense, the licensee shall~~
1520 ~~submit to the agency a description and explanation of the~~
1521 ~~conviction at the time of license application.~~

1522 (e) Any person, as required by authorizing statutes,
1523 seeking employment with a licensee or provider who is expected
1524 to, or whose responsibilities may require him or her to, provide
1525 personal care or services directly to clients or have access to
1526 client funds, personal property, or living areas; and any
1527 person, as required by authorizing statutes, contracting with a
1528 licensee or provider whose responsibilities require him or her
1529 to provide personal care or personal services directly to
1530 clients, or contracting with a licensee or provider to work 20
1531 hours a week or more who will have access to client funds,
1532 personal property, or living areas. Evidence of contractor
1533 screening may be retained by the contractor's employer or the
1534 licensee.

1535 Section 67. Subsection (8) of section 408.810, Florida
1536 Statutes, is amended, and subsections (11), (12), and (13) are
1537 added to that section, to read:

1538 408.810 Minimum licensure requirements.—In addition to the
1539 licensure requirements specified in this part, authorizing
1540 statutes, and applicable rules, each applicant and licensee must
1541 comply with the requirements of this section in order to obtain
1542 and maintain a license.

1543 (8) Upon application for initial licensure or change of
1544 ownership licensure, the applicant shall furnish satisfactory
1545 proof of the applicant's financial ability to operate in
1546 accordance with the requirements of this part, authorizing
1547 statutes, and applicable rules. The agency shall establish



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1548 standards for this purpose, including information concerning the
1549 applicant's controlling interests. The agency shall also
1550 establish documentation requirements, to be completed by each
1551 applicant, that show anticipated provider revenues and
1552 expenditures, the basis for financing the anticipated cash-flow
1553 requirements of the provider, and an applicant's access to
1554 contingency financing. A current certificate of authority,
1555 pursuant to chapter 651, may be provided as proof of financial
1556 ability to operate. The agency may require a licensee to provide
1557 proof of financial ability to operate at any time if there is
1558 evidence of financial instability, including, but not limited
1559 to, unpaid expenses necessary for the basic operations of the
1560 provider. An applicant applying for change of ownership
1561 licensure is exempt from furnishing proof of financial ability
1562 to operate if the provider has been licensed for at least 5
1563 years, and:

1564 (a) The ownership change is a result of a corporate
1565 reorganization under which the controlling interest is unchanged
1566 and the applicant submits organizational charts that represent
1567 the current and proposed structure of the reorganized
1568 corporation; or

1569 (b) The ownership change is due solely to the death of a
1570 person holding a controlling interest, and the surviving
1571 controlling interests continue to hold at least 51 percent of
1572 ownership after the change of ownership.

1573 (11) The agency may adopt rules that govern the
1574 circumstances under which a controlling interest, an
1575 administrator, an employee, or a contractor, or a representative
1576 thereof, who is not a relative of the client may act as an agent



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1577 of a client in authorizing consent for medical treatment,
1578 assignment or benefits, and release of information. Such rules
1579 may include requirements related to disclosure, bonding,
1580 restrictions, and client protections.

1581 (12) The licensee shall ensure that no person holds any
1582 ownership interest, either directly or indirectly, regardless of
1583 ownership structure, who:

1584 (a) Has a disqualifying offense pursuant to s. 408.809; or

1585 (b) Holds or has held any ownership interest, either
1586 directly or indirectly, regardless of ownership structure, in a
1587 provider that had a license revoked or an application denied
1588 pursuant to s. 408.815.

1589 (13) If the licensee is a publicly traded corporation or is
1590 wholly owned, directly or indirectly, by a publicly traded
1591 corporation, subsection (12) does not apply to those persons
1592 whose sole relationship with the corporation is as a shareholder
1593 of publicly traded shares. As used in this subsection, a
1594 publicly traded corporation is a corporation that issues
1595 securities traded on an exchange registered with the United
1596 States Securities and Exchange Commission as a national
1597 securities exchange.

1598 Section 68. Section 408.812, Florida Statutes, is amended
1599 to read:

1600 408.812 Unlicensed activity.—

1601 (1) A person or entity may not offer or advertise services
1602 that require licensure as defined by this part, authorizing
1603 statutes, or applicable rules to the public without obtaining a
1604 valid license from the agency. A licenseholder may not advertise
1605 or hold out to the public that he or she holds a license for



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1606 other than that for which he or she actually holds the license.

1607 (2) The operation or maintenance of an unlicensed provider
1608 or the performance of any services that require licensure
1609 without proper licensure is a violation of this part and
1610 authorizing statutes. Unlicensed activity constitutes harm that
1611 materially affects the health, safety, and welfare of clients,
1612 and constitutes abuse and neglect, as defined in s. 415.102. The
1613 agency or any state attorney may, in addition to other remedies
1614 provided in this part, bring an action for an injunction to
1615 restrain such violation, or to enjoin the future operation or
1616 maintenance of the unlicensed provider or the performance of any
1617 services in violation of this part and authorizing statutes,
1618 until compliance with this part, authorizing statutes, and
1619 agency rules has been demonstrated to the satisfaction of the
1620 agency.

1621 (3) It is unlawful for any person or entity to own,
1622 operate, or maintain an unlicensed provider. If, after receiving
1623 notification from the agency, such person or entity fails to
1624 cease operation ~~and apply for a license under this part and~~
1625 ~~authorizing statutes,~~ the person or entity is ~~shall be~~ subject
1626 to penalties as prescribed by authorizing statutes and
1627 applicable rules. Each day of ~~continued~~ operation is a separate
1628 offense.

1629 (4) Any person or entity that fails to cease operation
1630 after agency notification may be fined \$1,000 for each day of
1631 noncompliance.

1632 (5) When a controlling interest or licensee has an interest
1633 in more than one provider and fails to license a provider
1634 rendering services that require licensure, the agency may revoke



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1635 all licenses, ~~and~~ impose actions under s. 408.814, and
1636 regardless of correction, impose a fine of \$1,000 per day,
1637 unless otherwise specified by authorizing statutes, against each
1638 licensee until such time as the appropriate license is obtained
1639 or the unlicensed activity ceases ~~for the unlicensed operation.~~

1640 (6) In addition to granting injunctive relief pursuant to
1641 subsection (2), if the agency determines that a person or entity
1642 is operating or maintaining a provider without obtaining a
1643 license and determines that a condition exists that poses a
1644 threat to the health, safety, or welfare of a client of the
1645 provider, the person or entity is subject to the same actions
1646 and fines imposed against a licensee as specified in this part,
1647 authorizing statutes, and agency rules.

1648 (7) Any person aware of the operation of an unlicensed
1649 provider must report that provider to the agency.

1650 Section 69. Subsections (10), (11) and (26) of section
1651 408.820, Florida Statutes, are amended, and subsections (12)
1652 through (25) and (27) and (28) are redesignated as subsections
1653 (10) through (23) and (24) and (25), respectively, to read:

1654 408.820 Exemptions.—Except as prescribed in authorizing
1655 statutes, the following exemptions shall apply to specified
1656 requirements of this part:

1657 ~~(10) Mobile surgical facilities, as provided under part I~~
1658 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

1659 ~~(11) Health care risk managers, as provided under part I of~~
1660 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~
1661 ~~and 408.811.~~

1662 ~~(26) Clinical laboratories, as provided under part I of~~
1663 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~



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1664 Section 70. Subsection (7) of section 409.905, Florida
1665 Statutes, is amended to read:

1666 409.905 Mandatory Medicaid services.—The agency may make
1667 payments for the following services, which are required of the
1668 state by Title XIX of the Social Security Act, furnished by
1669 Medicaid providers to recipients who are determined to be
1670 eligible on the dates on which the services were provided. Any
1671 service under this section shall be provided only when medically
1672 necessary and in accordance with state and federal law.
1673 Mandatory services rendered by providers in mobile units to
1674 Medicaid recipients may be restricted by the agency. Nothing in
1675 this section shall be construed to prevent or limit the agency
1676 from adjusting fees, reimbursement rates, lengths of stay,
1677 number of visits, number of services, or any other adjustments
1678 necessary to comply with the availability of moneys and any
1679 limitations or directions provided for in the General
1680 Appropriations Act or chapter 216.

1681 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
1682 for medically necessary diagnostic laboratory procedures ordered
1683 by a licensed physician or other licensed practitioner of the
1684 healing arts which are provided for a recipient in a laboratory
1685 that meets the requirements for Medicare participation and is
1686 appropriately certified by the Centers for Medicare and Medicaid
1687 Services under the federal Clinical Laboratory Improvement
1688 Amendments and the federal rules adopted thereunder ~~licensed~~
1689 ~~under chapter 483, if required.~~

1690 Section 71. Subsection (10) of section 409.907, Florida
1691 Statutes, is amended to read:

1692 409.907 Medicaid provider agreements.—The agency may make



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1693 payments for medical assistance and related services rendered to
1694 Medicaid recipients only to an individual or entity who has a
1695 provider agreement in effect with the agency, who is performing
1696 services or supplying goods in accordance with federal, state,
1697 and local law, and who agrees that no person shall, on the
1698 grounds of handicap, race, color, or national origin, or for any
1699 other reason, be subjected to discrimination under any program
1700 or activity for which the provider receives payment from the
1701 agency.

1702 (10) The agency may consider whether the provider, or any
1703 officer, director, agent, managing employee, or affiliated
1704 person, or any partner or shareholder having an ownership
1705 interest equal to 5 percent or greater in the provider if the
1706 provider is a corporation, partnership, or other business
1707 entity, has:

1708 (a) Made a false representation or omission of any material
1709 fact in making the application, including the submission of an
1710 application that conceals the controlling or ownership interest
1711 of any officer, director, agent, managing employee, affiliated
1712 person, or partner or shareholder who may not be eligible to
1713 participate;

1714 (b) Been or is currently excluded, suspended, terminated
1715 from, or has involuntarily withdrawn from participation in,
1716 Florida's Medicaid program or any other state's Medicaid
1717 program, or from participation in any other governmental or
1718 private health care or health insurance program;

1719 ~~(c) Been convicted of a criminal offense relating to the~~
1720 ~~delivery of any goods or services under Medicaid or Medicare or~~
1721 ~~any other public or private health care or health insurance~~



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1722 ~~program including the performance of management or~~
1723 ~~administrative services relating to the delivery of goods or~~
1724 ~~services under any such program;~~

1725 ~~(d) Been convicted under federal or state law of a criminal~~
1726 ~~offense related to the neglect or abuse of a patient in~~
1727 ~~connection with the delivery of any health care goods or~~
1728 ~~services;~~

1729 ~~(e) Been convicted under federal or state law of a criminal~~
1730 ~~offense relating to the unlawful manufacture, distribution,~~
1731 ~~prescription, or dispensing of a controlled substance;~~

1732 ~~(f) Been convicted of any criminal offense relating to~~
1733 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~
1734 ~~or other financial misconduct;~~

1735 ~~(g) Been convicted under federal or state law of a crime~~
1736 ~~punishable by imprisonment of a year or more which involves~~
1737 ~~moral turpitude;~~

1738 ~~(h) Been convicted in connection with the interference or~~
1739 ~~obstruction of any investigation into any criminal offense~~
1740 ~~listed in this subsection;~~

1741 ~~(i) Been found to have violated federal or state laws,~~
1742 ~~rules, or regulations governing Florida's Medicaid program or~~
1743 ~~any other state's Medicaid program, the Medicare program, or any~~
1744 ~~other publicly funded federal or state health care or health~~
1745 ~~insurance program, and been sanctioned accordingly;~~

1746 ~~(c)-(j)~~ Been previously found by a licensing, certifying, or
1747 professional standards board or agency to have violated the
1748 standards or conditions relating to licensure or certification
1749 or the quality of services provided; or

1750 ~~(d)-(k)~~ Failed to pay any fine or overpayment properly



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1751 assessed under the Medicaid program in which no appeal is
1752 pending or after resolution of the proceeding by stipulation or
1753 agreement, unless the agency has issued a specific letter of
1754 forgiveness or has approved a repayment schedule to which the
1755 provider agrees to adhere.

1756 Section 72. Subsection (6) of section 409.9116, Florida
1757 Statutes, is amended to read:

1758 409.9116 Disproportionate share/financial assistance
1759 program for rural hospitals.—In addition to the payments made
1760 under s. 409.911, the Agency for Health Care Administration
1761 shall administer a federally matched disproportionate share
1762 program and a state-funded financial assistance program for
1763 statutory rural hospitals. The agency shall make
1764 disproportionate share payments to statutory rural hospitals
1765 that qualify for such payments and financial assistance payments
1766 to statutory rural hospitals that do not qualify for
1767 disproportionate share payments. The disproportionate share
1768 program payments shall be limited by and conform with federal
1769 requirements. Funds shall be distributed quarterly in each
1770 fiscal year for which an appropriation is made. Notwithstanding
1771 the provisions of s. 409.915, counties are exempt from
1772 contributing toward the cost of this special reimbursement for
1773 hospitals serving a disproportionate share of low-income
1774 patients.

1775 (6) This section applies only to hospitals that were
1776 defined as statutory rural hospitals, or their successor-in-
1777 interest hospital, prior to January 1, 2001. Any additional
1778 hospital that is defined as a statutory rural hospital, or its
1779 successor-in-interest hospital, on or after January 1, 2001, is



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1780 not eligible for programs under this section unless additional
1781 funds are appropriated each fiscal year specifically to the
1782 rural hospital disproportionate share and financial assistance
1783 programs in an amount necessary to prevent any hospital, or its
1784 successor-in-interest hospital, eligible for the programs prior
1785 to January 1, 2001, from incurring a reduction in payments
1786 because of the eligibility of an additional hospital to
1787 participate in the programs. A hospital, or its successor-in-
1788 interest hospital, which received funds pursuant to this section
1789 before January 1, 2001, and which qualifies under s.
1790 395.602(2)(b) ~~s. 395.602(2)(e)~~, shall be included in the
1791 programs under this section and is not required to seek
1792 additional appropriations under this subsection.

1793 Section 73. Paragraphs (a) and (b) of subsection (1) of
1794 section 409.975, Florida Statutes, are amended to read:

1795 409.975 Managed care plan accountability.—In addition to
1796 the requirements of s. 409.967, plans and providers
1797 participating in the managed medical assistance program shall
1798 comply with the requirements of this section.

1799 (1) PROVIDER NETWORKS.—Managed care plans must develop and
1800 maintain provider networks that meet the medical needs of their
1801 enrollees in accordance with standards established pursuant to
1802 s. 409.967(2)(c). Except as provided in this section, managed
1803 care plans may limit the providers in their networks based on
1804 credentials, quality indicators, and price.

1805 (a) Plans must include all providers in the region that are
1806 classified by the agency as essential Medicaid providers, unless
1807 the agency approves, in writing, an alternative arrangement for
1808 securing the types of services offered by the essential



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1809 providers. Providers are essential for serving Medicaid
1810 enrollees if they offer services that are not available from any
1811 other provider within a reasonable access standard, or if they
1812 provided a substantial share of the total units of a particular
1813 service used by Medicaid patients within the region during the
1814 last 3 years and the combined capacity of other service
1815 providers in the region is insufficient to meet the total needs
1816 of the Medicaid patients. The agency may not classify physicians
1817 and other practitioners as essential providers. The agency, at a
1818 minimum, shall determine which providers in the following
1819 categories are essential Medicaid providers:

- 1820 1. Federally qualified health centers.
- 1821 2. Statutory teaching hospitals as defined in s. 408.07(44)
1822 ~~s. 408.07(45)~~.
- 1823 3. Hospitals that are trauma centers as defined in s.
1824 395.4001(14).
- 1825 4. Hospitals located at least 25 miles from any other
1826 hospital with similar services.

1827
1828 Managed care plans that have not contracted with all essential
1829 providers in the region as of the first date of recipient
1830 enrollment, or with whom an essential provider has terminated
1831 its contract, must negotiate in good faith with such essential
1832 providers for 1 year or until an agreement is reached, whichever
1833 is first. Payments for services rendered by a nonparticipating
1834 essential provider shall be made at the applicable Medicaid rate
1835 as of the first day of the contract between the agency and the
1836 plan. A rate schedule for all essential providers shall be
1837 attached to the contract between the agency and the plan. After



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1838 1 year, managed care plans that are unable to contract with
1839 essential providers shall notify the agency and propose an
1840 alternative arrangement for securing the essential services for
1841 Medicaid enrollees. The arrangement must rely on contracts with
1842 other participating providers, regardless of whether those
1843 providers are located within the same region as the
1844 nonparticipating essential service provider. If the alternative
1845 arrangement is approved by the agency, payments to
1846 nonparticipating essential providers after the date of the
1847 agency's approval shall equal 90 percent of the applicable
1848 Medicaid rate. Except for payment for emergency services, if the
1849 alternative arrangement is not approved by the agency, payment
1850 to nonparticipating essential providers shall equal 110 percent
1851 of the applicable Medicaid rate.

1852 (b) Certain providers are statewide resources and essential
1853 providers for all managed care plans in all regions. All managed
1854 care plans must include these essential providers in their
1855 networks. Statewide essential providers include:

1856 1. Faculty plans of Florida medical schools.
1857 2. Regional perinatal intensive care centers as defined in
1858 s. 383.16(2).

1859 3. Hospitals licensed as specialty children's hospitals as
1860 defined in s. 395.002(27) ~~s. 395.002(28)~~.

1861 4. Accredited and integrated systems serving medically
1862 complex children which comprise separately licensed, but
1863 commonly owned, health care providers delivering at least the
1864 following services: medical group home, in-home and outpatient
1865 nursing care and therapies, pharmacy services, durable medical
1866 equipment, and Prescribed Pediatric Extended Care.



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1867
1868 Managed care plans that have not contracted with all statewide
1869 essential providers in all regions as of the first date of
1870 recipient enrollment must continue to negotiate in good faith.
1871 Payments to physicians on the faculty of nonparticipating
1872 Florida medical schools shall be made at the applicable Medicaid
1873 rate. Payments for services rendered by regional perinatal
1874 intensive care centers shall be made at the applicable Medicaid
1875 rate as of the first day of the contract between the agency and
1876 the plan. Except for payments for emergency services, payments
1877 to nonparticipating specialty children's hospitals shall equal
1878 the highest rate established by contract between that provider
1879 and any other Medicaid managed care plan.

1880 Section 74. Subsections (5) and (17) of section 429.02,
1881 Florida Statutes, are amended to read:

1882 429.02 Definitions.—When used in this part, the term:

1883 (5) "Assisted living facility" means any building or
1884 buildings, section or distinct part of a building, private home,
1885 boarding home, home for the aged, or other residential facility,
1886 regardless of whether operated for profit or not, which,
1887 undertakes through its ownership or management, provides to
1888 provide housing, meals, and one or more personal services for a
1889 period exceeding 24 hours to one or more adults who are not
1890 relatives of the owner or administrator.

1891 (17) "Personal services" means direct physical assistance
1892 with or supervision of the activities of daily living, and the
1893 self-administration of medication, or ~~and~~ other similar services
1894 which the department may define by rule. The term may "Personal
1895 ~~services~~" shall not be construed to mean the provision of



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1896 medical, nursing, dental, or mental health services.

1897 Section 75. Paragraphs (b) and (d) of subsection (2) of
1898 section 429.04, Florida Statutes, are amended, and subsection
1899 (3) is added that section, to read:

1900 429.04 Facilities to be licensed; exemptions.—

1901 (2) The following are exempt from licensure under this
1902 part:

1903 (b) Any facility or part of a facility licensed by the
1904 Agency for Persons with Disabilities under chapter 393, a mental
1905 health facility licensed under ~~or~~ chapter 394, a hospital
1906 licensed under chapter 395, a nursing home licensed under part
1907 II of chapter 400, an inpatient hospice licensed under part IV
1908 of chapter 400, a home for special services licensed under part
1909 V of chapter 400, an intermediate care facility licensed under
1910 part VIII of chapter 400, or a transitional living facility
1911 licensed under part XI of chapter 400.

1912 (d) Any person who provides housing, meals, and one or more
1913 personal services on a 24-hour basis in the person's own home to
1914 not more than two adults who do not receive optional state
1915 supplementation. The person who provides the housing, meals, and
1916 personal services must own or rent the home and must have
1917 established the home as his or her permanent residence. For
1918 purposes of this paragraph, any person holding a homestead
1919 exemption at an address other than that at which the person
1920 asserts this exemption is presumed to not have established
1921 permanent residence ~~reside therein~~. This exemption does not
1922 apply to a person or entity that previously held a license
1923 issued by the agency which was revoked or for which renewal was
1924 denied by final order of the agency, or when the person or



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1925 entity voluntarily relinquished the license during agency
1926 enforcement proceedings.

1927 (3) Upon agency investigation of unlicensed activity, any
1928 person or entity that claims that it is exempt under this
1929 section must provide documentation substantiating entitlement to
1930 the exemption.

1931 Section 76. Paragraphs (b) and (d) of subsection (1) of
1932 section 429.08, Florida Statutes, are amended to read:

1933 429.08 Unlicensed facilities; referral of person for
1934 residency to unlicensed facility; penalties.—

1935 (1)

1936 (b) ~~Except as provided under paragraph (d),~~ Any person who
1937 owns, rents, or otherwise maintains a building or property that
1938 operates, or maintains an unlicensed assisted living facility
1939 commits a felony of the third degree, punishable as provided in
1940 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
1941 operation is a separate offense.

1942 (d) In addition to the requirements of s. 408.812, any
1943 person who owns, operates, or maintains an unlicensed assisted
1944 living facility after receiving notice from the agency due to a
1945 change in this part or a modification in rule within 6 months
1946 after the effective date of such change and who, within 10
1947 working days after receiving notification from the agency, fails
1948 to cease operation or apply for a license under this part
1949 commits a felony of the third degree, punishable as provided in
1950 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
1951 operation is a separate offense.

1952 Section 77. Subsection(7) of section 429.19, Florida
1953 Statutes, is amended to read:



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1954 429.19 Violations; imposition of administrative fines;
1955 grounds.—

1956 (7) In addition to any administrative fines imposed, the
1957 agency may assess a survey fee, equal to the lesser of one half
1958 of the facility's biennial license and bed fee or \$500, to cover
1959 the cost of conducting initial complaint investigations that
1960 result in the finding of a violation that was the subject of the
1961 complaint or monitoring visits conducted ~~under s. 429.28(3)(c)~~
1962 to verify the correction of the violations.

1963 Section 78. Section 429.176, Florida Statutes, is amended
1964 to read:

1965 429.176 Notice of change of administrator.—If, during the
1966 period for which a license is issued, the owner changes
1967 administrators, the owner must notify the agency of the change
1968 within 10 days and provide documentation within 90 days that the
1969 new administrator has completed the applicable core educational
1970 requirements under s. 429.52. A facility may not be operated for
1971 more than 120 consecutive days without an administrator who has
1972 completed the core educational requirements.

1973 Section 79. Subsection (2) of section 429.24, Florida
1974 Statutes, is amended to read:

1975 429.24 Contracts.—

1976 (2) Each contract must contain express provisions
1977 specifically setting forth the services and accommodations to be
1978 provided by the facility; the rates or charges; provision for at
1979 least 30 days' written notice of a rate increase; the rights,
1980 duties, and obligations of the residents, other than those
1981 specified in s. 429.28; and other matters that the parties deem
1982 appropriate. A new service or accommodation amended to, or



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1983 implemented in, a resident's contract for which the resident was
1984 not previously charged, does not require a 30-day written notice
1985 of a rate increase. Whenever money is deposited or advanced by a
1986 resident in a contract as security for performance of the
1987 contract agreement or as advance rent for other than the next
1988 immediate rental period:

1989 (a) Such funds shall be deposited in a banking institution
1990 in this state that is located, if possible, in the same
1991 community in which the facility is located; shall be kept
1992 separate from the funds and property of the facility; may not be
1993 represented as part of the assets of the facility on financial
1994 statements; and shall be used, or otherwise expended, only for
1995 the account of the resident.

1996 (b) The licensee shall, within 30 days of receipt of
1997 advance rent or a security deposit, notify the resident or
1998 residents in writing of the manner in which the licensee is
1999 holding the advance rent or security deposit and state the name
2000 and address of the depository where the moneys are being held.
2001 The licensee shall notify residents of the facility's policy on
2002 advance deposits.

2003 Section 80. Paragraph (b) of subsection (3) of section
2004 429.256, Florida Statutes, is amended to read:

2005 429.256 Assistance with self-administration of medication.-

2006 (3) Assistance with self-administration of medication
2007 includes:

2008 (b) In the presence of the resident, reading aloud the
2009 name, medication, and dosage indicated on the label, opening the
2010 container, removing a prescribed amount of medication from the
2011 container, and closing the container.



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2012 Section 81. Paragraphs (e) and (j) of subsection (1) and
2013 paragraphs (c), (d), and (e) of subsection (3) of section
2014 429.28, Florida Statutes, are amended to read:

2015 429.28 Resident bill of rights.—

2016 (1) No resident of a facility shall be deprived of any
2017 civil or legal rights, benefits, or privileges guaranteed by
2018 law, the Constitution of the State of Florida, or the
2019 Constitution of the United States as a resident of a facility.
2020 Every resident of a facility shall have the right to:

2021 (e) Freedom to participate in and benefit from community
2022 services and activities and to pursue ~~achieve~~ the highest
2023 possible level of independence, autonomy, and interaction within
2024 the community.

2025 (j) Assistance with obtaining access to adequate and
2026 appropriate health care. For purposes of this paragraph, the
2027 term "adequate and appropriate health care" means the management
2028 of medications, assistance in making appointments for health
2029 care services, the provision of or arrangement of transportation
2030 to health care appointments, and the performance of health care
2031 services in accordance with s. 429.255 which are consistent with
2032 established and recognized standards within the community.

2033 (3)

2034 ~~(c) During any calendar year in which no survey is~~
2035 ~~conducted, the agency shall conduct at least one monitoring~~
2036 ~~visit of each facility cited in the previous year for a class I~~
2037 ~~or class II violation, or more than three uncorrected class III~~
2038 ~~violations.~~

2039 ~~(d) The agency may conduct periodic followup inspections as~~
2040 ~~necessary to monitor the compliance of facilities with a history~~



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2041 ~~of any class I, class II, or class III violations that threaten~~
2042 ~~the health, safety, or security of residents.~~

2043 ~~(c) The agency may conduct complaint investigations as~~
2044 ~~warranted to investigate any allegations of noncompliance with~~
2045 ~~requirements required under this part or rules adopted under~~
2046 ~~this part.~~

2047 Section 82. Subsection (1) of section 429.294, Florida
2048 Statutes, is amended to read:

2049 429.294 Availability of facility records for investigation
2050 of resident's rights violations and defenses; penalty.—

2051 (1) Failure to provide complete copies of a resident's
2052 records, including, but not limited to, all medical records and
2053 the resident's chart, within the control or possession of the
2054 facility ~~within 10 days,~~ in accordance with the provisions of s.
2055 400.145, shall constitute evidence of failure of that party to
2056 comply with good faith discovery requirements and shall waive
2057 the good faith certificate and presuit notice requirements under
2058 this part by the requesting party.

2059 Section 83. Subsection (2) of section 429.34, Florida
2060 Statutes, is amended to read:

2061 429.34 Right of entry and inspection.—

2062 (2) (a) In addition to the requirements of s. 408.811, the
2063 agency may inspect and investigate facilities as necessary to
2064 determine compliance with this part, part II of chapter 408, and
2065 rules adopted thereunder. ~~The agency shall inspect each licensed~~
2066 ~~assisted living facility at least once every 24 months to~~
2067 ~~determine compliance with this chapter and related rules.~~ If an
2068 assisted living facility is cited for a class I violation or
2069 three or more class II violations arising from separate surveys



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2070 within a 60-day period or due to unrelated circumstances during
2071 the same survey, the agency must conduct an additional licensure
2072 inspection within 6 months.

2073 (b) During any calendar year in which a survey is not
2074 conducted, the agency may conduct at least one monitoring visit
2075 of each facility cited in the previous year for a class I or
2076 class II violation, or more than three uncorrected class III
2077 violations.

2078 Section 84. Subsection (4) of section 429.52, Florida
2079 Statutes, is amended to read:

2080 429.52 Staff training and educational programs; core
2081 educational requirement.—

2082 (4) Effective January 1, 2004, a new facility administrator
2083 must complete the required training and education, including the
2084 competency test, within 90 days of the date of employment ~~a~~
2085 ~~reasonable time after being employed~~ as an administrator, ~~as~~
2086 ~~determined by the department~~. Failure to do so is a violation of
2087 this part and subjects the violator to an administrative fine as
2088 prescribed in s. 429.19. Administrators licensed in accordance
2089 with part II of chapter 468 are exempt from this requirement.
2090 Other licensed professionals may be exempted, as determined by
2091 the department by rule.

2092 Section 85. Subsection (3) of section 435.04, Florida
2093 Statutes, is amended, and subsection (4) is added to that
2094 section, to read:

2095 435.04 Level 2 screening standards.—

2096 (3) The security background investigations under this
2097 section must ensure that no person subject to this section has
2098 been arrested for and is awaiting final disposition of, been



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2099 found guilty of, regardless of adjudication, or entered a plea
2100 of nolo contendere or guilty to, any offense that constitutes
2101 domestic violence as defined in s. 741.28, whether such act was
2102 committed in this state or in another jurisdiction.

2103 (4) For the purpose of screening applicability to
2104 participate in the Medicaid program, the security background
2105 investigations under this section must ensure that a person
2106 subject to screening under this section has not been arrested
2107 for and is not awaiting final disposition of; has not been found
2108 guilty of, regardless of adjudication, or entered a plea of nolo
2109 contendere or guilty to; and has not been adjudicated delinquent
2110 and the record sealed or expunged for, any of the following
2111 offenses:

2112 (a) Federal law or a law in any state which creates a
2113 criminal offense relating to:

2114 1. The delivery of any goods or services under Medicaid or
2115 Medicare or any other public or private health care or health
2116 insurance program, including the performance of management or
2117 administrative services relating to the delivery of goods or
2118 services under any such program;

2119 2. Neglect or abuse of a patient in connection with the
2120 delivery of any health care good or service;

2121 3. Unlawful manufacture, distribution, prescription, or
2122 dispensing of a controlled substance;

2123 4. Fraud, theft, embezzlement, breach of fiduciary
2124 responsibility, or other financial misconduct;

2125 5. Moral turpitude, if punishable by imprisonment of a year
2126 or more;

2127 6. Section 817.569, criminal use of a public record or



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2128 information contained in a public record;
2129 7. Section 838.016, unlawful compensation or reward for
2130 official behavior;
2131 8. Section 838.021, corruption by threat against a public
2132 servant;
2133 9. Section 838.022, official misconduct;
2134 10. Section 838.22, bid tampering;
2135 11. Section 839.13, falsifying records;
2136 12. Section 839.26, misuse of confidential information; or
2137 13. Interfering with or obstructing an investigation into
2138 any criminal offense identified in this subsection.
2139 (b) Violation of a federal or state law, rule, or
2140 regulation governing the Florida Medicaid program or any other
2141 state Medicaid program, the Medicare program, or any other
2142 publicly funded federal or state health care or health insurance
2143 program, and has been sanctioned accordingly.
2144 Section 86. Paragraph (a) of subsection (2) of section
2145 435.12, Florida Statutes, is amended to read:
2146 435.12 Care Provider Background Screening Clearinghouse.—
2147 (2) (a) To ensure that the information in the clearinghouse
2148 is current, the fingerprints of an employee required to be
2149 screened by a specified agency and included in the clearinghouse
2150 must be:
2151 1. Retained by the Department of Law Enforcement pursuant
2152 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
2153 Enforcement must report the results of searching those
2154 fingerprints against state incoming arrest fingerprint
2155 submissions to the Agency for Health Care Administration for
2156 inclusion in the clearinghouse.



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2157 2. Retained by the Federal Bureau of Investigation in the
2158 national retained print arrest notification program as soon as
2159 the Department of Law Enforcement begins participation in such
2160 program. Arrest prints will be searched against retained prints
2161 at the Federal Bureau of Investigation and notification of
2162 arrests will be forwarded to the Florida Department of Law
2163 Enforcement and reported to the Agency for Health Care
2164 Administration for inclusion in the clearinghouse.

2165 3. Resubmitted for a Federal Bureau of Investigation
2166 national criminal history check every 5 years until such time as
2167 the fingerprints are retained by the Federal Bureau of
2168 Investigation.

2169 4. Subject to retention on a 5-year renewal basis with fees
2170 collected at the time of initial submission or resubmission of
2171 fingerprints.

2172 a. A person who passed a level 2 screening under s. 435.04
2173 after December 31, 2012, by a specified agency may extend the
2174 screening renewal period until January 1, 2020, unless the
2175 Department of Law Enforcement begins participation in the
2176 national retained print arrest notification program before that
2177 date.

2178 b. The retention of fingerprints by the Department of Law
2179 Enforcement pursuant to s. 943.05(2)(g) and (h) and (3) is
2180 extended until the earlier of January 1, 2020, or the date that
2181 the Department of Law Enforcement begins participation in the
2182 national retained print arrest notification program.

2183 5. Submitted with a photograph of the person taken at the
2184 time the fingerprints are submitted.

2185 Section 87. Subsection (4) of section 456.001, Florida



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2186 Statutes, is amended to read:

2187 456.001 Definitions.—As used in this chapter, the term:

2188 (4) "Health care practitioner" means any person licensed
2189 under chapter 457; chapter 458; chapter 459; chapter 460;
2190 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2191 chapter 466; chapter 467; part I, part II, part III, part V,
2192 part X, part XIII, or part XIV of chapter 468; chapter 478;
2193 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2194 chapter 484; chapter 486; chapter 490; or chapter 491.

2195 Section 88. Paragraph (i) of subsection (2) of section
2196 456.057, Florida Statutes, is amended to read:

2197 456.057 Ownership and control of patient records; report or
2198 copies of records to be furnished; disclosure of information.—

2199 (2) As used in this section, the terms "records owner,"
2200 "health care practitioner," and "health care practitioner's
2201 employer" do not include any of the following persons or
2202 entities; furthermore, the following persons or entities are not
2203 authorized to acquire or own medical records, but are authorized
2204 under the confidentiality and disclosure requirements of this
2205 section to maintain those documents required by the part or
2206 chapter under which they are licensed or regulated:

2207 (i) Medical physicists licensed under part III ~~IV~~ of
2208 chapter 483.

2209 Section 89. Subsection (2) of section 458.307, Florida
2210 Statutes, is amended to read:

2211 458.307 Board of Medicine.—

2212 (2) Twelve members of the board must be licensed physicians
2213 in good standing in this state who are residents of the state
2214 and who have been engaged in the active practice or teaching of



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2215 medicine for at least 4 years immediately preceding their
2216 appointment. One of the physicians must be on the full-time
2217 faculty of a medical school in this state, and one of the
2218 physicians must be in private practice and on the full-time
2219 staff of a statutory teaching hospital in this state as defined
2220 in s. 408.07. At least one of the physicians must be a graduate
2221 of a foreign medical school. The remaining three members must be
2222 residents of the state who are not, and never have been,
2223 licensed health care practitioners. One member must be a health
2224 care risk manager ~~licensed under s. 395.10974~~. At least one
2225 member of the board must be 60 years of age or older.

2226 Section 90. Subsection (1) of section 458.345, Florida
2227 Statutes, is amended to read:

2228 458.345 Registration of resident physicians, interns, and
2229 fellows; list of hospital employees; prescribing of medicinal
2230 drugs; penalty.—

2231 (1) Any person desiring to practice as a resident
2232 physician, assistant resident physician, house physician,
2233 intern, or fellow in fellowship training which leads to
2234 subspecialty board certification in this state, or any person
2235 desiring to practice as a resident physician, assistant resident
2236 physician, house physician, intern, or fellow in fellowship
2237 training in a teaching hospital in this state as defined in s.
2238 408.07(44) ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a
2239 valid, active license issued under this chapter shall apply to
2240 the department to be registered and shall remit a fee not to
2241 exceed \$300 as set by the board. The department shall register
2242 any applicant the board certifies has met the following
2243 requirements:



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2244 (a) Is at least 21 years of age.

2245 (b) Has not committed any act or offense within or without
2246 the state which would constitute the basis for refusal to
2247 certify an application for licensure pursuant to s. 458.331.

2248 (c) Is a graduate of a medical school or college as
2249 specified in s. 458.311(1)(f).

2250 Section 91. Subsection (1) of s. 459.021, Florida Statutes,
2251 is amended to read:

2252 459.021 Registration of resident physicians, interns, and
2253 fellows; list of hospital employees; penalty.—

2254 (1) Any person who holds a degree of Doctor of Osteopathic
2255 Medicine from a college of osteopathic medicine recognized and
2256 approved by the American Osteopathic Association who desires to
2257 practice as a resident physician, intern, or fellow in
2258 fellowship training which leads to subspecialty board
2259 certification in this state, or any person desiring to practice
2260 as a resident physician, intern, or fellow in fellowship
2261 training in a teaching hospital in this state as defined in s.
2262 408.07(44) ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an
2263 active license issued under this chapter shall apply to the
2264 department to be registered, on an application provided by the
2265 department, before commencing such a training program and shall
2266 remit a fee not to exceed \$300 as set by the board.

2267 Section 92. Part I of chapter 483, Florida Statutes,
2268 consisting of sections 483.011, 483.021, 483.031, 483.035,
2269 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
2270 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
2271 is repealed.

2272 Section 93. Section 483.294, Florida Statutes, is amended



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2273 to read:

2274 483.294 Inspection of centers.—In accordance with s.
2275 408.811, the agency shall, ~~at least once annually,~~ inspect the
2276 premises and operations of all centers subject to licensure
2277 under this part.

2278 Section 94. Subsections (3) and (5) of section 483.801,
2279 Florida Statutes, are amended, and subsection (6) is added to
2280 that section, to read:

2281 483.801 Exemptions.—This part applies to all clinical
2282 laboratories and clinical laboratory personnel within this
2283 state, except:

2284 (3) Persons engaged in testing performed by laboratories
2285 that are wholly owned and operated by one or more practitioners
2286 licensed under chapter 458, chapter 459, chapter 460, chapter
2287 461, chapter 462, chapter 463, or chapter 466 who practice in
2288 the same group practice, and in which no clinical laboratory
2289 work is performed for patients referred by any health care
2290 provider who is not a member of that group practice regulated
2291 under s. 483.035(1) or exempt from regulation under s.
2292 483.031(2).

2293 (5) Advanced registered nurse practitioners licensed under
2294 part I of chapter 464 who perform provider-performed microscopy
2295 procedures (PPMP) in a an-exclusive-use laboratory setting
2296 pursuant to subsection (3).

2297 (6) Persons performing laboratory testing within a
2298 physician office practice for patients referred by a health care
2299 provider who is a member of the same physician office practice,
2300 if the laboratory or entity operating the laboratory within a
2301 physician office practice is under common ownership, directly or



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2302 indirectly, with an entity licensed pursuant to chapter 395.

2303 Section 95. Subsections (2), (3), and (4) of section
2304 483.803, Florida Statutes, are amended to read:

2305 483.803 Definitions.—As used in this part, the term:

2306 (2) "Clinical laboratory" means the physical location in
2307 which one or more of the following services are performed to
2308 provide information or materials for use in the diagnosis,
2309 prevention, or treatment of a disease or the identification or
2310 assessment of a medical or physical condition:

2311 (a) Clinical laboratory services, which entail the
2312 examination of fluids or other materials taken from the human
2313 body.

2314 (b) Anatomic laboratory services, which entail the
2315 examination of tissue taken from the human body.

2316 (c) Cytology laboratory services, which entail the
2317 examination of cells from individual tissues or fluid taken from
2318 the human body ~~a clinical laboratory as defined in s. 483.041.~~

2319 (3) "Clinical laboratory examination" means a procedure
2320 performed to deliver the services identified in subsection (2),
2321 including the oversight or interpretation of such services
2322 ~~clinical laboratory examination as defined in s. 483.041.~~

2323 (4) "Clinical laboratory personnel" includes a clinical
2324 laboratory director, supervisor, technologist, blood gas
2325 analyst, or technician who performs or is responsible for
2326 laboratory test procedures, but the term does not include
2327 trainees, persons who perform screening for blood banks or
2328 plasmapheresis centers, phlebotomists, or persons employed by a
2329 clinical laboratory to perform manual pretesting duties or
2330 clerical, personnel, or other administrative responsibilities.



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2331 ~~or persons engaged in testing performed by laboratories~~
2332 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
2333 ~~483.031(2).~~

2334 Section 96. Section 483.813, Florida Statutes, is amended
2335 to read:

2336 483.813 Clinical laboratory personnel license.—A person may
2337 not conduct a clinical laboratory examination or report the
2338 results of such examination unless such person is licensed under
2339 this part to perform such procedures. However, this provision
2340 does not apply to any practitioner of the healing arts
2341 authorized to practice in this state ~~or to persons engaged in~~
2342 ~~testing performed by laboratories regulated under s. 483.035(1)~~
2343 ~~or exempt from regulation under s. 483.031(2).~~ The department
2344 may grant a temporary license to any candidate it deems properly
2345 qualified, for a period not to exceed 1 year.

2346 Section 97. Subsection (2) of section 483.823, Florida
2347 Statutes, is amended to read:

2348 483.823 Qualifications of clinical laboratory personnel.—

2349 (2) Personnel qualifications may require appropriate
2350 education, training, or experience or the passing of an
2351 examination in appropriate subjects or any combination of these,
2352 but a ~~ne~~ practitioner of the healing arts licensed to practice
2353 in this state is not required to obtain any license ~~under this~~
2354 ~~part~~ or to pay any fee under this part hereunder ~~except the fee~~
2355 ~~required for clinical laboratory licensure.~~

2356 Section 98. Paragraph (c) of subsection (7), paragraph (c)
2357 of subsection (8), and paragraph (c) of subsection (9) of
2358 section 491.003, Florida Statutes, are amended to read:

2359 491.003 Definitions.—As used in this chapter:



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2360 (7) The "practice of clinical social work" is defined as
2361 the use of scientific and applied knowledge, theories, and
2362 methods for the purpose of describing, preventing, evaluating,
2363 and treating individual, couple, marital, family, or group
2364 behavior, based on the person-in-situation perspective of
2365 psychosocial development, normal and abnormal behavior,
2366 psychopathology, unconscious motivation, interpersonal
2367 relationships, environmental stress, differential assessment,
2368 differential planning, and data gathering. The purpose of such
2369 services is the prevention and treatment of undesired behavior
2370 and enhancement of mental health. The practice of clinical
2371 social work includes methods of a psychological nature used to
2372 evaluate, assess, diagnose, treat, and prevent emotional and
2373 mental disorders and dysfunctions (whether cognitive, affective,
2374 or behavioral), sexual dysfunction, behavioral disorders,
2375 alcoholism, and substance abuse. The practice of clinical social
2376 work includes, but is not limited to, psychotherapy,
2377 hypnotherapy, and sex therapy. The practice of clinical social
2378 work also includes counseling, behavior modification,
2379 consultation, client-centered advocacy, crisis intervention, and
2380 the provision of needed information and education to clients,
2381 when using methods of a psychological nature to evaluate,
2382 assess, diagnose, treat, and prevent emotional and mental
2383 disorders and dysfunctions (whether cognitive, affective, or
2384 behavioral), sexual dysfunction, behavioral disorders,
2385 alcoholism, or substance abuse. The practice of clinical social
2386 work may also include clinical research into more effective
2387 psychotherapeutic modalities for the treatment and prevention of
2388 such conditions.



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2389 (c) The terms "diagnose" and "treat," as used in this
2390 chapter, when considered in isolation or in conjunction with ~~any~~
2391 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
2392 to permit the performance of any act which clinical social
2393 workers are not educated and trained to perform, including, but
2394 not limited to, admitting persons to hospitals for treatment of
2395 the foregoing conditions, treating persons in hospitals without
2396 medical supervision, prescribing medicinal drugs as defined in
2397 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
2398 ~~to chapter 483~~, or radiological procedures, or use of
2399 electroconvulsive therapy. In addition, this definition ~~shall~~
2400 may not be construed to permit any person licensed,
2401 provisionally licensed, registered, or certified pursuant to
2402 this chapter to describe or label any test, report, or procedure
2403 as "psychological," except to relate specifically to the
2404 definition of practice authorized in this subsection.

2405 (8) The term "practice of marriage and family therapy"
2406 means ~~is defined as~~ the use of scientific and applied marriage
2407 and family theories, methods, and procedures for the purpose of
2408 describing, evaluating, and modifying marital, family, and
2409 individual behavior, within the context of marital and family
2410 systems, including the context of marital formation and
2411 dissolution, and is based on marriage and family systems theory,
2412 marriage and family development, human development, normal and
2413 abnormal behavior, psychopathology, human sexuality,
2414 psychotherapeutic and marriage and family therapy theories and
2415 techniques. The practice of marriage and family therapy includes
2416 methods of a psychological nature used to evaluate, assess,
2417 diagnose, treat, and prevent emotional and mental disorders or



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2418 dysfunctions (whether cognitive, affective, or behavioral),
2419 sexual dysfunction, behavioral disorders, alcoholism, and
2420 substance abuse. The practice of marriage and family therapy
2421 includes, but is not limited to, marriage and family therapy,
2422 psychotherapy, including behavioral family therapy,
2423 hypnotherapy, and sex therapy. The practice of marriage and
2424 family therapy also includes counseling, behavior modification,
2425 consultation, client-centered advocacy, crisis intervention, and
2426 the provision of needed information and education to clients,
2427 when using methods of a psychological nature to evaluate,
2428 assess, diagnose, treat, and prevent emotional and mental
2429 disorders and dysfunctions (whether cognitive, affective, or
2430 behavioral), sexual dysfunction, behavioral disorders,
2431 alcoholism, or substance abuse. The practice of marriage and
2432 family therapy may also include clinical research into more
2433 effective psychotherapeutic modalities for the treatment and
2434 prevention of such conditions.

2435 (c) The terms "diagnose" and "treat," as used in this
2436 chapter, when considered in isolation or in conjunction with ~~any~~
2437 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
2438 to permit the performance of any act that ~~which~~ marriage and
2439 family therapists are not educated and trained to perform,
2440 including, but not limited to, admitting persons to hospitals
2441 for treatment of the foregoing conditions, treating persons in
2442 hospitals without medical supervision, prescribing medicinal
2443 drugs as defined in chapter 465, authorizing clinical laboratory
2444 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
2445 or the use of electroconvulsive therapy. In addition, this
2446 definition may ~~shall~~ not be construed to permit any person



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2447 licensed, provisionally licensed, registered, or certified
2448 pursuant to this chapter to describe or label any test, report,
2449 or procedure as "psychological," except to relate specifically
2450 to the definition of practice authorized in this subsection.

2451 (9) The term "practice of mental health counseling" means
2452 ~~is defined as~~ the use of scientific and applied behavioral
2453 science theories, methods, and techniques for the purpose of
2454 describing, preventing, and treating undesired behavior and
2455 enhancing mental health and human development and is based on
2456 the person-in-situation perspectives derived from research and
2457 theory in personality, family, group, and organizational
2458 dynamics and development, career planning, cultural diversity,
2459 human growth and development, human sexuality, normal and
2460 abnormal behavior, psychopathology, psychotherapy, and
2461 rehabilitation. The practice of mental health counseling
2462 includes methods of a psychological nature used to evaluate,
2463 assess, diagnose, and treat emotional and mental dysfunctions or
2464 disorders, ~~(whether cognitive, affective, or behavioral),~~
2465 ~~behavioral disorders,~~ interpersonal relationships, sexual
2466 dysfunction, alcoholism, and substance abuse. The practice of
2467 mental health counseling includes, but is not limited to,
2468 psychotherapy, hypnotherapy, and sex therapy. The practice of
2469 mental health counseling also includes counseling, behavior
2470 modification, consultation, client-centered advocacy, crisis
2471 intervention, and the provision of needed information and
2472 education to clients, when using methods of a psychological
2473 nature to evaluate, assess, diagnose, treat, and prevent
2474 emotional and mental disorders and dysfunctions (whether
2475 cognitive, affective, or behavioral), behavioral disorders,



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2476 sexual dysfunction, alcoholism, or substance abuse. The practice
2477 of mental health counseling may also include clinical research
2478 into more effective psychotherapeutic modalities for the
2479 treatment and prevention of such conditions.

2480 (c) The terms "diagnose" and "treat," as used in this
2481 chapter, when considered in isolation or in conjunction with any
2482 provision of the rules of the board, may ~~shall~~ not be construed
2483 to permit the performance of any act that ~~which~~ mental health
2484 counselors are not educated and trained to perform, including,
2485 but not limited to, admitting persons to hospitals for treatment
2486 of the foregoing conditions, treating persons in hospitals
2487 without medical supervision, prescribing medicinal drugs as
2488 defined in chapter 465, authorizing clinical laboratory
2489 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
2490 or the use of electroconvulsive therapy. In addition, this
2491 definition may ~~shall~~ not be construed to permit any person
2492 licensed, provisionally licensed, registered, or certified
2493 pursuant to this chapter to describe or label any test, report,
2494 or procedure as "psychological," except to relate specifically
2495 to the definition of practice authorized in this subsection.

2496 Section 99. Paragraph (h) of subsection (4) of section
2497 627.351, Florida Statutes, is amended to read:

2498 627.351 Insurance risk apportionment plans.—

2499 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

2500 (h) As used in this subsection:

2501 1. "Health care provider" means hospitals licensed under
2502 chapter 395; physicians licensed under chapter 458; osteopathic
2503 physicians licensed under chapter 459; podiatric physicians
2504 licensed under chapter 461; dentists licensed under chapter 466;



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2505 chiropractic physicians licensed under chapter 460; naturopaths
2506 licensed under chapter 462; nurses licensed under part I of
2507 chapter 464; midwives licensed under chapter 467; ~~clinical~~
2508 ~~laboratories registered under chapter 483~~; physician assistants
2509 licensed under chapter 458 or chapter 459; physical therapists
2510 and physical therapist assistants licensed under chapter 486;
2511 health maintenance organizations certificated under part I of
2512 chapter 641; ambulatory surgical centers licensed under chapter
2513 395; other medical facilities as defined in subparagraph 2.;
2514 blood banks, plasma centers, industrial clinics, and renal
2515 dialysis facilities; or professional associations, partnerships,
2516 corporations, joint ventures, or other associations for
2517 professional activity by health care providers.

2518 2. "Other medical facility" means a facility the primary
2519 purpose of which is to provide human medical diagnostic services
2520 or a facility providing nonsurgical human medical treatment, to
2521 which facility the patient is admitted and from which facility
2522 the patient is discharged within the same working day, and which
2523 facility is not part of a hospital. However, a facility existing
2524 for the primary purpose of performing terminations of pregnancy
2525 or an office maintained by a physician or dentist for the
2526 practice of medicine shall not be construed to be an "other
2527 medical facility."

2528 3. "Health care facility" means any hospital licensed under
2529 chapter 395, health maintenance organization certificated under
2530 part I of chapter 641, ambulatory surgical center licensed under
2531 chapter 395, or other medical facility as defined in
2532 subparagraph 2.

2533 Section 100. Paragraph (h) of subsection (1) of section



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2534 627.602, Florida Statutes, is amended to read:

2535 627.602 Scope, format of policy.—

2536 (1) Each health insurance policy delivered or issued for
2537 delivery to any person in this state must comply with all
2538 applicable provisions of this code and all of the following
2539 requirements:

2540 (h) Section 641.312 and the provisions of the Employee
2541 Retirement Income Security Act of 1974, as implemented by 29
2542 C.F.R. s. 2560.503-1, relating to internal grievances. This
2543 paragraph does not apply ~~to a health insurance policy that is~~
2544 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
2545 ~~or~~ to the types of benefits or coverages provided under s.
2546 627.6513(1)-(14) issued in any market.

2547 Section 101. Subsection (1) of section 627.6406, Florida
2548 Statutes, is amended to read:

2549 627.6406 Maternity care.—

2550 (1) Any policy of health insurance which ~~that~~ provides
2551 coverage for maternity care must also cover the services of
2552 certified nurse-midwives and midwives licensed pursuant to
2553 chapter 467, and the services of birth centers licensed under
2554 ss. 383.30-383.332 ~~383.335~~.

2555 Section 102. Paragraphs (b) and (e) of subsection (1) of
2556 section 627.64194, Florida Statutes, are amended to read:

2557 627.64194 Coverage requirements for services provided by
2558 nonparticipating providers; payment collection limitations.—

2559 (1) As used in this section, the term:

2560 (b) "Facility" means a licensed facility as defined in s.
2561 395.002(16) and an urgent care center as defined in s.
2562 395.002(29) ~~s. 395.002(30)~~.



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2563 (e) "Nonparticipating provider" means a provider who is not
2564 a preferred provider as defined in s. 627.6471 or a provider who
2565 is not an exclusive provider as defined in s. 627.6472. For
2566 purposes of covered emergency services under this section, a
2567 facility licensed under chapter 395 or an urgent care center
2568 defined in s. 395.002(29) ~~s. 395.002(30)~~ is a nonparticipating
2569 provider if the facility has not contracted with an insurer to
2570 provide emergency services to its insureds at a specified rate.

2571 Section 103. Section 627.6513, Florida Statutes, is amended
2572 to read:

2573 627.6513 Scope.—Section 641.312 and the provisions of the
2574 Employee Retirement Income Security Act of 1974, as implemented
2575 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
2576 apply to all group health insurance policies issued under this
2577 part. This section does not apply to ~~a group health insurance~~
2578 ~~policy that is subject to the Subscriber Assistance Program in~~
2579 ~~s. 408.7056 or to:~~

- 2580 (1) Coverage only for accident insurance, or disability
2581 income insurance, or any combination thereof.
- 2582 (2) Coverage issued as a supplement to liability insurance.
- 2583 (3) Liability insurance, including general liability
2584 insurance and automobile liability insurance.
- 2585 (4) Workers' compensation or similar insurance.
- 2586 (5) Automobile medical payment insurance.
- 2587 (6) Credit-only insurance.
- 2588 (7) Coverage for onsite medical clinics, including prepaid
2589 health clinics under part II of chapter 641.
- 2590 (8) Other similar insurance coverage, specified in rules
2591 adopted by the commission, under which benefits for medical care



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2592 are secondary or incidental to other insurance benefits. To the
2593 extent possible, such rules must be consistent with regulations
2594 adopted by the United States Department of Health and Human
2595 Services.

2596 (9) Limited scope dental or vision benefits, if offered
2597 separately.

2598 (10) Benefits for long-term care, nursing home care, home
2599 health care, or community-based care, or any combination
2600 thereof, if offered separately.

2601 (11) Other similar, limited benefits, if offered
2602 separately, as specified in rules adopted by the commission.

2603 (12) Coverage only for a specified disease or illness, if
2604 offered as independent, noncoordinated benefits.

2605 (13) Hospital indemnity or other fixed indemnity insurance,
2606 if offered as independent, noncoordinated benefits.

2607 (14) Benefits provided through a Medicare supplemental
2608 health insurance policy, as defined under s. 1882(g)(1) of the
2609 Social Security Act, coverage supplemental to the coverage
2610 provided under 10 U.S.C. chapter 55, and similar supplemental
2611 coverage provided to coverage under a group health plan, which
2612 are offered as a separate insurance policy and as independent,
2613 noncoordinated benefits.

2614 Section 104. Subsection (1) of section 627.6574, Florida
2615 Statutes, is amended to read:

2616 627.6574 Maternity care.—

2617 (1) Any group, blanket, or franchise policy of health
2618 insurance which ~~that~~ provides coverage for maternity care must
2619 also cover the services of certified nurse-midwives and midwives
2620 licensed pursuant to chapter 467, and the services of birth



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2621 centers licensed under ss. 383.30-383.332 ~~383.335~~.

2622 Section 105. Paragraph (j) of subsection (1) of section
2623 641.185, Florida Statutes, is amended to read:

2624 641.185 Health maintenance organization subscriber
2625 protections.-

2626 (1) With respect to the provisions of this part and part
2627 III, the principles expressed in the following statements ~~shall~~
2628 serve as standards to be followed by the commission, the office,
2629 the department, and the Agency for Health Care Administration in
2630 exercising their powers and duties, in exercising administrative
2631 discretion, in administrative interpretations of the law, in
2632 enforcing its provisions, and in adopting rules:

2633 ~~(j) A health maintenance organization should receive timely~~
2634 ~~and, if necessary, urgent review by an independent state~~
2635 ~~external review organization for unresolved grievances and~~
2636 ~~appeals pursuant to s. 408.7056.~~

2637 Section 106. Paragraph (a) of subsection (18) of section
2638 641.31, Florida Statutes, is amended to read:

2639 641.31 Health maintenance contracts.-

2640 (18) (a) Health maintenance contracts that provide coverage,
2641 benefits, or services for maternity care must provide, as an
2642 option to the subscriber, the services of nurse-midwives and
2643 midwives licensed pursuant to chapter 467, and the services of
2644 birth centers licensed pursuant to ss. 383.30-383.332 ~~383.335~~,
2645 if such services are available within the service area.

2646 Section 107. Section 641.312, Florida Statutes, is amended
2647 to read:

2648 641.312 Scope.-The Office of Insurance Regulation may adopt
2649 rules to administer the provisions of the National Association



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2650 of Insurance Commissioners' Uniform Health Carrier External
2651 Review Model Act, issued by the National Association of
2652 Insurance Commissioners and dated April 2010. This section does
2653 not apply to a ~~health maintenance contract that is subject to~~
2654 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
2655 types of benefits or coverages provided under s. 627.6513(1)-
2656 (14) issued in any market.

2657 Section 108. Subsection (4) of section 641.3154, Florida
2658 Statutes, is amended to read:

2659 641.3154 Organization liability; provider billing
2660 prohibited.-

2661 (4) A provider or any representative of a provider,
2662 regardless of whether the provider is under contract with the
2663 health maintenance organization, may not collect or attempt to
2664 collect money from, maintain any action at law against, or
2665 report to a credit agency a subscriber of an organization for
2666 payment of services for which the organization is liable, if the
2667 provider in good faith knows or should know that the
2668 organization is liable. This prohibition applies during the
2669 pendency of any claim for payment made by the provider to the
2670 organization for payment of the services and any legal
2671 proceedings or dispute resolution process to determine whether
2672 the organization is liable for the services if the provider is
2673 informed that such proceedings are taking place. It is presumed
2674 that a provider does not know and should not know that an
2675 organization is liable unless:

2676 (a) The provider is informed by the organization that it
2677 accepts liability;

2678 (b) A court of competent jurisdiction determines that the



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2679 organization is liable; or
2680 ~~(c) The office or agency makes a final determination that~~
2681 ~~the organization is required to pay for such services subsequent~~
2682 ~~to a recommendation made by the Subscriber Assistance Panel~~
2683 ~~pursuant to s. 408.7056; or~~

2684 (c) ~~(d)~~ The agency issues a final order that the
2685 organization is required to pay for such services subsequent to
2686 a recommendation made by a resolution organization pursuant to
2687 s. 408.7057.

2688 Section 109. Paragraph (c) of subsection (5) of section
2689 641.51, Florida Statutes, is amended to read:

2690 641.51 Quality assurance program; second medical opinion
2691 requirement.—

2692 (5)

2693 (c) For second opinions provided by contract physicians the
2694 organization is prohibited from charging a fee to the subscriber
2695 in an amount in excess of the subscriber fees established by
2696 contract for referral contract physicians. The organization
2697 shall pay the amount of all charges, which are usual,
2698 reasonable, and customary in the community, for second opinion
2699 services performed by a physician not under contract with the
2700 organization, but may require the subscriber to be responsible
2701 for up to 40 percent of such amount. The organization may
2702 require that any tests deemed necessary by a noncontract
2703 physician shall be conducted by the organization. The
2704 organization may deny reimbursement rights granted under this
2705 section in the event the subscriber seeks in excess of three
2706 such referrals per year if such subsequent referral costs are
2707 deemed by the organization to be evidence that the subscriber



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2708 has unreasonably overutilized the second opinion privilege. A
2709 subscriber ~~thus~~ denied reimbursement under this section has
2710 ~~shall have~~ recourse to grievance procedures as specified in ss.
2711 ~~408.7056,~~ 641.495~~7,~~ and 641.511. The organization's physician's
2712 professional judgment concerning the treatment of a subscriber
2713 derived after review of a second opinion is ~~shall be~~ controlling
2714 as to the treatment obligations of the health maintenance
2715 organization. Treatment not authorized by the health maintenance
2716 organization is ~~shall be~~ at the subscriber's expense.

2717 Section 110. Subsection (1), paragraph (e) of subsection
2718 (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of
2719 subsection (6), and subsections (7) through (12) of section
2720 641.511, Florida Statutes, are amended to read:

2721 641.511 Subscriber grievance reporting and resolution
2722 requirements.—

2723 (1) Every organization must have a grievance procedure
2724 available to its subscribers for the purpose of addressing
2725 complaints and grievances. Every organization must notify its
2726 subscribers that a subscriber must submit a grievance within 1
2727 year after the date of occurrence of the action that initiated
2728 the grievance, ~~and may submit the grievance for review to the~~
2729 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~
2730 ~~after receiving a final disposition of the grievance through the~~
2731 ~~organization's grievance process.~~ An organization shall maintain
2732 records of all grievances and shall report annually to the
2733 agency the total number of grievances handled, a categorization
2734 of the cases underlying the grievances, and the final
2735 disposition of the grievances.

2736 (3) Each organization's grievance procedure, as required



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2737 under subsection (1), must include, at a minimum:

2738 (e) A notice that a subscriber may voluntarily pursue
2739 binding arbitration in accordance with the terms of the contract
2740 if offered by the organization, after completing the
2741 organization's grievance procedure ~~and as an alternative to the~~
2742 ~~Subscriber Assistance Program~~. Such notice shall include an
2743 explanation that the subscriber may incur some costs if the
2744 subscriber pursues binding arbitration, depending upon the terms
2745 of the subscriber's contract.

2746 (4)

2747 ~~(d) In any case when the review process does not resolve a~~
2748 ~~difference of opinion between the organization and the~~
2749 ~~subscriber or the provider acting on behalf of the subscriber,~~
2750 ~~the subscriber or the provider acting on behalf of the~~
2751 ~~subscriber may submit a written grievance to the Subscriber~~
2752 ~~Assistance Program.~~

2753 (6)

2754 ~~(g) In any case when the expedited review process does not~~
2755 ~~resolve a difference of opinion between the organization and the~~
2756 ~~subscriber or the provider acting on behalf of the subscriber,~~
2757 ~~the subscriber or the provider acting on behalf of the~~
2758 ~~subscriber may submit a written grievance to the Subscriber~~
2759 ~~Assistance Program.~~

2760 (g) ~~(h)~~ An organization shall not provide an expedited
2761 retrospective review of an adverse determination.

2762 ~~(7) Each organization shall send to the agency a copy of~~
2763 ~~its quarterly grievance reports submitted to the office pursuant~~
2764 ~~to s. 408.7056(12).~~

2765 (7) ~~(8)~~ The agency shall investigate all reports of



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2766 unresolved quality of care grievances received from:

2767 ~~(a)~~ annual and quarterly grievance reports submitted by the

2768 organization to the office.

2769 ~~(b)~~ Review requests of subscribers whose grievances remain

2770 unresolved after the subscriber has followed the full grievance

2771 procedure of the organization.

2772 ~~(9)~~ (a) The agency shall advise subscribers with grievances

2773 to follow their organization's formal grievance process for

2774 resolution prior to review by the Subscriber Assistance Program.

2775 The subscriber may, however, submit a copy of the grievance to

2776 the agency at any time during the process.

2777 ~~(b)~~ Requiring completion of the organization's grievance

2778 process before the Subscriber Assistance Program panel's review

2779 does not preclude the agency from investigating any complaint or

2780 grievance before the organization makes its final determination.

2781 ~~(10)~~ Each organization must notify the subscriber in a

2782 final decision letter that the subscriber may request review of

2783 the organization's decision concerning the grievance by the

2784 Subscriber Assistance Program, as provided in s. 408.7056, if

2785 the grievance is not resolved to the satisfaction of the

2786 subscriber. The final decision letter must inform the subscriber

2787 that the request for review must be made within 365 days after

2788 receipt of the final decision letter, must explain how to

2789 initiate such a review, and must include the addresses and toll-

2790 free telephone numbers of the agency and the Subscriber

2791 Assistance Program.

2792 (8) ~~(11)~~ Each organization, as part of its contract with any

2793 provider, must require the provider to post a consumer

2794 assistance notice prominently displayed in the reception area of



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2795 the provider and clearly noticeable by all patients. The
2796 consumer assistance notice must state the addresses and toll-
2797 free telephone numbers of the Agency for Health Care
2798 Administration, ~~the Subscriber Assistance Program,~~ and the
2799 Department of Financial Services. The consumer assistance notice
2800 must also clearly state that the address and toll-free telephone
2801 number of the organization's grievance department shall be
2802 provided upon request. The agency may adopt rules to implement
2803 this section.

2804 (9) ~~(12)~~ The agency may impose administrative sanction, in
2805 accordance with s. 641.52, against an organization for
2806 noncompliance with this section.

2807 Section 111. Subsection (1) of section 641.515, Florida
2808 Statutes, is amended to read:

2809 641.515 Investigation by the agency.—

2810 (1) The agency shall investigate further any quality of
2811 care issue contained in recommendations and reports submitted
2812 pursuant to s. ss. 408.7056 ~~and~~ 641.511. The agency shall also
2813 investigate further any information that indicates that the
2814 organization does not meet accreditation standards or the
2815 standards of the review organization performing the external
2816 quality assurance assessment pursuant to reports submitted under
2817 s. 641.512. Every organization shall submit its books and
2818 records and take other appropriate action as may be necessary to
2819 facilitate an examination. The agency shall have access to the
2820 organization's medical records of individuals and records of
2821 employed and contracted physicians, with the consent of the
2822 subscriber or by court order, as necessary to carry out the
2823 provisions of this part.



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2824 Section 112. Subsection (2) of section 641.55, Florida
2825 Statutes, is amended to read:

2826 641.55 Internal risk management program.—

2827 (2) The risk management program shall be the responsibility
2828 of the governing authority or board of the organization. Every
2829 organization which has an annual premium volume of \$10 million
2830 or more and which directly provides health care in a building
2831 owned or leased by the organization shall hire a risk manager,
2832 ~~certified under ss. 395.10971-395.10975~~, who is ~~shall be~~
2833 responsible for implementation of the organization's risk
2834 management program required by this section. A part-time risk
2835 manager may ~~shall~~ not be responsible for risk management
2836 programs in more than four organizations or facilities. Every
2837 organization that ~~which~~ does not directly provide health care in
2838 a building owned or leased by the organization and every
2839 organization with an annual premium volume of less than \$10
2840 million shall designate an officer or employee of the
2841 organization to serve as the risk manager.

2842
2843 The gross data compiled under this section or s. 395.0197 shall
2844 be furnished by the agency upon request to organizations to be
2845 utilized for risk management purposes. The agency shall adopt
2846 rules necessary to carry out the provisions of this section.

2847 Section 113. Section 641.60, Florida Statutes, is repealed.

2848 Section 114. Section 641.65, Florida Statutes, is repealed.

2849 Section 115. Section 641.67, Florida Statutes, is repealed.

2850 Section 116. Section 641.68, Florida Statutes, is repealed.

2851 Section 117. Section 641.70, Florida Statutes, is repealed.

2852 Section 118. Section 641.75, Florida Statutes, is repealed.



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2853 Section 119. Paragraph (b) of subsection (6) of section
2854 766.118, Florida Statutes, is amended to read:

2855 766.118 Determination of noneconomic damages.—

2856 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
2857 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
2858 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
2859 respect to a cause of action for personal injury or wrongful
2860 death arising from medical negligence of a practitioner
2861 committed in the course of providing medical services and
2862 medical care to a Medicaid recipient, regardless of the number
2863 of such practitioner defendants providing the services and care,
2864 noneconomic damages may not exceed \$300,000 per claimant, unless
2865 the claimant pleads and proves, by clear and convincing
2866 evidence, that the practitioner acted in a wrongful manner. A
2867 practitioner providing medical services and medical care to a
2868 Medicaid recipient is not liable for more than \$200,000 in
2869 noneconomic damages, regardless of the number of claimants,
2870 unless the claimant pleads and proves, by clear and convincing
2871 evidence, that the practitioner acted in a wrongful manner. The
2872 fact that a claimant proves that a practitioner acted in a
2873 wrongful manner does not preclude the application of the
2874 limitation on noneconomic damages prescribed elsewhere in this
2875 section. For purposes of this subsection:

2876 (b) The term "practitioner," in addition to the meaning
2877 prescribed in subsection (1), includes any hospital or
2878 ambulatory surgical center, ~~or mobile surgical facility~~ as
2879 defined and licensed under chapter 395.

2880 Section 120. Subsection (4) of section 766.202, Florida
2881 Statutes, is amended to read:



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2882 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
2883 766.201-766.212, the term:

2884 (4) "Health care provider" means any hospital or
2885 ambulatory surgical center, ~~or mobile surgical facility~~ as
2886 defined and licensed under chapter 395; a birth center licensed
2887 under chapter 383; any person licensed under chapter 458,
2888 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
2889 part I of chapter 464, chapter 466, chapter 467, part XIV of
2890 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
2891 ~~chapter 483~~; a health maintenance organization certificated
2892 under part I of chapter 641; a blood bank; a plasma center; an
2893 industrial clinic; a renal dialysis facility; or a professional
2894 association partnership, corporation, joint venture, or other
2895 association for professional activity by health care providers.

2896 Section 121. Section 945.36, Florida Statutes, is amended
2897 to read:

2898 945.36 ~~Exemption from health testing regulations for~~ Law
2899 enforcement personnel authorized to conduct ~~conducting~~ drug
2900 tests on inmates and releasees.—

2901 (1) Any law enforcement officer, state or county probation
2902 officer, or employee of the Department of Corrections, ~~who is~~
2903 certified by the Department of Corrections pursuant to
2904 subsection (2) may administer, ~~is exempt from part I of chapter~~
2905 ~~483, for the limited purpose of administering~~ a urine screen
2906 drug test to:

2907 (a) Persons during incarceration;

2908 (b) Persons released as a condition of probation for either
2909 a felony or misdemeanor;

2910 (c) Persons released as a condition of community control;



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- 2911 (d) Persons released as a condition of conditional release;
- 2912 (e) Persons released as a condition of parole;
- 2913 (f) Persons released as a condition of provisional release;
- 2914 (g) Persons released as a condition of pretrial release; or
- 2915 (h) Persons released as a condition of control release.

2916 (2) The Department of Corrections shall develop a procedure
2917 for certification of any law enforcement officer, state or
2918 county probation officer, or employee of the Department of
2919 Corrections to perform a urine screen drug test on the persons
2920 specified in subsection (1).

2921 Section 122. Paragraph (b) of subsection (2) of section
2922 1009.65, Florida Statutes, is amended to read:

2923 1009.65 Medical Education Reimbursement and Loan Repayment
2924 Program.—

2925 (2) From the funds available, the Department of Health
2926 shall make payments to selected medical professionals as
2927 follows:

2928 (b) All payments are ~~shall be~~ contingent on continued proof
2929 of primary care practice in an area defined in s. 395.602(2)(b)
2930 ~~s. 395.602(2)(e)~~, or an underserved area designated by the
2931 Department of Health, provided the practitioner accepts Medicaid
2932 reimbursement if eligible for such reimbursement. Correctional
2933 facilities, state hospitals, and other state institutions that
2934 employ medical personnel shall be designated by the Department
2935 of Health as underserved locations. Locations with high
2936 incidences of infant mortality, high morbidity, or low Medicaid
2937 participation by health care professionals may be designated as
2938 underserved.

2939 Section 123. Subsection (2) of section 1011.52, Florida



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2940 Statutes, is amended to read:

2941 1011.52 Appropriation to first accredited medical school.—

2942 (2) In order for a medical school to qualify under ~~the~~
2943 ~~provisions of~~ this section and to be entitled to the benefits
2944 herein, such medical school:

2945 (a) Must be primarily operated and established to offer,
2946 afford, and render a medical education to residents of the state
2947 qualifying for admission to such institution;

2948 (b) Must be operated by a municipality or county of this
2949 state, or by a nonprofit organization heretofore or hereafter
2950 established exclusively for educational purposes;

2951 (c) Must, upon the formation and establishment of an
2952 accredited medical school, transmit and file with the Department
2953 of Education documentary proof evidencing the facts that such
2954 institution has been certified and approved by the council on
2955 medical education and hospitals of the American Medical
2956 Association and has adequately met the requirements of that
2957 council in regard to its administrative facilities,
2958 administrative plant, clinical facilities, curriculum, and all
2959 other such requirements as may be necessary to qualify with the
2960 council as a recognized, approved, and accredited medical
2961 school;

2962 (d) Must certify to the Department of Education the name,
2963 address, and educational history of each student approved and
2964 accepted for enrollment in such institution for the ensuing
2965 school year; and

2966 (e) Must have in place an operating agreement with a
2967 government-owned hospital that is located in the same county as
2968 the medical school and that is a statutory teaching hospital as



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2969 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement
2970 must ~~shall~~ provide for the medical school to maintain the same
2971 level of affiliation with the hospital, including the level of
2972 services to indigent and charity care patients served by the
2973 hospital, which was in place in the prior fiscal year. Each
2974 year, documentation demonstrating that an operating agreement is
2975 in effect shall be submitted jointly to the Department of
2976 Education by the hospital and the medical school prior to the
2977 payment of moneys from the annual appropriation.

2978 Section 124. This act shall take effect July 1, 2017.

2979
2980 ===== T I T L E A M E N D M E N T =====

2981 And the title is amended as follows:

2982 Delete everything before the enacting clause
2983 and insert:

2984 A bill to be entitled
2985 An act relating to health care facility regulation;
2986 creating s. 154.13, F.S.; providing that a designated
2987 facility owned or operated by a public health trust
2988 and located within the boundaries of a municipality is
2989 under the exclusive jurisdiction of the county
2990 creating the public health trust; amending ss.
2991 381.0031, 381.004, 384.31, 395.009, 400.0625, and
2992 409.905, F.S.; eliminating state licensure
2993 requirements for clinical laboratories; requiring
2994 clinical laboratories to be federally certified;
2995 amending s. 383.313, F.S.; revising requirements that
2996 a birth center perform certain laboratory tests;
2997 repealing s. 383.335, F.S., relating to partial



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2998 exemptions from licensure requirements for certain
2999 facilities that provide obstetrical and gynecological
3000 surgical services; amending s. 395.002, F.S.; revising
3001 and deleting definitions; creating s. 395.0091, F.S.;
3002 authorizing the Agency for Health Care Administration
3003 to adopt rules establishing criteria for alternate-
3004 site laboratory testing; defining the term "alternate-
3005 site testing"; amending ss. 395.0161 and 395.0163,
3006 F.S.; deleting licensure and inspection requirements
3007 for mobile surgical facilities to conform to changes
3008 made by the act; amending s. 408.809, F.S.; making
3009 additional persons subject to background screening
3010 requirements; amending s. 409.907, F.S.; removing the
3011 agency's authority to consider certain factors in
3012 determining whether to enter into, and in maintaining,
3013 a Medicaid provider agreement; amending s. 435.04
3014 F.S.; providing that security background
3015 investigations must ensure that a person has not been
3016 arrested for, and is not awaiting final disposition
3017 of, certain offenses; specifying offenses under
3018 federal law or any state law that security background
3019 investigations must screen for; requiring that
3020 security background investigations screen for
3021 violations of federal or state law, rule, or
3022 regulation governing any state Medicaid program, the
3023 Medicare program, or any other publicly funded federal
3024 or state health care or health insurance program;
3025 amending s. 395.0197, F.S.; requiring the manager of a
3026 hospital or ambulatory surgical center internal risk



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3027 management program to demonstrate competence in
3028 certain administrative and health care service areas;
3029 conforming provisions to changes made by the act;
3030 repealing s. 395.1046, F.S., relating to hospital
3031 complaint investigation procedures; amending s.
3032 395.1055, F.S.; requiring hospitals that provide
3033 specified services to meet agency licensure
3034 requirements; conforming a provision to changes made
3035 by the act; repealing ss. 395.10971 and 395.10972,
3036 F.S., relating to the purpose and establishment of the
3037 Health Care Risk Manager Advisory Council; amending s.
3038 395.10973, F.S.; deleting duties of the agency
3039 relating to health care risk managers, to conform to
3040 changes made by the act; repealing s. 395.10974, F.S.,
3041 relating to licensure of health care risk managers;
3042 repealing s. 395.10975, F.S., relating to grounds for
3043 denial, suspension, or revocation of a health care
3044 risk manager's license; amending s. 395.602, F.S.;
3045 deleting definitions; amending s. 395.603, F.S.;
3046 deleting provisions relating to deactivation of
3047 general hospital beds by certain rural and emergency
3048 care hospitals; repealing s. 395.604, F.S., relating
3049 to other rural hospital programs; repealing s.
3050 395.605, F.S., relating to emergency care hospitals;
3051 amending s. 395.701, F.S.; revising the definition of
3052 the term "hospital" to exclude hospitals operated by
3053 state agencies; amending s. 400.464, F.S.; requiring
3054 that a license issued on or after a specified date to
3055 a home health agency specify the services the



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3056 organization is authorized to perform and whether the
3057 services constitute skilled are; providing that the
3058 provision or advertising of certain services
3059 constitutes unlicensed activity; providing that
3060 certain persons, entities or organizations providing
3061 home health services may voluntarily apply for a
3062 certificate of exemption from licensure; requiring
3063 that certain information be provided to the agency;
3064 specifying the duration of the certificate of
3065 exemption; providing that the certificate is
3066 nontransferable; authorizing the agency to charge a
3067 fee for the certificate, not to exceed a certain
3068 amount; amending s. 400.471, F.S.; revising home
3069 health agency licensure requirements; providing
3070 requirements for proof of accreditation for home
3071 health agencies applying for change of ownership or
3072 the addition of skilled care services; amending s.
3073 400.474, F.S.; revising conditions for the imposition
3074 of a fine against a home health agency; amending s.
3075 400.476, F.S.; requiring a home health agency
3076 providing skilled nursing care to have a director of
3077 nursing; amending s. 400.484, F.S.; providing for the
3078 imposition of administrative fines on home health
3079 agencies for specified classes of violations; amending
3080 s. 400.497, F.S.; requiring the agency to adopt,
3081 publish, and enforce rules establishing standards for
3082 certificates of exemption; amending s. 400.506, F.S.;
3083 revising provisions imposing a fine on nurse
3084 registries that fail to cease operation after



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3085 notification by the agency; revising circumstances
3086 under which the agency may take certain action or must
3087 impose a fine; amending s. 400.606, F.S.; revising
3088 content requirements of the plan accompanying an
3089 initial or change-of-ownership application for a
3090 hospice; amending s. 400.925, F.S.; revising the
3091 definition of the term "home medical equipment";
3092 amending s. 400.931, F.S.; providing a timeframe for a
3093 home medical equipment provider to notify the agency
3094 of certain personnel changes; amending s. 400.933,
3095 F.S.; authorizing the agency to accept certain medical
3096 oxygen permits issued by the Department of Business
3097 and Professional Regulation in lieu of agency
3098 licensure inspections; amending s. 400.980, F.S.;
3099 revising the timeframe within which a health care
3100 services pool registrant must provide the agency with
3101 certain changes of information; amending s. 400.9935,
3102 F.S.; providing that a voluntary certificate of
3103 exemption is not valid for more than 2 years; amending
3104 s. 408.061, F.S.; excluding hospitals operated by
3105 state agencies from certain financial reporting
3106 requirements; conforming a cross-reference; amending
3107 s. 408.07, F.S.; deleting the term "clinical
3108 laboratory"; amending s. 408.20, F.S.; exempting
3109 hospitals operated by state agencies from assessments
3110 against the Health Care Trust Fund to fund certain
3111 agency activities; repealing s. 408.7056, F.S.,
3112 relating to the Subscriber Assistance Program;
3113 amending s. 408.803, F.S.; defining the term



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3114 "relative" for the Health Care Licensing Procedures
3115 Act; amending s. 408.806, F.S.; authorizing licensees
3116 who hold licenses for multiple providers to request
3117 that the agency align related license expiration
3118 dates; authorizing the agency to issue licenses for an
3119 abbreviated licensure period and to charge prorated
3120 fees; amending s. 408.810, F.S.; exempting an
3121 applicant for change of ownership from furnishing
3122 proof of financial ability to operate under certain
3123 conditions; authorizing the agency to adopt rules
3124 governing circumstances under which a controlling
3125 interest may act in certain legal capacities on behalf
3126 of a patient or client; amending s. 408.812, F.S.;
3127 providing that certain unlicensed activity by a
3128 provider constitutes abuse and neglect; authorizing
3129 the agency to impose a fine under certain
3130 circumstances; amending s. 408.820, F.S.; deleting
3131 certain exemptions from part II of ch. 408, F.S. for
3132 specified providers; amending s. 429.02, F.S.;
3133 revising definitions; amending s. 429.04, F.S.;
3134 providing additional exemptions from licensure as an
3135 assisted living facility; requiring a person or entity
3136 asserting the exemption to provide documentation that
3137 substantiates the claim; amending s. 429.08, F.S.;
3138 providing criminal penalties and fines for a person
3139 who rents or otherwise maintains a building or
3140 property that operates or maintains an unlicensed
3141 assisted living facility; amending s. 429.176, F.S.;
3142 prohibiting an assisted living facility from operating



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3143 without an administrator who has completed certain
3144 educational requirements for more than a specified
3145 period of time; amending s. 429.24, F.S.; providing
3146 that 30-day written notice of rate increase is not
3147 required in certain situations; amending s. 429.256,
3148 F.S.; requiring that certain information on a
3149 medication label be read aloud in the presence of a
3150 resident; amending s. 429.28, F.S.; revising the
3151 resident bill of rights to include assistance with
3152 obtaining access to adequate and appropriate health
3153 care; defining the term "adequate and appropriate
3154 health care"; deleting a requirement that the agency
3155 conduct at least one monitoring visit in certain
3156 circumstances; removing the authority of the agency to
3157 perform followup inspections in certain circumstances;
3158 removing the authority of the agency to conduct
3159 complaint investigations; amending s. 429.294, F.S.;
3160 deleting a specified timeframe within which a facility
3161 must provide certain records; amending s. 429.34,
3162 F.S.; authorizing the agency to perform inspections
3163 and investigations to ensure compliance; authorizing
3164 the agency to perform monitoring visits in certain
3165 circumstances; amending s. 429.52, F.S.; requiring a
3166 facility administrator to complete required training
3167 and education within a certain timeframe; amending s.
3168 435.12, F.S.; extending the screening renewal period
3169 for individuals screened after a certain date in
3170 certain circumstances; extending the period for which
3171 fingerprints must be retained by the Department of Law



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3172 Enforcement; repealing part I of ch. 483, F.S.,
3173 relating to clinical laboratories; amending s.
3174 483.294, F.S.; revising agency inspection schedules
3175 for multiphasic health testing centers; amending s.
3176 483.801, F.S.; providing an exemption from regulation
3177 for persons employed by certain laboratories; amending
3178 s. 483.803, F.S.; revising definitions; conforming a
3179 cross-reference; amending s. 641.511, F.S.; revising
3180 health maintenance organization subscriber grievance
3181 reporting requirements; repealing s. 641.60, F.S.,
3182 relating to the Statewide Managed Care Ombudsman
3183 Committee; repealing s. 641.65, F.S., relating to
3184 district managed care ombudsman committees; repealing
3185 s. 641.67, F.S., relating to a district managed care
3186 ombudsman committee, exemption from public records
3187 requirements, and exceptions; repealing s. 641.68,
3188 F.S., relating to a district managed care ombudsman
3189 committee and exemption from public meeting
3190 requirements; repealing s. 641.70, F.S., relating to
3191 agency duties relating to the Statewide Managed Care
3192 Ombudsman Committee and the district managed care
3193 ombudsman committees; repealing s. 641.75, F.S.,
3194 relating to immunity from liability and limitation on
3195 testimony; amending s. 945.36, F.S.; authorizing law
3196 enforcement personnel to conduct drug tests on certain
3197 inmates and releasees; amending ss. 20.43, 220.1845,
3198 376.30781, 376.86, 381.0034, 381.0405, 383.30,
3199 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,
3200 394.4787, 395.001, 395.003, 395.7015, 400.9905,



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3201 408.033, 408.036, 408.802, 409.9116, 409.975, 429.19,
3202 456.001, 456.057, 458.307, 458.345, 459.021, 483.813,
3203 483.823, 491.003, 627.351, 627.602, 627.6406,
3204 627.64194, 627.6513, 627.6574, 641.185, 641.31,
3205 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,
3206 766.202, 1009.65, and 1011.52, F.S.; conforming
3207 provisions to changes made by the act; providing an
3208 effective date.