

By Senator Grimsley

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1 A bill to be entitled
2 An act relating to health care facility regulation;
3 amending ss. 381.0031, 381.004, 384.31, 395.009, and
4 409.905, F.S.; eliminating state licensure
5 requirements for clinical laboratories; requiring
6 clinical laboratories to be federally certified;
7 amending s. 383.313, F.S.; revising requirements for a
8 birth center to perform certain laboratory tests;
9 repealing s. 383.335, F.S., relating to partial
10 exemptions from licensure requirements for certain
11 facilities that provide obstetrical and gynecological
12 surgical services; amending s. 395.002, F.S.; revising
13 and deleting definitions; creating s. 395.0091, F.S.;
14 authorizing the Agency for Health Care Administration
15 to adopt rules establishing criteria for alternate-
16 site laboratory testing; defining the term "alternate-
17 site testing"; amending ss. 395.0161 and 395.0163,
18 F.S.; deleting licensure and inspection requirements
19 for mobile surgical facilities to conform to changes
20 made by the act; amending s. 395.0197, F.S.; requiring
21 the manager of a hospital or ambulatory surgical
22 center internal risk management program to demonstrate
23 competence in certain administrative and health care
24 service areas; conforming references; repealing s.
25 395.1046, F.S., relating to hospital complaint
26 investigation procedures; amending s. 395.1055, F.S.;
27 requiring hospitals providing specified services to
28 meet agency licensure requirements; conforming a
29 reference; repealing ss. 395.10971 and 395.10972,

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30 F.S., relating to the purpose and establishment of the
31 Health Care Risk Manager Advisory Council; amending s.
32 395.10973, F.S.; deleting duties of the agency
33 relating to health care risk managers; repealing s.
34 395.10974, F.S., relating to licensure of health care
35 risk managers; repealing s. 395.10975, F.S., relating
36 to grounds for denial, suspension, or revocation of a
37 health care risk manager's license; amending s.
38 395.602, F.S.; deleting definitions; amending s.
39 395.603, F.S.; deleting provisions relating to
40 deactivation of general hospital beds by certain rural
41 and emergency care hospitals; repealing s. 395.604,
42 F.S., relating to other rural hospital programs;
43 repealing s. 395.605, F.S., relating to emergency care
44 hospitals; amending s. 395.701, F.S.; revising the
45 definition of the term "hospital" to exclude hospitals
46 operated by state agencies; amending s. 400.464, F.S.;
47 revising licensure requirements for a home health
48 agency; providing conditions for advertising certain
49 services that require licensure; providing for a fine;
50 providing conditions for application for a certificate
51 of exemption from licensure as a home health agency;
52 specifying the duration of the certificate of
53 exemption; authorizing a fee; amending s. 400.471,
54 F.S.; revising home health agency licensure
55 requirements; providing requirements for proof of
56 accreditation for home health agencies applying for
57 change of ownership or addition of skilled care
58 services; amending s. 400.474, F.S.; revising

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59 conditions for the imposition of a fine against a home
60 health agency; amending s. 400.476, F.S.; requiring a
61 home health agency providing skilled nursing care to
62 have a director of nursing; amending s. 400.484, F.S.;
63 providing for the imposition of administrative fines
64 on home health agencies for specified classes of
65 violations; amending s. 400.497, F.S.; authorizing the
66 agency to adopt rules establishing standards for
67 certificate of exemption applications; amending s.
68 400.506, F.S.; revising penalties for a nurse registry
69 directed by the agency to cease operation; providing
70 that registered nurses, licensed practical nurses,
71 certified nursing assistants, companions or
72 homemakers, and home health aides are independent
73 contractors and not employees of the nurse registries
74 that referred them; requiring a nurse registry to
75 inform the patient, the patient's family, or a person
76 acting on behalf of the patient that the referred
77 caregiver is an independent contractor and that the
78 nurse registry is not permitted to monitor, supervise,
79 manage, or train the referred caregiver; revising
80 provisions relating to activities for which the agency
81 is authorized to deny, suspend, or revoke a nurse
82 registry license and impose fines; providing that a
83 nurse registry is not permitted to review or act upon
84 certain records except under certain circumstances;
85 amending s. 400.606, F.S.; revising content
86 requirements of the plan accompanying an initial or
87 change of ownership application for a hospice;

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88 amending s. 400.925, F.S.; revising the definition of
89 the term "home medical equipment"; amending s.
90 400.931, F.S.; providing a timeframe for a home
91 medical equipment provider to notify the agency of
92 certain personnel changes; amending s. 400.933, F.S.;
93 authorizing the agency to accept certain medical
94 oxygen permits issued by the Department of Business
95 and Professional Regulation in lieu of agency
96 licensure inspections; amending s. 400.980, F.S.;
97 revising timeframe requirements for change of
98 registration information submitted to the agency by a
99 health care services pool; amending s. 408.061, F.S.;
100 excluding hospitals operated by state agencies from
101 certain financial reporting requirements; conforming a
102 cross-reference; amending s. 408.07, F.S.; deleting
103 the definition of the term "clinical laboratory";
104 amending s. 408.20, F.S.; exempting hospitals operated
105 by state agencies from assessments against the Health
106 Care Trust Fund to fund certain agency activities;
107 repealing s. 408.7056, F.S., relating to the
108 Subscriber Assistance Program; amending s. 408.803,
109 F.S.; defining the term "relative" for the Health Care
110 Licensing Procedures Act; amending s. 408.806, F.S.;
111 requiring additional information on a licensure
112 application; authorizing the agency to issue licenses
113 with an abbreviated licensure period and prorated fee
114 for alignment of multiple provider license expiration
115 dates; amending s. 408.810, F.S.; exempting an
116 applicant for change of ownership from furnishing

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117 proof of ability to operate under certain conditions;
118 authorizing the agency to adopt rules governing
119 circumstances under which a controlling interest may
120 act in certain legal capacities on behalf of a patient
121 or client; amending s. 408.812, F.S.; citing failure
122 to discharge residents by the license expiration date
123 as unlicensed activity; providing that certain
124 unlicensed activity by a provider constitutes abuse
125 and neglect; requiring the agency to refer certain
126 findings to the state attorney; requiring the agency
127 to impose a fine under certain circumstances; amending
128 s. 429.02, F.S.; revising definitions; amending s.
129 429.04, F.S.; providing additional exemptions from
130 licensure as an assisted living facility; imposing a
131 burden of proof on the person or entity asserting the
132 exemption; providing applicability; amending s.
133 429.08, F.S.; providing criminal penalties and fines
134 for ownership, rental, or maintenance of a real
135 property used as an unlicensed assisted living
136 facility; providing that engaging a third party to
137 provide certain services at an unlicensed location
138 constitutes unlicensed activity; amending s. 429.176,
139 F.S.; prohibiting an assisted living facility from
140 operating beyond a specified period without an
141 administrator who has completed certain educational
142 requirements; amending s. 429.41, F.S.; prohibiting an
143 assisted living facility from providing personal
144 services to nonresidents; repealing part I of ch. 483,
145 F.S., relating to clinical laboratories; amending s.

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146 483.294, F.S.; revising agency inspection schedules
 147 for multiphasic health testing centers; amending s.
 148 483.801, F.S.; revising an exemption from regulation
 149 for persons employed by certain laboratories; amending
 150 s. 483.803, F.S.; deleting definitions; conforming
 151 provisions to changes made by the act; amending s.
 152 641.511, F.S.; revising health maintenance
 153 organization subscriber grievance reporting
 154 requirements; repealing s. 641.60, F.S., relating to
 155 the Statewide Managed Care Ombudsman Committee;
 156 amending s. 945.36, F.S.; authorizing law enforcement
 157 personnel to conduct drug tests on certain inmates and
 158 releasees; amending ss. 20.43, 220.1845, 376.30781,
 159 376.86, 381.0034, 385.211, 394.4787, 395.001, 395.003,
 160 395.7015, 400.0625, 400.9905, 408.033, 408.036,
 161 408.802, 408.820, 409.9116, 409.975, 456.001, 456.057,
 162 458.307, 458.345, 483.813, 491.003, 627.351, 627.602,
 163 627.64194, 627.6513, 641.185, 641.312, 641.3154,
 164 641.51, 641.515, 641.55, 641.70, 641.75, 766.118,
 165 766.202, and 1009.65, F.S.; conforming provisions to
 166 changes made by the act; providing effective dates.

167

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

169

170 Section 1. Paragraph (g) of subsection (3) of section
 171 20.43, Florida Statutes, is amended to read:

172 20.43 Department of Health.—There is created a Department
 173 of Health.

174 (3) The following divisions of the Department of Health are

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175 established:

176 (g) Division of Medical Quality Assurance, which is
177 responsible for the following boards and professions established
178 within the division:

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

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

181 3. The Board of Osteopathic Medicine, created under chapter
182 459.

183 4. The Board of Chiropractic Medicine, created under
184 chapter 460.

185 5. The Board of Podiatric Medicine, created under chapter
186 461.

187 6. Naturopathy, as provided under chapter 462.

188 7. The Board of Optometry, created under chapter 463.

189 8. The Board of Nursing, created under part I of chapter
190 464.

191 9. Nursing assistants, as provided under part II of chapter
192 464.

193 10. The Board of Pharmacy, created under chapter 465.

194 11. The Board of Dentistry, created under chapter 466.

195 12. Midwifery, as provided under chapter 467.

196 13. The Board of Speech-Language Pathology and Audiology,
197 created under part I of chapter 468.

198 14. The Board of Nursing Home Administrators, created under
199 part II of chapter 468.

200 15. The Board of Occupational Therapy, created under part
201 III of chapter 468.

202 16. Respiratory therapy, as provided under part V of
203 chapter 468.

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204 17. Dietetics and nutrition practice, as provided under
205 part X of chapter 468.

206 18. The Board of Athletic Training, created under part XIII
207 of chapter 468.

208 19. The Board of Orthotists and Prosthetists, created under
209 part XIV of chapter 468.

210 20. Electrolysis, as provided under chapter 478.

211 21. The Board of Massage Therapy, created under chapter
212 480.

213 ~~22. The Board of Clinical Laboratory Personnel, created~~
214 ~~under part III of chapter 483.~~

215 22.23. Medical physicists, as provided under part III ~~IV~~ of
216 chapter 483.

217 ~~23.24.~~ The Board of Opticianry, created under part I of
218 chapter 484.

219 ~~24.25.~~ The Board of Hearing Aid Specialists, created under
220 part II of chapter 484.

221 ~~25.26.~~ The Board of Physical Therapy Practice, created
222 under chapter 486.

223 ~~26.27.~~ The Board of Psychology, created under chapter 490.

224 ~~27.28.~~ School psychologists, as provided under chapter 490.

225 ~~28.29.~~ The Board of Clinical Social Work, Marriage and
226 Family Therapy, and Mental Health Counseling, created under
227 chapter 491.

228 ~~29.30.~~ Emergency medical technicians and paramedics, as
229 provided under part III of chapter 401.

230 Section 2. Paragraph (k) of subsection (2) of section
231 220.1845, Florida Statutes, is amended to read:
232 220.1845 Contaminated site rehabilitation tax credit.-

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233 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—
 234 (k) In order to encourage the construction and operation of
 235 a new health care facility as defined in s. 408.032 or s.
 236 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
 237 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
 238 may claim an additional 25 percent of the total site
 239 rehabilitation costs, not to exceed \$500,000, if the applicant
 240 meets the requirements of this paragraph. In order to receive
 241 this additional tax credit, the applicant must provide
 242 documentation indicating that the construction of the health
 243 care facility or health care provider by the applicant on the
 244 brownfield site has received a certificate of occupancy or a
 245 license or certificate has been issued for the operation of the
 246 health care facility or health care provider.

247 Section 3. Paragraph (f) of subsection (3) of section
 248 376.30781, Florida Statutes, is amended to read:

249 376.30781 Tax credits for rehabilitation of drycleaning-
 250 solvent-contaminated sites and brownfield sites in designated
 251 brownfield areas; application process; rulemaking authority;
 252 revocation authority.—

253 (3)
 254 (f) In order to encourage the construction and operation of
 255 a new health care facility or a health care provider, as defined
 256 in s. 408.032 or s. 408.07, ~~or s. 408.7056~~, on a brownfield
 257 site, an applicant for a tax credit may claim an additional 25
 258 percent of the total site rehabilitation costs, not to exceed
 259 \$500,000, if the applicant meets the requirements of this
 260 paragraph. In order to receive this additional tax credit, the
 261 applicant must provide documentation indicating that the

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262 construction of the health care facility or health care provider
263 by the applicant on the brownfield site has received a
264 certificate of occupancy or a license or certificate has been
265 issued for the operation of the health care facility or health
266 care provider.

267 Section 4. Subsection (1) of section 376.86, Florida
268 Statutes, is amended to read:

269 376.86 Brownfield Areas Loan Guarantee Program.—

270 (1) The Brownfield Areas Loan Guarantee Council is created
271 to review and approve or deny, by a majority vote of its
272 membership, the situations and circumstances for participation
273 in partnerships by agreements with local governments, financial
274 institutions, and others associated with the redevelopment of
275 brownfield areas pursuant to the Brownfields Redevelopment Act
276 for a limited state guaranty of up to 5 years of loan guarantees
277 or loan loss reserves issued pursuant to law. The limited state
278 loan guaranty applies only to 50 percent of the primary lenders
279 loans for redevelopment projects in brownfield areas. If the
280 redevelopment project is for affordable housing, as defined in
281 s. 420.0004, in a brownfield area, the limited state loan
282 guaranty applies to 75 percent of the primary lender's loan. If
283 the redevelopment project includes the construction and
284 operation of a new health care facility or a health care
285 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~
286 ~~408.7056~~, on a brownfield site and the applicant has obtained
287 documentation in accordance with s. 376.30781 indicating that
288 the construction of the health care facility or health care
289 provider by the applicant on the brownfield site has received a
290 certificate of occupancy or a license or certificate has been

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291 issued for the operation of the health care facility or health
292 care provider, the limited state loan guaranty applies to 75
293 percent of the primary lender's loan. A limited state guaranty
294 of private loans or a loan loss reserve is authorized for
295 lenders licensed to operate in the state upon a determination by
296 the council that such an arrangement would be in the public
297 interest and the likelihood of the success of the loan is great.

298 Section 5. Subsection (2) of section 381.0031, Florida
299 Statutes, is amended to read:

300 381.0031 Epidemiological research; report of diseases of
301 public health significance to department.-

302 (2) Any practitioner licensed in this state to practice
303 medicine, osteopathic medicine, chiropractic medicine,
304 naturopathy, or veterinary medicine; any hospital licensed under
305 part I of chapter 395; or any laboratory appropriately certified
306 by the Centers for Medicare and Medicaid Services (CMS) under
307 the federal Clinical Laboratory Improvement Amendments of 1988
308 ~~licensed under chapter 483~~ that diagnoses or suspects the
309 existence of a disease of public health significance shall
310 immediately report the fact to the Department of Health.

311 Section 6. Subsection (3) of section 381.0034, Florida
312 Statutes, is amended to read:

313 381.0034 Requirement for instruction on HIV and AIDS.-

314 (3) The department shall require, as a condition of
315 granting a license under chapter 467 or part II ~~III~~ of chapter
316 483, that an applicant making initial application for licensure
317 complete an educational course acceptable to the department on
318 human immunodeficiency virus and acquired immune deficiency
319 syndrome. Upon submission of an affidavit showing good cause, an

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320 applicant who has not taken a course at the time of licensure
321 shall be allowed 6 months to complete this requirement.

322 Section 7. Paragraph (c) of subsection (4) of section
323 381.004, Florida Statutes, is amended to read:

324 381.004 HIV testing.—

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

334 (c) The program shall have all laboratory procedures
335 performed in a laboratory appropriately certified by the Centers
336 for Medicare and Medicaid Services (CMS) under the federal
337 Clinical Laboratory Improvement Amendments of 1988 ~~licensed~~
338 ~~under the provisions of chapter 483.~~

339 Section 8. Subsection (1) of section 383.313, Florida
340 Statutes, is amended to read:

341 383.313 Performance of laboratory and surgical services;
342 use of anesthetic and chemical agents.—

343 (1) LABORATORY SERVICES.—A birth center may collect
344 specimens for those tests that are requested under protocol. A
345 birth center may perform simple laboratory tests, as defined by
346 rule of the agency, and is exempt from the requirements of
347 chapter 483, ~~provided no more than five physicians are employed~~
348 ~~by the birth center and testing is conducted exclusively in~~

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349 ~~connection with the diagnosis and treatment of clients of the~~
350 ~~birth center.~~

351 Section 9. Section 383.335, Florida Statutes, is repealed.

352 Section 10. Section 384.31, Florida Statutes, is amended to
353 read:

354 384.31 Testing of pregnant women; duty of the attendant.—
355 Every person, including every physician licensed under chapter
356 458 or chapter 459 or midwife licensed under part I of chapter
357 464 or chapter 467, attending a pregnant woman for conditions
358 relating to pregnancy during the period of gestation and
359 delivery shall cause the woman to be tested for sexually
360 transmissible diseases, including HIV, as specified by
361 department rule. Testing shall be performed by a laboratory
362 appropriately certified by the Centers for Medicare and Medicaid
363 Services (CMS) under the federal Clinical Laboratory Improvement
364 Amendments of 1988 ~~approved~~ for such purposes ~~under part I of~~
365 ~~chapter 483~~. The woman shall be informed of the tests that will
366 be conducted and of her right to refuse testing. If a woman
367 objects to testing, a written statement of objection, signed by
368 the woman, shall be placed in the woman's medical record and no
369 testing shall occur.

370 Section 11. Subsection (2) of section 385.211, Florida
371 Statutes, is amended to read:

372 385.211 Refractory and intractable epilepsy treatment and
373 research at recognized medical centers.—

374 (2) Notwithstanding chapter 893, medical centers recognized
375 pursuant to s. 381.925, or an academic medical research
376 institution legally affiliated with a licensed children's
377 specialty hospital as defined in s. 395.002(27) ~~395.002(28)~~ that

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378 contracts with the Department of Health, may conduct research on
379 cannabidiol and low-THC cannabis. This research may include, but
380 is not limited to, the agricultural development, production,
381 clinical research, and use of liquid medical derivatives of
382 cannabidiol and low-THC cannabis for the treatment for
383 refractory or intractable epilepsy. The authority for recognized
384 medical centers to conduct this research is derived from 21
385 C.F.R. parts 312 and 316. Current state or privately obtained
386 research funds may be used to support the activities described
387 in this section.

388 Section 12. Subsection (7) of section 394.4787, Florida
389 Statutes, is amended to read:

390 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
391 394.4789.—As used in this section and ss. 394.4786, 394.4788,
392 and 394.4789:

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

396 Section 13. Section 395.001, Florida Statutes, is amended
397 to read:

398 395.001 Legislative intent.—It is the intent of the
399 Legislature to provide for the protection of public health and
400 safety in the establishment, construction, maintenance, and
401 operation of hospitals and ambulatory surgical centers, ~~and~~
402 ~~mobile surgical facilities~~ by providing for licensure of same
403 and for the development, establishment, and enforcement of
404 minimum standards with respect thereto.

405 Section 14. Present subsections (22) through (33) of
406 section 395.002, Florida Statutes, are renumbered as subsections

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407 (21) through (32), respectively, and subsections (3) and (16)
408 and present subsections (21) and (23) of that section are
409 amended, to read:

410 395.002 Definitions.—As used in this chapter:

411 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
412 ~~facility"~~ means a facility the primary purpose of which is to
413 provide elective surgical care, in which the patient is admitted
414 to and discharged from such facility within the same working day
415 and is not permitted to stay overnight, and which is not part of
416 a hospital. However, a facility existing for the primary purpose
417 of performing terminations of pregnancy, an office maintained by
418 a physician for the practice of medicine, or an office
419 maintained for the practice of dentistry shall not be construed
420 to be an ambulatory surgical center, provided that any facility
421 or office which is certified or seeks certification as a
422 Medicare ambulatory surgical center shall be licensed as an
423 ambulatory surgical center pursuant to s. 395.003. ~~Any structure~~
424 ~~or vehicle in which a physician maintains an office and~~
425 ~~practices surgery, and which can appear to the public to be a~~
426 ~~mobile office because the structure or vehicle operates at more~~
427 ~~than one address, shall be construed to be a mobile surgical~~
428 ~~facility.~~

429 (16) "Licensed facility" means a hospital or, ambulatory
430 surgical center, ~~or mobile surgical facility~~ licensed in
431 accordance with this chapter.

432 ~~(21) "Mobile surgical facility" is a mobile facility in~~
433 ~~which licensed health care professionals provide elective~~
434 ~~surgical care under contract with the Department of Corrections~~
435 ~~or a private correctional facility operating pursuant to chapter~~

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436 ~~957 and in which inmate patients are admitted to and discharged~~
437 ~~from said facility within the same working day and are not~~
438 ~~permitted to stay overnight. However, mobile surgical facilities~~
439 ~~may only provide health care services to the inmate patients of~~
440 ~~the Department of Corrections, or inmate patients of a private~~
441 ~~correctional facility operating pursuant to chapter 957, and not~~
442 ~~to the general public.~~

443 (22)~~(23)~~ "Premises" means those buildings, beds, and
444 equipment located at the address of the licensed facility and
445 all other buildings, beds, and equipment for the provision of
446 hospital or~~, or mobile surgical~~ care
447 located in such reasonable proximity to the address of the
448 licensed facility as to appear to the public to be under the
449 dominion and control of the licensee. For any licensee that is a
450 teaching hospital as defined in s. 408.07(44) ~~408.07(45)~~,
451 reasonable proximity includes any buildings, beds, services,
452 programs, and equipment under the dominion and control of the
453 licensee that are located at a site with a main address that is
454 within 1 mile of the main address of the licensed facility; and
455 all such buildings, beds, and equipment may, at the request of a
456 licensee or applicant, be included on the facility license as a
457 single premises.

458 Section 15. Paragraphs (a) and (b) of subsection (1) and
459 paragraph (b) of subsection (2) of section 395.003, Florida
460 Statutes, are amended to read:

461 395.003 Licensure; denial, suspension, and revocation.—

462 (1) (a) The requirements of part II of chapter 408 apply to
463 the provision of services that require licensure pursuant to ss.
464 395.001-395.1065 and part II of chapter 408 and to entities

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465 licensed by or applying for such licensure from the Agency for
466 Health Care Administration pursuant to ss. 395.001-395.1065. A
467 license issued by the agency is required in order to operate a
468 hospital or ambulatory surgical center, ~~or mobile surgical~~
469 ~~facility~~ in this state.

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

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

480 (2)

481 (b) The agency shall, at the request of a licensee that is
482 a teaching hospital as defined in s. 408.07(44) ~~408.07(45)~~,
483 issue a single license to a licensee for facilities that have
484 been previously licensed as separate premises, provided such
485 separately licensed facilities, taken together, constitute the
486 same premises as defined in s. 395.002(22) ~~395.002(23)~~. Such
487 license for the single premises shall include all of the beds,
488 services, and programs that were previously included on the
489 licenses for the separate premises. The granting of a single
490 license under this paragraph shall not in any manner reduce the
491 number of beds, services, or programs operated by the licensee.

492 Section 16. Subsection (1) of section 395.009, Florida
493 Statutes, is amended to read:

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494 395.009 Minimum standards for clinical laboratory test
495 results and diagnostic X-ray results; prerequisite for issuance
496 or renewal of license.-

497 (1) As a requirement for issuance or renewal of its
498 license, each licensed facility shall require that all clinical
499 laboratory tests performed by or for the licensed facility be
500 performed by a clinical laboratory appropriately certified by
501 the Centers for Medicare and Medicaid Services (CMS) under the
502 federal Clinical Laboratory Improvement Amendments of 1988
503 ~~licensed under the provisions of chapter 483.~~

504 Section 17. Section 395.0091, Florida Statutes, is created
505 to read:

506 395.0091 Alternate-site testing.-The agency, in
507 consultation with the Board of Clinical Laboratory Personnel,
508 shall adopt by rule the criteria for alternate-site testing to
509 be performed under the supervision of a clinical laboratory
510 director. The elements to be addressed in the rule include, but
511 are not limited to: a hospital internal needs assessment; a
512 protocol of implementation, including tests to be performed and
513 who will perform the tests; criteria to be used in selecting the
514 method of testing to be used for alternate-site testing; minimum
515 training and education requirements for those who will perform
516 alternate-site testing, such as documented training, licensure,
517 certification, or other medical professional backgrounds not
518 limited to laboratory professionals; documented inservice
519 training as well as initial and ongoing competency validation;
520 an appropriate internal and external quality control protocol;
521 an internal mechanism for identifying and tracking alternate-
522 site testing by the central laboratory; and recordkeeping

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523 requirements. Alternate-site testing locations must register
524 when the hospital applies to renew its license. For purposes of
525 this section, the term "alternate-site testing" means any
526 laboratory testing done under the administrative control of a
527 hospital but performed out of the physical or administrative
528 confines of the central laboratory.

529 Section 18. Paragraph (f) of subsection (1) of section
530 395.0161, Florida Statutes, is amended to read:

531 395.0161 Licensure inspection.—

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

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

540 Section 19. Subsection (3) of section 395.0163, Florida
541 Statutes, is amended to read:

542 395.0163 Construction inspections; plan submission and
543 approval; fees.—

544 ~~(3) In addition to the requirements of s. 408.811, the~~
545 ~~agency shall inspect a mobile surgical facility at initial~~
546 ~~licensure and at each time the facility establishes a new~~
547 ~~location, prior to admission of patients. However, such~~
548 ~~inspections shall not be required when a mobile surgical~~
549 ~~facility is moved temporarily to a location where medical~~
550 ~~treatment will not be provided.~~

551 Section 20. Subsection (2), paragraph (c) of subsection

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552 (6), and subsections (16) and (17) of section 395.0197, Florida
553 Statutes, are amended to read:

554 395.0197 Internal risk management program.—

555 (2) The internal risk management program is the
556 responsibility of the governing board of the health care
557 facility. Each licensed facility shall hire a risk manager,
558 ~~licensed under s. 395.10974,~~ who is responsible for
559 implementation and oversight of such facility's internal risk
560 management program and who demonstrates competence, by education
561 or experience, in the following areas: as required by this
562 section. A risk manager must not be made responsible for more
563 than four internal risk management programs in separate licensed
564 facilities, unless the facilities are under one corporate
565 ownership or the risk management programs are in rural
566 hospitals.

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

568 (b) Applicable federal, state, and local health and safety
569 laws and rules.

570 (c) General risk management administration.

571 (d) Patient care.

572 (e) Medical care.

573 (f) Personal and social care.

574 (g) Accident prevention.

575 (h) Departmental organization and management.

576 (i) Community interrelationships.

577 (j) Medical terminology.

578 (6)

579 (c) The report submitted to the agency shall also contain
580 the name ~~and license number~~ of the risk manager of the licensed

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581 facility, a copy of its policy and procedures which govern the
582 measures taken by the facility and its risk manager to reduce
583 the risk of injuries and adverse incidents, and the results of
584 such measures. The annual report is confidential and is not
585 available to the public pursuant to s. 119.07(1) or any other
586 law providing access to public records. The annual report is not
587 discoverable or admissible in any civil or administrative
588 action, except in disciplinary proceedings by the agency or the
589 appropriate regulatory board. The annual report is not available
590 to the public as part of the record of investigation for and
591 prosecution in disciplinary proceedings made available to the
592 public by the agency or the appropriate regulatory board.
593 However, the agency or the appropriate regulatory board shall
594 make available, upon written request by a health care
595 professional against whom probable cause has been found, any
596 such records which form the basis of the determination of
597 probable cause.

598 (16) There shall be no monetary liability on the part of,
599 and no cause of action for damages shall arise against, any risk
600 manager, ~~licensed under s. 395.10974,~~ for the implementation and
601 oversight of the internal risk management program in a facility
602 licensed under this chapter or chapter 390 as required by this
603 section, for any act or proceeding undertaken or performed
604 within the scope of the functions of such internal risk
605 management program if the risk manager acts without intentional
606 fraud.

607 (17) A privilege against civil liability is hereby granted
608 to any ~~licensed~~ risk manager or licensed facility with regard to
609 information furnished pursuant to this chapter, unless the

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610 ~~licensed~~ risk manager or facility acted in bad faith or with
611 malice in providing such information.

612 Section 21. Section 395.1046, Florida Statutes, is
613 repealed.

614 Section 22. Subsection (2) of section 395.1055, Florida
615 Statutes, is amended, and paragraph (i) is added to subsection
616 (1), to read:

617 395.1055 Rules and enforcement.—

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

621 (i) All hospitals providing pediatric cardiac
622 catheterization, pediatric open-heart surgery, organ
623 transplantation, neonatal intensive care services, psychiatric
624 services, or comprehensive medical rehabilitation meet the
625 minimum licensure requirements adopted by the agency. Such
626 licensure requirements shall include quality of care, nurse
627 staffing, physician staffing, physical plant, equipment,
628 emergency transportation, and data reporting standards.

629 (2) Separate standards may be provided for general and
630 specialty hospitals, ambulatory surgical centers, ~~mobile~~
631 ~~surgical facilities,~~ and statutory rural hospitals as defined in
632 s. 395.602.

633 Section 23. Section 395.10971, Florida Statutes, is
634 repealed.

635 Section 24. Section 395.10972, Florida Statutes, is
636 repealed.

637 Section 25. Section 395.10973, Florida Statutes, is amended
638 to read:

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639 395.10973 Powers and duties of the agency.—It is the
640 function of the agency to:

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

644 ~~(2) Develop, impose, and enforce specific standards within~~
645 ~~the scope of the general qualifications established by this part~~
646 ~~which must be met by individuals in order to receive licenses as~~
647 ~~health care risk managers. These standards shall be designed to~~
648 ~~ensure that health care risk managers are individuals of good~~
649 ~~character and otherwise suitable and, by training or experience~~
650 ~~in the field of health care risk management, qualified in~~
651 ~~accordance with the provisions of this part to serve as health~~
652 ~~care risk managers, within statutory requirements.~~

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

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

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

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

664 (2)~~(7)~~ Develop a model risk management program for health
665 care facilities which will satisfy the requirements of s.
666 395.0197.

667 (3)~~(8)~~ Enforce the special-occupancy provisions of the

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668 Florida Building Code which apply to hospitals, intermediate
669 residential treatment facilities, and ambulatory surgical
670 centers in conducting any inspection authorized by this chapter
671 and part II of chapter 408.

672 Section 26. Section 395.10974, Florida Statutes, is
673 repealed.

674 Section 27. Section 395.10975, Florida Statutes, is
675 repealed.

676 Section 28. Subsection (2) of section 395.602, Florida
677 Statutes, is amended to read:

678 395.602 Rural hospitals.—

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

680 ~~(a) "Emergency care hospital" means a medical facility~~
681 ~~which provides:~~

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

683 ~~2. Inpatient care to ill or injured persons prior to their~~
684 ~~transportation to another hospital or provides inpatient medical~~
685 ~~care to persons needing care for a period of up to 96 hours. The~~
686 ~~96-hour limitation on inpatient care does not apply to respite,~~
687 ~~skilled nursing, hospice, or other nonacute care patients.~~

688 ~~(b) "Essential access community hospital" means any~~
689 ~~facility which:~~

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

691 ~~2. Is located more than 35 miles from any other essential~~
692 ~~access community hospital, rural referral center, or urban~~
693 ~~hospital meeting criteria for classification as a regional~~
694 ~~referral center;~~

695 ~~3. Is part of a network that includes rural primary care~~
696 ~~hospitals;~~

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

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

701 ~~6. Accepts patients transferred from rural primary care~~
702 ~~hospitals in its network.~~

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

706 ~~(a)-(d)~~ (a) "Rural area health education center" means an area
707 health education center (AHEC), as authorized by Pub. L. No. 94-
708 484, which provides services in a county with a population
709 density of up to ~~no greater than~~ 100 persons per square mile.

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

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

715 2. An acute care hospital, in a county with a population
716 density of up to 100 persons per square mile, which is at least
717 30 minutes of travel time, on normally traveled roads under
718 normal traffic conditions, from any other acute care hospital
719 within the same county;

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

723 4. A hospital classified as a sole community hospital under
724 42 C.F.R. s. 412.92 which has up to 175 licensed beds;

725 5. A hospital with a service area that has a population of

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726 up to 100 persons per square mile. As used in this subparagraph,
 727 the term "service area" means the fewest number of zip codes
 728 that account for 75 percent of the hospital's discharges for the
 729 most recent 5-year period, based on information available from
 730 the hospital inpatient discharge database in the Florida Center
 731 for Health Information and Transparency at the agency; or

732 6. A hospital designated as a critical access hospital, as
 733 defined in s. 408.07.

734

735 Population densities used in this paragraph must be based upon
 736 the most recently completed United States census. A hospital
 737 that received funds under s. 409.9116 for a quarter beginning no
 738 later than July 1, 2002, is deemed to have been and shall
 739 continue to be a rural hospital from that date through June 30,
 740 2021, if the hospital continues to have up to 100 licensed beds
 741 and an emergency room. An acute care hospital that has not
 742 previously been designated as a rural hospital and that meets
 743 the criteria of this paragraph shall be granted such designation
 744 upon application, including supporting documentation, to the
 745 agency. A hospital that was licensed as a rural hospital during
 746 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
 747 rural hospital from the date of designation through June 30,
 748 2021, if the hospital continues to have up to 100 licensed beds
 749 and an emergency room.

750 ~~(f) "Rural primary care hospital" means any facility~~
 751 ~~meeting the criteria in paragraph (c) or s. 395.605 which~~
 752 ~~provides:~~

753 ~~1. Twenty-four-hour emergency medical care;~~

754 ~~2. Temporary inpatient care for periods of 72 hours or less~~

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755 ~~to patients requiring stabilization before discharge or transfer~~
756 ~~to another hospital. The 72-hour limitation does not apply to~~
757 ~~respite, skilled nursing, hospice, or other nonacute care~~
758 ~~patients; and~~

759 ~~3. Has no more than six licensed acute care inpatient beds.~~

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

764 Section 29. Section 395.603, Florida Statutes, is amended
765 to read:

766 395.603 ~~Deactivation of general hospital beds; Rural~~
767 ~~hospital impact statement.-~~

768 ~~(1) The agency shall establish, by rule, a process by which~~
769 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~
770 ~~as a rural primary care hospital or as an emergency care~~
771 ~~hospital, or becomes a certified rural health clinic as defined~~
772 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~
773 ~~a county health department, community health center, or other~~
774 ~~similar outpatient program that provides preventive and curative~~
775 ~~services, may deactivate general hospital beds. Rural primary~~
776 ~~care hospitals and emergency care hospitals shall maintain the~~
777 ~~number of actively licensed general hospital beds necessary for~~
778 ~~the facility to be certified for Medicare reimbursement.~~
779 ~~Hospitals that discontinue inpatient care to become rural health~~
780 ~~care clinics or primary care programs shall deactivate all~~
781 ~~licensed general hospital beds. All hospitals, clinics, and~~
782 ~~programs with inactive beds shall provide 24-hour emergency~~
783 ~~medical care by staffing an emergency room. Providers with~~

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784 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~
785 ~~The agency shall specify in rule requirements for making 24-hour~~
786 ~~emergency care available. Inactive general hospital beds shall~~
787 ~~be included in the acute care bed inventory, maintained by the~~
788 ~~agency for certificate of need purposes, for 10 years from the~~
789 ~~date of deactivation of the beds. After 10 years have elapsed,~~
790 ~~inactive beds shall be excluded from the inventory. The agency~~
791 ~~shall, at the request of the licensee, reactivate the inactive~~
792 ~~general beds upon a showing by the licensee that licensure~~
793 ~~requirements for the inactive general beds are met.~~

794 ~~(2)~~ In formulating and implementing policies and rules that
795 may have significant impact on the ability of rural hospitals to
796 continue to provide health care services in rural communities,
797 the agency, the department, or the respective regulatory board
798 adopting policies or rules regarding the licensure or
799 certification of health care professionals shall provide a rural
800 hospital impact statement. The rural hospital impact statement
801 shall assess the proposed action in light of the following
802 questions:

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

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

809 (3)~~(c)~~ What are the functions presently performed by the
810 affected health personnel, and are such functions presently
811 performed in rural hospitals?

812 (4)~~(d)~~ What impact will the proposed action have on the

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813 ability of rural hospitals to recruit the affected personnel to
814 practice in their facilities?

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

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

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

824 Section 30. Section 395.604, Florida Statutes, is repealed.

825 Section 31. Section 395.605, Florida Statutes, is repealed.

826 Section 32. Paragraph (c) of subsection (1) of section
827 395.701, Florida Statutes, is amended to read:

828 395.701 Annual assessments on net operating revenues for
829 inpatient and outpatient services to fund public medical
830 assistance; administrative fines for failure to pay assessments
831 when due; exemption.—

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

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

836 Section 33. Paragraph (b) of subsection (2) of section
837 395.7015, Florida Statutes, is amended to read:

838 395.7015 Annual assessment on health care entities.—

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

841 (b) For the purpose of this section, "health care entities"

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842 include the following:

843 1. Ambulatory surgical centers ~~and mobile surgical~~
844 ~~facilities licensed under s. 395.003. This subsection shall only~~
845 ~~apply to mobile surgical facilities operating under contracts~~
846 ~~entered into on or after July 1, 1998.~~

847 2. ~~Clinical laboratories licensed under s. 483.091,~~
848 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
849 ~~any clinical laboratory operated by the state or a political~~
850 ~~subdivision of the state, any clinical laboratory which~~
851 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
852 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
853 ~~percent or more of its gross revenues from services to charity~~
854 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~
855 ~~bank procuring, storing, or distributing blood, plasma, or~~
856 ~~tissue either for future manufacture or research or distributed~~
857 ~~on a nonprofit basis, and further excluding any clinical~~
858 ~~laboratory which is wholly owned and operated by 6 or fewer~~
859 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
860 ~~459 and who practice in the same group practice, and at which no~~
861 ~~clinical laboratory work is performed for patients referred by~~
862 ~~any health care provider who is not a member of the same group.~~

863 2.3. Diagnostic-imaging centers that are freestanding
864 outpatient facilities that provide specialized services for the
865 identification or determination of a disease through examination
866 and also provide sophisticated radiological services, and in
867 which services are rendered by a physician licensed by the Board
868 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
869 an osteopathic physician licensed by the Board of Osteopathic
870 Medicine under s. 459.0055 or s. 459.0075. For purposes of this

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871 paragraph, "sophisticated radiological services" means the
872 following: magnetic resonance imaging; nuclear medicine;
873 angiography; arteriography; computed tomography; positron
874 emission tomography; digital vascular imaging; bronchography;
875 lymphangiography; splenography; ultrasound, excluding ultrasound
876 providers that are part of a private physician's office practice
877 or when ultrasound is provided by two or more physicians
878 licensed under chapter 458 or chapter 459 who are members of the
879 same professional association and who practice in the same
880 medical specialties; and such other sophisticated radiological
881 services, excluding mammography, as adopted in rule by the
882 board.

883 Section 34. Subsection (1) of section 400.0625, Florida
884 Statutes, is amended to read:

885 400.0625 Minimum standards for clinical laboratory test
886 results and diagnostic X-ray results.—

887 (1) Each nursing home, as a requirement for issuance or
888 renewal of its license, shall require that all clinical
889 laboratory tests performed for the nursing home be performed by
890 a licensed clinical laboratory ~~licensed under the provisions of~~
891 ~~chapter 483~~, except for such self-testing procedures as are
892 approved by the agency by rule. ~~Results of clinical laboratory~~
893 ~~tests performed prior to admission which meet the minimum~~
894 ~~standards provided in s. 483.181(3) shall be accepted in lieu of~~
895 ~~routine examinations required upon admission and clinical~~
896 ~~laboratory tests which may be ordered by a physician for~~
897 ~~residents of the nursing home.~~

898 Section 35. Subsection (1) and paragraphs (b), (e), and (f)
899 of subsection (4) of section 400.464, Florida Statutes, are

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900 amended, and subsection (6) is added to that section, to read:

901 400.464 Home health agencies to be licensed; expiration of
902 license; exemptions; unlawful acts; penalties.—

903 (1) The requirements of part II of chapter 408 apply to the
904 provision of services that require licensure pursuant to this
905 part and part II of chapter 408 and entities licensed or
906 registered by or applying for such licensure or registration
907 from the Agency for Health Care Administration pursuant to this
908 part. A license issued by the agency is required in order to
909 operate a home health agency in this state. A license issued
910 after June 30, 2017, must specify the home health services that
911 the organization is authorized to perform and indicate whether
912 such specified services are considered skilled care. The
913 provision or advertising of services which require licensure
914 pursuant to this part without such services being specified on
915 the face of the license issued after June 30, 2017, constitutes
916 unlicensed activity as prohibited under s. 408.812.

917 (4)

918 (b) The operation or maintenance of an unlicensed home
919 health agency or the performance of any home health services in
920 violation of this part is declared a nuisance, inimical to the
921 public health, welfare, and safety. The agency or any state
922 attorney may, in addition to other remedies provided in this
923 part, bring an action for an injunction to restrain such
924 violation, or to enjoin the future operation or maintenance of
925 the home health agency or the provision of home health services
926 in violation of this part or part II of chapter 408, until
927 compliance with this part or the rules adopted under this part
928 has been demonstrated to the satisfaction of the agency.

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929 (e) Any person who owns, operates, or maintains an
930 unlicensed home health agency and who, ~~within 10 working days~~
931 after receiving notification from the agency, fails to cease
932 operation and apply for a license under this part commits a
933 misdemeanor of the second degree, punishable as provided in s.
934 775.082 or s. 775.083. Each day of continued operation is a
935 separate offense.

936 (f) Any home health agency that fails to cease operation
937 after agency notification may be fined in accordance with s.
938 408.812 \$500 for each day of noncompliance.

939 (6) Any person, entity, or organization providing home
940 health services which is exempt from licensure under subsection
941 (5) may voluntarily apply for a certificate of exemption from
942 licensure under its exempt status with the agency on a form that
943 sets forth its name or names and addresses, a statement of the
944 reasons why it is exempt from licensure as a home health agency,
945 and other information deemed necessary by the agency. A
946 certificate of exemption is valid for a period of not more than
947 2 years and is not transferable. The agency may charge an
948 applicant for a certificate of exemption in an amount equal to
949 \$100 or the actual cost of processing the certificate.

950 Section 36. Present subsections (7), (8), and (9) of
951 section 400.471, Florida Statutes, are renumbered as subsections
952 (6), (7), and (8), respectively, and subsection (2), present
953 subsection (6), and paragraph (g) of subsection (10) are
954 amended, to read:

955 400.471 Application for license; fee.—

956 (2) In addition to the requirements of part II of chapter
957 408, the initial applicant, the applicant for a change of

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958 ownership, and the applicant for the addition of skilled care
959 services, must file with the application satisfactory proof that
960 the home health agency is in compliance with this part and
961 applicable rules, including:

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

965 (b) The number and discipline of professional staff to be
966 employed.

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

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

972 (d)~~(e)~~ Evidence of contingency funding as required under s.
973 408.8065 ~~equal to 1 month's average operating expenses during~~
974 ~~the first year of operation.~~

975 (e)~~(f)~~ A balance sheet, income and expense statement, and
976 statement of cash flows for the first 2 years of operation which
977 provide evidence of having sufficient assets, credit, and
978 projected revenues to cover liabilities and expenses. The
979 applicant has demonstrated financial ability to operate if the
980 applicant's assets, credit, and projected revenues meet or
981 exceed projected liabilities and expenses. An applicant may not
982 project an operating margin of 15 percent or greater for any
983 month in the first year of operation. All documents required
984 under this paragraph must be prepared in accordance with
985 generally accepted accounting principles and compiled and signed
986 by a certified public accountant.

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

990 ~~(g)(h)~~ In the case of an application for initial licensure,
991 an application for a change of ownership, or an application for
992 the addition of skilled care services, documentation of
993 accreditation, or an application for accreditation, from an
994 accrediting organization that is recognized by the agency as
995 having standards comparable to those required by this part and
996 part II of chapter 408. A home health agency that ~~is not~~
997 ~~Medicare or Medicaid certified and~~ does not provide skilled care
998 is exempt from this paragraph. Notwithstanding s. 408.806, an
999 initial applicant ~~that has applied for accreditation~~ must
1000 provide proof of accreditation that is not conditional or
1001 provisional and submit a survey demonstrating compliance with
1002 the requirements of this part, part II of chapter 408, and
1003 applicable rules from an accrediting organization that is
1004 recognized by the agency as having standards comparable to those
1005 required by this part and part II of chapter 408 within 120 days
1006 after the date of the agency's receipt of the application for
1007 licensure ~~or the application shall be withdrawn from further~~
1008 ~~consideration~~. Such accreditation must be continuously
1009 maintained by the home health agency to maintain licensure. The
1010 agency shall accept, in lieu of its own periodic licensure
1011 survey, the submission of the survey of an accrediting
1012 organization that is recognized by the agency if the
1013 accreditation of the licensed home health agency is not
1014 provisional and if the licensed home health agency authorizes
1015 releases of, and the agency receives the report of, the

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1016 accrediting organization.

1017 ~~(6) The agency may not issue a license designated as~~
 1018 ~~certified to a home health agency that fails to satisfy the~~
 1019 ~~requirements of a Medicare certification survey from the agency.~~

1020 (9) ~~(10)~~ The agency may not issue a renewal license for a
 1021 home health agency in any county having at least one licensed
 1022 home health agency and that has more than one home health agency
 1023 per 5,000 persons, as indicated by the most recent population
 1024 estimates published by the Legislature's Office of Economic and
 1025 Demographic Research, if the applicant or any controlling
 1026 interest has been administratively sanctioned by the agency
 1027 during the 2 years prior to the submission of the licensure
 1028 renewal application for one or more of the following acts:

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 Section 37. Subsection (5) of section 400.474, Florida
 1040 Statutes, is amended to read:

1041 400.474 Administrative penalties.—

1042 (5) The agency shall impose a fine of \$5,000 against a home
 1043 health agency that demonstrates a pattern of failing to provide
 1044 a service specified in the home health agency's written

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1045 agreement with a patient or the patient's legal representative,
1046 or the plan of care for that patient, except ~~unless a reduction~~
1047 ~~in service is mandated by Medicare, Medicaid, or a state program~~
1048 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
1049 by a showing of at least three incidences, regardless of the
1050 patient or service, where the home health agency did not provide
1051 a service specified in a written agreement or plan of care
1052 during a 3-month period. The agency shall impose the fine for
1053 each occurrence. The agency may also impose additional
1054 administrative fines under s. 400.484 for the direct or indirect
1055 harm to a patient, or deny, revoke, or suspend the license of
1056 the home health agency for a pattern of failing to provide a
1057 service specified in the home health agency's written agreement
1058 with a patient or the plan of care for that patient.

1059 Section 38. Paragraph (c) of subsection (2) of section
1060 400.476, Florida Statutes, is amended to read:

1061 400.476 Staffing requirements; notifications; limitations
1062 on staffing services.—

1063 (2) DIRECTOR OF NURSING.—

1064 (c) A home health agency that provides skilled nursing care
1065 must ~~is not Medicare or Medicaid certified and does not provide~~
1066 ~~skilled care or provides only physical, occupational, or speech~~
1067 ~~therapy is not required to have a director of nursing and is~~
1068 ~~exempt from paragraph (b).~~

1069 Section 39. Subsection (2) of section 400.484, Florida
1070 Statutes, is amended to read:

1071 400.484 Right of inspection; violations ~~deficiencies~~;
1072 fines.—

1073 (2) The agency shall impose fines for various classes of

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1074 ~~violations deficiencies~~ in accordance with the following
1075 schedule:

1076 (a) Class I violations are defined in s. 408.813 ~~A class I~~
1077 ~~deficiency is any act, omission, or practice that results in a~~
1078 ~~patient's death, disablement, or permanent injury, or places a~~
1079 ~~patient at imminent risk of death, disablement, or permanent~~
1080 ~~injury.~~ Upon finding a class I violation deficiency, the agency
1081 shall impose an administrative fine in the amount of \$15,000 for
1082 each occurrence and each day that the violation deficiency
1083 exists.

1084 (b) Class II violations are defined in s. 408.813 ~~A class~~
1085 ~~II deficiency is any act, omission, or practice that has a~~
1086 ~~direct adverse effect on the health, safety, or security of a~~
1087 ~~patient.~~ Upon finding a class II violation deficiency, the
1088 agency shall impose an administrative fine in the amount of
1089 \$5,000 for each occurrence and each day that the violation
1090 deficiency exists.

1091 (c) Class III violations are defined in s. 408.813 ~~A class~~
1092 ~~III deficiency is any act, omission, or practice that has an~~
1093 ~~indirect, adverse effect on the health, safety, or security of a~~
1094 ~~patient.~~ Upon finding an uncorrected or repeated class III
1095 violation deficiency, the agency shall impose an administrative
1096 fine not to exceed \$1,000 for each occurrence and each day that
1097 the uncorrected or repeated violation deficiency exists.

1098 (d) Class IV violations are defined in s. 408.813 ~~A class~~
1099 ~~IV deficiency is any act, omission, or practice related to~~
1100 ~~required reports, forms, or documents which does not have the~~
1101 ~~potential of negatively affecting patients.~~ These violations are
1102 of a type that the agency determines do not threaten the health,

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1103 safety, or security of patients. Upon finding an uncorrected or
1104 repeated class IV violation ~~deficiency~~, the agency shall impose
1105 an administrative fine not to exceed \$500 for each occurrence
1106 and each day that the uncorrected or repeated violation
1107 ~~deficiency~~ exists.

1108 Section 40. Subsection (4) of section 400.497, Florida
1109 Statutes, is amended to read:

1110 400.497 Rules establishing minimum standards.—The agency
1111 shall adopt, publish, and enforce rules to implement part II of
1112 chapter 408 and this part, including, as applicable, ss. 400.506
1113 and 400.509, which must provide reasonable and fair minimum
1114 standards relating to:

1115 (4) Licensure and certificate of exemption application and
1116 renewal.

1117 Section 41. Subsection (5), paragraphs (d) and (e) of
1118 subsection (6), paragraph (a) of subsection (15), and
1119 subsections (19) and (20) of section 400.506, Florida Statutes,
1120 are amended to read:

1121 400.506 Licensure of nurse registries; requirements;
1122 penalties.—

1123 (5) (a) In addition to the requirements of s. 408.812, any
1124 person who owns, operates, or maintains an unlicensed nurse
1125 registry and who, ~~within 10 working days~~ after receiving
1126 notification from the agency, fails to cease operation and apply
1127 for a license under this part commits a misdemeanor of the
1128 second degree, punishable as provided in s. 775.082 or s.
1129 775.083. Each day of continued operation is a separate offense.

1130 (b) If a nurse registry fails to cease operation after
1131 agency notification, the agency may impose a fine in accordance

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1132 with s. 408.812 ~~of \$500 for each day of noncompliance.~~

1133 (6)

1134 (d) A registered nurse, licensed practical nurse, certified
1135 nursing assistant, companion or homemaker, or home health aide
1136 referred for contract under this chapter by a nurse registry is
1137 deemed an independent contractor and not an employee of the
1138 nurse registry under any chapter, regardless of the obligations
1139 imposed on a nurse registry under this chapter or chapter 408.

1140 (e) Upon referral of a registered nurse, licensed practical
1141 nurse, certified nursing assistant, companion or homemaker, or
1142 home health aide for contract in a private residence or
1143 facility, the nurse registry shall advise the patient, the
1144 patient's family, or any other person acting on behalf of the
1145 patient, at the time of the contract for services, that the
1146 caregiver referred by the nurse registry is an independent
1147 contractor and that the ~~it is not the obligation of a nurse~~
1148 registry is not permitted to monitor, supervise, manage, or
1149 train a caregiver referred for contract under this chapter.

1150 (15) (a) The agency may deny, suspend, or revoke the license
1151 of a nurse registry and shall impose a fine of \$5,000 against a
1152 nurse registry that:

1153 1. Provides services to residents in an assisted living
1154 facility for which the nurse registry does not receive fair
1155 market value remuneration.

1156 2. Provides staffing to an assisted living facility for
1157 which the nurse registry does not receive fair market value
1158 remuneration.

1159 3. Fails to provide the agency, upon request, with copies
1160 of all contracts with assisted living facilities which were

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1161 executed within the last 5 years.

1162 ~~4. Gives remuneration to a case manager, discharge planner,~~
1163 ~~facility-based staff member, or third-party vendor who is~~
1164 ~~involved in the discharge planning process of a facility~~
1165 ~~licensed under chapter 395 or this chapter and from whom the~~
1166 ~~nurse registry receives referrals. A nurse registry is exempt~~
1167 ~~from this subparagraph if it does not bill the Florida Medicaid~~
1168 ~~program or the Medicare program or share a controlling interest~~
1169 ~~with any entity licensed, registered, or certified under part II~~
1170 ~~of chapter 408 that bills the Florida Medicaid program or the~~
1171 ~~Medicare program.~~

1172 ~~5. Gives remuneration to a physician, a member of the~~
1173 ~~physician's office staff, or an immediate family member of the~~
1174 ~~physician, and the nurse registry received a patient referral in~~
1175 ~~the last 12 months from that physician or the physician's office~~
1176 ~~staff. A nurse registry is exempt from this subparagraph if it~~
1177 ~~does not bill the Florida Medicaid program or the Medicare~~
1178 ~~program or share a controlling interest with any entity~~
1179 ~~licensed, registered, or certified under part II of chapter 408~~
1180 ~~that bills the Florida Medicaid program or the Medicare program.~~

1181 ~~(19) It is not the obligation of~~ A nurse registry is not
1182 permitted to monitor, supervise, manage, or train a registered
1183 nurse, licensed practical nurse, certified nursing assistant,
1184 companion or homemaker, or home health aide referred for
1185 contract under this chapter. In the event of a violation of this
1186 chapter or a violation of any other law of this state by a
1187 referred registered nurse, licensed practical nurse, certified
1188 nursing assistant, companion or homemaker, or home health aide,
1189 or a deficiency in credentials which comes to the attention of

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1190 the nurse registry, the nurse registry shall advise the patient
1191 to terminate the referred person's contract, providing the
1192 reason for the suggested termination; cease referring the person
1193 to other patients or facilities; and, if practice violations are
1194 involved, notify the licensing board. This section does not
1195 affect or negate any other obligations imposed on a nurse
1196 registry under chapter 408.

1197 (20) Records required to be filed under this chapter with
1198 the nurse registry as a repository of records must be kept in
1199 accordance with rules adopted by the agency. The nurse registry
1200 is not permitted ~~has no obligation~~ to review or act upon such
1201 records except as specified in subsection (19).

1202 Section 42. Subsection (1) of section 400.606, Florida
1203 Statutes, is amended to read:

1204 400.606 License; application; renewal; conditional license
1205 or permit; certificate of need.—

1206 (1) In addition to the requirements of part II of chapter
1207 408, the initial application and change of ownership application
1208 must be accompanied by a plan for the delivery of home,
1209 residential, and homelike inpatient hospice services to
1210 terminally ill persons and their families. Such plan must
1211 contain, but need not be limited to:

1212 (a) The estimated average number of terminally ill persons
1213 to be served monthly.

1214 (b) The geographic area in which hospice services will be
1215 available.

1216 (c) A listing of services which are or will be provided,
1217 either directly by the applicant or through contractual
1218 arrangements with existing providers.

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1219 (d) Provisions for the implementation of hospice home care
 1220 within 3 months after licensure.

1221 (e) Provisions for the implementation of hospice homelike
 1222 inpatient care within 12 months after licensure.

1223 (f) The number and disciplines of professional staff to be
 1224 employed.

1225 (g) The name and qualifications of any existing or
 1226 potential contractee.

1227 (h) A plan for attracting and training volunteers.
 1228

1229 ~~If the applicant is an existing licensed health care provider,~~
 1230 ~~the application must be accompanied by a copy of the most recent~~
 1231 ~~profit-loss statement and, if applicable, the most recent~~
 1232 ~~licensure inspection report.~~

1233 Section 43. Subsection (6) of section 400.925, Florida
 1234 Statutes, is amended to read:

1235 400.925 Definitions.—As used in this part, the term:

1236 (6) "Home medical equipment" includes any product as
 1237 defined by the Federal Drug Administration's Drugs, Devices and
 1238 Cosmetics Act, any products reimbursed under the Medicare Part B
 1239 Durable Medical Equipment benefits, or any products reimbursed
 1240 under the Florida Medicaid durable medical equipment program.
 1241 Home medical equipment includes:

1242 (a) Oxygen and related respiratory equipment; ~~manual,~~
 1243 ~~motorized, or customized wheelchairs and related seating and~~
 1244 ~~positioning, but does not include prosthetics or orthotics or~~
 1245 ~~any splints, braces, or aids custom fabricated by a licensed~~
 1246 ~~health care practitioner;~~

1247 (b) Motorized scooters;

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- 1248 (c) Personal transfer systems; ~~and~~
- 1249 (d) Specialty beds, for use by a person with a medical
- 1250 need; and
- 1251 (e) Manual, motorized, or customized wheelchairs and
- 1252 related seating and positioning, but does not include
- 1253 prosthetics, orthotics, or any splints, braces, or aids custom
- 1254 fabricated by a licensed health care practitioner.

1255 Section 44. Subsection (4) of section 400.931, Florida

1256 Statutes, is amended to read:

1257 400.931 Application for license; fee.—

1258 (4) When a change of the general manager of a home medical

1259 equipment provider occurs, the licensee must notify the agency

1260 of the change within the timeframes established in part II of

1261 chapter 408 and applicable rules ~~45 days~~.

1262 Section 45. Subsection (2) of section 400.933, Florida

1263 Statutes, is amended to read:

1264 400.933 Licensure inspections and investigations.—

1265 (2) The agency shall accept, in lieu of its own periodic

1266 inspections for licensure, submission of the following:

1267 (a) The survey or inspection of an accrediting

1268 organization, provided the accreditation of the licensed home

1269 medical equipment provider is not provisional and provided the

1270 licensed home medical equipment provider authorizes release of,

1271 and the agency receives the report of, the accrediting

1272 organization; or

1273 (b) A copy of a valid medical oxygen retail establishment

1274 permit issued by the Department of Business and Professional

1275 Regulation ~~Health~~, pursuant to chapter 499.

1276 Section 46. Subsection (2) of section 400.980, Florida

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1277 Statutes, is amended to read:

1278 400.980 Health care services pools.—

1279 (2) The requirements of part II of chapter 408 apply to the
1280 provision of services that require licensure or registration
1281 pursuant to this part and part II of chapter 408 and to entities
1282 registered by or applying for such registration from the agency
1283 pursuant to this part. Registration or a license issued by the
1284 agency is required for the operation of a health care services
1285 pool in this state. In accordance with s. 408.805, an applicant
1286 or licensee shall pay a fee for each license application
1287 submitted using this part, part II of chapter 408, and
1288 applicable rules. The agency shall adopt rules and provide forms
1289 required for such registration and shall impose a registration
1290 fee in an amount sufficient to cover the cost of administering
1291 this part and part II of chapter 408. In addition to the
1292 requirements in part II of chapter 408, the registrant must
1293 provide the agency with any change of information contained on
1294 the original registration application within the timeframes
1295 established in this part, part II of chapter 408, and applicable
1296 rules ~~14 days prior to the change.~~

1297 Section 47. Paragraphs (a) through (d) of subsection (4) of
1298 section 400.9905, Florida Statutes, are amended to read:

1299 400.9905 Definitions.—

1300 (4) "Clinic" means an entity where health care services are
1301 provided to individuals and which tenders charges for
1302 reimbursement for such services, including a mobile clinic and a
1303 portable equipment provider. As used in this part, the term does
1304 not include and the licensure requirements of this part do not
1305 apply to:

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1306 (a) Entities licensed or registered by the state under
1307 chapter 395; entities licensed or registered by the state and
1308 providing only health care services within the scope of services
1309 authorized under their respective licenses under ss. 383.30-
1310 383.332 ~~ss. 383.30-383.335~~, chapter 390, chapter 394, chapter
1311 397, this chapter except part X, chapter 429, chapter 463,
1312 chapter 465, chapter 466, chapter 478, ~~part I of chapter 483~~,
1313 chapter 484, or chapter 651; end-stage renal disease providers
1314 authorized under 42 C.F.R. part 405, subpart U; providers
1315 certified under 42 C.F.R. part 485, subpart B or subpart H; or
1316 any entity that provides neonatal or pediatric hospital-based
1317 health care services or other health care services by licensed
1318 practitioners solely within a hospital licensed under chapter
1319 395.

1320 (b) Entities that own, directly or indirectly, entities
1321 licensed or registered by the state pursuant to chapter 395;
1322 entities that own, directly or indirectly, entities licensed or
1323 registered by the state and providing only health care services
1324 within the scope of services authorized pursuant to their
1325 respective licenses under ss. 383.30-383.332 ~~ss. 383.30-383.335~~,
1326 chapter 390, chapter 394, chapter 397, this chapter except part
1327 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1328 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1329 stage renal disease providers authorized under 42 C.F.R. part
1330 405, subpart U; providers certified under 42 C.F.R. part 485,
1331 subpart B or subpart H; or any entity that provides neonatal or
1332 pediatric hospital-based health care services by licensed
1333 practitioners solely within a hospital licensed under chapter
1334 395.

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1335 (c) Entities that are owned, directly or indirectly, by an
1336 entity licensed or registered by the state pursuant to chapter
1337 395; entities that are owned, directly or indirectly, by an
1338 entity licensed or registered by the state and providing only
1339 health care services within the scope of services authorized
1340 pursuant to their respective licenses under ss. 383.30-383.332
1341 ~~ss. 383.30-383.335~~, chapter 390, chapter 394, chapter 397, this
1342 chapter except part X, chapter 429, chapter 463, chapter 465,
1343 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1344 chapter 651; end-stage renal disease providers authorized under
1345 42 C.F.R. part 405, subpart U; providers certified under 42
1346 C.F.R. part 485, subpart B or subpart H; or any entity that
1347 provides neonatal or pediatric hospital-based health care
1348 services by licensed practitioners solely within a hospital
1349 under chapter 395.

1350 (d) Entities that are under common ownership, directly or
1351 indirectly, with an entity licensed or registered by the state
1352 pursuant to chapter 395; entities that are under common
1353 ownership, directly or indirectly, with an entity licensed or
1354 registered by the state and providing only health care services
1355 within the scope of services authorized pursuant to their
1356 respective licenses under ss. 383.30-383.332 ~~ss. 383.30-383.335~~,
1357 chapter 390, chapter 394, chapter 397, this chapter except part
1358 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1359 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1360 stage renal disease providers authorized under 42 C.F.R. part
1361 405, subpart U; providers certified under 42 C.F.R. part 485,
1362 subpart B or subpart H; or any entity that provides neonatal or
1363 pediatric hospital-based health care services by licensed

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1364 practitioners solely within a hospital licensed under chapter
1365 395.

1366
1367 Notwithstanding this subsection, an entity shall be deemed a
1368 clinic and must be licensed under this part in order to receive
1369 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1370 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1371 Section 48. Paragraph (a) of subsection (2) of section
1372 408.033, Florida Statutes, is amended to read:

1373 408.033 Local and state health planning.—

1374 (2) FUNDING.—

1375 (a) The Legislature intends that the cost of local health
1376 councils be borne by assessments on selected health care
1377 facilities subject to facility licensure by the Agency for
1378 Health Care Administration, including abortion clinics, assisted
1379 living facilities, ambulatory surgical centers, birthing
1380 centers, ~~clinical laboratories except community nonprofit blood~~
1381 ~~banks and clinical laboratories operated by practitioners for~~
1382 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
1383 hospices, hospitals, intermediate care facilities for the
1384 developmentally disabled, nursing homes, health care clinics,
1385 and multiphasic testing centers and by assessments on
1386 organizations subject to certification by the agency pursuant to
1387 chapter 641, part III, including health maintenance
1388 organizations and prepaid health clinics. Fees assessed may be
1389 collected prospectively at the time of licensure renewal and
1390 prorated for the licensure period.

1391 Section 49. Paragraph (e) and present paragraph (p) of
1392 subsection (3) of section 408.036, Florida Statutes, are amended

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to read:

408.036 Projects subject to review; exemptions.—

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

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

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

Section 50. Subsection (4) of section 408.061, Florida Statutes, is amended to read:

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

(4) Within 120 days after the end of its fiscal year, each health care facility, excluding continuing care facilities as defined in s. 408.07(13), hospitals operated by state agencies, and nursing homes as defined in s. 408.07(36) ~~408.07(14) and (37)~~, shall file with the agency, on forms adopted by the agency and based on the uniform system of financial reporting, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports which are certified to be complete and accurate by the provider. However, hospitals' actual financial experience shall be their audited actual experience. Every nursing home shall submit to the agency, in a

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1422 format designated by the agency, a statistical profile of the
1423 nursing home residents. The agency, in conjunction with the
1424 Department of Elderly Affairs and the Department of Health,
1425 shall review these statistical profiles and develop
1426 recommendations for the types of residents who might more
1427 appropriately be placed in their homes or other noninstitutional
1428 settings.

1429 Section 51. Subsection (11) of section 408.07, Florida
1430 Statutes, is amended to read:

1431 408.07 Definitions.—As used in this chapter, with the
1432 exception of ss. 408.031-408.045, the term:

1433 ~~(11) "Clinical laboratory" means a facility licensed under~~
1434 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
1435 ~~483.041(6); any clinical laboratory operated by the state or a~~
1436 ~~political subdivision of the state; any blood or tissue bank~~
1437 ~~where the majority of revenues are received from the sale of~~
1438 ~~blood or tissue and where blood, plasma, or tissue is procured~~
1439 ~~from volunteer donors and donated, processed, stored, or~~
1440 ~~distributed on a nonprofit basis; and any clinical laboratory~~
1441 ~~which is wholly owned and operated by physicians who are~~
1442 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
1443 ~~in the same group practice, and at which no clinical laboratory~~
1444 ~~work is performed for patients referred by any health care~~
1445 ~~provider who is not a member of that same group practice.~~

1446 Section 52. Subsection (4) of section 408.20, Florida
1447 Statutes, is amended to read:

1448 408.20 Assessments; Health Care Trust Fund.—

1449 (4) Hospitals operated by state agencies ~~the Department of~~
1450 ~~Children and Families, the Department of Health, or the~~

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1451 ~~Department of Corrections~~ are exempt from the assessments
1452 required under this section.

1453 Section 53. Section 408.7056, Florida Statutes, is
1454 repealed.

1455 Section 54. Subsections (10), (11), and (27) of section
1456 408.802, Florida Statutes, are amended to read:

1457 408.802 Applicability.—The provisions of this part apply to
1458 the provision of services that require licensure as defined in
1459 this part and to the following entities licensed, registered, or
1460 certified by the agency, as described in chapters 112, 383, 390,
1461 394, 395, 400, 429, 440, 483, and 765:

1462 ~~(10) Mobile surgical facilities, as provided under part I~~
1463 ~~of chapter 395.~~

1464 ~~(11) Health care risk managers, as provided under part I of~~
1465 ~~chapter 395.~~

1466 ~~(27) Clinical laboratories, as provided under part I of~~
1467 ~~chapter 483.~~

1468 Section 55. Present subsections (12) and (13) of section
1469 408.803, Florida Statutes, are renumbered as subsections (13)
1470 and (14), respectively, and a new subsection (12) is added to
1471 that section, to read:

1472 408.803 Definitions.—As used in this part, the term:

1473 (12) "Relative" means an individual who is the father,
1474 mother, stepfather, stepmother, son, daughter, brother, sister,
1475 grandmother, grandfather, great-grandmother, great-grandfather,
1476 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1477 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1478 daughter-in-law, brother-in-law, sister-in-law, stepson,
1479 stepdaughter, stepbrother, stepsister, half-brother, or half-

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1480 sister of a patient or client.

1481 Section 56. Paragraph (a) of subsection (1) and paragraph
1482 (c) of subsection (7) of section 408.806, Florida Statutes, are
1483 amended, and subsection (9) is added to that section, to read:
1484 408.806 License application process.—

1485 (1) An application for licensure must be made to the agency
1486 on forms furnished by the agency, submitted under oath or
1487 attestation, and accompanied by the appropriate fee in order to
1488 be accepted and considered timely. The application must contain
1489 information required by authorizing statutes and applicable
1490 rules and must include:

1491 (a) The name, address, and social security number, or
1492 individual taxpayer identification number if a social security
1493 number cannot legally be obtained, of:

- 1494 1. The applicant;
- 1495 2. The administrator or a similarly titled person who is
1496 responsible for the day-to-day operation of the provider;
- 1497 3. The financial officer or similarly titled person who is
1498 responsible for the financial operation of the licensee or
1499 provider; and
- 1500 4. Each controlling interest if the applicant or
1501 controlling interest is an individual.

1502
1503 The licensee shall ensure that no person has any ownership
1504 interest in the licensee, directly or indirectly, regardless of
1505 ownership structure, who is ineligible pursuant to s.
1506 408.809(4). The licensee shall ensure that no person holds or
1507 has held any ownership interest, directly or indirectly,
1508 regardless of ownership structure, in a provider that has had a

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1509 license or change of ownership application denied, revoked, or
1510 excluded pursuant to s. 408.815.

1511 (7)

1512 (c) If an inspection is required by the authorizing statute
1513 for a license application other than an initial application, the
1514 inspection must be unannounced. This paragraph does not apply to
1515 inspections required pursuant to ss. 383.324, 395.0161(4), and
1516 429.67(6), and ~~483.061(2).~~

1517 (9) A licensee that holds a license for multiple providers
1518 licensed by the agency may request that all related license
1519 expiration dates be aligned. The agency may issue a license for
1520 an abbreviated licensure period with a prorated licensure fee.

1521 Section 57. Subsection (8) of section 408.810, Florida
1522 Statutes, is amended, and subsection (11) is added to that
1523 section to read:

1524 408.810 Minimum licensure requirements.—In addition to the
1525 licensure requirements specified in this part, authorizing
1526 statutes, and applicable rules, each applicant and licensee must
1527 comply with the requirements of this section in order to obtain
1528 and maintain a license.

1529 (8) Upon application for initial licensure or change of
1530 ownership licensure, the applicant shall furnish satisfactory
1531 proof of the applicant's financial ability to operate in
1532 accordance with the requirements of this part, authorizing
1533 statutes, and applicable rules. The agency shall establish
1534 standards for this purpose, including information concerning the
1535 applicant's controlling interests. The agency shall also
1536 establish documentation requirements, to be completed by each
1537 applicant, that show anticipated provider revenues and

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1538 expenditures, the basis for financing the anticipated cash-flow
1539 requirements of the provider, and an applicant's access to
1540 contingency financing. A current certificate of authority,
1541 pursuant to chapter 651, may be provided as proof of financial
1542 ability to operate. The agency may require a licensee to provide
1543 proof of financial ability to operate at any time if there is
1544 evidence of financial instability, including, but not limited
1545 to, unpaid expenses necessary for the basic operations of the
1546 provider. An applicant applying for change of ownership
1547 licensure is exempt from furnishing proof of the applicant's
1548 financial ability to operate if the provider has been licensed
1549 for at least 5 years and:

1550 (a) The licensee change is a result of a corporate
1551 reorganization under which the controlling interest is unchanged
1552 and the applicant submits organization charts that represent the
1553 current and proposed structure of the reorganized corporation;
1554 or

1555 (b) The licensee change is due solely to the death of a
1556 controlling interest, and the surviving controlling interests
1557 continue to hold at least 51 percent of ownership after the
1558 change of ownership.

1559 (11) The agency may adopt rules that govern the
1560 circumstances under which a controlling interest, an
1561 administrator, an employee, a contractor, or a representative
1562 thereof who is not a relative of the patient or client may act
1563 as a legal representative, agent, health care surrogate, power
1564 of attorney, or guardian of a patient or client. Such rules may
1565 include requirements related to disclosure, bonding,
1566 restrictions, and client protections.

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1567 Section 58. Section 408.812, Florida Statutes, is amended
1568 to read:

1569 408.812 Unlicensed activity.—

1570 (1) A person or entity may not offer or advertise services
1571 that require licensure as defined by this part, authorizing
1572 statutes, or applicable rules to the public without obtaining a
1573 valid license from the agency. A licenseholder may not advertise
1574 or hold out to the public that he or she holds a license for
1575 other than that for which he or she actually holds the license.

1576 (2) The operation or maintenance of an unlicensed provider
1577 or the performance of any services that require licensure
1578 without proper licensure is a violation of this part and
1579 authorizing statutes. Unlicensed activity constitutes harm that
1580 materially affects the health, safety, and welfare of clients
1581 and constitutes abuse and neglect as defined in s. 415.102. The
1582 agency or any state attorney may, in addition to other remedies
1583 provided in this part, bring an action for an injunction to
1584 restrain such violation, or to enjoin the future operation or
1585 maintenance of the unlicensed provider or the performance of any
1586 services in violation of this part and authorizing statutes,
1587 until compliance with this part, authorizing statutes, and
1588 agency rules has been demonstrated to the satisfaction of the
1589 agency.

1590 (3) It is unlawful for any person or entity to own,
1591 operate, or maintain an unlicensed provider. If after receiving
1592 notification from the agency, such person or entity fails to
1593 cease operation ~~and apply for a license under this part and~~
1594 ~~authorizing statutes~~, the person or entity shall be subject to
1595 penalties as prescribed by authorizing statutes and applicable

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1596 rules. Each day of ~~continued~~ operation is a separate offense.

1597 (4) Any person or entity that fails to cease operation
1598 after agency notification may be fined \$1,000 for each day of
1599 noncompliance.

1600 (5) When a controlling interest or licensee has an interest
1601 in more than one provider and fails to license a provider
1602 rendering services that require licensure, the agency may revoke
1603 all licenses and impose actions under s. 408.814 and, regardless
1604 of correction, impose a fine of \$1,000 per day, unless otherwise
1605 specified by authorizing statutes, against each licensee until
1606 such time as the appropriate license is obtained or the
1607 unlicensed activity ceases ~~for the unlicensed operation.~~

1608 (6) In addition to granting injunctive relief pursuant to
1609 subsection (2), if the agency determines that a person or entity
1610 is operating or maintaining a provider without obtaining a
1611 license and determines that a condition exists that poses a
1612 threat to the health, safety, or welfare of a client of the
1613 provider, the person or entity is subject to the same actions
1614 and fines imposed against a licensee as specified in this part,
1615 authorizing statutes, and agency rules.

1616 (7) Any person aware of the operation of an unlicensed
1617 provider must report that provider to the agency.

1618 Section 59. Subsections (10), (11), (26), and (27) of
1619 section 408.820, Florida Statutes, are amended to read:

1620 408.820 Exemptions.—Except as prescribed in authorizing
1621 statutes, the following exemptions shall apply to specified
1622 requirements of this part:

1623 ~~(10) Mobile surgical facilities, as provided under part I~~
1624 ~~of chapter 395, are exempt from s. 408.810(7)–(10).~~

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1625 ~~(11) Health care risk managers, as provided under part I of~~
1626 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4) (10),~~
1627 ~~and 408.811.~~

1628 ~~(26) Clinical laboratories, as provided under part I of~~
1629 ~~chapter 483, are exempt from s. 408.810(5) (10).~~

1630 (24)~~(27)~~ Multiphasic health testing centers, as provided
1631 under part I ~~II~~ of chapter 483, are exempt from s. 408.810(5)-
1632 (10).

1633 Section 60. Subsection (7) of section 409.905, Florida
1634 Statutes, is amended to read:

1635 409.905 Mandatory Medicaid services.—The agency may make
1636 payments for the following services, which are required of the
1637 state by Title XIX of the Social Security Act, furnished by
1638 Medicaid providers to recipients who are determined to be
1639 eligible on the dates on which the services were provided. Any
1640 service under this section shall be provided only when medically
1641 necessary and in accordance with state and federal law.

1642 Mandatory services rendered by providers in mobile units to
1643 Medicaid recipients may be restricted by the agency. Nothing in
1644 this section shall be construed to prevent or limit the agency
1645 from adjusting fees, reimbursement rates, lengths of stay,
1646 number of visits, number of services, or any other adjustments
1647 necessary to comply with the availability of moneys and any
1648 limitations or directions provided for in the General
1649 Appropriations Act or chapter 216.

1650 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
1651 for medically necessary diagnostic laboratory procedures ordered
1652 by a licensed physician or other licensed practitioner of the
1653 healing arts which are provided for a recipient in a laboratory

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1654 that meets the requirements for Medicare participation and
1655 appropriately certified by the Centers for Medicare and Medicaid
1656 Services (CMS) under the federal Clinical Laboratory Improvement
1657 Amendments of 1988 ~~is licensed under chapter 483, if required.~~

1658 Section 61. Subsection (6) of section 409.9116, Florida
1659 Statutes, is amended to read:

1660 409.9116 Disproportionate share/financial assistance
1661 program for rural hospitals.—In addition to the payments made
1662 under s. 409.911, the Agency for Health Care Administration
1663 shall administer a federally matched disproportionate share
1664 program and a state-funded financial assistance program for
1665 statutory rural hospitals. The agency shall make
1666 disproportionate share payments to statutory rural hospitals
1667 that qualify for such payments and financial assistance payments
1668 to statutory rural hospitals that do not qualify for
1669 disproportionate share payments. The disproportionate share
1670 program payments shall be limited by and conform with federal
1671 requirements. Funds shall be distributed quarterly in each
1672 fiscal year for which an appropriation is made. Notwithstanding
1673 the provisions of s. 409.915, counties are exempt from
1674 contributing toward the cost of this special reimbursement for
1675 hospitals serving a disproportionate share of low-income
1676 patients.

1677 (6) This section applies only to hospitals that were
1678 defined as statutory rural hospitals, or their successor-in-
1679 interest hospital, prior to January 1, 2001. Any additional
1680 hospital that is defined as a statutory rural hospital, or its
1681 successor-in-interest hospital, on or after January 1, 2001, is
1682 not eligible for programs under this section unless additional

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1683 funds are appropriated each fiscal year specifically to the
1684 rural hospital disproportionate share and financial assistance
1685 programs in an amount necessary to prevent any hospital, or its
1686 successor-in-interest hospital, eligible for the programs prior
1687 to January 1, 2001, from incurring a reduction in payments
1688 because of the eligibility of an additional hospital to
1689 participate in the programs. A hospital, or its successor-in-
1690 interest hospital, which received funds pursuant to this section
1691 before January 1, 2001, and which qualifies under s.
1692 395.602(2)(b) ~~395.602(2)(c)~~, shall be included in the programs
1693 under this section and is not required to seek additional
1694 appropriations under this subsection.

1695 Section 62. Paragraphs (a) and (b) of subsection (1) of
1696 section 409.975, Florida Statutes, are amended to read:

1697 409.975 Managed care plan accountability.—In addition to
1698 the requirements of s. 409.967, plans and providers
1699 participating in the managed medical assistance program shall
1700 comply with the requirements of this section.

1701 (1) PROVIDER NETWORKS.—Managed care plans must develop and
1702 maintain provider networks that meet the medical needs of their
1703 enrollees in accordance with standards established pursuant to
1704 s. 409.967(2)(c). Except as provided in this section, managed
1705 care plans may limit the providers in their networks based on
1706 credentials, quality indicators, and price.

1707 (a) Plans must include all providers in the region that are
1708 classified by the agency as essential Medicaid providers, unless
1709 the agency approves, in writing, an alternative arrangement for
1710 securing the types of services offered by the essential
1711 providers. Providers are essential for serving Medicaid

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1712 enrollees if they offer services that are not available from any
1713 other provider within a reasonable access standard, or if they
1714 provided a substantial share of the total units of a particular
1715 service used by Medicaid patients within the region during the
1716 last 3 years and the combined capacity of other service
1717 providers in the region is insufficient to meet the total needs
1718 of the Medicaid patients. The agency may not classify physicians
1719 and other practitioners as essential providers. The agency, at a
1720 minimum, shall determine which providers in the following
1721 categories are essential Medicaid providers:

- 1722 1. Federally qualified health centers.
- 1723 2. Statutory teaching hospitals as defined in s. 408.07(44)
1724 ~~408.07(45)~~.
- 1725 3. Hospitals that are trauma centers as defined in s.
1726 395.4001(14).
- 1727 4. Hospitals located at least 25 miles from any other
1728 hospital with similar services.

1729
1730 Managed care plans that have not contracted with all essential
1731 providers in the region as of the first date of recipient
1732 enrollment, or with whom an essential provider has terminated
1733 its contract, must negotiate in good faith with such essential
1734 providers for 1 year or until an agreement is reached, whichever
1735 is first. Payments for services rendered by a nonparticipating
1736 essential provider shall be made at the applicable Medicaid rate
1737 as of the first day of the contract between the agency and the
1738 plan. A rate schedule for all essential providers shall be
1739 attached to the contract between the agency and the plan. After
1740 1 year, managed care plans that are unable to contract with

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1741 essential providers shall notify the agency and propose an
1742 alternative arrangement for securing the essential services for
1743 Medicaid enrollees. The arrangement must rely on contracts with
1744 other participating providers, regardless of whether those
1745 providers are located within the same region as the
1746 nonparticipating essential service provider. If the alternative
1747 arrangement is approved by the agency, payments to
1748 nonparticipating essential providers after the date of the
1749 agency's approval shall equal 90 percent of the applicable
1750 Medicaid rate. Except for payment for emergency services, if the
1751 alternative arrangement is not approved by the agency, payment
1752 to nonparticipating essential providers shall equal 110 percent
1753 of the applicable Medicaid rate.

1754 (b) Certain providers are statewide resources and essential
1755 providers for all managed care plans in all regions. All managed
1756 care plans must include these essential providers in their
1757 networks. Statewide essential providers include:

- 1758 1. Faculty plans of Florida medical schools.
- 1759 2. Regional perinatal intensive care centers as defined in
1760 s. 383.16(2).
- 1761 3. Hospitals licensed as specialty children's hospitals as
1762 defined in s. 395.002(27) ~~395.002(28)~~.
- 1763 4. Accredited and integrated systems serving medically
1764 complex children which comprise separately licensed, but
1765 commonly owned, health care providers delivering at least the
1766 following services: medical group home, in-home and outpatient
1767 nursing care and therapies, pharmacy services, durable medical
1768 equipment, and Prescribed Pediatric Extended Care.

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1770 Managed care plans that have not contracted with all statewide
 1771 essential providers in all regions as of the first date of
 1772 recipient enrollment must continue to negotiate in good faith.
 1773 Payments to physicians on the faculty of nonparticipating
 1774 Florida medical schools shall be made at the applicable Medicaid
 1775 rate. Payments for services rendered by regional perinatal
 1776 intensive care centers shall be made at the applicable Medicaid
 1777 rate as of the first day of the contract between the agency and
 1778 the plan. Except for payments for emergency services, payments
 1779 to nonparticipating specialty children's hospitals shall equal
 1780 the highest rate established by contract between that provider
 1781 and any other Medicaid managed care plan.

1782 Section 63. Subsections (5) and (17) of section 429.02,
 1783 Florida Statutes, are amended to read:

1784 429.02 Definitions.—When used in this part, the term:

1785 (5) "Assisted living facility" means any building or
 1786 buildings, section or distinct part of a building, private home,
 1787 boarding home, home for the aged, or other residential facility,
 1788 whether operated for profit or not, which, ~~undertakes~~ through
 1789 its ownership or management, provides ~~to provide~~ housing, meals,
 1790 and one or more personal services for a period exceeding 24
 1791 hours to one or more adults who are not relatives of the owner
 1792 or administrator.

1793 (17) "Personal services" means direct physical assistance
 1794 with or supervision of the activities of daily living, ~~and~~ the
 1795 self-administration of medication, or ~~and~~ other similar services
 1796 which the department may define by rule. "Personal services" may
 1797 ~~shall~~ not be construed to mean the provision of medical,
 1798 nursing, dental, or mental health services, or, with the

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1799 exception of authorized adult day care services provided within
1800 a licensed assisted living facility, personal services to
1801 individuals who are not residents of the facility.

1802 Section 64. Paragraphs (b) and (d) of subsection (2) of
1803 section 429.04, Florida Statutes, are amended, and subsection
1804 (3) is added to that section, to read:

1805 429.04 Facilities to be licensed; exemptions.—

1806 (2) The following are exempt from licensure under this
1807 part:

1808 (b) Any facility or part of a facility licensed by the
1809 Agency for Persons with Disabilities under chapter 393, a mental
1810 health facility licensed under ~~or~~ chapter 394, a hospital
1811 licensed under chapter 395, a nursing home licensed under part
1812 II of chapter 400, an inpatient hospice licensed under part IV
1813 of chapter 400, a home for special services licensed under part
1814 V of chapter 400, an intermediate care facility licensed under
1815 part VIII of chapter 400, or a transitional living facility
1816 licensed under part XI of chapter 400.

1817 (d) Any person who provides housing, meals, and one or more
1818 personal services on a 24-hour basis in the person's own home to
1819 not more than two adults who do not receive optional state
1820 supplementation. The person who provides the housing, meals, and
1821 personal services must own or rent the home and must have
1822 established the home as the person's permanent residence. Any
1823 person holding a homestead exemption at an address other than
1824 that at which the person asserts this exemption shall be
1825 presumed to not have established permanent residence under this
1826 exemption ~~reside therein~~. This exemption does not apply to a
1827 person or entity who previously held licensure issued by the

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1828 agency and such licensure was revoked or the licensure renewal
 1829 was denied by final order of the agency, or when the person or
 1830 entity voluntarily relinquished licensure during agency
 1831 enforcement proceedings.

1832 (3) Upon agency investigation of unlicensed activity, any
 1833 person or entity asserting an exemption pursuant to this section
 1834 shall have the burden of providing documentation substantiating
 1835 that the person or entity is entitled to the licensure
 1836 exemption.

1837 Section 65. Paragraphs (b) and (d) of subsection (1) of
 1838 section 429.08, Florida Statutes, are amended, to read:

1839 429.08 Unlicensed facilities; referral of person for
 1840 residency to unlicensed facility; penalties.—

1841 (1)

1842 (b) ~~Except as provided under paragraph (d),~~ Any person who
 1843 owns, rents, or otherwise maintains a building or property that
 1844 ~~operates,~~ or maintains an unlicensed assisted living facility
 1845 commits a felony of the third degree, punishable as provided in
 1846 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
 1847 operation is a separate offense.

1848 (d) In addition to the requirements of s. 408.812, any
 1849 person who owns, operates, or maintains an unlicensed assisted
 1850 living facility after receiving notice from the agency ~~due to a~~
 1851 ~~change in this part or a modification in rule within 6 months~~
 1852 ~~after the effective date of such change and who, within 10~~
 1853 ~~working days after receiving notification from the agency, fails~~
 1854 ~~to cease operation or apply for a license under this part~~
 1855 commits a felony of the third degree, punishable as provided in
 1856 s. 775.082, s. 775.083, or s. 775.084. Each day of continued

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1857 operation is a separate offense.

1858 Section 66. Section 429.176, Florida Statutes, is amended
1859 to read:

1860 429.176 Notice of change of administrator.—If, during the
1861 period for which a license is issued, the owner changes
1862 administrators, the owner must notify the agency of the change
1863 within 10 days and provide documentation within 90 days that the
1864 new administrator has completed the applicable core educational
1865 requirements under s. 429.52. A facility may not be operated for
1866 more than 120 consecutive days without an administrator who has
1867 completed the core educational requirements.

1868 Section 67. Paragraph (h) of subsection (1) of section
1869 429.41, Florida Statutes, is amended to read:

1870 429.41 Rules establishing standards.—

1871 (1) It is the intent of the Legislature that rules
1872 published and enforced pursuant to this section shall include
1873 criteria by which a reasonable and consistent quality of
1874 resident care and quality of life may be ensured and the results
1875 of such resident care may be demonstrated. Such rules shall also
1876 ensure a safe and sanitary environment that is residential and
1877 noninstitutional in design or nature. It is further intended
1878 that reasonable efforts be made to accommodate the needs and
1879 preferences of residents to enhance the quality of life in a
1880 facility. Uniform firesafety standards for assisted living
1881 facilities shall be established by the State Fire Marshal
1882 pursuant to s. 633.206. The agency, in consultation with the
1883 department, may adopt rules to administer the requirements of
1884 part II of chapter 408. In order to provide safe and sanitary
1885 facilities and the highest quality of resident care

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1886 accommodating the needs and preferences of residents, the
 1887 department, in consultation with the agency, the Department of
 1888 Children and Families, and the Department of Health, shall adopt
 1889 rules, policies, and procedures to administer this part, which
 1890 must include reasonable and fair minimum standards in relation
 1891 to:

1892 (h) The care and maintenance of residents, which must
 1893 include, but is not limited to:

1894 1. The supervision of residents;

1895 2. The provision of personal services. With the exception
 1896 of authorized adult day care services provided within a licensed
 1897 assisted living facility, an assisted living facility may not
 1898 provide personal services to individuals who are not residents
 1899 of the facility;

1900 3. The provision of, or arrangement for, social and leisure
 1901 activities;

1902 4. The arrangement for appointments and transportation to
 1903 appropriate medical, dental, nursing, or mental health services,
 1904 as needed by residents;

1905 5. The management of medication;

1906 6. The nutritional needs of residents;

1907 7. Resident records; and

1908 8. Internal risk management and quality assurance.

1909 Section 68. Subsection (4) of section 456.001, Florida
 1910 Statutes, is amended to read:

1911 456.001 Definitions.—As used in this chapter, the term:

1912 (4) "Health care practitioner" means any person licensed
 1913 under chapter 457; chapter 458; chapter 459; chapter 460;
 1914 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;

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1915 chapter 466; chapter 467; part I, part II, part III, part V,
 1916 part X, part XIII, or part XIV of chapter 468; chapter 478;
 1917 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
 1918 chapter 484; chapter 486; chapter 490; or chapter 491.

1919 Section 69. Paragraphs (h) and (i) of subsection (2) of
 1920 section 456.057, Florida Statutes, are amended to read:

1921 456.057 Ownership and control of patient records; report or
 1922 copies of records to be furnished; disclosure of information.—

1923 (2) As used in this section, the terms "records owner,"
 1924 "health care practitioner," and "health care practitioner's
 1925 employer" do not include any of the following persons or
 1926 entities; furthermore, the following persons or entities are not
 1927 authorized to acquire or own medical records, but are authorized
 1928 under the confidentiality and disclosure requirements of this
 1929 section to maintain those documents required by the part or
 1930 chapter under which they are licensed or regulated:

1931 (h) Clinical laboratory personnel licensed under part II
 1932 ~~III~~ of chapter 483.

1933 (i) Medical physicists licensed under part III ~~IV~~ of
 1934 chapter 483.

1935 Section 70. Subsection (2) of section 458.307, Florida
 1936 Statutes, is amended to read:

1937 458.307 Board of Medicine.—

1938 (2) Twelve members of the board must be licensed physicians
 1939 in good standing in this state who are residents of the state
 1940 and who have been engaged in the active practice or teaching of
 1941 medicine for at least 4 years immediately preceding their
 1942 appointment. One of the physicians must be on the full-time
 1943 faculty of a medical school in this state, and one of the

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1944 physicians must be in private practice and on the full-time
 1945 staff of a statutory teaching hospital in this state as defined
 1946 in s. 408.07. At least one of the physicians must be a graduate
 1947 of a foreign medical school. The remaining three members must be
 1948 residents of the state who are not, and never have been,
 1949 licensed health care practitioners. One member must be a health
 1950 care risk manager ~~licensed under s. 395.10974~~. At least one
 1951 member of the board must be 60 years of age or older.

1952 Section 71. Subsection (1) of section 458.345, Florida
 1953 Statutes, is amended to read:

1954 458.345 Registration of resident physicians, interns, and
 1955 fellows; list of hospital employees; prescribing of medicinal
 1956 drugs; penalty.—

1957 (1) Any person desiring to practice as a resident
 1958 physician, assistant resident physician, house physician,
 1959 intern, or fellow in fellowship training which leads to
 1960 subspecialty board certification in this state, or any person
 1961 desiring to practice as a resident physician, assistant resident
 1962 physician, house physician, intern, or fellow in fellowship
 1963 training in a teaching hospital in this state as defined in s.
 1964 408.07(44) ~~408.07(45)~~ or s. 395.805(2), who does not hold a
 1965 valid, active license issued under this chapter shall apply to
 1966 the department to be registered and shall remit a fee not to
 1967 exceed \$300 as set by the board. The department shall register
 1968 any applicant the board certifies has met the following
 1969 requirements:

1970 (a) Is at least 21 years of age.

1971 (b) Has not committed any act or offense within or without
 1972 the state which would constitute the basis for refusal to

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1973 certify an application for licensure pursuant to s. 458.331.

1974 (c) Is a graduate of a medical school or college as
1975 specified in s. 458.311(1)(f).

1976 Section 72. Part I of chapter 483, Florida Statutes,
1977 consisting of sections 483.011, 483.021, 483.031, 483.035,
1978 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
1979 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
1980 is repealed.

1981 Section 73. Section 483.294, Florida Statutes, is amended
1982 to read:

1983 483.294 Inspection of centers.—In accordance with s.
1984 408.811, the agency shall, ~~at least once annually,~~ inspect the
1985 premises and operations of all centers subject to licensure
1986 under this part.

1987 Section 74. Subsection (3) of section 483.801, Florida
1988 Statutes, is amended to read:

1989 483.801 Exemptions.—This part applies to all clinical
1990 laboratories and clinical laboratory personnel within this
1991 state, except:

1992 (3) Persons engaged in testing performed by laboratories
1993 that are wholly owned and operated by one or more practitioners
1994 who are licensed under chapter 458, chapter 459, chapter 460,
1995 chapter 461, chapter 462, chapter 463, or chapter 466 and who
1996 practice in the same group practice, and in which no clinical
1997 laboratory work is performed for patients referred by any health
1998 care provider who is not a member of the same group regulated
1999 under s. 483.035(1) or exempt from regulation under s.
2000 483.031(2).

2001 Section 75. Subsections (2), (3), and (4) of section

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2002 483.803, Florida Statutes, are amended to read:

2003 483.803 Definitions.—As used in this part, the term:

2004 ~~(2) "Clinical laboratory" means a clinical laboratory as~~

2005 ~~defined in s. 483.041.~~

2006 ~~(3) "Clinical laboratory examination" means a clinical~~

2007 ~~laboratory examination as defined in s. 483.041.~~

2008 (2)~~(4)~~ "Clinical laboratory personnel" includes a clinical

2009 laboratory director, supervisor, technologist, blood gas

2010 analyst, or technician who performs or is responsible for

2011 laboratory test procedures, but the term does not include

2012 trainees, persons who perform screening for blood banks or

2013 plasmapheresis centers, phlebotomists, or persons employed by a

2014 clinical laboratory to perform manual pretesting duties or

2015 clerical, personnel, or other administrative responsibilities,

2016 ~~or persons engaged in testing performed by laboratories~~

2017 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~

2018 ~~483.031(2).~~

2019 Section 76. Section 483.813, Florida Statutes, is amended

2020 to read:

2021 483.813 Clinical laboratory personnel license.—A person may

2022 not conduct a clinical laboratory examination or report the

2023 results of such examination unless such person is licensed under

2024 this part to perform such procedures. However, this provision

2025 does not apply to any practitioner of the healing arts

2026 authorized to practice in this state ~~or to persons engaged in~~

2027 ~~testing performed by laboratories regulated under s. 483.035(1)~~

2028 ~~or exempt from regulation under s. 483.031(2).~~ The department

2029 may grant a temporary license to any candidate it deems properly

2030 qualified, for a period not to exceed 1 year.

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2031 Section 77. Paragraph (c) of subsection (7), paragraph (c)
2032 of subsection (8), and paragraph (c) of subsection (9) of
2033 section 491.003, Florida Statutes, are amended to read:
2034 491.003 Definitions.—As used in this chapter:
2035 (7) The “practice of clinical social work” is defined as
2036 the use of scientific and applied knowledge, theories, and
2037 methods for the purpose of describing, preventing, evaluating,
2038 and treating individual, couple, marital, family, or group
2039 behavior, based on the person-in-situation perspective of
2040 psychosocial development, normal and abnormal behavior,
2041 psychopathology, unconscious motivation, interpersonal
2042 relationships, environmental stress, differential assessment,
2043 differential planning, and data gathering. The purpose of such
2044 services is the prevention and treatment of undesired behavior
2045 and enhancement of mental health. The practice of clinical
2046 social work includes methods of a psychological nature used to
2047 evaluate, assess, diagnose, treat, and prevent emotional and
2048 mental disorders and dysfunctions (whether cognitive, affective,
2049 or behavioral), sexual dysfunction, behavioral disorders,
2050 alcoholism, and substance abuse. The practice of clinical social
2051 work includes, but is not limited to, psychotherapy,
2052 hypnotherapy, and sex therapy. The practice of clinical social
2053 work also includes counseling, behavior modification,
2054 consultation, client-centered advocacy, crisis intervention, and
2055 the provision of needed information and education to clients,
2056 when using methods of a psychological nature to evaluate,
2057 assess, diagnose, treat, and prevent emotional and mental
2058 disorders and dysfunctions (whether cognitive, affective, or
2059 behavioral), sexual dysfunction, behavioral disorders,

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2060 alcoholism, or substance abuse. The practice of clinical social
2061 work may also include clinical research into more effective
2062 psychotherapeutic modalities for the treatment and prevention of
2063 such conditions.

2064 (c) The terms "diagnose" and "treat," as used in this
2065 chapter, when considered in isolation or in conjunction with any
2066 provision of the rules of the board, shall not be construed to
2067 permit the performance of any act which clinical social workers
2068 are not educated and trained to perform, including, but not
2069 limited to, admitting persons to hospitals for treatment of the
2070 foregoing conditions, treating persons in hospitals without
2071 medical supervision, prescribing medicinal drugs as defined in
2072 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
2073 ~~to chapter 483~~, or radiological procedures, or use of
2074 electroconvulsive therapy. In addition, this definition shall
2075 not be construed to permit any person licensed, provisionally
2076 licensed, registered, or certified pursuant to this chapter to
2077 describe or label any test, report, or procedure as
2078 "psychological," except to relate specifically to the definition
2079 of practice authorized in this subsection.

2080 (8) The "practice of marriage and family therapy" is
2081 defined as the use of scientific and applied marriage and family
2082 theories, methods, and procedures for the purpose of describing,
2083 evaluating, and modifying marital, family, and individual
2084 behavior, within the context of marital and family systems,
2085 including the context of marital formation and dissolution, and
2086 is based on marriage and family systems theory, marriage and
2087 family development, human development, normal and abnormal
2088 behavior, psychopathology, human sexuality, psychotherapeutic

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2089 and marriage and family therapy theories and techniques. The
2090 practice of marriage and family therapy includes methods of a
2091 psychological nature used to evaluate, assess, diagnose, treat,
2092 and prevent emotional and mental disorders or dysfunctions
2093 (whether cognitive, affective, or behavioral), sexual
2094 dysfunction, behavioral disorders, alcoholism, and substance
2095 abuse. The practice of marriage and family therapy includes, but
2096 is not limited to, marriage and family therapy, psychotherapy,
2097 including behavioral family therapy, hypnotherapy, and sex
2098 therapy. The practice of marriage and family therapy also
2099 includes counseling, behavior modification, consultation,
2100 client-centered advocacy, crisis intervention, and the provision
2101 of needed information and education to clients, when using
2102 methods of a psychological nature to evaluate, assess, diagnose,
2103 treat, and prevent emotional and mental disorders and
2104 dysfunctions (whether cognitive, affective, or behavioral),
2105 sexual dysfunction, behavioral disorders, alcoholism, or
2106 substance abuse. The practice of marriage and family therapy may
2107 also include clinical research into more effective
2108 psychotherapeutic modalities for the treatment and prevention of
2109 such conditions.

2110 (c) The terms "diagnose" and "treat," as used in this
2111 chapter, when considered in isolation or in conjunction with any
2112 provision of the rules of the board, shall not be construed to
2113 permit the performance of any act which marriage and family
2114 therapists are not educated and trained to perform, including,
2115 but not limited to, admitting persons to hospitals for treatment
2116 of the foregoing conditions, treating persons in hospitals
2117 without medical supervision, prescribing medicinal drugs as

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2118 defined in chapter 465, authorizing clinical laboratory
2119 procedures ~~pursuant to chapter 483~~, or radiological procedures,
2120 or use of electroconvulsive therapy. In addition, this
2121 definition shall not be construed to permit any person licensed,
2122 provisionally licensed, registered, or certified pursuant to
2123 this chapter to describe or label any test, report, or procedure
2124 as "psychological," except to relate specifically to the
2125 definition of practice authorized in this subsection.

2126 (9) The "practice of mental health counseling" is defined
2127 as the use of scientific and applied behavioral science
2128 theories, methods, and techniques for the purpose of describing,
2129 preventing, and treating undesired behavior and enhancing mental
2130 health and human development and is based on the person-in-
2131 situation perspectives derived from research and theory in
2132 personality, family, group, and organizational dynamics and
2133 development, career planning, cultural diversity, human growth
2134 and development, human sexuality, normal and abnormal behavior,
2135 psychopathology, psychotherapy, and rehabilitation. The practice
2136 of mental health counseling includes methods of a psychological
2137 nature used to evaluate, assess, diagnose, and treat emotional
2138 and mental dysfunctions or disorders (whether cognitive,
2139 affective, or behavioral), behavioral disorders, interpersonal
2140 relationships, sexual dysfunction, alcoholism, and substance
2141 abuse. The practice of mental health counseling includes, but is
2142 not limited to, psychotherapy, hypnotherapy, and sex therapy.
2143 The practice of mental health counseling also includes
2144 counseling, behavior modification, consultation, client-centered
2145 advocacy, crisis intervention, and the provision of needed
2146 information and education to clients, when using methods of a

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2147 psychological nature to evaluate, assess, diagnose, treat, and
2148 prevent emotional and mental disorders and dysfunctions (whether
2149 cognitive, affective, or behavioral), behavioral disorders,
2150 sexual dysfunction, alcoholism, or substance abuse. The practice
2151 of mental health counseling may also include clinical research
2152 into more effective psychotherapeutic modalities for the
2153 treatment and prevention of such conditions.

2154 (c) The terms "diagnose" and "treat," as used in this
2155 chapter, when considered in isolation or in conjunction with any
2156 provision of the rules of the board, shall not be construed to
2157 permit the performance of any act which mental health counselors
2158 are not educated and trained to perform, including, but not
2159 limited to, admitting persons to hospitals for treatment of the
2160 foregoing conditions, treating persons in hospitals without
2161 medical supervision, prescribing medicinal drugs as defined in
2162 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
2163 ~~to chapter 483~~, or radiological procedures, or use of
2164 electroconvulsive therapy. In addition, this definition shall
2165 not be construed to permit any person licensed, provisionally
2166 licensed, registered, or certified pursuant to this chapter to
2167 describe or label any test, report, or procedure as
2168 "psychological," except to relate specifically to the definition
2169 of practice authorized in this subsection.

2170 Section 78. Paragraph (h) of subsection (4) of section
2171 627.351, Florida Statutes, is amended to read:

2172 627.351 Insurance risk apportionment plans.—

2173 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

2174 (h) As used in this subsection:

2175 1. "Health care provider" means hospitals licensed under

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2176 chapter 395; physicians licensed under chapter 458; osteopathic
2177 physicians licensed under chapter 459; podiatric physicians
2178 licensed under chapter 461; dentists licensed under chapter 466;
2179 chiropractic physicians licensed under chapter 460; naturopaths
2180 licensed under chapter 462; nurses licensed under part I of
2181 chapter 464; midwives licensed under chapter 467; ~~clinical~~
2182 ~~laboratories registered under chapter 483~~; physician assistants
2183 licensed under chapter 458 or chapter 459; physical therapists
2184 and physical therapist assistants licensed under chapter 486;
2185 health maintenance organizations certificated under part I of
2186 chapter 641; ambulatory surgical centers licensed under chapter
2187 395; other medical facilities as defined in subparagraph 2.;
2188 blood banks, plasma centers, industrial clinics, and renal
2189 dialysis facilities; or professional associations, partnerships,
2190 corporations, joint ventures, or other associations for
2191 professional activity by health care providers.

2192 2. "Other medical facility" means a facility the primary
2193 purpose of which is to provide human medical diagnostic services
2194 or a facility providing nonsurgical human medical treatment, to
2195 which facility the patient is admitted and from which facility
2196 the patient is discharged within the same working day, and which
2197 facility is not part of a hospital. However, a facility existing
2198 for the primary purpose of performing terminations of pregnancy
2199 or an office maintained by a physician or dentist for the
2200 practice of medicine shall not be construed to be an "other
2201 medical facility."

2202 3. "Health care facility" means any hospital licensed under
2203 chapter 395, health maintenance organization certificated under
2204 part I of chapter 641, ambulatory surgical center licensed under

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2205 chapter 395, or other medical facility as defined in
 2206 subparagraph 2.

2207 Section 79. Paragraph (h) of subsection (1) of section
 2208 627.602, Florida Statutes, is amended to read:

2209 627.602 Scope, format of policy.—

2210 (1) Each health insurance policy delivered or issued for
 2211 delivery to any person in this state must comply with all
 2212 applicable provisions of this code and all of the following
 2213 requirements:

2214 (h) Section 641.312 and the provisions of the Employee
 2215 Retirement Income Security Act of 1974, as implemented by 29
 2216 C.F.R. s. 2560.503-1, relating to internal grievances. This
 2217 paragraph does not apply ~~to a health insurance policy that is~~
 2218 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
 2219 ~~or~~ to the types of benefits or coverages provided under s.
 2220 627.6513(1)-(14) issued in any market.

2221 Section 80. Paragraphs (b) and (e) of subsection (1) of
 2222 section 627.64194, Florida Statutes, are amended to read:

2223 627.64194 Coverage requirements for services provided by
 2224 nonparticipating providers; payment collection limitations.—

2225 (1) As used in this section, the term:

2226 (b) "Facility" means a licensed facility as defined in s.
 2227 395.002(16) and an urgent care center as defined in s.
 2228 395.002(29) ~~s. 395.002(30)~~.

2229 (e) "Nonparticipating provider" means a provider who is not
 2230 a preferred provider as defined in s. 627.6471 or a provider who
 2231 is not an exclusive provider as defined in s. 627.6472. For
 2232 purposes of covered emergency services under this section, a
 2233 facility licensed under chapter 395 or an urgent care center

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2234 defined in s. 395.002(29) ~~395.002(30)~~ is a nonparticipating
 2235 provider if the facility has not contracted with an insurer to
 2236 provide emergency services to its insureds at a specified rate.

2237 Section 81. Section 627.6513, Florida Statutes, is amended
 2238 to read:

2239 627.6513 Scope.—Section 641.312 and the provisions of the
 2240 Employee Retirement Income Security Act of 1974, as implemented
 2241 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
 2242 apply to all group health insurance policies issued under this
 2243 part. This section does not apply to ~~a group health insurance~~
 2244 ~~policy that is subject to the Subscriber Assistance Program in~~
 2245 ~~s. 408.7056 or to:~~

2246 (1) Coverage only for accident insurance, or disability
 2247 income insurance, or any combination thereof.

2248 (2) Coverage issued as a supplement to liability insurance.

2249 (3) Liability insurance, including general liability
 2250 insurance and automobile liability insurance.

2251 (4) Workers' compensation or similar insurance.

2252 (5) Automobile medical payment insurance.

2253 (6) Credit-only insurance.

2254 (7) Coverage for onsite medical clinics, including prepaid
 2255 health clinics under part II of chapter 641.

2256 (8) Other similar insurance coverage, specified in rules
 2257 adopted by the commission, under which benefits for medical care
 2258 are secondary or incidental to other insurance benefits. To the
 2259 extent possible, such rules must be consistent with regulations
 2260 adopted by the United States Department of Health and Human
 2261 Services.

2262 (9) Limited scope dental or vision benefits, if offered

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2263 separately.

2264 (10) Benefits for long-term care, nursing home care, home
2265 health care, or community-based care, or any combination
2266 thereof, if offered separately.

2267 (11) Other similar, limited benefits, if offered
2268 separately, as specified in rules adopted by the commission.

2269 (12) Coverage only for a specified disease or illness, if
2270 offered as independent, noncoordinated benefits.

2271 (13) Hospital indemnity or other fixed indemnity insurance,
2272 if offered as independent, noncoordinated benefits.

2273 (14) Benefits provided through a Medicare supplemental
2274 health insurance policy, as defined under s. 1882(g)(1) of the
2275 Social Security Act, coverage supplemental to the coverage
2276 provided under 10 U.S.C. chapter 55, and similar supplemental
2277 coverage provided to coverage under a group health plan, which
2278 are offered as a separate insurance policy and as independent,
2279 noncoordinated benefits.

2280 Section 82. Effective January 1, 2018, paragraph (j) of
2281 subsection (1) of section 641.185, Florida Statutes, is amended
2282 to read:

2283 641.185 Health maintenance organization subscriber
2284 protections.—

2285 (1) With respect to the provisions of this part and part
2286 III, the principles expressed in the following statements shall
2287 serve as standards to be followed by the commission, the office,
2288 the department, and the Agency for Health Care Administration in
2289 exercising their powers and duties, in exercising administrative
2290 discretion, in administrative interpretations of the law, in
2291 enforcing its provisions, and in adopting rules:

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2292 ~~(j) A health maintenance organization should receive timely~~
 2293 ~~and, if necessary, urgent review by an independent state~~
 2294 ~~external review organization for unresolved grievances and~~
 2295 ~~appeals pursuant to s. 408.7056.~~

2296 Section 83. Effective January 1, 2018, section 641.312,
 2297 Florida Statutes, is amended to read:

2298 641.312 Scope.—The Office of Insurance Regulation may adopt
 2299 rules to administer the provisions of the National Association
 2300 of Insurance Commissioners' Uniform Health Carrier External
 2301 Review Model Act, issued by the National Association of
 2302 Insurance Commissioners and dated April 2010. This section does
 2303 not apply to ~~a health maintenance contract that is subject to~~
 2304 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
 2305 types of benefits or coverages provided under s. 627.6513(1)-
 2306 (14) issued in any market.

2307 Section 84. Effective January 1, 2018, subsection (4) of
 2308 section 641.3154, Florida Statutes, is amended to read:

2309 641.3154 Organization liability; provider billing
 2310 prohibited.—

2311 (4) A provider or any representative of a provider,
 2312 regardless of whether the provider is under contract with the
 2313 health maintenance organization, may not collect or attempt to
 2314 collect money from, maintain any action at law against, or
 2315 report to a credit agency a subscriber of an organization for
 2316 payment of services for which the organization is liable, if the
 2317 provider in good faith knows or should know that the
 2318 organization is liable. This prohibition applies during the
 2319 pendency of any claim for payment made by the provider to the
 2320 organization for payment of the services and any legal

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2321 proceedings or dispute resolution process to determine whether
 2322 the organization is liable for the services if the provider is
 2323 informed that such proceedings are taking place. It is presumed
 2324 that a provider does not know and should not know that an
 2325 organization is liable unless:

2326 (a) The provider is informed by the organization that it
 2327 accepts liability;

2328 (b) A court of competent jurisdiction determines that the
 2329 organization is liable; or

2330 ~~(c) The office or agency makes a final determination that~~
 2331 ~~the organization is required to pay for such services subsequent~~
 2332 ~~to a recommendation made by the Subscriber Assistance Panel~~
 2333 ~~pursuant to s. 408.7056; or~~

2334 (c)~~(d)~~ The agency issues a final order that the
 2335 organization is required to pay for such services subsequent to
 2336 a recommendation made by a resolution organization pursuant to
 2337 s. 408.7057.

2338 Section 85. Effective January 1, 2018, paragraph (c) of
 2339 subsection (5) of section 641.51, Florida Statutes, is amended
 2340 to read:

2341 641.51 Quality assurance program; second medical opinion
 2342 requirement.—

2343 (5)

2344 (c) For second opinions provided by contract physicians the
 2345 organization is prohibited from charging a fee to the subscriber
 2346 in an amount in excess of the subscriber fees established by
 2347 contract for referral contract physicians. The organization
 2348 shall pay the amount of all charges, which are usual,
 2349 reasonable, and customary in the community, for second opinion

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2350 services performed by a physician not under contract with the
2351 organization, but may require the subscriber to be responsible
2352 for up to 40 percent of such amount. The organization may
2353 require that any tests deemed necessary by a noncontract
2354 physician shall be conducted by the organization. The
2355 organization may deny reimbursement rights granted under this
2356 section in the event the subscriber seeks in excess of three
2357 such referrals per year if such subsequent referral costs are
2358 deemed by the organization to be evidence that the subscriber
2359 has unreasonably overutilized the second opinion privilege. A
2360 subscriber thus denied reimbursement under this section shall
2361 have recourse to grievance procedures as specified in ss.
2362 ~~408.7056~~, 641.495, and 641.511. The organization's physician's
2363 professional judgment concerning the treatment of a subscriber
2364 derived after review of a second opinion shall be controlling as
2365 to the treatment obligations of the health maintenance
2366 organization. Treatment not authorized by the health maintenance
2367 organization shall be at the subscriber's expense.

2368 Section 86. Effective January 1, 2018, section 641.511,
2369 Florida Statutes, is amended to read:

2370 641.511 Subscriber grievance reporting and resolution
2371 requirements.—

2372 (1) Every organization must have a grievance procedure
2373 available to its subscribers for the purpose of addressing
2374 complaints and grievances. ~~Every organization must notify its~~
2375 ~~subscribers that a subscriber must submit a grievance within 1~~
2376 ~~year after the date of occurrence of the action that initiated~~
2377 ~~the grievance, and may submit the grievance for review to the~~
2378 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~

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2379 ~~after receiving a final disposition of the grievance through the~~
2380 ~~organization's grievance process. An organization shall maintain~~
2381 ~~records of all grievances and shall report annually to the~~
2382 ~~agency the total number of grievances handled, a categorization~~
2383 ~~of the cases underlying the grievances, and the final~~
2384 ~~disposition of the grievances.~~

2385 (2) When an organization receives an initial complaint from
2386 a subscriber, the organization must respond to the complaint
2387 within a reasonable time after its submission. At the time of
2388 receipt of the initial complaint, the organization shall inform
2389 the subscriber that the subscriber has a right to file a written
2390 grievance at any time and that assistance in preparing the
2391 written grievance shall be provided by the organization.

2392 (3) Each organization's grievance procedure, as required
2393 under subsection (1), must include, at a minimum:

2394 (a) An explanation of how to pursue redress of a grievance.

2395 (b) The names of the appropriate employees or a list of
2396 grievance departments that are responsible for implementing the
2397 organization's grievance procedure. The list must include the
2398 address and the toll-free telephone number of each grievance
2399 department, the address of the agency and its toll-free
2400 telephone hotline number, and the address of the Subscriber
2401 Assistance Program and its toll-free telephone number.

2402 (c) The description of the process through which a
2403 subscriber may, at any time, contact the toll-free telephone
2404 hotline of the agency to inform it of the unresolved grievance.

2405 (d) A procedure for establishing methods for classifying
2406 grievances as urgent and for establishing time limits for an
2407 expedited review within which such grievances must be resolved.

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2408 (e) A notice that a subscriber may voluntarily pursue
2409 binding arbitration in accordance with the terms of the contract
2410 if offered by the organization, after completing the
2411 organization's grievance procedure ~~and as an alternative to the~~
2412 ~~Subscriber Assistance Program~~. Such notice shall include an
2413 explanation that the subscriber may incur some costs if the
2414 subscriber pursues binding arbitration, depending upon the terms
2415 of the subscriber's contract.

2416 (f) A process whereby the grievance manager acknowledges
2417 the grievance and investigates the grievance in order to notify
2418 the subscriber of a final decision in writing.

2419 (g) A procedure for providing individuals who are unable to
2420 submit a written grievance with access to the grievance process,
2421 which shall include assistance by the organization in preparing
2422 the grievance and communicating back to the subscriber.

2423 (4) (a) With respect to a grievance concerning an adverse
2424 determination, an organization shall make available to the
2425 subscriber a review of the grievance by an internal review
2426 panel; such review must be requested within 30 days after the
2427 organization's transmittal of the final determination notice of
2428 an adverse determination. A majority of the panel shall be
2429 persons who previously were not involved in the initial adverse
2430 determination. A person who previously was involved in the
2431 adverse determination may appear before the panel to present
2432 information or answer questions. The panel shall have the
2433 authority to bind the organization to the panel's decision.

2434 (b) An organization shall ensure that a majority of the
2435 persons reviewing a grievance involving an adverse determination
2436 are providers who have appropriate expertise. An organization

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2437 shall issue a copy of the written decision of the review panel
2438 to the subscriber and to the provider, if any, who submits a
2439 grievance on behalf of a subscriber. In cases where there has
2440 been a denial of coverage of service, the reviewing provider
2441 shall not be a provider previously involved with the adverse
2442 determination.

2443 (c) An organization shall establish written procedures for
2444 a review of an adverse determination. Review procedures shall be
2445 available to the subscriber and to a provider acting on behalf
2446 of a subscriber.

2447 ~~(d) In any case when the review process does not resolve a~~
2448 ~~difference of opinion between the organization and the~~
2449 ~~subscriber or the provider acting on behalf of the subscriber,~~
2450 ~~the subscriber or the provider acting on behalf of the~~
2451 ~~subscriber may submit a written grievance to the Subscriber~~
2452 ~~Assistance Program.~~

2453 (5) Except as provided in subsection (6), the organization
2454 shall resolve a grievance within 60 days after receipt of the
2455 grievance, or within a maximum of 90 days if the grievance
2456 involves the collection of information outside the service area.
2457 These time limitations are tolled if the organization has
2458 notified the subscriber, in writing, that additional information
2459 is required for proper review of the grievance and that such
2460 time limitations are tolled until such information is provided.
2461 After the organization receives the requested information, the
2462 time allowed for completion of the grievance process resumes.
2463 The Employee Retirement Income Security Act of 1974, as
2464 implemented by 29 C.F.R. s. 2560.503-1, is adopted and
2465 incorporated by reference as applicable to all organizations

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2466 that administer small and large group health plans that are
2467 subject to 29 C.F.R. s. 2560.503-1. The claims procedures of the
2468 regulations of the Employee Retirement Income Security Act of
2469 1974, as implemented by 29 C.F.R. s. 2560.503-1, shall be the
2470 minimum standards for grievance processes for claims for
2471 benefits for small and large group health plans that are subject
2472 to 29 C.F.R. s. 2560.503-1.

2473 (6) (a) An organization shall establish written procedures
2474 for the expedited review of an urgent grievance. A request for
2475 an expedited review may be submitted orally or in writing and
2476 shall be subject to the review procedures of this section, if it
2477 meets the criteria of this section. Unless it is submitted in
2478 writing, for purposes of the grievance reporting requirements in
2479 subsection (1), the request shall be considered an appeal of a
2480 utilization review decision and not a grievance. Expedited
2481 review procedures shall be available to a subscriber and to the
2482 provider acting on behalf of a subscriber. For purposes of this
2483 subsection, "subscriber" includes the legal representative of a
2484 subscriber.

2485 (b) Expedited reviews shall be evaluated by an appropriate
2486 clinical peer or peers. The clinical peer or peers shall not
2487 have been involved in the initial adverse determination.

2488 (c) In an expedited review, all necessary information,
2489 including the organization's decision, shall be transmitted
2490 between the organization and the subscriber, or the provider
2491 acting on behalf of the subscriber, by telephone, facsimile, or
2492 the most expeditious method available.

2493 (d) In an expedited review, an organization shall make a
2494 decision and notify the subscriber, or the provider acting on

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2495 behalf of the subscriber, as expeditiously as the subscriber's
2496 medical condition requires, but in no event more than 72 hours
2497 after receipt of the request for review. If the expedited review
2498 is a concurrent review determination, the service shall be
2499 continued without liability to the subscriber until the
2500 subscriber has been notified of the determination.

2501 (e) An organization shall provide written confirmation of
2502 its decision concerning an expedited review within 2 working
2503 days after providing notification of that decision, if the
2504 initial notification was not in writing.

2505 (f) An organization shall provide reasonable access, not to
2506 exceed 24 hours after receiving a request for an expedited
2507 review, to a clinical peer who can perform the expedited review.

2508 ~~(g) In any case when the expedited review process does not
2509 resolve a difference of opinion between the organization and the
2510 subscriber or the provider acting on behalf of the subscriber,
2511 the subscriber or the provider acting on behalf of the
2512 subscriber may submit a written grievance to the Subscriber
2513 Assistance Program.~~

2514 (g)(h) An organization shall not provide an expedited
2515 retrospective review of an adverse determination.

2516 ~~(7) Each organization shall send to the agency a copy of
2517 its quarterly grievance reports submitted to the office pursuant
2518 to s. 408.7056(12).~~

2519 (7)(8) The agency shall investigate all reports of
2520 unresolved quality of care grievances received from:

2521 ~~(a)~~ annual and quarterly grievance reports submitted by the
2522 organization to the office.

2523 ~~(b) Review requests of subscribers whose grievances remain~~

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2524 ~~unresolved after the subscriber has followed the full grievance~~
2525 ~~procedure of the organization.~~

2526 ~~(9) (a) The agency shall advise subscribers with grievances~~
2527 ~~to follow their organization's formal grievance process for~~
2528 ~~resolution prior to review by the Subscriber Assistance Program.~~
2529 ~~The subscriber may, however, submit a copy of the grievance to~~
2530 ~~the agency at any time during the process.~~

2531 ~~(b) Requiring completion of the organization's grievance~~
2532 ~~process before the Subscriber Assistance Program panel's review~~
2533 ~~does not preclude the agency from investigating any complaint or~~
2534 ~~grievance before the organization makes its final determination.~~

2535 ~~(10) Each organization must notify the subscriber in a~~
2536 ~~final decision letter that the subscriber may request review of~~
2537 ~~the organization's decision concerning the grievance by the~~
2538 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~
2539 ~~the grievance is not resolved to the satisfaction of the~~
2540 ~~subscriber. The final decision letter must inform the subscriber~~
2541 ~~that the request for review must be made within 365 days after~~
2542 ~~receipt of the final decision letter, must explain how to~~
2543 ~~initiate such a review, and must include the addresses and toll-~~
2544 ~~free telephone numbers of the agency and the Subscriber~~
2545 ~~Assistance Program.~~

2546 ~~(8) (11)~~ (8) Each organization, as part of its contract with any
2547 provider, must require the provider to post a consumer
2548 assistance notice prominently displayed in the reception area of
2549 the provider and clearly noticeable by all patients. The
2550 consumer assistance notice must state the addresses and toll-
2551 free telephone numbers of the Agency for Health Care
2552 Administration, ~~the Subscriber Assistance Program,~~ and the

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2553 Department of Financial Services. The consumer assistance notice
2554 must also clearly state that the address and toll-free telephone
2555 number of the organization's grievance department shall be
2556 provided upon request. The agency may adopt rules to implement
2557 this section.

2558 (9)~~(12)~~ The agency may impose administrative sanction, in
2559 accordance with s. 641.52, against an organization for
2560 noncompliance with this section.

2561 Section 87. Effective January 1, 2018, subsection (1) of
2562 section 641.515, Florida Statutes, is amended to read:

2563 641.515 Investigation by the agency.—

2564 (1) The agency shall investigate further any quality of
2565 care issue contained in recommendations and reports submitted
2566 pursuant to ~~ss. 408.7056~~ and s. 641.511. The agency shall also
2567 investigate further any information that indicates that the
2568 organization does not meet accreditation standards or the
2569 standards of the review organization performing the external
2570 quality assurance assessment pursuant to reports submitted under
2571 s. 641.512. Every organization shall submit its books and
2572 records and take other appropriate action as may be necessary to
2573 facilitate an examination. The agency shall have access to the
2574 organization's medical records of individuals and records of
2575 employed and contracted physicians, with the consent of the
2576 subscriber or by court order, as necessary to carry out the
2577 provisions of this part.

2578 Section 88. Effective January 1, 2018, subsection (2) of
2579 section 641.55, Florida Statutes, is amended to read:

2580 641.55 Internal risk management program.—

2581 (2) The risk management program shall be the responsibility

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2582 of the governing authority or board of the organization. Every
2583 organization which has an annual premium volume of \$10 million
2584 or more and which directly provides health care in a building
2585 owned or leased by the organization shall hire a risk manager,
2586 ~~certified under ss. 395.10971-395.10975,~~ who shall be
2587 responsible for implementation of the organization's risk
2588 management program required by this section. A part-time risk
2589 manager shall not be responsible for risk management programs in
2590 more than four organizations or facilities. Every organization
2591 which does not directly provide health care in a building owned
2592 or leased by the organization and every organization with an
2593 annual premium volume of less than \$10 million shall designate
2594 an officer or employee of the organization to serve as the risk
2595 manager.

2596
2597 The gross data compiled under this section or s. 395.0197 shall
2598 be furnished by the agency upon request to organizations to be
2599 utilized for risk management purposes. The agency shall adopt
2600 rules necessary to carry out the provisions of this section.

2601 Section 89. Section 641.60, Florida Statutes, is repealed.

2602 Section 90. Section 641.70, Florida Statutes, is amended to
2603 read:

2604 641.70 Agency duties relating to ~~the Statewide Managed Care~~
2605 ~~Ombudsman Committee~~ and the district managed care ombudsman
2606 committees.-

2607 (1) The agency shall adopt rules that specify:

2608 (a) Procedures by which ~~the statewide committee and~~
2609 district committees receive reports of enrollee complaints from
2610 the agency.

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2611 (b) Procedures by which enrollee information shall be made
 2612 available ~~to members of the statewide committee~~ and to the
 2613 district committees.

2614 (c) Procedures by which recommendations made by the
 2615 committees shall be considered for incorporation into policies
 2616 and procedures of the agency.

2617 ~~(d) Procedures by which statewide committee members shall~~
 2618 ~~be reimbursed for authorized expenditures.~~

2619 (d) ~~(e)~~ Any other procedures that are necessary to
 2620 administer this section and ~~ss. 641.60 and s.~~ s. 641.65.

2621 (2) The Agency for Health Care Administration shall provide
 2622 a meeting place for district committees in agency offices and
 2623 shall provide the necessary administrative support to assist ~~the~~
 2624 ~~statewide committee~~ and district committees, within available
 2625 resources.

2626 (3) The secretary of the agency shall ensure the full
 2627 cooperation and assistance of agency employees with ~~members of~~
 2628 ~~the statewide committee~~ and district committees.

2629 Section 91. Subsection (3) of section 641.75, Florida
 2630 Statutes, is amended to read:

2631 641.75 Immunity from liability; limitation on testimony.—

2632 (3) Members of any state or district ombudsman committee
 2633 shall not be required to testify in any court with respect to
 2634 matters held to be confidential except as may be necessary to
 2635 enforce ss. 641.61-641.75 ~~641.60-641.75~~.

2636 Section 92. Paragraph (b) of subsection (6) of section
 2637 766.118, Florida Statutes, is amended to read:

2638 766.118 Determination of noneconomic damages.—

2639 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A

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2640 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
2641 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
2642 respect to a cause of action for personal injury or wrongful
2643 death arising from medical negligence of a practitioner
2644 committed in the course of providing medical services and
2645 medical care to a Medicaid recipient, regardless of the number
2646 of such practitioner defendants providing the services and care,
2647 noneconomic damages may not exceed \$300,000 per claimant, unless
2648 the claimant pleads and proves, by clear and convincing
2649 evidence, that the practitioner acted in a wrongful manner. A
2650 practitioner providing medical services and medical care to a
2651 Medicaid recipient is not liable for more than \$200,000 in
2652 noneconomic damages, regardless of the number of claimants,
2653 unless the claimant pleads and proves, by clear and convincing
2654 evidence, that the practitioner acted in a wrongful manner. The
2655 fact that a claimant proves that a practitioner acted in a
2656 wrongful manner does not preclude the application of the
2657 limitation on noneconomic damages prescribed elsewhere in this
2658 section. For purposes of this subsection:

2659 (b) The term "practitioner," in addition to the meaning
2660 prescribed in subsection (1), includes any hospital or
2661 ambulatory surgical center, ~~or mobile surgical facility~~ as
2662 defined and licensed under chapter 395.

2663 Section 93. Subsection (4) of section 766.202, Florida
2664 Statutes, is amended to read:

2665 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
2666 766.201-766.212, the term:

2667 (4) "Health care provider" means any hospital or
2668 ambulatory surgical center, ~~or mobile surgical facility~~ as

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2669 defined and licensed under chapter 395; a birth center licensed
2670 under chapter 383; any person licensed under chapter 458,
2671 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
2672 part I of chapter 464, chapter 466, chapter 467, part XIV of
2673 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
2674 ~~chapter 483~~; a health maintenance organization certificated
2675 under part I of chapter 641; a blood bank; a plasma center; an
2676 industrial clinic; a renal dialysis facility; or a professional
2677 association partnership, corporation, joint venture, or other
2678 association for professional activity by health care providers.

2679 Section 94. Subsection (1) of section 945.36, Florida
2680 Statutes, is amended to read:

2681 945.36 ~~Exemption from health testing regulations for Law~~
2682 ~~enforcement personnel~~ authorized to conduct ~~conducting~~ drug
2683 tests on inmates and releasees.-

2684 (1) Any law enforcement officer, state or county probation
2685 officer, or employee of the Department of Corrections, who is
2686 certified by the Department of Corrections pursuant to
2687 subsection (2), may administer ~~is exempt from part I of chapter~~
2688 ~~483, for the limited purpose of administering~~ a urine screen
2689 drug test to:

2690 (a) Persons during incarceration;

2691 (b) Persons released as a condition of probation for either
2692 a felony or misdemeanor;

2693 (c) Persons released as a condition of community control;

2694 (d) Persons released as a condition of conditional release;

2695 (e) Persons released as a condition of parole;

2696 (f) Persons released as a condition of provisional release;

2697 (g) Persons released as a condition of pretrial release; or

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2698 (h) Persons released as a condition of control release.

2699 Section 95. Paragraph (b) of subsection (2) of section
2700 1009.65, Florida Statutes, is amended to read:

2701 1009.65 Medical Education Reimbursement and Loan Repayment
2702 Program.—

2703 (2) From the funds available, the Department of Health
2704 shall make payments to selected medical professionals as
2705 follows:

2706 (b) All payments shall be contingent on continued proof of
2707 primary care practice in an area defined in s. 395.602(2)(b)
2708 ~~395.602(2)(c)~~, or an underserved area designated by the
2709 Department of Health, provided the practitioner accepts Medicaid
2710 reimbursement if eligible for such reimbursement. Correctional
2711 facilities, state hospitals, and other state institutions that
2712 employ medical personnel shall be designated by the Department
2713 of Health as underserved locations. Locations with high
2714 incidences of infant mortality, high morbidity, or low Medicaid
2715 participation by health care professionals may be designated as
2716 underserved.

2717 Section 96. Except as otherwise expressly provided in this
2718 act, this act shall take effect July 1, 2017.