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1 A bill to be entitled
2 An act relating to health care facility regulation;
3 creating s. 154.13, F.S.; providing that a designated
4 facility owned or operated by a public health trust
5 and located within the boundaries of a municipality is
6 under the exclusive jurisdiction of the county
7 creating the public health trust; amending ss.
8 381.0031, 381.004, 384.31, 395.009, 400.0625, and
9 409.905, F.S.; eliminating state licensure
10 requirements for clinical laboratories; requiring
11 clinical laboratories to be federally certified;
12 amending s. 381.915, F.S.; increasing the number of
13 years that a cancer center may participate in Tier 3
14 of the Florida Consortium of National Cancer Institute
15 Centers Program; increasing the number of years after
16 qualification that a certain Tier 3 cancer center may
17 pursue specified NCI designations; amending s.
18 383.313, F.S.; requiring a birth center to be
19 federally certified and meet specified requirements to
20 perform certain laboratory tests; repealing s.
21 383.335, F.S., relating to partial exemptions from
22 licensure requirements for certain facilities that
23 provide obstetrical and gynecological surgical
24 services; amending s. 395.002, F.S.; revising and
25 deleting definitions to remove the term "mobile
26 surgical facility"; conforming a cross-reference;
27 creating s. 395.0091, F.S.; requiring the Agency for
28 Health Care Administration, in consultation with the
29 Board of Clinical Laboratory Personnel, to adopt rules

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30 establishing criteria for alternate-site laboratory
31 testing; requiring specifications to be included in
32 the criteria; defining the term "alternate-site
33 testing"; amending ss. 395.0161 and 395.0163, F.S.;
34 deleting licensure and inspection requirements for
35 mobile surgical facilities to conform to changes made
36 by the act; amending s. 395.0197, F.S.; requiring the
37 manager of a hospital or ambulatory surgical center
38 internal risk management program to demonstrate
39 competence in specified administrative and health care
40 service areas; conforming provisions to changes made
41 by the act; repealing s. 395.1046, F.S., relating to
42 hospital complaint investigation procedures; amending
43 s. 395.1055, F.S.; requiring hospitals that provide
44 specified services to meet agency licensure
45 requirements; providing standards to be included in
46 licensure requirements; conforming a provision to
47 changes made by the act; requiring a level 2
48 background screening for personnel of distinct part
49 nursing units; requiring the agency to adopt rules
50 establishing standards for pediatric cardiac
51 catheterization and pediatric cardiovascular surgery
52 programs; providing requirements for such programs;
53 requiring pediatric cardiac programs to participate in
54 the clinical outcome reporting systems; revising
55 duties and membership of the pediatric cardiac
56 technical advisory panel; repealing ss. 395.10971 and
57 395.10972, F.S., relating to the purpose and the
58 establishment of the Health Care Risk Manager Advisory

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59 Council, respectively; amending s. 395.10973, F.S.;
60 removing requirements relating to agency standards for
61 health care risk managers to conform provisions to
62 changes made by the act; repealing s. 395.10974, F.S.,
63 relating to licensure of health care risk managers,
64 qualifications, licensure, and fees; repealing s.
65 395.10975, F.S., relating to grounds for denial,
66 suspension, or revocation of a health care risk
67 manager's license and an administrative fine; amending
68 s. 395.602, F.S.; deleting definitions for the terms
69 "emergency care hospital," "essential access community
70 hospital," "inactive rural hospital bed," and "rural
71 primary care hospital"; amending s. 395.603, F.S.;
72 deleting provisions relating to deactivation of
73 general hospital beds by certain rural and emergency
74 care hospitals; repealing s. 395.604, F.S., relating
75 to other rural hospital programs; repealing s.
76 395.605, F.S., relating to emergency care hospitals;
77 amending s. 395.701, F.S.; revising the definition of
78 the term "hospital" to exclude hospitals operated by a
79 state agency; amending s. 400.191, F.S.; removing the
80 30-month reporting timeframe for the Nursing Home
81 Guide; amending s. 400.464, F.S.; requiring that a
82 license issued to a home health agency on or after a
83 specified date specify the services the organization
84 is authorized to perform and whether the services
85 constitute skilled care; providing that the provision
86 or advertising of certain services constitutes
87 unlicensed activity under certain circumstances;

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88 authorizing certain persons, entities or organizations
89 providing home health services to voluntarily apply
90 for a certificate of exemption from licensure by
91 providing certain information to the agency; providing
92 that the certificate is valid for a specified time and
93 is nontransferable; authorizing the agency to charge a
94 fee for the certificate; amending s. 400.471, F.S.;
95 revising home health agency licensure requirements;
96 providing requirements for proof of accreditation for
97 home health agencies applying for change of ownership
98 or the addition of skilled care services; removing a
99 provision prohibiting the agency from issuing a
100 license to a home health agency that fails to satisfy
101 the requirements of a Medicare certification survey
102 from the agency; amending s. 400.474, F.S.; revising
103 conditions for the imposition of a fine against a home
104 health agency; amending s. 400.476, F.S.; requiring a
105 home health agency providing skilled nursing care to
106 have a director of nursing; amending s. 400.484, F.S.;
107 imposing administrative fines on home health agencies
108 for specified classes of violations; amending s.
109 400.497, F.S.; requiring the agency to adopt, publish,
110 and enforce rules establishing standards for
111 certificates of exemption; amending s. 400.506, F.S.;
112 specifying a criminal penalty for any person who owns,
113 operates, or maintains an unlicensed nurse registry
114 that fails to cease operation immediately and apply
115 for a license after notification from the agency;
116 revising provisions authorizing the agency to impose a

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117 fine on a nurse registry that fails to cease operation
118 after agency notification; revising circumstances
119 under which the agency is authorized to deny, suspend,
120 or revoke a license or impose a fine on a nurse
121 registry; prohibiting a nurse registry from
122 monitoring, supervising, managing, or training a
123 certain caregiver who is an independent contractor;
124 amending s. 400.606, F.S.; removing a requirement that
125 an existing licensed health care provider's hospice
126 licensure application be accompanied by a copy of the
127 most recent profit-loss statement and licensure
128 inspection report; amending s. 400.925, F.S.; revising
129 the definition of the term "home medical equipment";
130 amending s. 400.931, F.S.; requiring a home medical
131 equipment provider to notify the agency of certain
132 personnel changes within a specified timeframe;
133 amending s. 400.933, F.S.; requiring the agency to
134 accept the submission of a valid medical oxygen retail
135 establishment permit issued by the Department of
136 Business and Professional Regulation in lieu of an
137 agency inspection for licensure; amending s. 400.980,
138 F.S.; revising the timeframe within which a health
139 care services pool registrant must provide the agency
140 with certain changes of information; amending s.
141 400.9935, F.S.; specifying that a voluntary
142 certificate of exemption may be valid for up to 2
143 years; amending s. 408.036, F.S.; conforming
144 provisions to changes made by the act; deleting
145 obsolete provisions relating to certificate of need

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146 requirements for specified services; amending s.
147 408.0361, F.S.; providing an exception for a hospital
148 to become a Level I Adult Cardiovascular provider if
149 certain requirements are met; amending s. 408.05,
150 F.S.; requiring the agency to contract with the
151 Society of Thoracic Surgeons and the American College
152 of Cardiology for the collection of certain data for
153 publication on the agency's website for certain
154 purposes; amending s. 408.061, F.S.; excluding
155 hospitals operated by state agencies from certain
156 financial reporting requirements; conforming a cross-
157 reference; amending s. 408.07, F.S.; deleting the
158 definition for the term "clinical laboratory";
159 amending s. 408.20, F.S.; exempting hospitals operated
160 by any state agency from assessments against the
161 Health Care Trust Fund to fund certain agency
162 activities; repealing s. 408.7056, F.S., relating to
163 the Subscriber Assistance Program; amending s.
164 408.803, F.S.; defining the term "relative" for
165 purposes of the Health Care Licensing Procedures Act;
166 amending s. 408.806, F.S.; authorizing licensees who
167 hold licenses for multiple providers to request that
168 the agency align related license expiration dates;
169 authorizing the agency to issue licenses for an
170 abbreviated licensure period and to charge a prorated
171 licensure fee; amending s. 408.809, F.S.; expanding
172 the scope of persons subject to a level 2 background
173 screening to include any employee of a licensee who is
174 a controlling interest and certain part-time

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175 contractors; amending s. 408.810, F.S.; providing that
176 an applicant for change of ownership licensure is
177 exempt from furnishing proof of financial ability to
178 operate if certain conditions are met; authorizing the
179 agency to adopt rules governing circumstances under
180 which a controlling interest may act in certain legal
181 capacities on behalf of a patient or client; requiring
182 a licensee to ensure that certain persons do not hold
183 an ownership interest if the licensee is not organized
184 as or owned by a publicly traded corporation; defining
185 the term "publicly traded corporation"; amending s.
186 408.812, F.S.; providing that certain unlicensed
187 activity by a provider constitutes abuse and neglect;
188 clarifying that the agency may impose a fine or
189 penalty, as prescribed in an authorizing statute, if
190 an unlicensed provider who has received notification
191 fails to cease operation; authorizing the agency to
192 revoke all licenses and impose a fine or penalties
193 upon a controlling interest or licensee who has an
194 interest in more than one provider and who fails to
195 license a provider rendering services that require
196 licensure in certain circumstances; amending s.
197 408.820, F.S.; deleting certain exemptions from part
198 II of ch. 408, F.S., for specified providers to
199 conform provisions to changes made by the act;
200 amending s. 409.907, F.S.; removing the agency's
201 authority to consider certain factors in determining
202 whether to enter into, and in maintaining, a Medicaid
203 provider agreement; amending s. 429.02, F.S.; revising

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204 definitions of the terms "assisted living facility"
205 and "personal services"; amending s. 429.04, F.S.;
206 providing additional exemptions from licensure as an
207 assisted living facility; requiring a person or entity
208 asserting the exemption to provide documentation that
209 substantiates the claim upon agency investigation of
210 unlicensed activity; amending s. 429.08, F.S.;
211 providing criminal penalties and fines for a person
212 who rents or otherwise maintains a building or
213 property used as an unlicensed assisted living
214 facility; providing criminal penalties and fines for a
215 person who owns, operates, or maintains an unlicensed
216 assisted living facility after receiving notice from
217 the agency; amending s. 429.176, F.S.; prohibiting an
218 assisted living facility from operating for more than
219 a specified time without an administrator who has
220 completed certain educational requirements; amending
221 s. 429.24, F.S.; providing that 30-day written notice
222 of rate increase for residency in an assisted living
223 facility is not required in certain situations;
224 amending s. 429.28, F.S.; revising the assisted living
225 facility resident bill of rights to include assistance
226 with obtaining access to adequate and appropriate
227 health care; defining the term "adequate and
228 appropriate health care"; deleting a requirement that
229 the agency conduct at least one monitoring visit under
230 certain circumstances; deleting provisions authorizing
231 the agency to conduct periodic followup inspections
232 and complaint investigations under certain

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233 circumstances; amending s. 429.294, F.S.; deleting the
234 specified timeframe within which an assisted living
235 facility must provide complete copies of a resident's
236 records in an investigation of resident's rights;
237 amending s. 429.34, F.S.; authorizing the agency to
238 inspect and investigate assisted living facilities as
239 necessary to determine compliance with certain laws;
240 removing a provision requiring the agency to inspect
241 each licensed assisted living facility at least
242 biennially; authorizing the agency to conduct
243 monitoring visits of each facility cited for prior
244 violations under certain circumstances; amending s.
245 429.52, F.S.; requiring an assisted living facility
246 administrator to complete required training and
247 education within a specified timeframe; amending s.
248 435.04, F.S.; providing that security background
249 investigations must ensure that a person has not been
250 arrested for, and is not awaiting final disposition
251 of, certain offenses; requiring that security
252 background investigations for purposes of
253 participation in the Medicaid program screen for
254 violations of federal or state law, rule, or
255 regulation governing any state Medicaid program, the
256 Medicare program, or any other publicly funded federal
257 or state health care or health insurance program;
258 specifying offenses under federal law or any state law
259 that the security background investigations must
260 screen for; amending s. 456.054, F.S.; prohibiting any
261 person or entity from paying or receiving a kickback

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262 for referring patients to a clinical laboratory;
263 prohibiting a clinical laboratory from providing
264 personnel to perform certain functions or duties in a
265 health care practitioner's office or dialysis
266 facility; providing an exception; prohibiting a
267 clinical laboratory from leasing space in any part of
268 a health care practitioner's office or dialysis
269 facility; repealing part I of ch. 483, F.S., relating
270 to clinical laboratories; amending s. 483.294, F.S.;
271 removing a requirement that the agency inspect
272 multiphasic health testing centers at least once
273 annually; amending s. 483.801, F.S.; providing an
274 exemption from regulation for certain persons employed
275 by certain laboratories; amending s. 483.803, F.S.;
276 revising definitions of the terms "clinical
277 laboratory" and "clinical laboratory examination";
278 removing a cross-reference; amending s. 641.511, F.S.;
279 revising health maintenance organization subscriber
280 grievance reporting requirements; repealing s. 641.60,
281 F.S., relating to the Statewide Managed Care Ombudsman
282 Committee; repealing s. 641.65, F.S., relating to
283 district managed care ombudsman committees; repealing
284 s. 641.67, F.S., relating to a district managed care
285 ombudsman committee, exemption from public records
286 requirements, and exceptions; repealing s. 641.68,
287 F.S., relating to a district managed care ombudsman
288 committee and exemption from public meeting
289 requirements; repealing s. 641.70, F.S., relating to
290 agency duties relating to the Statewide Managed Care

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291 Ombudsman Committee and the district managed care
292 ombudsman committees; repealing s. 641.75, F.S.,
293 relating to immunity from liability and limitation on
294 testimony; amending s. 945.36, F.S.; authorizing law
295 enforcement personnel to conduct drug tests on certain
296 inmates and releasees; amending ss. 20.43, 220.1845,
297 376.30781, 376.86, 381.0034, 381.0405, 383.14, 383.30,
298 383.301, 383.302, 383.305, 383.309, 383.33, 385.211,
299 394.4787, 395.001, 395.003, 395.7015, 400.9905,
300 408.033, 408.802, 409.9116, 409.975, 429.19, 456.001,
301 456.057, 456.076, 458.307, 458.345, 459.021, 483.813,
302 483.823, 491.003, 627.351, 627.602, 627.6406,
303 627.64194, 627.6513, 627.6574, 641.185, 641.31,
304 641.312, 641.3154, 641.51, 641.515, 641.55, 766.118,
305 766.202, 1009.65, and 1011.52, F.S.; conforming
306 provisions to changes made by the act; providing an
307 effective date.

308

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

310

311 Section 1. Paragraph (g) of subsection (3) of section
312 20.43, Florida Statutes, is amended to read:

313 20.43 Department of Health.—There is created a Department
314 of Health.

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

317 (g) Division of Medical Quality Assurance, which is
318 responsible for the following boards and professions established
319 within the division:

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- 320 1. The Board of Acupuncture, created under chapter 457.
321 2. The Board of Medicine, created under chapter 458.
322 3. The Board of Osteopathic Medicine, created under chapter
323 459.
324 4. The Board of Chiropractic Medicine, created under
325 chapter 460.
326 5. The Board of Podiatric Medicine, created under chapter
327 461.
328 6. Naturopathy, as provided under chapter 462.
329 7. The Board of Optometry, created under chapter 463.
330 8. The Board of Nursing, created under part I of chapter
331 464.
332 9. Nursing assistants, as provided under part II of chapter
333 464.
334 10. The Board of Pharmacy, created under chapter 465.
335 11. The Board of Dentistry, created under chapter 466.
336 12. Midwifery, as provided under chapter 467.
337 13. The Board of Speech-Language Pathology and Audiology,
338 created under part I of chapter 468.
339 14. The Board of Nursing Home Administrators, created under
340 part II of chapter 468.
341 15. The Board of Occupational Therapy, created under part
342 III of chapter 468.
343 16. Respiratory therapy, as provided under part V of
344 chapter 468.
345 17. Dietetics and nutrition practice, as provided under
346 part X of chapter 468.
347 18. The Board of Athletic Training, created under part XIII
348 of chapter 468.

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349 19. The Board of Orthotists and Prosthetists, created under
350 part XIV of chapter 468.

351 20. Electrolysis, as provided under chapter 478.

352 21. The Board of Massage Therapy, created under chapter
353 480.

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

356 23. Medical physicists, as provided under part IV of
357 chapter 483.

358 24. The Board of Opticianry, created under part I of
359 chapter 484.

360 25. The Board of Hearing Aid Specialists, created under
361 part II of chapter 484.

362 26. The Board of Physical Therapy Practice, created under
363 chapter 486.

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

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

366 29. The Board of Clinical Social Work, Marriage and Family
367 Therapy, and Mental Health Counseling, created under chapter
368 491.

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

371 Section 2. Section 154.13, Florida Statutes, is created to
372 read:

373 154.13 Designated facilities; jurisdiction.—Any designated
374 facility owned or operated by a public health trust and located
375 within the boundaries of a municipality is under the exclusive
376 jurisdiction of the county creating the public health trust and
377 is not within the jurisdiction of the municipality.

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378 Section 3. Paragraph (k) of subsection (2) of section
379 220.1845, Florida Statutes, is amended to read:

380 220.1845 Contaminated site rehabilitation tax credit.—

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

382 (k) In order to encourage the construction and operation of
383 a new health care facility as defined in s. 408.032 or s.
384 408.07, or a health care provider as defined in s. 408.07 ~~or s.~~
385 ~~408.7056~~, on a brownfield site, an applicant for a tax credit
386 may claim an additional 25 percent of the total site
387 rehabilitation costs, not to exceed \$500,000, if the applicant
388 meets the requirements of this paragraph. In order to receive
389 this additional tax credit, the applicant must provide
390 documentation indicating that the construction of the health
391 care facility or health care provider by the applicant on the
392 brownfield site has received a certificate of occupancy or a
393 license or certificate has been issued for the operation of the
394 health care facility or health care provider.

395 Section 4. Paragraph (f) of subsection (3) of section
396 376.30781, Florida Statutes, is amended to read:

397 376.30781 Tax credits for rehabilitation of drycleaning-
398 solvent-contaminated sites and brownfield sites in designated
399 brownfield areas; application process; rulemaking authority;
400 revocation authority.—

401 (3)

402 (f) In order to encourage the construction and operation of
403 a new health care facility or a health care provider, as defined
404 in s. 408.032 or, s. 408.07, ~~or s. 408.7056~~, on a brownfield
405 site, an applicant for a tax credit may claim an additional 25
406 percent of the total site rehabilitation costs, not to exceed

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407 \$500,000, if the applicant meets the requirements of this
408 paragraph. In order to receive this additional tax credit, the
409 applicant must provide documentation indicating that the
410 construction of the health care facility or health care provider
411 by the applicant on the brownfield site has received a
412 certificate of occupancy or a license or certificate has been
413 issued for the operation of the health care facility or health
414 care provider.

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

417 376.86 Brownfield Areas Loan Guarantee Program.—

418 (1) The Brownfield Areas Loan Guarantee Council is created
419 to review and approve or deny, by a majority vote of its
420 membership, the situations and circumstances for participation
421 in partnerships by agreements with local governments, financial
422 institutions, and others associated with the redevelopment of
423 brownfield areas pursuant to the Brownfields Redevelopment Act
424 for a limited state guaranty of up to 5 years of loan guarantees
425 or loan loss reserves issued pursuant to law. The limited state
426 loan guaranty applies only to 50 percent of the primary lenders
427 loans for redevelopment projects in brownfield areas. If the
428 redevelopment project is for affordable housing, as defined in
429 s. 420.0004, in a brownfield area, the limited state loan
430 guaranty applies to 75 percent of the primary lender's loan. If
431 the redevelopment project includes the construction and
432 operation of a new health care facility or a health care
433 provider, as defined in s. 408.032 or s. 408.07, ~~or s.~~
434 ~~408.7056~~, on a brownfield site and the applicant has obtained
435 documentation in accordance with s. 376.30781 indicating that

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436 the construction of the health care facility or health care
437 provider by the applicant on the brownfield site has received a
438 certificate of occupancy or a license or certificate has been
439 issued for the operation of the health care facility or health
440 care provider, the limited state loan guaranty applies to 75
441 percent of the primary lender's loan. A limited state guaranty
442 of private loans or a loan loss reserve is authorized for
443 lenders licensed to operate in the state upon a determination by
444 the council that such an arrangement would be in the public
445 interest and the likelihood of the success of the loan is great.

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

448 381.0031 Epidemiological research; report of diseases of
449 public health significance to department.—

450 (2) Any practitioner licensed in this state to practice
451 medicine, osteopathic medicine, chiropractic medicine,
452 naturopathy, or veterinary medicine; any hospital licensed under
453 part I of chapter 395; or any laboratory appropriately certified
454 by the Centers for Medicare and Medicaid Services under the
455 federal Clinical Laboratory Improvement Amendments and the
456 federal rules adopted thereunder which licensed under chapter
457 ~~483 that~~ diagnoses or suspects the existence of a disease of
458 public health significance shall immediately report the fact to
459 the Department of Health.

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

462 381.0034 Requirement for instruction on HIV and AIDS.—

463 (3) The department shall require, as a condition of
464 granting a license under chapter 467 or part II ~~III~~ of chapter

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465 483, that an applicant making initial application for licensure
466 complete an educational course acceptable to the department on
467 human immunodeficiency virus and acquired immune deficiency
468 syndrome. Upon submission of an affidavit showing good cause, an
469 applicant who has not taken a course at the time of licensure
470 shall be allowed 6 months to complete this requirement.

471 Section 8. Paragraph (c) of subsection (4) of section
472 381.004, Florida Statutes, is amended to read:

473 381.004 HIV testing.—

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

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

488 Section 9. Paragraph (f) of subsection (4) of section
489 381.0405, Florida Statutes, is amended to read:

490 381.0405 Office of Rural Health.—

491 (4) COORDINATION.—The office shall:

492 (f) Assume responsibility for state coordination of the
493 Rural Hospital Transition Grant Program, ~~the Essential Access~~

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494 ~~Community Hospital Program,~~ and other federal rural health care
495 programs.

496 Section 10. Paragraph (c) of subsection (4) of section
497 381.915, Florida Statutes, is amended to read:

498 381.915 Florida Consortium of National Cancer Institute
499 Centers Program.—

500 (4) Tier designations and corresponding weights within the
501 Florida Consortium of National Cancer Institute Centers Program
502 are as follows:

503 (c) Tier 3: Florida-based cancer centers seeking
504 designation as either a NCI-designated cancer center or NCI-
505 designated comprehensive cancer center, which shall be weighted
506 at 1.0.

507 1. A cancer center shall meet the following minimum
508 criteria to be considered eligible for Tier 3 designation in any
509 given fiscal year:

510 a. Conducting cancer-related basic scientific research and
511 cancer-related population scientific research;

512 b. Offering and providing the full range of diagnostic and
513 treatment services on site, as determined by the Commission on
514 Cancer of the American College of Surgeons;

515 c. Hosting or conducting cancer-related interventional
516 clinical trials that are registered with the NCI's Clinical
517 Trials Reporting Program;

518 d. Offering degree-granting programs or affiliating with
519 universities through degree-granting programs accredited or
520 approved by a nationally recognized agency and offered through
521 the center or through the center in conjunction with another
522 institution accredited by the Commission on Colleges of the

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523 Southern Association of Colleges and Schools;

524 e. Providing training to clinical trainees, medical
525 trainees accredited by the Accreditation Council for Graduate
526 Medical Education or the American Osteopathic Association, and
527 postdoctoral fellows recently awarded a doctorate degree; and

528 f. Having more than \$5 million in annual direct costs
529 associated with their total NCI peer-reviewed grant funding.

530 2. The General Appropriations Act or accompanying
531 legislation may limit the number of cancer centers which shall
532 receive Tier 3 designations or provide additional criteria for
533 such designation.

534 3. A cancer center's participation in Tier 3 shall be
535 limited to 6 ~~5~~ years.

536 4. A cancer center that qualifies as a designated Tier 3
537 center under the criteria provided in subparagraph 1. by July 1,
538 2014, is authorized to pursue NCI designation as a cancer center
539 or a comprehensive cancer center for 6 ~~5~~ years after
540 qualification.

541 Section 11. Paragraph (a) of subsection (2) of section
542 383.14, Florida Statutes, is amended to read:

543 383.14 Screening for metabolic disorders, other hereditary
544 and congenital disorders, and environmental risk factors.—

545 (2) RULES.—

546 (a) After consultation with the Genetics and Newborn
547 Screening Advisory Council, the department shall adopt and
548 enforce rules requiring that every newborn in this state shall:

549 1. Before becoming 1 week of age, be subjected to a test
550 for phenylketonuria;

551 2. Be tested for any condition included on the federal

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552 Recommended Uniform Screening Panel which the council advises
553 the department should be included under the state's screening
554 program. After the council recommends that a condition be
555 included, the department shall submit a legislative budget
556 request to seek an appropriation to add testing of the condition
557 to the newborn screening program. The department shall expand
558 statewide screening of newborns to include screening for such
559 conditions within 18 months after the council renders such
560 advice, if a test approved by the United States Food and Drug
561 Administration or a test offered by an alternative vendor ~~which~~
562 ~~is compatible with the clinical standards established under part~~
563 ~~I of chapter 483~~ is available. If such a test is not available
564 within 18 months after the council makes its recommendation, the
565 department shall implement such screening as soon as a test
566 offered by the United States Food and Drug Administration or by
567 an alternative vendor is available; and

568 3. At the appropriate age, be tested for such other
569 metabolic diseases and hereditary or congenital disorders as the
570 department may deem necessary from time to time.

571 Section 12. Section 383.30, Florida Statutes, is amended to
572 read:

573 383.30 Birth Center Licensure Act; short title.—Sections
574 383.30-383.332 ~~383.30-383.335~~ shall be known and may be cited as
575 the "Birth Center Licensure Act."

576 Section 13. Section 383.301, Florida Statutes, is amended
577 to read:

578 383.301 Licensure and regulation of birth centers;
579 legislative intent.—It is the intent of the Legislature to
580 provide for the protection of public health and safety in the

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581 establishment, maintenance, and operation of birth centers by
582 providing for licensure of birth centers and for the
583 development, establishment, and enforcement of minimum standards
584 with respect to birth centers. The requirements of part II of
585 chapter 408 shall apply to the provision of services that
586 require licensure pursuant to ss. 383.30-383.332 ~~383.30-383.335~~
587 and part II of chapter 408 and to entities licensed by or
588 applying for such licensure from the Agency for Health Care
589 Administration pursuant to ss. 383.30-383.332 ~~383.30-383.335~~. A
590 license issued by the agency is required in order to operate a
591 birth center in this state.

592 Section 14. Section 383.302, Florida Statutes, is amended
593 to read:

594 383.302 Definitions of terms used in ss. 383.30-383.332
595 ~~383.30-383.335~~.—As used in ss. 383.30-383.332 ~~383.30-383.335~~,
596 the term:

597 (1) "Agency" means the Agency for Health Care
598 Administration.

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

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

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

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

612 (b) Has hospital obstetrical privileges.

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

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

619 (7) "Licensed facility" means a facility licensed in
620 accordance with s. 383.305.

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

625 (9) "Person" means any individual, firm, partnership,
626 corporation, company, association, institution, or joint stock
627 association and means any legal successor of any of the
628 foregoing.

629 (10) "Premises" means those buildings, beds, and facilities
630 located at the main address of the licensee and all other
631 buildings, beds, and facilities for the provision of maternity
632 care located in such reasonable proximity to the main address of
633 the licensee as to appear to the public to be under the dominion
634 and control of the licensee.

635 Section 15. Subsection (1) of section 383.305, Florida
636 Statutes, is amended to read:

637 383.305 Licensure; fees.—

638 (1) In accordance with s. 408.805, an applicant or a

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639 licensee shall pay a fee for each license application submitted
640 under ss. 383.30-383.332 ~~383.30-383.335~~ and part II of chapter
641 408. The amount of the fee shall be established by rule.

642 Section 16. Subsection (1) of section 383.309, Florida
643 Statutes, is amended to read:

644 383.309 Minimum standards for birth centers; rules and
645 enforcement.—

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

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

653 (b) Infection control, housekeeping, sanitary conditions,
654 disaster plan, and medical record procedures that will
655 adequately protect patient care and provide safety are
656 established and implemented.

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

659 Section 17. Subsection (1) of section 383.313, Florida
660 Statutes, is amended to read:

661 383.313 Performance of laboratory and surgical services;
662 use of anesthetic and chemical agents.—

663 (1) LABORATORY SERVICES.—A birth center may collect
664 specimens for those tests that are requested under protocol. A
665 birth center must obtain and continuously maintain certification
666 by the Centers for Medicare and Medicaid Services under the
667 federal Clinical Laboratory Improvement Amendments and the

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668 federal rules adopted thereunder in order to may perform ~~simple~~
669 laboratory tests specified, ~~as defined~~ by rule of the agency,
670 and which are appropriate to meet the needs of the patient is
671 ~~exempt from the requirements of chapter 483, provided no more~~
672 ~~than five physicians are employed by the birth center and~~
673 ~~testing is conducted exclusively in connection with the~~
674 ~~diagnosis and treatment of clients of the birth center.~~

675 Section 18. Subsection (1) and paragraph (a) of subsection
676 (2) of section 383.33, Florida Statutes, are amended to read:

677 383.33 Administrative penalties; moratorium on admissions.—

678 (1) In addition to the requirements of part II of chapter
679 408, the agency may impose an administrative fine not to exceed
680 \$500 per violation per day for the violation of any provision of
681 ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or
682 applicable rules.

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

686 (a) The severity of the violation, including the
687 probability that death or serious harm to the health or safety
688 of any person will result or has resulted; the severity of the
689 actual or potential harm; and the extent to which ~~the provisions~~
690 ~~of~~ ss. 383.30-383.332 ~~383.30-383.335~~, part II of chapter 408, or
691 applicable rules were violated.

692 Section 19. Section 383.335, Florida Statutes, is repealed.

693 Section 20. Section 384.31, Florida Statutes, is amended to
694 read:

695 384.31 Testing of pregnant women; duty of the attendant.—

696 Every person, including every physician licensed under chapter

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697 458 or chapter 459 or midwife licensed under part I of chapter
698 464 or chapter 467, attending a pregnant woman for conditions
699 relating to pregnancy during the period of gestation and
700 delivery shall cause the woman to be tested for sexually
701 transmissible diseases, including HIV, as specified by
702 department rule. Testing shall be performed by a laboratory
703 appropriately certified by the Centers for Medicare and Medicaid
704 Services under the federal Clinical Laboratory Improvement
705 Amendments and the federal rules adopted thereunder ~~approved~~ for
706 such purposes ~~under part I of chapter 483~~. The woman shall be
707 informed of the tests that will be conducted and of her right to
708 refuse testing. If a woman objects to testing, a written
709 statement of objection, signed by the woman, shall be placed in
710 the woman's medical record and no testing shall occur.

711 Section 21. Subsection (2) of section 385.211, Florida
712 Statutes, is amended to read:

713 385.211 Refractory and intractable epilepsy treatment and
714 research at recognized medical centers.—

715 (2) Notwithstanding chapter 893, medical centers recognized
716 pursuant to s. 381.925, or an academic medical research
717 institution legally affiliated with a licensed children's
718 specialty hospital as defined in s. 395.002(27) ~~s. 395.002(28)~~
719 that contracts with the Department of Health, may conduct
720 research on cannabidiol and low-THC cannabis. This research may
721 include, but is not limited to, the agricultural development,
722 production, clinical research, and use of liquid medical
723 derivatives of cannabidiol and low-THC cannabis for the
724 treatment for refractory or intractable epilepsy. The authority
725 for recognized medical centers to conduct this research is

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726 derived from 21 C.F.R. parts 312 and 316. Current state or
727 privately obtained research funds may be used to support the
728 activities described in this section.

729 Section 22. Subsection (7) of section 394.4787, Florida
730 Statutes, is amended to read:

731 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
732 394.4789.—As used in this section and ss. 394.4786, 394.4788,
733 and 394.4789:

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

737 Section 23. Section 395.001, Florida Statutes, is amended
738 to read:

739 395.001 Legislative intent.—It is the intent of the
740 Legislature to provide for the protection of public health and
741 safety in the establishment, construction, maintenance, and
742 operation of hospitals and ambulatory surgical centers, ~~and~~
743 ~~mobile surgical facilities~~ by providing for licensure of same
744 and for the development, establishment, and enforcement of
745 minimum standards with respect thereto.

746 Section 24. Present subsections (22) through (33) of
747 section 395.002, Florida Statutes, are redesignated as
748 subsections (21) through (32), respectively, and subsections (3)
749 and (16) of that section and present subsections (21) and (23)
750 of that section are amended, to read:

751 395.002 Definitions.—As used in this chapter:

752 (3) "Ambulatory surgical center" ~~or "mobile surgical~~
753 ~~facility"~~ means a facility the primary purpose of which is to
754 provide elective surgical care, in which the patient is admitted

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755 to and discharged from such facility within the same working day
756 and is not permitted to stay overnight, and which is not part of
757 a hospital. However, a facility existing for the primary purpose
758 of performing terminations of pregnancy, an office maintained by
759 a physician for the practice of medicine, or an office
760 maintained for the practice of dentistry may ~~shall~~ not be
761 construed to be an ambulatory surgical center, provided that any
762 facility or office which is certified or seeks certification as
763 a Medicare ambulatory surgical center shall be licensed as an
764 ambulatory surgical center pursuant to s. 395.003. ~~Any structure
765 or vehicle in which a physician maintains an office and
766 practices surgery, and which can appear to the public to be a
767 mobile office because the structure or vehicle operates at more
768 than one address, shall be construed to be a mobile surgical
769 facility.~~

770 (16) "Licensed facility" means a hospital or, ambulatory
771 surgical center, ~~or mobile surgical facility~~ licensed in
772 accordance with this chapter.

773 ~~(21) "Mobile surgical facility" is a mobile facility in
774 which licensed health care professionals provide elective
775 surgical care under contract with the Department of Corrections
776 or a private correctional facility operating pursuant to chapter
777 957 and in which inmate patients are admitted to and discharged
778 from said facility within the same working day and are not
779 permitted to stay overnight. However, mobile surgical facilities
780 may only provide health care services to the inmate patients of
781 the Department of Corrections, or inmate patients of a private
782 correctional facility operating pursuant to chapter 957, and not
783 to the general public.~~

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784 (22)~~(23)~~ "Premises" means those buildings, beds, and
785 equipment located at the address of the licensed facility and
786 all other buildings, beds, and equipment for the provision of
787 hospital or, ambulatory surgical,~~or mobile surgical~~ care
788 located in such reasonable proximity to the address of the
789 licensed facility as to appear to the public to be under the
790 dominion and control of the licensee. For any licensee that is a
791 teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~,
792 reasonable proximity includes any buildings, beds, services,
793 programs, and equipment under the dominion and control of the
794 licensee that are located at a site with a main address that is
795 within 1 mile of the main address of the licensed facility; and
796 all such buildings, beds, and equipment may, at the request of a
797 licensee or applicant, be included on the facility license as a
798 single premises.

799 Section 25. Paragraphs (a) and (b) of subsection (1) and
800 paragraph (b) of subsection (2) of section 395.003, Florida
801 Statutes, are amended to read:

802 395.003 Licensure; denial, suspension, and revocation.—

803 (1) (a) The requirements of part II of chapter 408 apply to
804 the provision of services that require licensure pursuant to ss.
805 395.001-395.1065 and part II of chapter 408 and to entities
806 licensed by or applying for such licensure from the Agency for
807 Health Care Administration pursuant to ss. 395.001-395.1065. A
808 license issued by the agency is required in order to operate a
809 hospital or, ambulatory surgical center,~~or mobile surgical~~
810 ~~facility~~ in this state.

811 (b)1. It is unlawful for a person to use or advertise to
812 the public, in any way or by any medium whatsoever, any facility

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813 as a "hospital~~,"~~ or "ambulatory surgical center~~,"~~ ~~or "mobile~~
814 ~~surgical facility"~~ unless such facility has first secured a
815 license under ~~the provisions of~~ this part.

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

821 (2)

822 (b) The agency shall, at the request of a licensee that is
823 a teaching hospital as defined in s. 408.07 ~~s. 408.07(45)~~, issue
824 a single license to a licensee for facilities that have been
825 previously licensed as separate premises, provided such
826 separately licensed facilities, taken together, constitute the
827 same premises as defined in s. 395.002 ~~s. 395.002(23)~~. Such
828 license for the single premises shall include all of the beds,
829 services, and programs that were previously included on the
830 licenses for the separate premises. The granting of a single
831 license under this paragraph may ~~shall~~ not in any manner reduce
832 the number of beds, services, or programs operated by the
833 licensee.

834 Section 26. Subsection (1) of section 395.009, Florida
835 Statutes, is amended to read:

836 395.009 Minimum standards for clinical laboratory test
837 results and diagnostic X-ray results; prerequisite for issuance
838 or renewal of license.—

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

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842 performed by a clinical laboratory appropriately certified by
843 the Centers for Medicare and Medicaid Services under the federal
844 Clinical Laboratory Improvement Amendments and the federal rules
845 adopted thereunder ~~licensed under the provisions of chapter 483.~~

846 Section 27. Section 395.0091, Florida Statutes, is created
847 to read:

848 395.0091 Alternate-site testing.—The agency, in
849 consultation with the Board of Clinical Laboratory Personnel,
850 shall adopt by rule the criteria for alternate-site testing to
851 be performed under the supervision of a clinical laboratory
852 director. At a minimum, the criteria must address hospital
853 internal needs assessment; a protocol for implementation,
854 including the identification of tests to be performed and who
855 will perform them; selection of the method of testing to be used
856 for alternate-site testing; minimum training and education
857 requirements for those who will perform alternate-site testing,
858 such as documented training, licensure, certification, or other
859 medical professional background not limited to laboratory
860 professionals; documented inservice training and initial and
861 ongoing competency validation; an appropriate internal and
862 external quality control protocol; an internal mechanism for the
863 central laboratory to identify and track alternate-site testing;
864 and recordkeeping requirements. Alternate-site testing locations
865 must register when the hospital applies to renew its license.
866 For purposes of this section, the term "alternate-site testing"
867 includes any laboratory testing done under the administrative
868 control of a hospital, but performed out of the physical or
869 administrative confines of the central laboratory.

870 Section 28. Paragraph (f) of subsection (1) of section

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871 395.0161, Florida Statutes, is amended to read:

872 395.0161 Licensure inspection.—

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

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

881 Section 29. Subsection (3) of section 395.0163, Florida
882 Statutes, is amended to read:

883 395.0163 Construction inspections; plan submission and
884 approval; fees.—

885 ~~(3) In addition to the requirements of s. 408.811, the~~
886 ~~agency shall inspect a mobile surgical facility at initial~~
887 ~~licensure and at each time the facility establishes a new~~
888 ~~location, prior to admission of patients. However, such~~
889 ~~inspections shall not be required when a mobile surgical~~
890 ~~facility is moved temporarily to a location where medical~~
891 ~~treatment will not be provided.~~

892 Section 30. Subsection (2), paragraph (c) of subsection
893 (6), and subsections (16) and (17) of section 395.0197, Florida
894 Statutes, are amended to read:

895 395.0197 Internal risk management program.—

896 (2) The internal risk management program is the
897 responsibility of the governing board of the health care
898 facility. Each licensed facility shall hire a risk manager,
899 ~~licensed under s. 395.10974,~~ who is responsible for

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900 implementation and oversight of the ~~such~~ facility's internal
901 risk management program and who demonstrates competence, through
902 education or experience, in all of the following areas:

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

904 (b) Applicable federal, state, and local health and safety
905 laws and rules.

906 (c) General risk management administration.

907 (d) Patient care.

908 (e) Medical care.

909 (f) Personal and social care.

910 (g) Accident prevention.

911 (h) Departmental organization and management.

912 (i) Community interrelationships.

913 (j) Medical terminology ~~as required by this section. A risk~~
914 ~~manager must not be made responsible for more than four internal~~
915 ~~risk management programs in separate licensed facilities, unless~~
916 ~~the facilities are under one corporate ownership or the risk~~
917 ~~management programs are in rural hospitals.~~

918 (6)

919 (c) The report submitted to the agency must ~~shall~~ also
920 contain the name ~~and license number~~ of the risk manager of the
921 licensed facility, a copy of its policy and procedures which
922 govern the measures taken by the facility and its risk manager
923 to reduce the risk of injuries and adverse incidents, and the
924 results of such measures. The annual report is confidential and
925 is not available to the public pursuant to s. 119.07(1) or any
926 other law providing access to public records. The annual report
927 is not discoverable or admissible in any civil or administrative
928 action, except in disciplinary proceedings by the agency or the

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929 appropriate regulatory board. The annual report is not available
930 to the public as part of the record of investigation for and
931 prosecution in disciplinary proceedings made available to the
932 public by the agency or the appropriate regulatory board.
933 However, the agency or the appropriate regulatory board shall
934 make available, upon written request by a health care
935 professional against whom probable cause has been found, any
936 such records which form the basis of the determination of
937 probable cause.

938 (16) There shall be no monetary liability on the part of,
939 and no cause of action for damages shall arise against, any risk
940 manager, ~~licensed under s. 395.10974,~~ for the implementation and
941 oversight of the internal risk management program in a facility
942 licensed under this chapter or chapter 390 as required by this
943 section, for any act or proceeding undertaken or performed
944 within the scope of the functions of such internal risk
945 management program if the risk manager acts without intentional
946 fraud.

947 (17) A privilege against civil liability is hereby granted
948 to any ~~licensed~~ risk manager or licensed facility with regard to
949 information furnished pursuant to this chapter, unless the
950 ~~licensed~~ risk manager or facility acted in bad faith or with
951 malice in providing such information.

952 Section 31. Section 395.1046, Florida Statutes, is
953 repealed.

954 Section 32. Present subsection (10) of section 395.1055,
955 Florida Statutes, is redesignated as subsection (12),
956 subsections (2), (3), and (9) of that section are amended,
957 paragraph (i) is added to subsection (1) of that section, and a

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958 new subsection (10) and subsection (11) are added to that
959 section, to read:

960 395.1055 Rules and enforcement.—

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

964 (i) All hospitals providing organ transplantation, neonatal
965 intensive care services, inpatient psychiatric services,
966 inpatient substance abuse services, or comprehensive medical
967 rehabilitation meet the minimum licensure requirements adopted
968 by the agency. Such licensure requirements must include quality
969 of care, nurse staffing, physician staffing, physical plant,
970 equipment, emergency transportation, and data reporting
971 standards.

972 (2) Separate standards may be provided for general and
973 specialty hospitals, ambulatory surgical centers, ~~mobile~~
974 ~~surgical facilities,~~ and statutory rural hospitals as defined in
975 s. 395.602.

976 (3) The agency shall adopt rules with respect to the care
977 and treatment of patients residing in distinct part nursing
978 units of hospitals which are certified for participation in
979 Title XVIII (Medicare) and Title XIX (Medicaid) of the Social
980 Security Act skilled nursing facility program. Such rules shall
981 take into account the types of patients treated in hospital
982 skilled nursing units, including typical patient acuity levels
983 and the average length of stay in such units, and shall be
984 limited to the appropriate portions of the Omnibus Budget
985 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
986 1987), Title IV (Medicare, Medicaid, and Other Health-Related

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987 Programs), Subtitle C (Nursing Home Reform), as amended. The
988 agency shall require level 2 background screening as specified
989 in s. 408.809(1)(e) pursuant to s. 408.809 and chapter 435 for
990 personnel of distinct part nursing units.

991 (9) The agency shall establish a technical advisory panel,
992 pursuant to s. 20.052, to develop procedures and standards for
993 measuring outcomes of pediatric cardiac catheterization programs
994 and pediatric cardiovascular ~~open-heart~~ surgery programs.

995 (a) Members of the panel must have technical expertise in
996 pediatric cardiac medicine, shall serve without compensation,
997 and may not be reimbursed for per diem and travel expenses. ~~be~~
998 ~~composed~~

999 (b) Voting members of the panel shall include: 3 at-large
1000 members, including 1 cardiologist who is board certified in
1001 caring for adults with congenital heart disease and 2 board-
1002 certified pediatric cardiologists, neither of whom may be
1003 employed by any of the hospitals specified in subparagraphs 1.-
1004 10. or their affiliates, each of whom is appointed by the
1005 Secretary of Health Care Administration, and 10 members, and an
1006 alternate for each member, each of whom is a pediatric
1007 cardiologist or a pediatric cardiovascular surgeon, each
1008 appointed by the chief executive officer of ~~one of~~ the following
1009 hospitals:

- 1010 1. Johns Hopkins All Children's Hospital in St. Petersburg.
- 1011 2. Arnold Palmer Hospital for Children in Orlando.
- 1012 3. Joe DiMaggio Children's Hospital in Hollywood.
- 1013 4. Nicklaus Children's Hospital in Miami.
- 1014 5. St. Joseph's Children's Hospital in Tampa.
- 1015 6. University of Florida Health Shands Hospital in

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1016 Gainesville.

1017 7. University of Miami Holtz Children's Hospital in Miami.

1018 8. Wolfson Children's Hospital in Jacksonville.

1019 9. Florida Hospital for Children in Orlando.

1020 10. Nemours Children's Hospital in Orlando.

1021
1022 Appointments made under subparagraphs 1.-10. are contingent upon
1023 the hospital's maintenance of pediatric certificates of need and
1024 the hospital's compliance with this section and rules adopted
1025 thereunder, as determined by the Secretary of Health Care
1026 Administration. A member appointed under subparagraphs 1.-10.
1027 whose hospital fails to maintain such certificates or comply
1028 with standards may serve only as a nonvoting member until the
1029 hospital restores such certificates or complies with such
1030 standards.

1031 (c) The Secretary of Health Care Administration may appoint
1032 nonvoting members to the panel. Nonvoting members may include:

1033 1. The Secretary of Health Care Administration.

1034 2. The Surgeon General.

1035 3. The Deputy Secretary of Children's Medical Services.

1036 4. Any current or past Division Director of Children's
1037 Medical Services.

1038 5. A parent of a child with congenital heart disease.

1039 6. An adult with congenital heart disease.

1040 7. A representative from each of the following
1041 organizations: the Florida Chapter of the American Academy of
1042 Pediatrics, the Florida Chapter of the American College of
1043 Cardiology, the Greater Southeast Affiliate of the American
1044 Heart Association, the Adult Congenital Heart Association, the

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1045 March of Dimes, the Florida Association of Children's Hospitals,
1046 and the Florida Society of Thoracic and Cardiovascular Surgeons.

1047 (d) The panel shall meet biannually, or more frequently
1048 upon the call of the Secretary of Health Care Administration.
1049 Such meetings may be conducted telephonically, or by other
1050 electronic means.

1051 (e) The duties of the panel include recommending to the
1052 agency standards for quality of care, personnel, physical plant,
1053 equipment, emergency transportation, and data reporting for
1054 hospitals that provide pediatric cardiac services.

1055 (f) Beginning on January 1, 2020, and annually thereafter,
1056 the panel shall submit a report to the Governor, the President
1057 of the Senate, the Speaker of the House of Representatives, the
1058 Secretary of Health Care Administration, and the State Surgeon
1059 General. The report must summarize the panel's activities during
1060 the preceding fiscal year and include data and performance
1061 measures on surgical morbidity and mortality for all pediatric
1062 cardiac programs.

1063 ~~(b) Based on the recommendations of the panel, the agency~~
1064 ~~shall develop and adopt rules for pediatric cardiac~~
1065 ~~catheterization programs and pediatric open-heart surgery~~
1066 ~~programs which include at least the following:~~

1067 ~~1. A risk adjustment procedure that accounts for the~~
1068 ~~variations in severity and case mix found in hospitals in this~~
1069 ~~state;~~

1070 ~~2. Outcome standards specifying expected levels of~~
1071 ~~performance in pediatric cardiac programs. Such standards may~~
1072 ~~include, but are not limited to, in-hospital mortality,~~
1073 ~~infection rates, nonfatal myocardial infarctions, length of~~

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1074 ~~postoperative bleeds, and returns to surgery; and~~

1075 ~~3. Specific steps to be taken by the agency and licensed~~
1076 ~~facilities that do not meet the outcome standards within a~~
1077 ~~specified time, including time required for detailed case~~
1078 ~~reviews and development and implementation of corrective action~~
1079 ~~plans.~~

1080 ~~(c) This subsection is repealed on July 1, 2022.~~

1081 (10) Based on the recommendations of the advisory panel in
1082 subsection (9), the agency shall adopt rules for pediatric
1083 cardiac programs which, at a minimum, include:

1084 (a) Standards for pediatric cardiac catheterization
1085 services and pediatric cardiovascular surgery including quality
1086 of care, personnel, physical plant, equipment, emergency
1087 transportation, data reporting, and appropriate operating hours
1088 and timeframes for mobilization for emergency procedures.

1089 (b) Outcome standards consistent with nationally
1090 established levels of performance in pediatric cardiac programs.

1091 (c) Specific steps to be taken by the agency and licensed
1092 facilities when the facilities do not meet the outcome standards
1093 within a specified time, including time required for detailed
1094 case reviews and the development and implementation of
1095 corrective action plans.

1096 (11) A pediatric cardiac program shall:

1097 (a) Have a pediatric cardiology clinic affiliated with a
1098 hospital licensed under this chapter.

1099 (b) Have a pediatric cardiac catheterization laboratory and
1100 a pediatric cardiovascular surgical program located in the
1101 hospital.

1102 (c) Have a risk adjustment surgical procedure protocol

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1103 following the guidelines established by the Society of Thoracic
1104 Surgeons.

1105 (d) Have quality assurance and quality improvement
1106 processes in place to enhance clinical operation and patient
1107 satisfaction with services.

1108 (e) Participate in the clinical outcome reporting systems
1109 operated by the Society of Thoracic Surgeons and the American
1110 College of Cardiology.

1111 (12)~~(10)~~ The agency may adopt rules to administer the
1112 requirements of part II of chapter 408.

1113 Section 33. Section 395.10971, Florida Statutes, is
1114 repealed.

1115 Section 34. Section 395.10972, Florida Statutes, is
1116 repealed.

1117 Section 35. Section 395.10973, Florida Statutes, is amended
1118 to read:

1119 395.10973 Powers and duties of the agency.—It is the
1120 function of the agency to:

1121 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
1122 ~~implement the provisions of this part and part II of chapter 408~~
1123 ~~conferring duties upon it.~~

1124 ~~(2) Develop, impose, and enforce specific standards within~~
1125 ~~the scope of the general qualifications established by this part~~
1126 ~~which must be met by individuals in order to receive licenses as~~
1127 ~~health care risk managers. These standards shall be designed to~~
1128 ~~ensure that health care risk managers are individuals of good~~
1129 ~~character and otherwise suitable and, by training or experience~~
1130 ~~in the field of health care risk management, qualified in~~
1131 ~~accordance with the provisions of this part to serve as health~~

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1132 ~~care risk managers, within statutory requirements.~~

1133 ~~(3) Develop a method for determining whether an individual~~
1134 ~~meets the standards set forth in s. 395.10974.~~

1135 ~~(4) Issue licenses to qualified individuals meeting the~~
1136 ~~standards set forth in s. 395.10974.~~

1137 ~~(5) Receive, investigate, and take appropriate action with~~
1138 ~~respect to any charge or complaint filed with the agency to the~~
1139 ~~effect that a certified health care risk manager has failed to~~
1140 ~~comply with the requirements or standards adopted by rule by the~~
1141 ~~agency or to comply with the provisions of this part.~~

1142 ~~(6) Establish procedures for providing periodic reports on~~
1143 ~~persons certified or disciplined by the agency under this part.~~

1144 (2)~~(7)~~ Develop a model risk management program for health
1145 care facilities which will satisfy the requirements of s.
1146 395.0197.

1147 (3)~~(8)~~ Enforce the special-occupancy provisions of the
1148 Florida Building Code which apply to hospitals, intermediate
1149 residential treatment facilities, and ambulatory surgical
1150 centers in conducting any inspection authorized by this chapter
1151 and part II of chapter 408.

1152 Section 36. Section 395.10974, Florida Statutes, is
1153 repealed.

1154 Section 37. Section 395.10975, Florida Statutes, is
1155 repealed.

1156 Section 38. Subsection (2) of section 395.602, Florida
1157 Statutes, is amended to read:

1158 395.602 Rural hospitals.—

1159 (2) DEFINITIONS.—As used in this part, the term:

1160 ~~(a) "Emergency care hospital" means a medical facility~~

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1161 ~~which provides:~~

1162 ~~1. Emergency medical treatment; and~~

1163 ~~2. Inpatient care to ill or injured persons prior to their~~
1164 ~~transportation to another hospital or provides inpatient medical~~
1165 ~~care to persons needing care for a period of up to 96 hours. The~~
1166 ~~96-hour limitation on inpatient care does not apply to respite,~~
1167 ~~skilled nursing, hospice, or other nonacute care patients.~~

1168 ~~(b) "Essential access community hospital" means any~~
1169 ~~facility which:~~

1170 ~~1. Has at least 100 beds;~~

1171 ~~2. Is located more than 35 miles from any other essential~~
1172 ~~access community hospital, rural referral center, or urban~~
1173 ~~hospital meeting criteria for classification as a regional~~
1174 ~~referral center;~~

1175 ~~3. Is part of a network that includes rural primary care~~
1176 ~~hospitals;~~

1177 ~~4. Provides emergency and medical backup services to rural~~
1178 ~~primary care hospitals in its rural health network;~~

1179 ~~5. Extends staff privileges to rural primary care hospital~~
1180 ~~physicians in its network; and~~

1181 ~~6. Accepts patients transferred from rural primary care~~
1182 ~~hospitals in its network.~~

1183 ~~(c) "Inactive rural hospital bed" means a licensed acute~~
1184 ~~care hospital bed, as defined in s. 395.002(13), that is~~
1185 ~~inactive in that it cannot be occupied by acute care inpatients.~~

1186 ~~(a)(d)~~ "Rural area health education center" means an area
1187 health education center (AHEC), as authorized by Pub. L. No. 94-
1188 484, which provides services in a county with a population
1189 density of up to ~~no greater than~~ 100 persons per square mile.

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1190 (b)~~(e)~~ "Rural hospital" means an acute care hospital
1191 licensed under this chapter, having 100 or fewer licensed beds
1192 and an emergency room, which is:

1193 1. The sole provider within a county with a population
1194 density of up to 100 persons per square mile;

1195 2. An acute care hospital, in a county with a population
1196 density of up to 100 persons per square mile, which is at least
1197 30 minutes of travel time, on normally traveled roads under
1198 normal traffic conditions, from any other acute care hospital
1199 within the same county;

1200 3. A hospital supported by a tax district or subdistrict
1201 whose boundaries encompass a population of up to 100 persons per
1202 square mile;

1203 4. A hospital classified as a sole community hospital under
1204 42 C.F.R. s. 412.92, regardless of the number of licensed beds;

1205 5. A hospital with a service area that has a population of
1206 up to 100 persons per square mile. As used in this subparagraph,
1207 the term "service area" means the fewest number of zip codes
1208 that account for 75 percent of the hospital's discharges for the
1209 most recent 5-year period, based on information available from
1210 the hospital inpatient discharge database in the Florida Center
1211 for Health Information and Transparency at the agency; or

1212 6. A hospital designated as a critical access hospital, as
1213 defined in s. 408.07.

1214
1215 Population densities used in this paragraph must be based upon
1216 the most recently completed United States census. A hospital
1217 that received funds under s. 409.9116 for a quarter beginning no
1218 later than July 1, 2002, is deemed to have been and shall

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1219 continue to be a rural hospital from that date through June 30,
1220 2021, if the hospital continues to have up to 100 licensed beds
1221 and an emergency room. An acute care hospital that has not
1222 previously been designated as a rural hospital and that meets
1223 the criteria of this paragraph shall be granted such designation
1224 upon application, including supporting documentation, to the
1225 agency. A hospital that was licensed as a rural hospital during
1226 the 2010-2011 or 2011-2012 fiscal year shall continue to be a
1227 rural hospital from the date of designation through June 30,
1228 2021, if the hospital continues to have up to 100 licensed beds
1229 and an emergency room.

1230 ~~(f) "Rural primary care hospital" means any facility~~
1231 ~~meeting the criteria in paragraph (e) or s. 395.605 which~~
1232 ~~provides:~~

- 1233 ~~1. Twenty four hour emergency medical care;~~
1234 ~~2. Temporary inpatient care for periods of 72 hours or less~~
1235 ~~to patients requiring stabilization before discharge or transfer~~
1236 ~~to another hospital. The 72-hour limitation does not apply to~~
1237 ~~respite, skilled nursing, hospice, or other nonacute care~~
1238 ~~patients; and~~
- 1239 ~~3. Has no more than six licensed acute care inpatient beds.~~

1240 (c)(g) "Swing-bed" means a bed which can be used
1241 interchangeably as either a hospital, skilled nursing facility
1242 (SNF), or intermediate care facility (ICF) bed pursuant to 42
1243 C.F.R. parts 405, 435, 440, 442, and 447.

1244 Section 39. Section 395.603, Florida Statutes, is amended
1245 to read:

1246 395.603 ~~Deactivation of general hospital beds;~~ Rural
1247 hospital impact statement.-

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1248 ~~(1) The agency shall establish, by rule, a process by which~~
1249 ~~a rural hospital, as defined in s. 395.602, that seeks licensure~~
1250 ~~as a rural primary care hospital or as an emergency care~~
1251 ~~hospital, or becomes a certified rural health clinic as defined~~
1252 ~~in Pub. L. No. 95-210, or becomes a primary care program such as~~
1253 ~~a county health department, community health center, or other~~
1254 ~~similar outpatient program that provides preventive and curative~~
1255 ~~services, may deactivate general hospital beds. Rural primary~~
1256 ~~care hospitals and emergency care hospitals shall maintain the~~
1257 ~~number of actively licensed general hospital beds necessary for~~
1258 ~~the facility to be certified for Medicare reimbursement.~~
1259 ~~Hospitals that discontinue inpatient care to become rural health~~
1260 ~~care clinics or primary care programs shall deactivate all~~
1261 ~~licensed general hospital beds. All hospitals, clinics, and~~
1262 ~~programs with inactive beds shall provide 24-hour emergency~~
1263 ~~medical care by staffing an emergency room. Providers with~~
1264 ~~inactive beds shall be subject to the criteria in s. 395.1041.~~
1265 ~~The agency shall specify in rule requirements for making 24-hour~~
1266 ~~emergency care available. Inactive general hospital beds shall~~
1267 ~~be included in the acute care bed inventory, maintained by the~~
1268 ~~agency for certificate-of-need purposes, for 10 years from the~~
1269 ~~date of deactivation of the beds. After 10 years have elapsed,~~
1270 ~~inactive beds shall be excluded from the inventory. The agency~~
1271 ~~shall, at the request of the licensee, reactivate the inactive~~
1272 ~~general beds upon a showing by the licensee that licensure~~
1273 ~~requirements for the inactive general beds are met.~~

1274 ~~(2) In formulating and implementing policies and rules that~~
1275 ~~may have significant impact on the ability of rural hospitals to~~
1276 ~~continue to provide health care services in rural communities,~~

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1277 the agency, the department, or the respective regulatory board
1278 adopting policies or rules regarding the licensure or
1279 certification of health care professionals shall provide a rural
1280 hospital impact statement. The rural hospital impact statement
1281 shall assess the proposed action in light of the following
1282 questions:

1283 (1)~~(a)~~ Do the health personnel affected by the proposed
1284 action currently practice in rural hospitals or are they likely
1285 to in the near future?

1286 (2)~~(b)~~ What are the current numbers of the affected health
1287 personnel in this state, their geographic distribution, and the
1288 number practicing in rural hospitals?

1289 (3)~~(c)~~ What are the functions presently performed by the
1290 affected health personnel, and are such functions presently
1291 performed in rural hospitals?

1292 (4)~~(d)~~ What impact will the proposed action have on the
1293 ability of rural hospitals to recruit the affected personnel to
1294 practice in their facilities?

1295 (5)~~(e)~~ What impact will the proposed action have on the
1296 limited financial resources of rural hospitals through increased
1297 salaries and benefits necessary to recruit or retain such health
1298 personnel?

1299 (6)~~(f)~~ Is there a less stringent requirement which could
1300 apply to practice in rural hospitals?

1301 (7)~~(g)~~ Will this action create staffing shortages, which
1302 could result in a loss to the public of health care services in
1303 rural hospitals or result in closure of any rural hospitals?

1304 Section 40. Section 395.604, Florida Statutes, is repealed.

1305 Section 41. Section 395.605, Florida Statutes, is repealed.

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1306 Section 42. Paragraph (c) of subsection (1) of section
1307 395.701, Florida Statutes, is amended to read:

1308 395.701 Annual assessments on net operating revenues for
1309 inpatient and outpatient services to fund public medical
1310 assistance; administrative fines for failure to pay assessments
1311 when due; exemption.—

1312 (1) For the purposes of this section, the term:

1313 (c) "Hospital" means a health care institution as defined
1314 in s. 395.002(12), but does not include any hospital operated by
1315 a state ~~the agency or the Department of Corrections.~~

1316 Section 43. Paragraph (b) of subsection (2) of section
1317 395.7015, Florida Statutes, is amended to read:

1318 395.7015 Annual assessment on health care entities.—

1319 (2) There is imposed an annual assessment against certain
1320 health care entities as described in this section:

1321 (b) For the purpose of this section, "health care entities"
1322 include the following:

1323 1. Ambulatory surgical centers ~~and mobile surgical~~
1324 ~~facilities licensed under s. 395.003. This subsection shall only~~
1325 ~~apply to mobile surgical facilities operating under contracts~~
1326 ~~entered into on or after July 1, 1998.~~

1327 ~~2. Clinical laboratories licensed under s. 483.091,~~
1328 ~~excluding any hospital laboratory defined under s. 483.041(6),~~
1329 ~~any clinical laboratory operated by the state or a political~~
1330 ~~subdivision of the state, any clinical laboratory which~~
1331 ~~qualifies as an exempt organization under s. 501(c)(3) of the~~
1332 ~~Internal Revenue Code of 1986, as amended, and which receives 70~~
1333 ~~percent or more of its gross revenues from services to charity~~
1334 ~~patients or Medicaid patients, and any blood, plasma, or tissue~~

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1335 ~~bank procuring, storing, or distributing blood, plasma, or~~
1336 ~~tissue either for future manufacture or research or distributed~~
1337 ~~on a nonprofit basis, and further excluding any clinical~~
1338 ~~laboratory which is wholly owned and operated by 6 or fewer~~
1339 ~~physicians who are licensed pursuant to chapter 458 or chapter~~
1340 ~~459 and who practice in the same group practice, and at which no~~
1341 ~~clinical laboratory work is performed for patients referred by~~
1342 ~~any health care provider who is not a member of the same group.~~

1343 2.3. Diagnostic-imaging centers that are freestanding
1344 outpatient facilities that provide specialized services for the
1345 identification or determination of a disease through examination
1346 and also provide sophisticated radiological services, and in
1347 which services are rendered by a physician licensed by the Board
1348 of Medicine under s. 458.311, s. 458.313, or s. 458.317, or by
1349 an osteopathic physician licensed by the Board of Osteopathic
1350 Medicine under s. 459.0055 or s. 459.0075. For purposes of this
1351 paragraph, "sophisticated radiological services" means the
1352 following: magnetic resonance imaging; nuclear medicine;
1353 angiography; arteriography; computed tomography; positron
1354 emission tomography; digital vascular imaging; bronchography;
1355 lymphangiography; splenography; ultrasound, excluding ultrasound
1356 providers that are part of a private physician's office practice
1357 or when ultrasound is provided by two or more physicians
1358 licensed under chapter 458 or chapter 459 who are members of the
1359 same professional association and who practice in the same
1360 medical specialties; and such other sophisticated radiological
1361 services, excluding mammography, as adopted in rule by the
1362 board.

1363 Section 44. Subsection (1) of section 400.0625, Florida

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1364 Statutes, is amended to read:

1365 400.0625 Minimum standards for clinical laboratory test
1366 results and diagnostic X-ray results.-

1367 (1) Each nursing home, as a requirement for issuance or
1368 renewal of its license, shall require that all clinical
1369 laboratory tests performed for the nursing home be performed by
1370 a ~~clinical~~ laboratory appropriately certified by the Centers for
1371 Medicare and Medicaid Services under the federal Clinical
1372 Laboratory Improvement Amendments and the federal rules adopted
1373 thereunder licensed under the provisions of chapter 483, except
1374 for such self-testing procedures as are approved by the agency
1375 by rule. ~~Results of clinical laboratory tests performed prior to~~
1376 ~~admission which meet the minimum standards provided in s.~~
1377 ~~483.181(3) shall be accepted in lieu of routine examinations~~
1378 ~~required upon admission and clinical laboratory tests which may~~
1379 ~~be ordered by a physician for residents of the nursing home.~~

1380 Section 45. Paragraph (a) of subsection (2) of section
1381 400.191, Florida Statutes, is amended to read:

1382 400.191 Availability, distribution, and posting of reports
1383 and records.-

1384 (2) The agency shall publish the Nursing Home Guide
1385 quarterly in electronic form to assist consumers and their
1386 families in comparing and evaluating nursing home facilities.

1387 (a) The agency shall provide an Internet site which shall
1388 include at least the following information either directly or
1389 indirectly through a link to another established site or sites
1390 of the agency's choosing:

1391 1. A section entitled "Have you considered programs that
1392 provide alternatives to nursing home care?" which shall be the

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1393 first section of the Nursing Home Guide and which shall
1394 prominently display information about available alternatives to
1395 nursing homes and how to obtain additional information regarding
1396 these alternatives. The Nursing Home Guide shall explain that
1397 this state offers alternative programs that permit qualified
1398 elderly persons to stay in their homes instead of being placed
1399 in nursing homes and shall encourage interested persons to call
1400 the Comprehensive Assessment Review and Evaluation for Long-Term
1401 Care Services (CARES) Program to inquire if they qualify. The
1402 Nursing Home Guide shall list available home and community-based
1403 programs which shall clearly state the services that are
1404 provided and indicate whether nursing home services are included
1405 if needed.

1406 2. A list by name and address of all nursing home
1407 facilities in this state, including any prior name by which a
1408 facility was known during the previous 24-month period.

1409 3. Whether such nursing home facilities are proprietary or
1410 nonproprietary.

1411 4. The current owner of the facility's license and the year
1412 that that entity became the owner of the license.

1413 5. The name of the owner or owners of each facility and
1414 whether the facility is affiliated with a company or other
1415 organization owning or managing more than one nursing facility
1416 in this state.

1417 6. The total number of beds in each facility and the most
1418 recently available occupancy levels.

1419 7. The number of private and semiprivate rooms in each
1420 facility.

1421 8. The religious affiliation, if any, of each facility.

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1422 9. The languages spoken by the administrator and staff of
1423 each facility.

1424 10. Whether or not each facility accepts Medicare or
1425 Medicaid recipients or insurance, health maintenance
1426 organization, Veterans Administration, CHAMPUS program, or
1427 workers' compensation coverage.

1428 11. Recreational and other programs available at each
1429 facility.

1430 12. Special care units or programs offered at each
1431 facility.

1432 13. Whether the facility is a part of a retirement
1433 community that offers other services pursuant to part III of
1434 this chapter or part I or part III of chapter 429.

1435 14. Survey and deficiency information, including all
1436 federal and state recertification, licensure, revisit, and
1437 complaint survey information, for each facility ~~for the past 30~~
1438 ~~months~~. For noncertified nursing homes, state survey and
1439 deficiency information, including licensure, revisit, and
1440 complaint survey information ~~for the past 30 months~~ shall be
1441 provided.

1442 Section 46. Subsection (1) and paragraphs (b), (e), and (f)
1443 of subsection (4) of section 400.464, Florida Statutes, are
1444 amended, and subsection (6) is added to that section, to read:

1445 400.464 Home health agencies to be licensed; expiration of
1446 license; exemptions; unlawful acts; penalties.—

1447 (1) The requirements of part II of chapter 408 apply to the
1448 provision of services that require licensure pursuant to this
1449 part and part II of chapter 408 and entities licensed or
1450 registered by or applying for such licensure or registration

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1451 from the Agency for Health Care Administration pursuant to this
1452 part. A license issued by the agency is required in order to
1453 operate a home health agency in this state. A license issued on
1454 or after July 1, 2018, must specify the home health services the
1455 organization is authorized to perform and indicate whether such
1456 specified services are considered skilled care. The provision or
1457 advertising of services that require licensure pursuant to this
1458 part without such services being specified on the face of the
1459 license issued on or after July 1, 2018, constitutes unlicensed
1460 activity as prohibited under s. 408.812.

1461 (4)

1462 (b) The operation or maintenance of an unlicensed home
1463 health agency or the performance of any home health services in
1464 violation of this part is declared a nuisance, inimical to the
1465 public health, welfare, and safety. The agency or any state
1466 attorney may, in addition to other remedies provided in this
1467 part, bring an action for an injunction to restrain such
1468 violation, or to enjoin the future operation or maintenance of
1469 the home health agency or the provision of home health services
1470 in violation of this part or part II of chapter 408, until
1471 compliance with this part or the rules adopted under this part
1472 has been demonstrated to the satisfaction of the agency.

1473 (e) Any person who owns, operates, or maintains an
1474 unlicensed home health agency and who, ~~within 10 working days~~
1475 after receiving notification from the agency, fails to cease
1476 operation and apply for a license under this part commits a
1477 misdemeanor of the second degree, punishable as provided in s.
1478 775.082 or s. 775.083. Each day of continued operation is a
1479 separate offense.

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1480 (f) Any home health agency that fails to cease operation
1481 after agency notification may be fined in accordance with s.
1482 408.812 \$500 for each day of noncompliance.

1483 (6) Any person, entity, or organization providing home
1484 health services which is exempt from licensure under subsection
1485 (5) may voluntarily apply for a certificate of exemption from
1486 licensure under its exempt status with the agency on a form that
1487 specifies its name or names and addresses, a statement of the
1488 reasons why it is exempt from licensure as a home health agency,
1489 and other information deemed necessary by the agency. A
1490 certificate of exemption is valid for a period of not more than
1491 2 years and is not transferable. The agency may charge an
1492 applicant \$100 for a certificate of exemption or charge the
1493 actual cost of processing the certificate.

1494 Section 47. Subsections (6) through (9) of section 400.471,
1495 Florida Statutes, are redesignated as subsections (5) through
1496 (8), respectively, and present subsections (2), (6), and (9) of
1497 that section are amended, to read:

1498 400.471 Application for license; fee.—

1499 (2) In addition to the requirements of part II of chapter
1500 408, the initial applicant, the applicant for a change of
1501 ownership, and the applicant for the addition of skilled care
1502 services must file with the application satisfactory proof that
1503 the home health agency is in compliance with this part and
1504 applicable rules, including:

1505 (a) A listing of services to be provided, either directly
1506 by the applicant or through contractual arrangements with
1507 existing providers.

1508 (b) The number and discipline of professional staff to be

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1509 employed.

1510 ~~(c) Completion of questions concerning volume data on the~~
1511 ~~renewal application as determined by rule.~~

1512 (c)~~(d)~~ A business plan, signed by the applicant, which
1513 details the home health agency's methods to obtain patients and
1514 its plan to recruit and maintain staff.

1515 (d)~~(e)~~ Evidence of contingency funding as required under s.
1516 408.8065 ~~equal to 1 month's average operating expenses during~~
1517 ~~the first year of operation.~~

1518 (e)~~(f)~~ A balance sheet, income and expense statement, and
1519 statement of cash flows for the first 2 years of operation which
1520 provide evidence of having sufficient assets, credit, and
1521 projected revenues to cover liabilities and expenses. The
1522 applicant has demonstrated financial ability to operate if the
1523 applicant's assets, credit, and projected revenues meet or
1524 exceed projected liabilities and expenses. An applicant may not
1525 project an operating margin of 15 percent or greater for any
1526 month in the first year of operation. All documents required
1527 under this paragraph must be prepared in accordance with
1528 generally accepted accounting principles and compiled and signed
1529 by a certified public accountant.

1530 (f)~~(g)~~ All other ownership interests in health care
1531 entities for each controlling interest, as defined in part II of
1532 chapter 408.

1533 (g)~~(h)~~ In the case of an application for initial licensure,
1534 an application for a change of ownership, or an application for
1535 the addition of skilled care services, documentation of
1536 accreditation, or an application for accreditation, from an
1537 accrediting organization that is recognized by the agency as

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1538 having standards comparable to those required by this part and
1539 part II of chapter 408. A home health agency that ~~is not~~
1540 ~~Medicare or Medicaid certified and~~ does not provide skilled care
1541 is exempt from this paragraph. Notwithstanding s. 408.806, an
1542 initial applicant that has applied for accreditation must
1543 provide proof of accreditation that is not conditional or
1544 provisional and a survey demonstrating compliance with the
1545 requirements of this part, part II of chapter 408, and
1546 applicable rules from an accrediting organization that is
1547 recognized by the agency as having standards comparable to those
1548 required by this part and part II of chapter 408 within 120 days
1549 after the date of the agency's receipt of the application for
1550 licensure ~~or the application shall be withdrawn from further~~
1551 ~~consideration~~. Such accreditation must be continuously
1552 maintained by the home health agency to maintain licensure. The
1553 agency shall accept, in lieu of its own periodic licensure
1554 survey, the submission of the survey of an accrediting
1555 organization that is recognized by the agency if the
1556 accreditation of the licensed home health agency is not
1557 provisional and if the licensed home health agency authorizes
1558 releases of, and the agency receives the report of, the
1559 accrediting organization.

1560 ~~(6) The agency may not issue a license designated as~~
1561 ~~certified to a home health agency that fails to satisfy the~~
1562 ~~requirements of a Medicare certification survey from the agency.~~

1563 (8)~~(9)~~ The agency may not issue a renewal license for a
1564 home health agency in any county having at least one licensed
1565 home health agency and that has more than one home health agency
1566 per 5,000 persons, as indicated by the most recent population

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1567 estimates published by the Legislature's Office of Economic and
1568 Demographic Research, if the applicant or any controlling
1569 interest has been administratively sanctioned by the agency
1570 during the 2 years prior to the submission of the licensure
1571 renewal application for one or more of the following acts:

1572 (a) An intentional or negligent act that materially affects
1573 the health or safety of a client of the provider;

1574 (b) Knowingly providing home health services in an
1575 unlicensed assisted living facility or unlicensed adult family-
1576 care home, unless the home health agency or employee reports the
1577 unlicensed facility or home to the agency within 72 hours after
1578 providing the services;

1579 (c) Preparing or maintaining fraudulent patient records,
1580 such as, but not limited to, charting ahead, recording vital
1581 signs or symptoms which were not personally obtained or observed
1582 by the home health agency's staff at the time indicated,
1583 borrowing patients or patient records from other home health
1584 agencies to pass a survey or inspection, or falsifying
1585 signatures;

1586 (d) Failing to provide at least one service directly to a
1587 patient for a period of 60 days;

1588 (e) Demonstrating a pattern of falsifying documents
1589 relating to the training of home health aides or certified
1590 nursing assistants or demonstrating a pattern of falsifying
1591 health statements for staff who provide direct care to patients.
1592 A pattern may be demonstrated by a showing of at least three
1593 fraudulent entries or documents;

1594 (f) Demonstrating a pattern of billing any payor for
1595 services not provided. A pattern may be demonstrated by a

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1596 showing of at least three billings for services not provided
1597 within a 12-month period;

1598 (g) Demonstrating a pattern of failing to provide a service
1599 specified in the home health agency's written agreement with a
1600 patient or the patient's legal representative, or the plan of
1601 care for that patient, except ~~unless a reduction in service is~~
1602 ~~mandated by Medicare, Medicaid, or a state program~~ or as
1603 provided in s. 400.492(3). A pattern may be demonstrated by a
1604 showing of at least three incidents, regardless of the patient
1605 or service, in which the home health agency did not provide a
1606 service specified in a written agreement or plan of care during
1607 a 3-month period;

1608 (h) Giving remuneration to a case manager, discharge
1609 planner, facility-based staff member, or third-party vendor who
1610 is involved in the discharge planning process of a facility
1611 licensed under chapter 395, chapter 429, or this chapter from
1612 whom the home health agency receives referrals or gives
1613 remuneration as prohibited in s. 400.474(6)(a);

1614 (i) Giving cash, or its equivalent, to a Medicare or
1615 Medicaid beneficiary;

1616 (j) Demonstrating a pattern of billing the Medicaid program
1617 for services to Medicaid recipients which are medically
1618 unnecessary as determined by a final order. A pattern may be
1619 demonstrated by a showing of at least two such medically
1620 unnecessary services within one Medicaid program integrity audit
1621 period;

1622 (k) Providing services to residents in an assisted living
1623 facility for which the home health agency does not receive fair
1624 market value remuneration; or

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1625 (1) Providing staffing to an assisted living facility for
1626 which the home health agency does not receive fair market value
1627 remuneration.

1628 Section 48. Subsection (5) of section 400.474, Florida
1629 Statutes, is amended to read:

1630 400.474 Administrative penalties.—

1631 (5) The agency shall impose a fine of \$5,000 against a home
1632 health agency that demonstrates a pattern of failing to provide
1633 a service specified in the home health agency's written
1634 agreement with a patient or the patient's legal representative,
1635 or the plan of care for that patient, except ~~unless a reduction~~
1636 ~~in service is mandated by Medicare, Medicaid, or a state program~~
1637 ~~or~~ as provided in s. 400.492(3). A pattern may be demonstrated
1638 by a showing of at least three incidences, regardless of the
1639 patient or service, where the home health agency did not provide
1640 a service specified in a written agreement or plan of care
1641 during a 3-month period. The agency shall impose the fine for
1642 each occurrence. The agency may also impose additional
1643 administrative fines under s. 400.484 for the direct or indirect
1644 harm to a patient, or deny, revoke, or suspend the license of
1645 the home health agency for a pattern of failing to provide a
1646 service specified in the home health agency's written agreement
1647 with a patient or the plan of care for that patient.

1648 Section 49. Paragraph (c) of subsection (2) of section
1649 400.476, Florida Statutes, is amended to read:

1650 400.476 Staffing requirements; notifications; limitations
1651 on staffing services.—

1652 (2) DIRECTOR OF NURSING.—

1653 (c) A home health agency that provides skilled nursing care

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1654 ~~must is not Medicare or Medicaid certified and does not provide~~
1655 ~~skilled care or provides only physical, occupational, or speech~~
1656 ~~therapy is not required to have a director of nursing and is~~
1657 ~~exempt from paragraph (b).~~

1658 Section 50. Section 400.484, Florida Statutes, is amended
1659 to read:

1660 400.484 Right of inspection; violations ~~deficiencies~~;
1661 fines.—

1662 (1) In addition to the requirements of s. 408.811, the
1663 agency may make such inspections and investigations as are
1664 necessary in order to determine the state of compliance with
1665 this part, part II of chapter 408, and applicable rules.

1666 (2) The agency shall impose fines for various classes of
1667 violations ~~deficiencies~~ in accordance with the following
1668 schedule:

1669 (a) Class I violations are as provided in s. 408.813 A
1670 ~~class I deficiency is any act, omission, or practice that~~
1671 ~~results in a patient's death, disablement, or permanent injury,~~
1672 ~~or places a patient at imminent risk of death, disablement, or~~
1673 ~~permanent injury.~~ Upon finding a class I violation ~~deficiency~~,
1674 the agency shall impose an administrative fine in the amount of
1675 \$15,000 for each occurrence and each day that the violation
1676 ~~deficiency~~ exists.

1677 (b) Class II violations are as provided in s. 408.813 A
1678 ~~class II deficiency is any act, omission, or practice that has a~~
1679 ~~direct adverse effect on the health, safety, or security of a~~
1680 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
1681 agency shall impose an administrative fine in the amount of
1682 \$5,000 for each occurrence and each day that the violation

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1683 deficiency exists.

1684 (c) Class III violations are as provided in s. 408.813 A
1685 ~~class III deficiency is any act, omission, or practice that has~~
1686 ~~an indirect, adverse effect on the health, safety, or security~~
1687 ~~of a patient.~~ Upon finding an uncorrected or repeated class III
1688 violation deficiency, the agency shall impose an administrative
1689 fine not to exceed \$1,000 for each occurrence and each day that
1690 the uncorrected or repeated violation deficiency exists.

1691 (d) Class IV violations are as provided in s. 408.813 A
1692 ~~class IV deficiency is any act, omission, or practice related to~~
1693 ~~required reports, forms, or documents which does not have the~~
1694 ~~potential of negatively affecting patients.~~ These violations are
1695 of a type that the agency determines do not threaten the health,
1696 safety, or security of patients. Upon finding an uncorrected or
1697 repeated class IV violation deficiency, the agency shall impose
1698 an administrative fine not to exceed \$500 for each occurrence
1699 and each day that the uncorrected or repeated violation
1700 deficiency exists.

1701 (3) In addition to any other penalties imposed pursuant to
1702 this section or part, the agency may assess costs related to an
1703 investigation that results in a successful prosecution,
1704 excluding costs associated with an attorney's time.

1705 Section 51. Subsection (4) of section 400.497, Florida
1706 Statutes, is amended to read:

1707 400.497 Rules establishing minimum standards.—The agency
1708 shall adopt, publish, and enforce rules to implement part II of
1709 chapter 408 and this part, including, as applicable, ss. 400.506
1710 and 400.509, which must provide reasonable and fair minimum
1711 standards relating to:

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1712 (4) Licensure application and renewal and certificates of
1713 exemption.

1714 Section 52. Subsection (5), paragraphs (d) and (e) of
1715 subsection (6), paragraph (a) of subsection (15), and subsection
1716 (19) of section 400.506, Florida Statutes, are amended to read:

1717 400.506 Licensure of nurse registries; requirements;
1718 penalties.—

1719 (5) (a) In addition to the requirements of s. 408.812, any
1720 person who owns, operates, or maintains an unlicensed nurse
1721 registry and who, ~~within 10 working days~~ after receiving
1722 notification from the agency, fails to cease operation and apply
1723 for a license under this part commits a misdemeanor of the
1724 second degree, punishable as provided in s. 775.082 or s.
1725 775.083. Each day of continued operation is a separate offense.

1726 (b) If a nurse registry fails to cease operation after
1727 agency notification, the agency may impose a fine pursuant to s.
1728 408.812 ~~of \$500 for each day of noncompliance~~.

1729 (6)

1730 (d) A registered nurse, licensed practical nurse, certified
1731 nursing assistant, companion or homemaker, or home health aide
1732 referred for contract under this chapter by a nurse registry is
1733 deemed an independent contractor and not an employee of the
1734 nurse registry under any chapter regardless of the obligations
1735 imposed on a nurse registry under this chapter or chapter 408.

1736 (e) Upon referral of a registered nurse, licensed practical
1737 nurse, certified nursing assistant, companion or homemaker, or
1738 home health aide for contract in a private residence or
1739 facility, the nurse registry shall advise the patient, the
1740 patient's family, or any other person acting on behalf of the

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1741 patient, at the time of the contract for services, that the
1742 caregiver referred by the nurse registry is an independent
1743 contractor and that the ~~it is not the obligation of a nurse~~
1744 registry may not ~~to~~ monitor, supervise, manage, or train a
1745 caregiver referred for contract under this chapter.

1746 (15) (a) The agency may deny, suspend, or revoke the license
1747 of a nurse registry and shall impose a fine of \$5,000 against a
1748 nurse registry that:

1749 1. Provides services to residents in an assisted living
1750 facility for which the nurse registry does not receive fair
1751 market value remuneration.

1752 2. Provides staffing to an assisted living facility for
1753 which the nurse registry does not receive fair market value
1754 remuneration.

1755 3. Fails to provide the agency, upon request, with copies
1756 of all contracts with assisted living facilities which were
1757 executed within the last 5 years.

1758 ~~4. Gives remuneration to a case manager, discharge planner,~~
1759 ~~facility-based staff member, or third-party vendor who is~~
1760 ~~involved in the discharge planning process of a facility~~
1761 ~~licensed under chapter 395 or this chapter and from whom the~~
1762 ~~nurse registry receives referrals. A nurse registry is exempt~~
1763 ~~from this subparagraph if it does not bill the Florida Medicaid~~
1764 ~~program or the Medicare program or share a controlling interest~~
1765 ~~with any entity licensed, registered, or certified under part II~~
1766 ~~of chapter 408 that bills the Florida Medicaid program or the~~
1767 ~~Medicare program.~~

1768 ~~5. Gives remuneration to a physician, a member of the~~
1769 ~~physician's office staff, or an immediate family member of the~~

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1770 ~~physician, and the nurse registry received a patient referral in~~
1771 ~~the last 12 months from that physician or the physician's office~~
1772 ~~staff. A nurse registry is exempt from this subparagraph if it~~
1773 ~~does not bill the Florida Medicaid program or the Medicare~~
1774 ~~program or share a controlling interest with any entity~~
1775 ~~licensed, registered, or certified under part II of chapter 408~~
1776 ~~that bills the Florida Medicaid program or the Medicare program.~~

1777 (19) ~~It is not the obligation of~~ A nurse registry may not
1778 ~~to~~ monitor, supervise, manage, or train a registered nurse,
1779 licensed practical nurse, certified nursing assistant, companion
1780 or homemaker, or home health aide referred for contract under
1781 this chapter. In the event of a violation of this chapter or a
1782 violation of any other law of this state by a referred
1783 registered nurse, licensed practical nurse, certified nursing
1784 assistant, companion or homemaker, or home health aide, or a
1785 deficiency in credentials which comes to the attention of the
1786 nurse registry, the nurse registry shall advise the patient to
1787 terminate the referred person's contract, providing the reason
1788 for the suggested termination; cease referring the person to
1789 other patients or facilities; and, if practice violations are
1790 involved, notify the licensing board. This section does not
1791 affect or negate any other obligations imposed on a nurse
1792 registry under chapter 408.

1793 Section 53. Subsection (1) of section 400.606, Florida
1794 Statutes, is amended to read:

1795 400.606 License; application; renewal; conditional license
1796 or permit; certificate of need.—

1797 (1) In addition to the requirements of part II of chapter
1798 408, the initial application and change of ownership application

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1799 must be accompanied by a plan for the delivery of home,
1800 residential, and homelike inpatient hospice services to
1801 terminally ill persons and their families. Such plan must
1802 contain, but need not be limited to:

1803 (a) The estimated average number of terminally ill persons
1804 to be served monthly.

1805 (b) The geographic area in which hospice services will be
1806 available.

1807 (c) A listing of services which are or will be provided,
1808 either directly by the applicant or through contractual
1809 arrangements with existing providers.

1810 (d) Provisions for the implementation of hospice home care
1811 within 3 months after licensure.

1812 (e) Provisions for the implementation of hospice homelike
1813 inpatient care within 12 months after licensure.

1814 (f) The number and disciplines of professional staff to be
1815 employed.

1816 (g) The name and qualifications of any existing or
1817 potential contractee.

1818 (h) A plan for attracting and training volunteers.

1819

1820 ~~If the applicant is an existing licensed health care provider,~~
1821 ~~the application must be accompanied by a copy of the most recent~~
1822 ~~profit-loss statement and, if applicable, the most recent~~
1823 ~~licensure inspection report.~~

1824 Section 54. Subsection (6) of section 400.925, Florida
1825 Statutes, is amended to read:

1826 400.925 Definitions.—As used in this part, the term:

1827 (6) "Home medical equipment" includes any product as

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1828 defined by the Food and Drug Administration's Federal Food,
1829 Drug, and Cosmetic Act, any products reimbursed under the
1830 Medicare Part B Durable Medical Equipment benefits, or any
1831 products reimbursed under the Florida Medicaid durable medical
1832 equipment program. Home medical equipment includes:

1833 (a) Oxygen and related respiratory equipment; ~~manual,~~
1834 ~~motorized, or customized wheelchairs and related seating and~~
1835 ~~positioning, but does not include prosthetics or orthotics or~~
1836 ~~any splints, braces, or aids custom fabricated by a licensed~~
1837 ~~health care practitioner;~~

1838 (b) Motorized scooters;

1839 (c) Personal transfer systems; ~~and~~

1840 (d) Specialty beds, for use by a person with a medical
1841 need; and

1842 (e) Manual, motorized, or customized wheelchairs and
1843 related seating and positioning, but does not include
1844 prosthetics or orthotics or any splints, braces, or aids custom
1845 fabricated by a licensed health care practitioner.

1846 Section 55. Subsection (4) of section 400.931, Florida
1847 Statutes, is amended to read:

1848 400.931 Application for license; fee.—

1849 (4) When a change of the general manager of a home medical
1850 equipment provider occurs, the licensee must notify the agency
1851 of the change within the timeframes established in part II of
1852 chapter 408 and applicable rules 45 days.

1853 Section 56. Subsection (2) of section 400.933, Florida
1854 Statutes, is amended to read:

1855 400.933 Licensure inspections and investigations.—

1856 (2) The agency shall accept, in lieu of its own periodic

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1857 inspections for licensure, submission of the following:

1858 (a) The survey or inspection of an accrediting
1859 organization, provided the accreditation of the licensed home
1860 medical equipment provider is not provisional and provided the
1861 licensed home medical equipment provider authorizes release of,
1862 and the agency receives the report of, the accrediting
1863 organization; or

1864 (b) A copy of a valid medical oxygen retail establishment
1865 permit issued by the Department of Business and Professional
1866 Regulation Health, pursuant to chapter 499.

1867 Section 57. Subsection (2) of section 400.980, Florida
1868 Statutes, is amended to read:

1869 400.980 Health care services pools.—

1870 (2) The requirements of part II of chapter 408 apply to the
1871 provision of services that require licensure or registration
1872 pursuant to this part and part II of chapter 408 and to entities
1873 registered by or applying for such registration from the agency
1874 pursuant to this part. Registration or a license issued by the
1875 agency is required for the operation of a health care services
1876 pool in this state. In accordance with s. 408.805, an applicant
1877 or licensee shall pay a fee for each license application
1878 submitted using this part, part II of chapter 408, and
1879 applicable rules. The agency shall adopt rules and provide forms
1880 required for such registration and shall impose a registration
1881 fee in an amount sufficient to cover the cost of administering
1882 this part and part II of chapter 408. In addition to the
1883 requirements in part II of chapter 408, the registrant must
1884 provide the agency with any change of information contained on
1885 the original registration application within the timeframes

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1886 established in this part, part II of chapter 408, and applicable
1887 rules 14 days prior to the change.

1888 Section 58. Paragraphs (a) through (d) of subsection (4) of
1889 section 400.9905, Florida Statutes, are amended to read:

1890 400.9905 Definitions.—

1891 (4) "Clinic" means an entity where health care services are
1892 provided to individuals and which tenders charges for
1893 reimbursement for such services, including a mobile clinic and a
1894 portable equipment provider. As used in this part, the term does
1895 not include and the licensure requirements of this part do not
1896 apply to:

1897 (a) Entities licensed or registered by the state under
1898 chapter 395; entities licensed or registered by the state and
1899 providing only health care services within the scope of services
1900 authorized under their respective licenses under ss. 383.30-
1901 383.332 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397,
1902 this chapter except part X, chapter 429, chapter 463, chapter
1903 465, chapter 466, chapter 478, ~~part I of chapter 483~~, chapter
1904 484, or chapter 651; end-stage renal disease providers
1905 authorized under 42 C.F.R. part 405, subpart U; providers
1906 certified under 42 C.F.R. part 485, subpart B or subpart H; or
1907 any entity that provides neonatal or pediatric hospital-based
1908 health care services or other health care services by licensed
1909 practitioners solely within a hospital licensed under chapter
1910 395.

1911 (b) Entities that own, directly or indirectly, entities
1912 licensed or registered by the state pursuant to chapter 395;
1913 entities that own, directly or indirectly, entities licensed or
1914 registered by the state and providing only health care services

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1915 within the scope of services authorized pursuant to their
1916 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
1917 chapter 390, chapter 394, chapter 397, this chapter except part
1918 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1919 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1920 stage renal disease providers authorized under 42 C.F.R. part
1921 405, subpart U; providers certified under 42 C.F.R. part 485,
1922 subpart B or subpart H; or any entity that provides neonatal or
1923 pediatric hospital-based health care services by licensed
1924 practitioners solely within a hospital licensed under chapter
1925 395.

1926 (c) Entities that are owned, directly or indirectly, by an
1927 entity licensed or registered by the state pursuant to chapter
1928 395; entities that are owned, directly or indirectly, by an
1929 entity licensed or registered by the state and providing only
1930 health care services within the scope of services authorized
1931 pursuant to their respective licenses under ss. 383.30-383.332
1932 ~~383.30-383.335~~, chapter 390, chapter 394, chapter 397, this
1933 chapter except part X, chapter 429, chapter 463, chapter 465,
1934 chapter 466, chapter 478, ~~part I of chapter 483~~, chapter 484, or
1935 chapter 651; end-stage renal disease providers authorized under
1936 42 C.F.R. part 405, subpart U; providers certified under 42
1937 C.F.R. part 485, subpart B or subpart H; or any entity that
1938 provides neonatal or pediatric hospital-based health care
1939 services by licensed practitioners solely within a hospital
1940 under chapter 395.

1941 (d) Entities that are under common ownership, directly or
1942 indirectly, with an entity licensed or registered by the state
1943 pursuant to chapter 395; entities that are under common

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1944 ownership, directly or indirectly, with an entity licensed or
1945 registered by the state and providing only health care services
1946 within the scope of services authorized pursuant to their
1947 respective licenses under ss. 383.30-383.332 ~~383.30-383.335~~,
1948 chapter 390, chapter 394, chapter 397, this chapter except part
1949 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1950 478, ~~part I of chapter 483~~, chapter 484, or chapter 651; end-
1951 stage renal disease providers authorized under 42 C.F.R. part
1952 405, subpart U; providers certified under 42 C.F.R. part 485,
1953 subpart B or subpart H; or any entity that provides neonatal or
1954 pediatric hospital-based health care services by licensed
1955 practitioners solely within a hospital licensed under chapter
1956 395.

1957
1958 Notwithstanding this subsection, an entity shall be deemed a
1959 clinic and must be licensed under this part in order to receive
1960 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
1961 627.730-627.7405, unless exempted under s. 627.736(5)(h).

1962 Section 59. Subsection (6) of section 400.9935, Florida
1963 Statutes, is amended to read:

1964 400.9935 Clinic responsibilities.-

1965 (6) Any person or entity providing health care services
1966 which is not a clinic, as defined under s. 400.9905, may
1967 voluntarily apply for a certificate of exemption from licensure
1968 under its exempt status with the agency on a form that sets
1969 forth its name or names and addresses, a statement of the
1970 reasons why it cannot be defined as a clinic, and other
1971 information deemed necessary by the agency. An exemption may be
1972 valid for up to 2 years and is not transferable. The agency may

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1973 charge an applicant for a certificate of exemption in an amount
1974 equal to \$100 or the actual cost of processing the certificate,
1975 whichever is less. An entity seeking a certificate of exemption
1976 must publish and maintain a schedule of charges for the medical
1977 services offered to patients. The schedule must include the
1978 prices charged to an uninsured person paying for such services
1979 by cash, check, credit card, or debit card. The schedule must be
1980 posted in a conspicuous place in the reception area of the
1981 entity and must include, but is not limited to, the 50 services
1982 most frequently provided by the entity. The schedule may group
1983 services by three price levels, listing services in each price
1984 level. The posting must be at least 15 square feet in size. As a
1985 condition precedent to receiving a certificate of exemption, an
1986 applicant must provide to the agency documentation of compliance
1987 with these requirements.

1988 Section 60. Paragraph (a) of subsection (2) of section
1989 408.033, Florida Statutes, is amended to read:

1990 408.033 Local and state health planning.—

1991 (2) FUNDING.—

1992 (a) The Legislature intends that the cost of local health
1993 councils be borne by assessments on selected health care
1994 facilities subject to facility licensure by the Agency for
1995 Health Care Administration, including abortion clinics, assisted
1996 living facilities, ambulatory surgical centers, birth birthing
1997 ~~centers, clinical laboratories except community nonprofit blood~~
1998 ~~banks and clinical laboratories operated by practitioners for~~
1999 ~~exclusive use regulated under s. 483.035,~~ home health agencies,
2000 hospices, hospitals, intermediate care facilities for the
2001 developmentally disabled, nursing homes, health care clinics,

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2002 and multiphasic testing centers and by assessments on
2003 organizations subject to certification by the agency pursuant to
2004 chapter 641, part III, including health maintenance
2005 organizations and prepaid health clinics. Fees assessed may be
2006 collected prospectively at the time of licensure renewal and
2007 prorated for the licensure period.

2008 Section 61. Present paragraphs (f) through (l) of
2009 subsection (3) of section 408.036, Florida Statutes, are
2010 redesignated as paragraphs (e) through (k), respectively,
2011 present paragraphs (o) through (t) of that subsection are
2012 redesignated as paragraphs (l) through (q), respectively, and
2013 present paragraphs (e), (m), (n), and (p) of that subsection are
2014 amended, to read:

2015 408.036 Projects subject to review; exemptions.—

2016 (3) EXEMPTIONS.—Upon request, the following projects are
2017 subject to exemption from the provisions of subsection (1):

2018 ~~(e) For mobile surgical facilities and related health care~~
2019 ~~services provided under contract with the Department of~~
2020 ~~Corrections or a private correctional facility operating~~
2021 ~~pursuant to chapter 957.~~

2022 ~~(m)1. For the provision of adult open-heart services in a~~
2023 ~~hospital located within the boundaries of a health service~~
2024 ~~planning district, as defined in s. 408.032(5), which has~~
2025 ~~experienced an annual net out-migration of at least 600 open-~~
2026 ~~heart-surgery cases for 3 consecutive years according to the~~
2027 ~~most recent data reported to the agency, and the district's~~
2028 ~~population per licensed and operational open-heart programs~~
2029 ~~exceeds the state average of population per licensed and~~
2030 ~~operational open-heart programs by at least 25 percent. All~~

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2031 ~~hospitals within a health service planning district which meet~~
2032 ~~the criteria reference in sub-subparagraphs 2.a. h. shall be~~
2033 ~~eligible for this exemption on July 1, 2004, and shall receive~~
2034 ~~the exemption upon filing for it and subject to the following:~~

2035 ~~a. A hospital that has received a notice of intent to grant~~
2036 ~~a certificate of need or a final order of the agency granting a~~
2037 ~~certificate of need for the establishment of an open-heart-~~
2038 ~~surgery program is entitled to receive a letter of exemption for~~
2039 ~~the establishment of an adult open-heart surgery program upon~~
2040 ~~filing a request for exemption and complying with the criteria~~
2041 ~~enumerated in sub-subparagraphs 2.a. h., and is entitled to~~
2042 ~~immediately commence operation of the program.~~

2043 ~~b. An otherwise eligible hospital that has not received a~~
2044 ~~notice of intent to grant a certificate of need or a final order~~
2045 ~~of the agency granting a certificate of need for the~~
2046 ~~establishment of an open-heart-surgery program is entitled to~~
2047 ~~immediately receive a letter of exemption for the establishment~~
2048 ~~of an adult open-heart-surgery program upon filing a request for~~
2049 ~~exemption and complying with the criteria enumerated in sub-~~
2050 ~~subparagraphs 2.a. h., but is not entitled to commence operation~~
2051 ~~of its program until December 31, 2006.~~

2052 ~~2. A hospital shall be exempt from the certificate-of-need~~
2053 ~~review for the establishment of an open-heart surgery program~~
2054 ~~when the application for exemption submitted under this~~
2055 ~~paragraph complies with the following criteria:~~

2056 ~~a. The applicant must certify that it will meet and~~
2057 ~~continuously maintain the minimum licensure requirements adopted~~
2058 ~~by the agency governing adult open-heart programs, including the~~
2059 ~~most current guidelines of the American College of Cardiology~~

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2060 ~~and American Heart Association Guidelines for Adult Open Heart~~
2061 ~~Programs.~~

2062 ~~b. The applicant must certify that it will maintain~~
2063 ~~sufficient appropriate equipment and health personnel to ensure~~
2064 ~~quality and safety.~~

2065 ~~e. The applicant must certify that it will maintain~~
2066 ~~appropriate times of operation and protocols to ensure~~
2067 ~~availability and appropriate referrals in the event of~~
2068 ~~emergencies.~~

2069 ~~d. The applicant can demonstrate that it has discharged at~~
2070 ~~least 300 inpatients with a principal diagnosis of ischemic~~
2071 ~~heart disease for the most recent 12-month period as reported to~~
2072 ~~the agency.~~

2073 ~~e. The applicant is a general acute care hospital that is~~
2074 ~~in operation for 3 years or more.~~

2075 ~~f. The applicant is performing more than 300 diagnostic~~
2076 ~~cardiac catheterization procedures per year, combined inpatient~~
2077 ~~and outpatient.~~

2078 ~~g. The applicant's payor mix at a minimum reflects the~~
2079 ~~community average for Medicaid, charity care, and self-pay~~
2080 ~~patients or the applicant must certify that it will provide a~~
2081 ~~minimum of 5 percent of Medicaid, charity care, and self-pay to~~
2082 ~~open heart surgery patients.~~

2083 ~~h. If the applicant fails to meet the established criteria~~
2084 ~~for open heart programs or fails to reach 300 surgeries per year~~
2085 ~~by the end of its third year of operation, it must show cause~~
2086 ~~why its exemption should not be revoked.~~

2087 ~~3. By December 31, 2004, and annually thereafter, the~~
2088 ~~agency shall submit a report to the Legislature providing~~

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2089 ~~information concerning the number of requests for exemption it~~
2090 ~~has received under this paragraph during the calendar year and~~
2091 ~~the number of exemptions it has granted or denied during the~~
2092 ~~calendar year.~~

2093 ~~(n) For the provision of percutaneous coronary intervention~~
2094 ~~for patients presenting with emergency myocardial infarctions in~~
2095 ~~a hospital without an approved adult open-heart-surgery program.~~
2096 ~~In addition to any other documentation required by the agency, a~~
2097 ~~request for an exemption submitted under this paragraph must~~
2098 ~~comply with the following:~~

2099 ~~1. The applicant must certify that it will meet and~~
2100 ~~continuously maintain the requirements adopted by the agency for~~
2101 ~~the provision of these services. These licensure requirements~~
2102 ~~shall be adopted by rule and must be consistent with the~~
2103 ~~guidelines published by the American College of Cardiology and~~
2104 ~~the American Heart Association for the provision of percutaneous~~
2105 ~~coronary interventions in hospitals without adult open-heart~~
2106 ~~services. At a minimum, the rules must require the following:~~

2107 ~~a. Cardiologists must be experienced interventionalists who~~
2108 ~~have performed a minimum of 75 interventions within the previous~~
2109 ~~12 months.~~

2110 ~~b. The hospital must provide a minimum of 36 emergency~~
2111 ~~interventions annually in order to continue to provide the~~
2112 ~~service.~~

2113 ~~c. The hospital must offer sufficient physician, nursing,~~
2114 ~~and laboratory staff to provide the services 24 hours a day, 7~~
2115 ~~days a week.~~

2116 ~~d. Nursing and technical staff must have demonstrated~~
2117 ~~experience in handling acutely ill patients requiring~~

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2118 ~~intervention based on previous experience in dedicated~~
2119 ~~interventional laboratories or surgical centers.~~

2120 ~~e. Cardiac care nursing staff must be adept in hemodynamic~~
2121 ~~monitoring and Intra-aortic Balloon Pump (IABP) management.~~

2122 ~~f. Formalized written transfer agreements must be developed~~
2123 ~~with a hospital with an adult open-heart surgery program, and~~
2124 ~~written transport protocols must be in place to ensure safe and~~
2125 ~~efficient transfer of a patient within 60 minutes. Transfer and~~
2126 ~~transport agreements must be reviewed and tested, with~~
2127 ~~appropriate documentation maintained at least every 3 months.~~
2128 ~~However, a hospital located more than 100 road miles from the~~
2129 ~~closest Level II adult cardiovascular services program does not~~
2130 ~~need to meet the 60-minute transfer time protocol if the~~
2131 ~~hospital demonstrates that it has a formalized, written transfer~~
2132 ~~agreement with a hospital that has a Level II program. The~~
2133 ~~agreement must include written transport protocols that ensure~~
2134 ~~the safe and efficient transfer of a patient, taking into~~
2135 ~~consideration the patient's clinical and physical~~
2136 ~~characteristics, road and weather conditions, and viability of~~
2137 ~~ground and air ambulance service to transfer the patient.~~

2138 ~~g. Hospitals implementing the service must first undertake~~
2139 ~~a training program of 3 to 6 months' duration, which includes~~
2140 ~~establishing standards and testing logistics, creating quality~~
2141 ~~assessment and error management practices, and formalizing~~
2142 ~~patient-selection criteria.~~

2143 ~~2. The applicant must certify that it will use at all times~~
2144 ~~the patient-selection criteria for the performance of primary~~
2145 ~~angioplasty at hospitals without adult open-heart-surgery~~
2146 ~~programs issued by the American College of Cardiology and the~~

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2147 ~~American Heart Association. At a minimum, these criteria would~~
2148 ~~provide for the following:~~

2149 ~~a. Avoidance of interventions in hemodynamically stable~~
2150 ~~patients who have identified symptoms or medical histories.~~

2151 ~~b. Transfer of patients who have a history of coronary~~
2152 ~~disease and clinical presentation of hemodynamic instability.~~

2153 ~~3. The applicant must agree to submit a quarterly report to~~
2154 ~~the agency detailing patient characteristics, treatment, and~~
2155 ~~outcomes for all patients receiving emergency percutaneous~~
2156 ~~coronary interventions pursuant to this paragraph. This report~~
2157 ~~must be submitted within 15 days after the close of each~~
2158 ~~calendar quarter.~~

2159 ~~4. The exemption provided by this paragraph does not apply~~
2160 ~~unless the agency determines that the hospital has taken all~~
2161 ~~necessary steps to be in compliance with all requirements of~~
2162 ~~this paragraph, including the training program required under~~
2163 ~~sub-subparagraph 1.g.~~

2164 ~~5. Failure of the hospital to continuously comply with the~~
2165 ~~requirements of sub-subparagraphs 1.c.-f. and subparagraphs 2.~~
2166 ~~and 3. will result in the immediate expiration of this~~
2167 ~~exemption.~~

2168 ~~6. Failure of the hospital to meet the volume requirements~~
2169 ~~of sub-subparagraphs 1.a. and b. within 18 months after the~~
2170 ~~program begins offering the service will result in the immediate~~
2171 ~~expiration of the exemption.~~

2172
2173 ~~If the exemption for this service expires under subparagraph 5.~~
2174 ~~or subparagraph 6., the agency may not grant another exemption~~
2175 ~~for this service to the same hospital for 2 years and then only~~

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2176 upon a showing that the hospital will remain in compliance with
2177 the requirements of this paragraph through a demonstration of
2178 corrections to the deficiencies that caused expiration of the
2179 exemption. Compliance with the requirements of this paragraph
2180 includes compliance with the rules adopted pursuant to this
2181 paragraph.

2182 (m) ~~(p)~~ For replacement of a licensed nursing home on the
2183 same site, or within 5 miles of the same site if within the same
2184 subdistrict, if the number of licensed beds does not increase
2185 except as permitted under paragraph (e) ~~(f)~~.

2186 Section 62. Paragraph (b) of subsection (3) of section
2187 408.0361, Florida Statutes, is amended to read:

2188 408.0361 Cardiovascular services and burn unit licensure.—

2189 (3) In establishing rules for adult cardiovascular
2190 services, the agency shall include provisions that allow for:

2191 (b)1. For a hospital seeking a Level I program,
2192 demonstration that, for the most recent 12-month period as
2193 reported to the agency, it has provided a minimum of 300 adult
2194 inpatient and outpatient diagnostic cardiac catheterizations or,
2195 for the most recent 12-month period, has discharged or
2196 transferred at least 300 patients ~~inpatients~~ with the principal
2197 diagnosis of ischemic heart disease and that it has a
2198 formalized, written transfer agreement with a hospital that has
2199 a Level II program, including written transport protocols to
2200 ensure safe and efficient transfer of a patient within 60
2201 minutes.

2202 2.a. A hospital located more than 100 road miles from the
2203 closest Level II adult cardiovascular services program does not
2204 need to meet the diagnostic cardiac catheterization volume and

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2205 ischemic heart disease diagnosis volume requirements in
2206 subparagraph 1., if the hospital demonstrates that it has, for
2207 the most recent 12-month period as reported to the agency,
2208 provided a minimum of 100 adult inpatient and outpatient
2209 diagnostic cardiac catheterizations or that, for the most recent
2210 12-month period, it has discharged or transferred at least 300
2211 patients with the principal diagnosis of ischemic heart disease.

2212 b. However, A hospital located more than 100 road miles
2213 from the closest Level II adult cardiovascular services program
2214 does not need to meet the 60-minute transfer time protocol
2215 requirement in subparagraph 1., if the hospital demonstrates
2216 that it has a formalized, written transfer agreement with a
2217 hospital that has a Level II program. The agreement must include
2218 written transport protocols to ensure the safe and efficient
2219 transfer of a patient, taking into consideration the patient's
2220 clinical and physical characteristics, road and weather
2221 conditions, and viability of ground and air ambulance service to
2222 transfer the patient.

2223 3. At a minimum, the rules for adult cardiovascular
2224 services must require nursing and technical staff to have
2225 demonstrated experience in handling acutely ill patients
2226 requiring intervention, based on the staff member's previous
2227 experience in dedicated cardiac interventional laboratories or
2228 surgical centers. If a staff member's previous experience is in
2229 a dedicated cardiac interventional laboratory at a hospital that
2230 does not have an approved adult open-heart-surgery program, the
2231 staff member's previous experience qualifies only if, at the
2232 time the staff member acquired his or her experience, the
2233 dedicated cardiac interventional laboratory:

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2234 a. Had an annual volume of 500 or more percutaneous cardiac
2235 intervention procedures;

2236 b. Achieved a demonstrated success rate of 95 percent or
2237 greater for percutaneous cardiac intervention procedures;

2238 c. Experienced a complication rate of less than 5 percent
2239 for percutaneous cardiac intervention procedures; and

2240 d. Performed diverse cardiac procedures, including, but not
2241 limited to, balloon angioplasty and stenting, rotational
2242 atherectomy, cutting balloon atheroma remodeling, and procedures
2243 relating to left ventricular support capability.

2244 Section 63. Paragraph (k) is added to subsection (3) of
2245 section 408.05, Florida Statutes, to read:

2246 408.05 Florida Center for Health Information and
2247 Transparency.—

2248 (3) HEALTH INFORMATION TRANSPARENCY.—In order to
2249 disseminate and facilitate the availability of comparable and
2250 uniform health information, the agency shall perform the
2251 following functions:

2252 (k) Contract with the Society of Thoracic Surgeons and the
2253 American College of Cardiology to obtain data reported pursuant
2254 to s. 395.1055 for publication on the agency's website in a
2255 manner that will allow consumers to be informed of aggregate
2256 data and to compare pediatric cardiac programs.

2257 Section 64. Subsection (4) of section 408.061, Florida
2258 Statutes, is amended to read:

2259 408.061 Data collection; uniform systems of financial
2260 reporting; information relating to physician charges;
2261 confidential information; immunity.—

2262 (4) Within 120 days after the end of its fiscal year, each

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2263 health care facility, excluding continuing care facilities,
2264 hospitals operated by state agencies, and nursing homes as those
2265 terms are defined in s. 408.07 ~~s. 408.07(14) and (37)~~, shall
2266 file with the agency, on forms adopted by the agency and based
2267 on the uniform system of financial reporting, its actual
2268 financial experience for that fiscal year, including
2269 expenditures, revenues, and statistical measures. Such data may
2270 be based on internal financial reports which are certified to be
2271 complete and accurate by the provider. However, hospitals'
2272 actual financial experience shall be their audited actual
2273 experience. Every nursing home shall submit to the agency, in a
2274 format designated by the agency, a statistical profile of the
2275 nursing home residents. The agency, in conjunction with the
2276 Department of Elderly Affairs and the Department of Health,
2277 shall review these statistical profiles and develop
2278 recommendations for the types of residents who might more
2279 appropriately be placed in their homes or other noninstitutional
2280 settings.

2281 Section 65. Subsection (11) of section 408.07, Florida
2282 Statutes, is amended to read:

2283 408.07 Definitions.—As used in this chapter, with the
2284 exception of ss. 408.031-408.045, the term:

2285 ~~(11) "Clinical laboratory" means a facility licensed under~~
2286 ~~s. 483.091, excluding: any hospital laboratory defined under s.~~
2287 ~~483.041(6); any clinical laboratory operated by the state or a~~
2288 ~~political subdivision of the state; any blood or tissue bank~~
2289 ~~where the majority of revenues are received from the sale of~~
2290 ~~blood or tissue and where blood, plasma, or tissue is procured~~
2291 ~~from volunteer donors and donated, processed, stored, or~~

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2292 ~~distributed on a nonprofit basis; and any clinical laboratory~~
2293 ~~which is wholly owned and operated by physicians who are~~
2294 ~~licensed pursuant to chapter 458 or chapter 459 and who practice~~
2295 ~~in the same group practice, and at which no clinical laboratory~~
2296 ~~work is performed for patients referred by any health care~~
2297 ~~provider who is not a member of that same group practice.~~

2298 Section 66. Subsection (4) of section 408.20, Florida
2299 Statutes, is amended to read:

2300 408.20 Assessments; Health Care Trust Fund.—

2301 (4) Hospitals operated by a state agency ~~the Department of~~
2302 ~~Children and Families, the Department of Health, or the~~
2303 ~~Department of Corrections~~ are exempt from the assessments
2304 required under this section.

2305 Section 67. Section 408.7056, Florida Statutes, is
2306 repealed.

2307 Section 68. Subsections (10), (11), and (27) of section
2308 408.802, Florida Statutes, are amended to read:

2309 408.802 Applicability.—The provisions of this part apply to
2310 the provision of services that require licensure as defined in
2311 this part and to the following entities licensed, registered, or
2312 certified by the agency, as described in chapters 112, 383, 390,
2313 394, 395, 400, 429, 440, 483, and 765:

2314 ~~(10) Mobile surgical facilities, as provided under part I~~
2315 ~~of chapter 395.~~

2316 ~~(11) Health care risk managers, as provided under part I of~~
2317 ~~chapter 395.~~

2318 ~~(27) Clinical laboratories, as provided under part I of~~
2319 ~~chapter 483.~~

2320 Section 69. Subsections (12) and (13) of section 408.803,

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2321 Florida Statutes, are redesignated as subsections (13) and (14),
2322 respectively, and a new subsection (12) is added to that
2323 section, to read:

2324 408.803 Definitions.—As used in this part, the term:
2325 (12) "Relative" means an individual who is the father,
2326 mother, stepfather, stepmother, son, daughter, brother, sister,
2327 grandmother, grandfather, great-grandmother, great-grandfather,
2328 grandson, granddaughter, uncle, aunt, first cousin, nephew,
2329 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
2330 daughter-in-law, brother-in-law, sister-in-law, stepson,
2331 stepdaughter, stepbrother, stepsister, half-brother, or half-
2332 sister of a patient or client.

2333 Section 70. Paragraph (c) of subsection (7) of section
2334 408.806, Florida Statutes, is amended, and subsection (9) is
2335 added to that section, to read:

2336 408.806 License application process.—
2337 (7)

2338 (c) If an inspection is required by the authorizing statute
2339 for a license application other than an initial application, the
2340 inspection must be unannounced. This paragraph does not apply to
2341 inspections required pursuant to ss. 383.324, 395.0161(4) and~~7~~
2342 ~~429.67(6), and 483.061(2).~~

2343 (9) A licensee that holds a license for multiple providers
2344 licensed by the agency may request that all related license
2345 expiration dates be aligned. Upon such request, the agency may
2346 issue a license for an abbreviated licensure period with a
2347 prorated licensure fee.

2348 Section 71. Paragraphs (d) and (e) of subsection (1) of
2349 section 408.809, Florida Statutes, are amended to read:

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2350 408.809 Background screening; prohibited offenses.—

2351 (1) Level 2 background screening pursuant to chapter 435
2352 must be conducted through the agency on each of the following
2353 persons, who are considered employees for the purposes of
2354 conducting screening under chapter 435:

2355 (d) Any person who is a controlling interest ~~if the agency~~
2356 ~~has reason to believe that such person has been convicted of any~~
2357 ~~offense prohibited by s. 435.04. For each controlling interest~~
2358 ~~who has been convicted of any such offense, the licensee shall~~
2359 ~~submit to the agency a description and explanation of the~~
2360 ~~conviction at the time of license application.~~

2361 (e) Any person, as required by authorizing statutes,
2362 seeking employment with a licensee or provider who is expected
2363 to, or whose responsibilities may require him or her to, provide
2364 personal care or services directly to clients or have access to
2365 client funds, personal property, or living areas; and any
2366 person, as required by authorizing statutes, contracting with a
2367 licensee or provider whose responsibilities require him or her
2368 to provide personal care or personal services directly to
2369 clients, or contracting with a licensee or provider to work 20
2370 hours a week or more who will have access to client funds,
2371 personal property, or living areas. Evidence of contractor
2372 screening may be retained by the contractor's employer or the
2373 licensee.

2374 Section 72. Subsection (8) of section 408.810, Florida
2375 Statutes, is amended, and subsections (11), (12), and (13) are
2376 added to that section, to read:

2377 408.810 Minimum licensure requirements.—In addition to the
2378 licensure requirements specified in this part, authorizing

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2379 statutes, and applicable rules, each applicant and licensee must
2380 comply with the requirements of this section in order to obtain
2381 and maintain a license.

2382 (8) Upon application for initial licensure or change of
2383 ownership licensure, the applicant shall furnish satisfactory
2384 proof of the applicant's financial ability to operate in
2385 accordance with the requirements of this part, authorizing
2386 statutes, and applicable rules. The agency shall establish
2387 standards for this purpose, including information concerning the
2388 applicant's controlling interests. The agency shall also
2389 establish documentation requirements, to be completed by each
2390 applicant, that show anticipated provider revenues and
2391 expenditures, the basis for financing the anticipated cash-flow
2392 requirements of the provider, and an applicant's access to
2393 contingency financing. A current certificate of authority,
2394 pursuant to chapter 651, may be provided as proof of financial
2395 ability to operate. The agency may require a licensee to provide
2396 proof of financial ability to operate at any time if there is
2397 evidence of financial instability, including, but not limited
2398 to, unpaid expenses necessary for the basic operations of the
2399 provider. An applicant applying for change of ownership
2400 licensure is exempt from furnishing proof of financial ability
2401 to operate if the provider has been licensed for at least 5
2402 years, and:

2403 (a) The ownership change is a result of a corporate
2404 reorganization under which the controlling interest is unchanged
2405 and the applicant submits organizational charts that represent
2406 the current and proposed structure of the reorganized
2407 corporation; or

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2408 (b) The ownership change is due solely to the death of a
2409 person holding a controlling interest, and the surviving
2410 controlling interests continue to hold at least 51 percent of
2411 ownership after the change of ownership.

2412 (11) The agency may adopt rules that govern the
2413 circumstances under which a controlling interest, an
2414 administrator, an employee, or a contractor, or a representative
2415 thereof, who is not a relative of the client may act as an agent
2416 of the client in authorizing consent for medical treatment,
2417 assignment of benefits, and release of information. Such rules
2418 may include requirements related to disclosure, bonding,
2419 restrictions, and client protections.

2420 (12) The licensee shall ensure that no person holds any
2421 ownership interest, either directly or indirectly, regardless of
2422 ownership structure, who:

2423 (a) Has a disqualifying offense pursuant to s. 408.809; or

2424 (b) Holds or has held any ownership interest, either
2425 directly or indirectly, regardless of ownership structure, in a
2426 provider that had a license revoked or an application denied
2427 pursuant to s. 408.815.

2428 (13) If the licensee is a publicly traded corporation or is
2429 wholly owned, directly or indirectly, by a publicly traded
2430 corporation, subsection (12) does not apply to those persons
2431 whose sole relationship with the corporation is as a shareholder
2432 of publicly traded shares. As used in this subsection, a
2433 "publicly traded corporation" is a corporation that issues
2434 securities traded on an exchange registered with the United
2435 States Securities and Exchange Commission as a national
2436 securities exchange.

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2437 Section 73. Section 408.812, Florida Statutes, is amended
2438 to read:

2439 408.812 Unlicensed activity.—

2440 (1) A person or entity may not offer or advertise services
2441 that require licensure as defined by this part, authorizing
2442 statutes, or applicable rules to the public without obtaining a
2443 valid license from the agency. A licenseholder may not advertise
2444 or hold out to the public that he or she holds a license for
2445 other than that for which he or she actually holds the license.

2446 (2) The operation or maintenance of an unlicensed provider
2447 or the performance of any services that require licensure
2448 without proper licensure is a violation of this part and
2449 authorizing statutes. Unlicensed activity constitutes harm that
2450 materially affects the health, safety, and welfare of clients,
2451 and constitutes abuse and neglect, as defined in s. 415.102. The
2452 agency or any state attorney may, in addition to other remedies
2453 provided in this part, bring an action for an injunction to
2454 restrain such violation, or to enjoin the future operation or
2455 maintenance of the unlicensed provider or the performance of any
2456 services in violation of this part and authorizing statutes,
2457 until compliance with this part, authorizing statutes, and
2458 agency rules has been demonstrated to the satisfaction of the
2459 agency.

2460 (3) It is unlawful for any person or entity to own,
2461 operate, or maintain an unlicensed provider. If after receiving
2462 notification from the agency, such person or entity fails to
2463 cease operation ~~and apply for a license under this part and~~
2464 ~~authorizing statutes,~~ the person or entity is ~~shall be~~ subject
2465 to penalties as prescribed by authorizing statutes and

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2466 applicable rules. Each day of ~~continued~~ operation is a separate
2467 offense.

2468 (4) Any person or entity that fails to cease operation
2469 after agency notification may be fined \$1,000 for each day of
2470 noncompliance.

2471 (5) When a controlling interest or licensee has an interest
2472 in more than one provider and fails to license a provider
2473 rendering services that require licensure, the agency may revoke
2474 all licenses, and impose actions under s. 408.814, and
2475 regardless of correction, impose a fine of \$1,000 per day,
2476 unless otherwise specified by authorizing statutes, against each
2477 licensee until such time as the appropriate license is obtained
2478 or the unlicensed activity ceases ~~for the unlicensed operation.~~

2479 (6) In addition to granting injunctive relief pursuant to
2480 subsection (2), if the agency determines that a person or entity
2481 is operating or maintaining a provider without obtaining a
2482 license and determines that a condition exists that poses a
2483 threat to the health, safety, or welfare of a client of the
2484 provider, the person or entity is subject to the same actions
2485 and fines imposed against a licensee as specified in this part,
2486 authorizing statutes, and agency rules.

2487 (7) Any person aware of the operation of an unlicensed
2488 provider must report that provider to the agency.

2489 Section 74. Subsections (10), (11) and (26) of section
2490 408.820, Florida Statutes, are amended, and subsections (12)
2491 through (25) and (27) and (28) are redesignated as subsections
2492 (10) through (23) and (24) and (25), respectively, to read:

2493 408.820 Exemptions.—Except as prescribed in authorizing
2494 statutes, the following exemptions shall apply to specified

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2495 requirements of this part:

2496 ~~(10) Mobile surgical facilities, as provided under part I~~
2497 ~~of chapter 395, are exempt from s. 408.810(7)-(10).~~

2498 ~~(11) Health care risk managers, as provided under part I of~~
2499 ~~chapter 395, are exempt from ss. 408.806(7), 408.810(4)-(10),~~
2500 ~~and 408.811.~~

2501 ~~(26) Clinical laboratories, as provided under part I of~~
2502 ~~chapter 483, are exempt from s. 408.810(5)-(10).~~

2503 Section 75. Subsection (7) of section 409.905, Florida
2504 Statutes, is amended to read:

2505 409.905 Mandatory Medicaid services.—The agency may make
2506 payments for the following services, which are required of the
2507 state by Title XIX of the Social Security Act, furnished by
2508 Medicaid providers to recipients who are determined to be
2509 eligible on the dates on which the services were provided. Any
2510 service under this section shall be provided only when medically
2511 necessary and in accordance with state and federal law.

2512 Mandatory services rendered by providers in mobile units to
2513 Medicaid recipients may be restricted by the agency. Nothing in
2514 this section shall be construed to prevent or limit the agency
2515 from adjusting fees, reimbursement rates, lengths of stay,
2516 number of visits, number of services, or any other adjustments
2517 necessary to comply with the availability of moneys and any
2518 limitations or directions provided for in the General
2519 Appropriations Act or chapter 216.

2520 (7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay
2521 for medically necessary diagnostic laboratory procedures ordered
2522 by a licensed physician or other licensed practitioner of the
2523 healing arts which are provided for a recipient in a laboratory

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2524 that meets the requirements for Medicare participation and is
2525 appropriately certified by the Centers for Medicare and Medicaid
2526 Services under the federal Clinical Laboratory Improvement
2527 Amendments and the federal rules adopted thereunder ~~licensed~~
2528 ~~under chapter 483, if required.~~

2529 Section 76. Subsection (10) of section 409.907, Florida
2530 Statutes, is amended to read:

2531 409.907 Medicaid provider agreements.—The agency may make
2532 payments for medical assistance and related services rendered to
2533 Medicaid recipients only to an individual or entity who has a
2534 provider agreement in effect with the agency, who is performing
2535 services or supplying goods in accordance with federal, state,
2536 and local law, and who agrees that no person shall, on the
2537 grounds of handicap, race, color, or national origin, or for any
2538 other reason, be subjected to discrimination under any program
2539 or activity for which the provider receives payment from the
2540 agency.

2541 (10) The agency may consider whether the provider, or any
2542 officer, director, agent, managing employee, or affiliated
2543 person, or any partner or shareholder having an ownership
2544 interest equal to 5 percent or greater in the provider if the
2545 provider is a corporation, partnership, or other business
2546 entity, has:

2547 (a) Made a false representation or omission of any material
2548 fact in making the application, including the submission of an
2549 application that conceals the controlling or ownership interest
2550 of any officer, director, agent, managing employee, affiliated
2551 person, or partner or shareholder who may not be eligible to
2552 participate;

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2553 (b) Been or is currently excluded, suspended, terminated
2554 from, or has involuntarily withdrawn from participation in,
2555 Florida's Medicaid program or any other state's Medicaid
2556 program, or from participation in any other governmental or
2557 private health care or health insurance program;

2558 ~~(c) Been convicted of a criminal offense relating to the~~
2559 ~~delivery of any goods or services under Medicaid or Medicare or~~
2560 ~~any other public or private health care or health insurance~~
2561 ~~program including the performance of management or~~
2562 ~~administrative services relating to the delivery of goods or~~
2563 ~~services under any such program;~~

2564 ~~(d) Been convicted under federal or state law of a criminal~~
2565 ~~offense related to the neglect or abuse of a patient in~~
2566 ~~connection with the delivery of any health care goods or~~
2567 ~~services;~~

2568 ~~(e) Been convicted under federal or state law of a criminal~~
2569 ~~offense relating to the unlawful manufacture, distribution,~~
2570 ~~prescription, or dispensing of a controlled substance;~~

2571 ~~(f) Been convicted of any criminal offense relating to~~
2572 ~~fraud, theft, embezzlement, breach of fiduciary responsibility,~~
2573 ~~or other financial misconduct;~~

2574 ~~(g) Been convicted under federal or state law of a crime~~
2575 ~~punishable by imprisonment of a year or more which involves~~
2576 ~~moral turpitude;~~

2577 ~~(h) Been convicted in connection with the interference or~~
2578 ~~obstruction of any investigation into any criminal offense~~
2579 ~~listed in this subsection;~~

2580 ~~(i) Been found to have violated federal or state laws,~~
2581 ~~rules, or regulations governing Florida's Medicaid program or~~

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2582 ~~any other state's Medicaid program, the Medicare program, or any~~
2583 ~~other publicly funded federal or state health care or health~~
2584 ~~insurance program, and been sanctioned accordingly;~~

2585 (c)~~(j)~~ Been previously found by a licensing, certifying, or
2586 professional standards board or agency to have violated the
2587 standards or conditions relating to licensure or certification
2588 or the quality of services provided; or

2589 (d)~~(k)~~ Failed to pay any fine or overpayment properly
2590 assessed under the Medicaid program in which no appeal is
2591 pending or after resolution of the proceeding by stipulation or
2592 agreement, unless the agency has issued a specific letter of
2593 forgiveness or has approved a repayment schedule to which the
2594 provider agrees to adhere.

2595 Section 77. Subsection (6) of section 409.9116, Florida
2596 Statutes, is amended to read:

2597 409.9116 Disproportionate share/financial assistance
2598 program for rural hospitals.—In addition to the payments made
2599 under s. 409.911, the Agency for Health Care Administration
2600 shall administer a federally matched disproportionate share
2601 program and a state-funded financial assistance program for
2602 statutory rural hospitals. The agency shall make
2603 disproportionate share payments to statutory rural hospitals
2604 that qualify for such payments and financial assistance payments
2605 to statutory rural hospitals that do not qualify for
2606 disproportionate share payments. The disproportionate share
2607 program payments shall be limited by and conform with federal
2608 requirements. Funds shall be distributed quarterly in each
2609 fiscal year for which an appropriation is made. Notwithstanding
2610 the provisions of s. 409.915, counties are exempt from

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2611 contributing toward the cost of this special reimbursement for
2612 hospitals serving a disproportionate share of low-income
2613 patients.

2614 (6) This section applies only to hospitals that were
2615 defined as statutory rural hospitals, or their successor-in-
2616 interest hospital, prior to January 1, 2001. Any additional
2617 hospital that is defined as a statutory rural hospital, or its
2618 successor-in-interest hospital, on or after January 1, 2001, is
2619 not eligible for programs under this section unless additional
2620 funds are appropriated each fiscal year specifically to the
2621 rural hospital disproportionate share and financial assistance
2622 programs in an amount necessary to prevent any hospital, or its
2623 successor-in-interest hospital, eligible for the programs prior
2624 to January 1, 2001, from incurring a reduction in payments
2625 because of the eligibility of an additional hospital to
2626 participate in the programs. A hospital, or its successor-in-
2627 interest hospital, which received funds pursuant to this section
2628 before January 1, 2001, and which qualifies under s.
2629 395.602(2)(b) ~~s. 395.602(2)(e)~~, shall be included in the
2630 programs under this section and is not required to seek
2631 additional appropriations under this subsection.

2632 Section 78. Paragraphs (a) and (b) of subsection (1) of
2633 section 409.975, Florida Statutes, are amended to read:

2634 409.975 Managed care plan accountability.—In addition to
2635 the requirements of s. 409.967, plans and providers
2636 participating in the managed medical assistance program shall
2637 comply with the requirements of this section.

2638 (1) PROVIDER NETWORKS.—Managed care plans must develop and
2639 maintain provider networks that meet the medical needs of their

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2640 enrollees in accordance with standards established pursuant to
2641 s. 409.967(2)(c). Except as provided in this section, managed
2642 care plans may limit the providers in their networks based on
2643 credentials, quality indicators, and price.

2644 (a) Plans must include all providers in the region that are
2645 classified by the agency as essential Medicaid providers, unless
2646 the agency approves, in writing, an alternative arrangement for
2647 securing the types of services offered by the essential
2648 providers. Providers are essential for serving Medicaid
2649 enrollees if they offer services that are not available from any
2650 other provider within a reasonable access standard, or if they
2651 provided a substantial share of the total units of a particular
2652 service used by Medicaid patients within the region during the
2653 last 3 years and the combined capacity of other service
2654 providers in the region is insufficient to meet the total needs
2655 of the Medicaid patients. The agency may not classify physicians
2656 and other practitioners as essential providers. The agency, at a
2657 minimum, shall determine which providers in the following
2658 categories are essential Medicaid providers:

- 2659 1. Federally qualified health centers.
- 2660 2. Statutory teaching hospitals as defined in s. 408.07(44)
2661 ~~s. 408.07(45)~~.
- 2662 3. Hospitals that are trauma centers as defined in s.
2663 395.4001(14).
- 2664 4. Hospitals located at least 25 miles from any other
2665 hospital with similar services.

2666
2667 Managed care plans that have not contracted with all essential
2668 providers in the region as of the first date of recipient

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2669 enrollment, or with whom an essential provider has terminated
2670 its contract, must negotiate in good faith with such essential
2671 providers for 1 year or until an agreement is reached, whichever
2672 is first. Payments for services rendered by a nonparticipating
2673 essential provider shall be made at the applicable Medicaid rate
2674 as of the first day of the contract between the agency and the
2675 plan. A rate schedule for all essential providers shall be
2676 attached to the contract between the agency and the plan. After
2677 1 year, managed care plans that are unable to contract with
2678 essential providers shall notify the agency and propose an
2679 alternative arrangement for securing the essential services for
2680 Medicaid enrollees. The arrangement must rely on contracts with
2681 other participating providers, regardless of whether those
2682 providers are located within the same region as the
2683 nonparticipating essential service provider. If the alternative
2684 arrangement is approved by the agency, payments to
2685 nonparticipating essential providers after the date of the
2686 agency's approval shall equal 90 percent of the applicable
2687 Medicaid rate. Except for payment for emergency services, if the
2688 alternative arrangement is not approved by the agency, payment
2689 to nonparticipating essential providers shall equal 110 percent
2690 of the applicable Medicaid rate.

2691 (b) Certain providers are statewide resources and essential
2692 providers for all managed care plans in all regions. All managed
2693 care plans must include these essential providers in their
2694 networks. Statewide essential providers include:

- 2695 1. Faculty plans of Florida medical schools.
- 2696 2. Regional perinatal intensive care centers as defined in
2697 s. 383.16(2).

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2698 3. Hospitals licensed as specialty children's hospitals as
2699 defined in s. 395.002(27) ~~s. 395.002(28)~~.

2700 4. Accredited and integrated systems serving medically
2701 complex children which comprise separately licensed, but
2702 commonly owned, health care providers delivering at least the
2703 following services: medical group home, in-home and outpatient
2704 nursing care and therapies, pharmacy services, durable medical
2705 equipment, and Prescribed Pediatric Extended Care.

2706
2707 Managed care plans that have not contracted with all statewide
2708 essential providers in all regions as of the first date of
2709 recipient enrollment must continue to negotiate in good faith.
2710 Payments to physicians on the faculty of nonparticipating
2711 Florida medical schools shall be made at the applicable Medicaid
2712 rate. Payments for services rendered by regional perinatal
2713 intensive care centers shall be made at the applicable Medicaid
2714 rate as of the first day of the contract between the agency and
2715 the plan. Except for payments for emergency services, payments
2716 to nonparticipating specialty children's hospitals shall equal
2717 the highest rate established by contract between that provider
2718 and any other Medicaid managed care plan.

2719 Section 79. Subsections (5) and (17) of section 429.02,
2720 Florida Statutes, are amended to read:

2721 429.02 Definitions.—When used in this part, the term:

2722 (5) "Assisted living facility" means any building or
2723 buildings, section or distinct part of a building, private home,
2724 boarding home, home for the aged, or other residential facility,
2725 regardless of whether operated for profit or not, which
2726 ~~undertakes~~ through its ownership or management provides to

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2727 ~~provide~~ housing, meals, and one or more personal services for a
2728 period exceeding 24 hours to one or more adults who are not
2729 relatives of the owner or administrator.

2730 (17) "Personal services" means direct physical assistance
2731 with or supervision of the activities of daily living, ~~and~~ the
2732 self-administration of medication, ~~or and~~ other similar services
2733 which the department may define by rule. The term may ~~"Personal~~
2734 ~~services"~~ shall not be construed to mean the provision of
2735 medical, nursing, dental, or mental health services.

2736 Section 80. Paragraphs (b) and (d) of subsection (2) of
2737 section 429.04, Florida Statutes, are amended, and subsection
2738 (3) is added that section, to read:

2739 429.04 Facilities to be licensed; exemptions.—

2740 (2) The following are exempt from licensure under this
2741 part:

2742 (b) Any facility or part of a facility licensed by the
2743 Agency for Persons with Disabilities under chapter 393, a mental
2744 health facility licensed under ~~or~~ chapter 394, a hospital
2745 licensed under chapter 395, a nursing home licensed under part
2746 II of chapter 400, an inpatient hospice licensed under part IV
2747 of chapter 400, a home for special services licensed under part
2748 V of chapter 400, an intermediate care facility licensed under
2749 part VIII of chapter 400, or a transitional living facility
2750 licensed under part XI of chapter 400.

2751 (d) Any person who provides housing, meals, and one or more
2752 personal services on a 24-hour basis in the person's own home to
2753 not more than two adults who do not receive optional state
2754 supplementation. The person who provides the housing, meals, and
2755 personal services must own or rent the home and must have

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2756 established the home as his or her permanent residence. For
2757 purposes of this paragraph, any person holding a homestead
2758 exemption at an address other than that at which the person
2759 asserts this exemption is presumed to not have established
2760 permanent residence ~~reside therein~~. This exemption does not
2761 apply to a person or entity that previously held a license
2762 issued by the agency which was revoked or for which renewal was
2763 denied by final order of the agency, or when the person or
2764 entity voluntarily relinquished the license during agency
2765 enforcement proceedings.

2766 (3) Upon agency investigation of unlicensed activity, any
2767 person or entity that claims that it is exempt under this
2768 section must provide documentation substantiating entitlement to
2769 the exemption.

2770 Section 81. Paragraphs (b) and (d) of subsection (1) of
2771 section 429.08, Florida Statutes, are amended to read:

2772 429.08 Unlicensed facilities; referral of person for
2773 residency to unlicensed facility; penalties.—

2774 (1)

2775 (b) ~~Except as provided under paragraph (d),~~ Any person who
2776 owns, rents, or otherwise maintains a building or property used
2777 as ~~operates, or maintains~~ an unlicensed assisted living facility
2778 commits a felony of the third degree, punishable as provided in
2779 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2780 operation is a separate offense.

2781 (d) In addition to the requirements of s. 408.812, any
2782 person who owns, operates, or maintains an unlicensed assisted
2783 living facility after receiving notice from the agency ~~due to a~~
2784 ~~change in this part or a modification in rule within 6 months~~

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2785 ~~after the effective date of such change and who, within 10~~
2786 ~~working days after receiving notification from the agency, fails~~
2787 ~~to cease operation or apply for a license under this part~~
2788 commits a felony of the third degree, punishable as provided in
2789 s. 775.082, s. 775.083, or s. 775.084. Each day of continued
2790 operation is a separate offense.

2791 Section 82. Section 429.176, Florida Statutes, is amended
2792 to read:

2793 429.176 Notice of change of administrator.—If, during the
2794 period for which a license is issued, the owner changes
2795 administrators, the owner must notify the agency of the change
2796 within 10 days and provide documentation within 90 days that the
2797 new administrator has completed the applicable core educational
2798 requirements under s. 429.52. A facility may not be operated for
2799 more than 120 consecutive days without an administrator who has
2800 completed the core educational requirements.

2801 Section 83. Subsection (7) of section 429.19, Florida
2802 Statutes, is amended to read:

2803 429.19 Violations; imposition of administrative fines;
2804 grounds.—

2805 (7) In addition to any administrative fines imposed, the
2806 agency may assess a survey fee, equal to the lesser of one half
2807 of the facility's biennial license and bed fee or \$500, to cover
2808 the cost of conducting initial complaint investigations that
2809 result in the finding of a violation that was the subject of the
2810 complaint or monitoring visits conducted ~~under s. 429.28(3)(c)~~
2811 to verify the correction of the violations.

2812 Section 84. Subsection (2) of section 429.24, Florida
2813 Statutes, is amended to read:

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2814 429.24 Contracts.—

2815 (2) Each contract must contain express provisions
2816 specifically setting forth the services and accommodations to be
2817 provided by the facility; the rates or charges; provision for at
2818 least 30 days' written notice of a rate increase; the rights,
2819 duties, and obligations of the residents, other than those
2820 specified in s. 429.28; and other matters that the parties deem
2821 appropriate. A new service or accommodation added to, or
2822 implemented in, a resident's contract for which the resident was
2823 not previously charged does not require a 30-day written notice
2824 of a rate increase. Whenever money is deposited or advanced by a
2825 resident in a contract as security for performance of the
2826 contract agreement or as advance rent for other than the next
2827 immediate rental period:

2828 (a) Such funds shall be deposited in a banking institution
2829 in this state that is located, if possible, in the same
2830 community in which the facility is located; shall be kept
2831 separate from the funds and property of the facility; may not be
2832 represented as part of the assets of the facility on financial
2833 statements; and shall be used, or otherwise expended, only for
2834 the account of the resident.

2835 (b) The licensee shall, within 30 days of receipt of
2836 advance rent or a security deposit, notify the resident or
2837 residents in writing of the manner in which the licensee is
2838 holding the advance rent or security deposit and state the name
2839 and address of the depository where the moneys are being held.
2840 The licensee shall notify residents of the facility's policy on
2841 advance deposits.

2842 Section 85. Paragraphs (e) and (j) of subsection (1) and

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2843 paragraphs (c), (d), and (e) of subsection (3) of section
2844 429.28, Florida Statutes, are amended to read:

2845 429.28 Resident bill of rights.—

2846 (1) No resident of a facility shall be deprived of any
2847 civil or legal rights, benefits, or privileges guaranteed by
2848 law, the Constitution of the State of Florida, or the
2849 Constitution of the United States as a resident of a facility.
2850 Every resident of a facility shall have the right to:

2851 (e) Freedom to participate in and benefit from community
2852 services and activities and to pursue ~~achieve~~ the highest
2853 possible level of independence, autonomy, and interaction within
2854 the community.

2855 (j) Assistance with obtaining access to adequate and
2856 appropriate health care. For purposes of this paragraph, the
2857 term "adequate and appropriate health care" means the management
2858 of medications, assistance in making appointments for health
2859 care services, the provision of or arrangement of transportation
2860 to health care appointments, and the performance of health care
2861 services in accordance with s. 429.255 which are consistent with
2862 established and recognized standards within the community.

2863 (3)

2864 ~~(c) During any calendar year in which no survey is~~
2865 ~~conducted, the agency shall conduct at least one monitoring~~
2866 ~~visit of each facility cited in the previous year for a class I~~
2867 ~~or class II violation, or more than three uncorrected class III~~
2868 ~~violations.~~

2869 ~~(d) The agency may conduct periodic followup inspections as~~
2870 ~~necessary to monitor the compliance of facilities with a history~~
2871 ~~of any class I, class II, or class III violations that threaten~~

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2872 ~~the health, safety, or security of residents.~~

2873 ~~(c) The agency may conduct complaint investigations as~~
2874 ~~warranted to investigate any allegations of noncompliance with~~
2875 ~~requirements required under this part or rules adopted under~~
2876 ~~this part.~~

2877 Section 86. Subsection (1) of section 429.294, Florida
2878 Statutes, is amended to read:

2879 429.294 Availability of facility records for investigation
2880 of resident's rights violations and defenses; penalty.—

2881 (1) Failure to provide complete copies of a resident's
2882 records, including, but not limited to, all medical records and
2883 the resident's chart, within the control or possession of the
2884 facility ~~within 10 days,~~ in accordance with ~~the provisions of s.~~
2885 400.145, shall constitute evidence of failure of that party to
2886 comply with good faith discovery requirements and shall waive
2887 the good faith certificate and presuit notice requirements under
2888 this part by the requesting party.

2889 Section 87. Subsection (2) of section 429.34, Florida
2890 Statutes, is amended to read:

2891 429.34 Right of entry and inspection.—

2892 (2) (a) In addition to the requirements of s. 408.811, the
2893 agency may inspect and investigate facilities as necessary to
2894 determine compliance with this part, part II of chapter 408, and
2895 rules adopted thereunder. ~~The agency shall inspect each licensed~~
2896 ~~assisted living facility at least once every 24 months to~~
2897 ~~determine compliance with this chapter and related rules.~~ If an
2898 assisted living facility is cited for a class I violation or
2899 three or more class II violations arising from separate surveys
2900 within a 60-day period or due to unrelated circumstances during

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2901 the same survey, the agency must conduct an additional licensure
2902 inspection within 6 months.

2903 (b) During any calendar year in which a survey is not
2904 conducted, the agency may conduct monitoring visits of each
2905 facility cited in the previous year for a class I or class II
2906 violation or for more than three uncorrected class III
2907 violations.

2908 Section 88. Subsection (4) of section 429.52, Florida
2909 Statutes, is amended to read:

2910 429.52 Staff training and educational programs; core
2911 educational requirement.—

2912 (4) Effective January 1, 2004, a new facility administrator
2913 must complete the required training and education, including the
2914 competency test, within 90 days after date of employment ~~a~~
2915 ~~reasonable time after being employed~~ as an administrator, ~~as~~
2916 ~~determined by the department~~. Failure to do so is a violation of
2917 this part and subjects the violator to an administrative fine as
2918 prescribed in s. 429.19. Administrators licensed in accordance
2919 with part II of chapter 468 are exempt from this requirement.
2920 Other licensed professionals may be exempted, as determined by
2921 the department by rule.

2922 Section 89. Subsection (3) of section 435.04, Florida
2923 Statutes, is amended, and subsection (4) is added to that
2924 section, to read:

2925 435.04 Level 2 screening standards.—

2926 (3) The security background investigations under this
2927 section must ensure that no person subject to this section has
2928 been arrested for and is awaiting final disposition of, been
2929 found guilty of, regardless of adjudication, or entered a plea

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2930 of nolo contendere or guilty to, any offense that constitutes
2931 domestic violence as defined in s. 741.28, whether such act was
2932 committed in this state or in another jurisdiction.

2933 (4) For the purpose of screening applicability to
2934 participate in the Medicaid program, the security background
2935 investigations under this section must ensure that a person
2936 subject to screening under this section has not been arrested
2937 for and is not awaiting final disposition of; has not been found
2938 guilty of, regardless of adjudication, or entered a plea of nolo
2939 contendere or guilty to; and has not been adjudicated delinquent
2940 and the record sealed or expunged for, any of the following
2941 offenses:

2942 (a) Violation of a federal law or a law in any state which
2943 creates a criminal offense relating to:

2944 1. The delivery of any goods or services under Medicaid or
2945 Medicare or any other public or private health care or health
2946 insurance program, including the performance of management or
2947 administrative services relating to the delivery of goods or
2948 services under any such program;

2949 2. Neglect or abuse of a patient in connection with the
2950 delivery of any health care good or service;

2951 3. Unlawful manufacture, distribution, prescription, or
2952 dispensing of a controlled substance;

2953 4. Fraud, theft, embezzlement, breach of fiduciary
2954 responsibility, or other financial misconduct; or

2955 5. Moral turpitude, if punishable by imprisonment of a year
2956 or more.

2957 6. Interference with or obstruction of an investigation
2958 into any criminal offense identified in this subsection.

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2959 (b) Violation of the following state laws or laws of
2960 another jurisdiction:

2961 1. Section 817.569, criminal use of a public record or
2962 information contained in a public record;

2963 2. Section 838.016, unlawful compensation or reward for
2964 official behavior;

2965 3. Section 838.021, corruption by threat against a public
2966 servant;

2967 4. Section 838.022, official misconduct;

2968 5. Section 838.22, bid tampering;

2969 6. Section 839.13, falsifying records;

2970 7. Section 839.26, misuse of confidential information; or

2971 (c) Violation of a federal or state law, rule, or
2972 regulation governing the Florida Medicaid program or any other
2973 state Medicaid program, the Medicare program, or any other
2974 publicly funded federal or state health care or health insurance
2975 program.

2976 Section 90. Subsection (4) of section 456.001, Florida
2977 Statutes, is amended to read:

2978 456.001 Definitions.—As used in this chapter, the term:

2979 (4) "Health care practitioner" means any person licensed
2980 under chapter 457; chapter 458; chapter 459; chapter 460;
2981 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
2982 chapter 466; chapter 467; part I, part II, part III, part V,
2983 part X, part XIII, or part XIV of chapter 468; chapter 478;
2984 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
2985 chapter 484; chapter 486; chapter 490; or chapter 491.

2986 Section 91. Subsection (3) of section 456.054, Florida
2987 Statutes, is redesignated as subsection (4), and a new

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2988 subsection (3) is added to that section, to read:

2989 456.054 Kickbacks prohibited.—

2990 (3) (a) It is unlawful for any person or any entity to pay
2991 or receive, directly or indirectly, a commission, bonus,
2992 kickback, or rebate from, or to engage in any form of a split-
2993 fee arrangement with, a dialysis facility, health care
2994 practitioner, surgeon, person, or entity for referring patients
2995 to a clinical laboratory as defined in s. 483.803.

2996 (b) It is unlawful for any clinical laboratory to:

2997 1. Provide personnel to perform any functions or duties in
2998 a health care practitioner's office or dialysis facility for any
2999 purpose, including for the collection or handling of specimens,
3000 directly or indirectly through an employee, contractor,
3001 independent staffing company, lease agreement, or otherwise,
3002 unless the laboratory and the practitioner's office, or dialysis
3003 facility, are wholly owned and operated by the same entity.

3004 2. Lease space within any part of a health care
3005 practitioner's office or dialysis facility for any purpose,
3006 including for the purpose of establishing a collection station
3007 where materials or specimens are collected or drawn from
3008 patients.

3009 Section 92. Paragraphs (h) and (i) of subsection (2) of
3010 section 456.057, Florida Statutes, are amended to read:

3011 456.057 Ownership and control of patient records; report or
3012 copies of records to be furnished; disclosure of information.—

3013 (2) As used in this section, the terms "records owner,"
3014 "health care practitioner," and "health care practitioner's
3015 employer" do not include any of the following persons or
3016 entities; furthermore, the following persons or entities are not

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3017 authorized to acquire or own medical records, but are authorized
3018 under the confidentiality and disclosure requirements of this
3019 section to maintain those documents required by the part or
3020 chapter under which they are licensed or regulated:

3021 (h) Clinical laboratory personnel licensed under part II
3022 ~~III~~ of chapter 483.

3023 (i) Medical physicists licensed under part III ~~IV~~ of
3024 chapter 483.

3025 Section 93. Paragraph (j) of subsection (1) of section
3026 456.076, Florida Statutes, is amended to read:

3027 456.076 Impaired practitioner programs.—

3028 (1) As used in this section, the term:

3029 (j) "Practitioner" means a person licensed, registered,
3030 certified, or regulated by the department under part III of
3031 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
3032 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
3033 chapter 466; chapter 467; part I, part II, part III, part V,
3034 part X, part XIII, or part XIV of chapter 468; chapter 478;
3035 chapter 480; part II or part III ~~or part IV~~ of chapter 483;
3036 chapter 484; chapter 486; chapter 490; or chapter 491; or an
3037 applicant for a license, registration, or certification under
3038 the same laws.

3039 Section 94. Subsection (2) of section 458.307, Florida
3040 Statutes, is amended to read:

3041 458.307 Board of Medicine.—

3042 (2) Twelve members of the board must be licensed physicians
3043 in good standing in this state who are residents of the state
3044 and who have been engaged in the active practice or teaching of
3045 medicine for at least 4 years immediately preceding their

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3046 appointment. One of the physicians must be on the full-time
3047 faculty of a medical school in this state, and one of the
3048 physicians must be in private practice and on the full-time
3049 staff of a statutory teaching hospital in this state as defined
3050 in s. 408.07. At least one of the physicians must be a graduate
3051 of a foreign medical school. The remaining three members must be
3052 residents of the state who are not, and never have been,
3053 licensed health care practitioners. One member must be a health
3054 care risk manager ~~licensed under s. 395.10974~~. At least one
3055 member of the board must be 60 years of age or older.

3056 Section 95. Subsection (1) of section 458.345, Florida
3057 Statutes, is amended to read:

3058 458.345 Registration of resident physicians, interns, and
3059 fellows; list of hospital employees; prescribing of medicinal
3060 drugs; penalty.—

3061 (1) Any person desiring to practice as a resident
3062 physician, assistant resident physician, house physician,
3063 intern, or fellow in fellowship training which leads to
3064 subspecialty board certification in this state, or any person
3065 desiring to practice as a resident physician, assistant resident
3066 physician, house physician, intern, or fellow in fellowship
3067 training in a teaching hospital in this state as defined in s.
3068 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold a
3069 valid, active license issued under this chapter shall apply to
3070 the department to be registered and shall remit a fee not to
3071 exceed \$300 as set by the board. The department shall register
3072 any applicant the board certifies has met the following
3073 requirements:

3074 (a) Is at least 21 years of age.

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3075 (b) Has not committed any act or offense within or without
3076 the state which would constitute the basis for refusal to
3077 certify an application for licensure pursuant to s. 458.331.

3078 (c) Is a graduate of a medical school or college as
3079 specified in s. 458.311(1)(f).

3080 Section 96. Subsection (1) of s. 459.021, Florida Statutes,
3081 is amended to read:

3082 459.021 Registration of resident physicians, interns, and
3083 fellows; list of hospital employees; penalty.—

3084 (1) Any person who holds a degree of Doctor of Osteopathic
3085 Medicine from a college of osteopathic medicine recognized and
3086 approved by the American Osteopathic Association who desires to
3087 practice as a resident physician, intern, or fellow in
3088 fellowship training which leads to subspecialty board
3089 certification in this state, or any person desiring to practice
3090 as a resident physician, intern, or fellow in fellowship
3091 training in a teaching hospital in this state as defined in s.
3092 408.07 ~~s. 408.07(45)~~ or s. 395.805(2), who does not hold an
3093 active license issued under this chapter shall apply to the
3094 department to be registered, on an application provided by the
3095 department, before commencing such a training program and shall
3096 remit a fee not to exceed \$300 as set by the board.

3097 Section 97. Part I of chapter 483, Florida Statutes,
3098 consisting of sections 483.011, 483.021, 483.031, 483.035,
3099 483.041, 483.051, 483.061, 483.091, 483.101, 483.111, 483.172,
3100 483.181, 483.191, 483.201, 483.221, 483.23, 483.245, and 483.26,
3101 is repealed.

3102 Section 98. Section 483.294, Florida Statutes, is amended
3103 to read:

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3104 483.294 Inspection of centers.—In accordance with s.
3105 408.811, the agency shall, ~~at least once annually,~~ inspect the
3106 premises and operations of all centers subject to licensure
3107 under this part.

3108 Section 99. Subsections (3) and (5) of section 483.801,
3109 Florida Statutes, are amended, and subsection (6) is added to
3110 that section, to read:

3111 483.801 Exemptions.—This part applies to all clinical
3112 laboratories and clinical laboratory personnel within this
3113 state, except:

3114 (3) Persons engaged in testing performed by laboratories
3115 that are wholly owned and operated by one or more practitioners
3116 licensed under chapter 458, chapter 459, chapter 460, chapter
3117 461, chapter 462, chapter 463, or chapter 466 who practice in
3118 the same group practice, and in which no clinical laboratory
3119 work is performed for patients referred by any health care
3120 provider who is not a member of that group practice regulated
3121 under s. 483.035(1) or exempt from regulation under s.
3122 483.031(2).

3123 (5) Advanced registered nurse practitioners licensed under
3124 part I of chapter 464 who perform provider-performed microscopy
3125 procedures (PPMP) in a an-exclusive-use laboratory setting
3126 pursuant to subsection (3).

3127 (6) Persons performing laboratory testing within a
3128 physician office practice for patients referred by a health care
3129 provider who is a member of the same physician office practice,
3130 if the laboratory or entity operating the laboratory within a
3131 physician office practice is under common ownership, directly or
3132 indirectly, with an entity licensed pursuant to chapter 395.

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3133 Section 100. Subsections (2), (3), and (4) of section
3134 483.803, Florida Statutes, are amended to read:

3135 483.803 Definitions.—As used in this part, the term:

3136 (2) "Clinical laboratory" means the physical location in
3137 which one or more of the following services are performed to
3138 provide information or materials for use in the diagnosis,
3139 prevention, or treatment of a disease or the identification or
3140 assessment of a medical or physical condition:

3141 (a) Clinical laboratory services, which entail the
3142 examination of fluids or other materials taken from the human
3143 body.

3144 (b) Anatomic laboratory services, which entail the
3145 examination of tissue taken from the human body.

3146 (c) Cytology laboratory services, which entail the
3147 examination of cells from individual tissues or fluid taken from
3148 the human body ~~a clinical laboratory as defined in s. 483.041.~~

3149 (3) "Clinical laboratory examination" means a procedure
3150 performed to deliver the services identified in subsection (2),
3151 including the oversight or interpretation of such services
3152 ~~clinical laboratory examination as defined in s. 483.041.~~

3153 (4) "Clinical laboratory personnel" includes a clinical
3154 laboratory director, supervisor, technologist, blood gas
3155 analyst, or technician who performs or is responsible for
3156 laboratory test procedures, but the term does not include
3157 trainees, persons who perform screening for blood banks or
3158 plasmapheresis centers, phlebotomists, or persons employed by a
3159 clinical laboratory to perform manual pretesting duties or
3160 clerical, personnel, or other administrative responsibilities,
3161 ~~or persons engaged in testing performed by laboratories~~

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3162 ~~regulated under s. 483.035(1) or exempt from regulation under s.~~
3163 ~~483.031(2).~~

3164 Section 101. Section 483.813, Florida Statutes, is amended
3165 to read:

3166 483.813 Clinical laboratory personnel license.—A person may
3167 not conduct a clinical laboratory examination or report the
3168 results of such examination unless such person is licensed under
3169 this part to perform such procedures. However, this provision
3170 does not apply to any practitioner of the healing arts
3171 authorized to practice in this state ~~or to persons engaged in~~
3172 ~~testing performed by laboratories regulated under s. 483.035(1)~~
3173 ~~or exempt from regulation under s. 483.031(2).~~ The department
3174 may grant a temporary license to any candidate it deems properly
3175 qualified, for a period not to exceed 1 year.

3176 Section 102. Subsection (2) of section 483.823, Florida
3177 Statutes, is amended to read:

3178 483.823 Qualifications of clinical laboratory personnel.—

3179 (2) Personnel qualifications may require appropriate
3180 education, training, or experience or the passing of an
3181 examination in appropriate subjects or any combination of these,
3182 but a ~~ne~~ practitioner of the healing arts licensed to practice
3183 in this state is not required to obtain any license ~~under this~~
3184 ~~part~~ or to pay any fee under this part ~~hereunder except the fee~~
3185 ~~required for clinical laboratory licensure.~~

3186 Section 103. Paragraph (c) of subsection (7), and
3187 subsections (8) and (9) of section 491.003, Florida Statutes,
3188 are amended to read:

3189 491.003 Definitions.—As used in this chapter:

3190 (7) The “practice of clinical social work” is defined as

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3191 the use of scientific and applied knowledge, theories, and
3192 methods for the purpose of describing, preventing, evaluating,
3193 and treating individual, couple, marital, family, or group
3194 behavior, based on the person-in-situation perspective of
3195 psychosocial development, normal and abnormal behavior,
3196 psychopathology, unconscious motivation, interpersonal
3197 relationships, environmental stress, differential assessment,
3198 differential planning, and data gathering. The purpose of such
3199 services is the prevention and treatment of undesired behavior
3200 and enhancement of mental health. The practice of clinical
3201 social work includes methods of a psychological nature used to
3202 evaluate, assess, diagnose, treat, and prevent emotional and
3203 mental disorders and dysfunctions (whether cognitive, affective,
3204 or behavioral), sexual dysfunction, behavioral disorders,
3205 alcoholism, and substance abuse. The practice of clinical social
3206 work includes, but is not limited to, psychotherapy,
3207 hypnotherapy, and sex therapy. The practice of clinical social
3208 work also includes counseling, behavior modification,
3209 consultation, client-centered advocacy, crisis intervention, and
3210 the provision of needed information and education to clients,
3211 when using methods of a psychological nature to evaluate,
3212 assess, diagnose, treat, and prevent emotional and mental
3213 disorders and dysfunctions (whether cognitive, affective, or
3214 behavioral), sexual dysfunction, behavioral disorders,
3215 alcoholism, or substance abuse. The practice of clinical social
3216 work may also include clinical research into more effective
3217 psychotherapeutic modalities for the treatment and prevention of
3218 such conditions.

3219 (c) The terms "diagnose" and "treat," as used in this

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3220 chapter, when considered in isolation or in conjunction with ~~any~~
3221 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
3222 to permit the performance of any act which clinical social
3223 workers are not educated and trained to perform, including, but
3224 not limited to, admitting persons to hospitals for treatment of
3225 the foregoing conditions, treating persons in hospitals without
3226 medical supervision, prescribing medicinal drugs as defined in
3227 chapter 465, authorizing clinical laboratory procedures ~~pursuant~~
3228 ~~to chapter 483~~, or radiological procedures, or use of
3229 electroconvulsive therapy. In addition, this definition ~~shall~~
3230 may not be construed to permit any person licensed,
3231 provisionally licensed, registered, or certified pursuant to
3232 this chapter to describe or label any test, report, or procedure
3233 as "psychological," except to relate specifically to the
3234 definition of practice authorized in this subsection.

3235 (8) The term "practice of marriage and family therapy"
3236 means ~~is defined as~~ the use of scientific and applied marriage
3237 and family theories, methods, and procedures for the purpose of
3238 describing, evaluating, and modifying marital, family, and
3239 individual behavior, within the context of marital and family
3240 systems, including the context of marital formation and
3241 dissolution, and is based on marriage and family systems theory,
3242 marriage and family development, human development, normal and
3243 abnormal behavior, psychopathology, human sexuality,
3244 psychotherapeutic and marriage and family therapy theories and
3245 techniques. The practice of marriage and family therapy includes
3246 methods of a psychological nature used to evaluate, assess,
3247 diagnose, treat, and prevent emotional and mental disorders or
3248 dysfunctions (whether cognitive, affective, or behavioral),

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3249 sexual dysfunction, behavioral disorders, alcoholism, and
3250 substance abuse. The practice of marriage and family therapy
3251 includes, but is not limited to, marriage and family therapy,
3252 psychotherapy, including behavioral family therapy,
3253 hypnotherapy, and sex therapy. The practice of marriage and
3254 family therapy also includes counseling, behavior modification,
3255 consultation, client-centered advocacy, crisis intervention, and
3256 the provision of needed information and education to clients,
3257 when using methods of a psychological nature to evaluate,
3258 assess, diagnose, treat, and prevent emotional and mental
3259 disorders and dysfunctions (whether cognitive, affective, or
3260 behavioral), sexual dysfunction, behavioral disorders,
3261 alcoholism, or substance abuse. The practice of marriage and
3262 family therapy may also include clinical research into more
3263 effective psychotherapeutic modalities for the treatment and
3264 prevention of such conditions.

3265 (a) Marriage and family therapy may be rendered to
3266 individuals, including individuals affected by termination of
3267 marriage, to couples, whether married or unmarried, to families,
3268 or to groups.

3269 (b) The use of specific methods, techniques, or modalities
3270 within the practice of marriage and family therapy is restricted
3271 to marriage and family therapists appropriately trained in the
3272 use of such methods, techniques, or modalities.

3273 (c) The terms "diagnose" and "treat," as used in this
3274 chapter, when considered in isolation or in conjunction with ~~any~~
3275 ~~provision of~~ the rules of the board, may ~~shall~~ not be construed
3276 to permit the performance of any act that ~~which~~ marriage and
3277 family therapists are not educated and trained to perform,

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3278 including, but not limited to, admitting persons to hospitals
3279 for treatment of the foregoing conditions, treating persons in
3280 hospitals without medical supervision, prescribing medicinal
3281 drugs as defined in chapter 465, authorizing clinical laboratory
3282 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
3283 or the use of electroconvulsive therapy. In addition, this
3284 definition may ~~shall~~ not be construed to permit any person
3285 licensed, provisionally licensed, registered, or certified
3286 pursuant to this chapter to describe or label any test, report,
3287 or procedure as "psychological," except to relate specifically
3288 to the definition of practice authorized in this subsection.

3289 (d) The definition of "marriage and family therapy"
3290 contained in this subsection includes all services offered
3291 directly to the general public or through organizations, whether
3292 public or private, and applies whether payment is requested or
3293 received for services rendered.

3294 (9) The term "practice of mental health counseling" means
3295 ~~is defined as~~ the use of scientific and applied behavioral
3296 science theories, methods, and techniques for the purpose of
3297 describing, preventing, and treating undesired behavior and
3298 enhancing mental health and human development and is based on
3299 the person-in-situation perspectives derived from research and
3300 theory in personality, family, group, and organizational
3301 dynamics and development, career planning, cultural diversity,
3302 human growth and development, human sexuality, normal and
3303 abnormal behavior, psychopathology, psychotherapy, and
3304 rehabilitation. The practice of mental health counseling
3305 includes methods of a psychological nature used to evaluate,
3306 assess, diagnose, and treat emotional and mental dysfunctions or

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3307 disorders, ~~(whether cognitive, affective, or behavioral),~~
3308 ~~behavioral disorders,~~ interpersonal relationships, sexual
3309 dysfunction, alcoholism, and substance abuse. The practice of
3310 mental health counseling includes, but is not limited to,
3311 psychotherapy, hypnotherapy, and sex therapy. The practice of
3312 mental health counseling also includes counseling, behavior
3313 modification, consultation, client-centered advocacy, crisis
3314 intervention, and the provision of needed information and
3315 education to clients, when using methods of a psychological
3316 nature to evaluate, assess, diagnose, treat, and prevent
3317 emotional and mental disorders and dysfunctions (whether
3318 cognitive, affective, or behavioral), behavioral disorders,
3319 sexual dysfunction, alcoholism, or substance abuse. The practice
3320 of mental health counseling may also include clinical research
3321 into more effective psychotherapeutic modalities for the
3322 treatment and prevention of such conditions.

3323 (a) Mental health counseling may be rendered to
3324 individuals, including individuals affected by the termination
3325 of marriage, and to couples, families, groups, organizations,
3326 and communities.

3327 (b) The use of specific methods, techniques, or modalities
3328 within the practice of mental health counseling is restricted to
3329 mental health counselors appropriately trained in the use of
3330 such methods, techniques, or modalities.

3331 (c) The terms "diagnose" and "treat," as used in this
3332 chapter, when considered in isolation or in conjunction with any
3333 provision of the rules of the board, may ~~shall~~ not be construed
3334 to permit the performance of any act that ~~which~~ mental health
3335 counselors are not educated and trained to perform, including,

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3336 but not limited to, admitting persons to hospitals for treatment
3337 of the foregoing conditions, treating persons in hospitals
3338 without medical supervision, prescribing medicinal drugs as
3339 defined in chapter 465, authorizing clinical laboratory
3340 procedures ~~pursuant to chapter 483,~~ or radiological procedures,
3341 or the use of electroconvulsive therapy. In addition, this
3342 definition may ~~shall~~ not be construed to permit any person
3343 licensed, provisionally licensed, registered, or certified
3344 pursuant to this chapter to describe or label any test, report,
3345 or procedure as "psychological," except to relate specifically
3346 to the definition of practice authorized in this subsection.

3347 (d) The definition of "mental health counseling" contained
3348 in this subsection includes all services offered directly to the
3349 general public or through organizations, whether public or
3350 private, and applies whether payment is requested or received
3351 for services rendered.

3352 Section 104. Paragraph (h) of subsection (4) of section
3353 627.351, Florida Statutes, is amended to read:

3354 627.351 Insurance risk apportionment plans.—

3355 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

3356 (h) As used in this subsection:

3357 1. "Health care provider" means hospitals licensed under
3358 chapter 395; physicians licensed under chapter 458; osteopathic
3359 physicians licensed under chapter 459; podiatric physicians
3360 licensed under chapter 461; dentists licensed under chapter 466;
3361 chiropractic physicians licensed under chapter 460; naturopaths
3362 licensed under chapter 462; nurses licensed under part I of
3363 chapter 464; midwives licensed under chapter 467; ~~clinical~~
3364 ~~laboratories registered under chapter 483;~~ physician assistants

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3365 licensed under chapter 458 or chapter 459; physical therapists
3366 and physical therapist assistants licensed under chapter 486;
3367 health maintenance organizations certificated under part I of
3368 chapter 641; ambulatory surgical centers licensed under chapter
3369 395; other medical facilities as defined in subparagraph 2.;
3370 blood banks, plasma centers, industrial clinics, and renal
3371 dialysis facilities; or professional associations, partnerships,
3372 corporations, joint ventures, or other associations for
3373 professional activity by health care providers.

3374 2. "Other medical facility" means a facility the primary
3375 purpose of which is to provide human medical diagnostic services
3376 or a facility providing nonsurgical human medical treatment, to
3377 which facility the patient is admitted and from which facility
3378 the patient is discharged within the same working day, and which
3379 facility is not part of a hospital. However, a facility existing
3380 for the primary purpose of performing terminations of pregnancy
3381 or an office maintained by a physician or dentist for the
3382 practice of medicine may ~~shall~~ not be construed to be an "other
3383 medical facility."

3384 3. "Health care facility" means any hospital licensed under
3385 chapter 395, health maintenance organization certificated under
3386 part I of chapter 641, ambulatory surgical center licensed under
3387 chapter 395, or other medical facility as defined in
3388 subparagraph 2.

3389 Section 105. Paragraph (h) of subsection (1) of section
3390 627.602, Florida Statutes, is amended to read:

3391 627.602 Scope, format of policy.-

3392 (1) Each health insurance policy delivered or issued for
3393 delivery to any person in this state must comply with all

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3394 applicable provisions of this code and all of the following
3395 requirements:

3396 (h) Section 641.312 and the provisions of the Employee
3397 Retirement Income Security Act of 1974, as implemented by 29
3398 C.F.R. s. 2560.503-1, relating to internal grievances. This
3399 paragraph does not apply ~~to a health insurance policy that is~~
3400 ~~subject to the Subscriber Assistance Program under s. 408.7056~~
3401 ~~or~~ to the types of benefits or coverages provided under s.
3402 627.6513(1)-(14) issued in any market.

3403 Section 106. Subsection (1) of section 627.6406, Florida
3404 Statutes, is amended to read:

3405 627.6406 Maternity care.—

3406 (1) Any policy of health insurance which ~~that~~ provides
3407 coverage for maternity care must also cover the services of
3408 certified nurse-midwives and midwives licensed pursuant to
3409 chapter 467, and the services of birth centers licensed under
3410 ss. 383.30-383.332 ~~383.30-383.335~~.

3411 Section 107. Paragraphs (b) and (e) of subsection (1) of
3412 section 627.64194, Florida Statutes, are amended to read:

3413 627.64194 Coverage requirements for services provided by
3414 nonparticipating providers; payment collection limitations.—

3415 (1) As used in this section, the term:

3416 (b) "Facility" means a licensed facility as defined in s.
3417 395.002(16) and an urgent care center as defined in s. 395.002
3418 ~~s. 395.002(30)~~.

3419 (e) "Nonparticipating provider" means a provider who is not
3420 a preferred provider as defined in s. 627.6471 or a provider who
3421 is not an exclusive provider as defined in s. 627.6472. For
3422 purposes of covered emergency services under this section, a

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3423 facility licensed under chapter 395 or an urgent care center
3424 defined in s. 395.002 ~~s. 395.002(30)~~ is a nonparticipating
3425 provider if the facility has not contracted with an insurer to
3426 provide emergency services to its insureds at a specified rate.

3427 Section 108. Section 627.6513, Florida Statutes, is amended
3428 to read:

3429 627.6513 Scope.—Section 641.312 and the provisions of the
3430 Employee Retirement Income Security Act of 1974, as implemented
3431 by 29 C.F.R. s. 2560.503-1, relating to internal grievances,
3432 apply to all group health insurance policies issued under this
3433 part. This section does not apply to ~~a group health insurance~~
3434 ~~policy that is subject to the Subscriber Assistance Program in~~
3435 ~~s. 408.7056 or to:~~

3436 (1) Coverage only for accident insurance, or disability
3437 income insurance, or any combination thereof.

3438 (2) Coverage issued as a supplement to liability insurance.

3439 (3) Liability insurance, including general liability
3440 insurance and automobile liability insurance.

3441 (4) Workers' compensation or similar insurance.

3442 (5) Automobile medical payment insurance.

3443 (6) Credit-only insurance.

3444 (7) Coverage for onsite medical clinics, including prepaid
3445 health clinics under part II of chapter 641.

3446 (8) Other similar insurance coverage, specified in rules
3447 adopted by the commission, under which benefits for medical care
3448 are secondary or incidental to other insurance benefits. To the
3449 extent possible, such rules must be consistent with regulations
3450 adopted by the United States Department of Health and Human
3451 Services.

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3452 (9) Limited scope dental or vision benefits, if offered
3453 separately.

3454 (10) Benefits for long-term care, nursing home care, home
3455 health care, or community-based care, or any combination
3456 thereof, if offered separately.

3457 (11) Other similar, limited benefits, if offered
3458 separately, as specified in rules adopted by the commission.

3459 (12) Coverage only for a specified disease or illness, if
3460 offered as independent, noncoordinated benefits.

3461 (13) Hospital indemnity or other fixed indemnity insurance,
3462 if offered as independent, noncoordinated benefits.

3463 (14) Benefits provided through a Medicare supplemental
3464 health insurance policy, as defined under s. 1882(g)(1) of the
3465 Social Security Act, coverage supplemental to the coverage
3466 provided under 10 U.S.C. chapter 55, and similar supplemental
3467 coverage provided to coverage under a group health plan, which
3468 are offered as a separate insurance policy and as independent,
3469 noncoordinated benefits.

3470 Section 109. Subsection (1) of section 627.6574, Florida
3471 Statutes, is amended to read:

3472 627.6574 Maternity care.—

3473 (1) Any group, blanket, or franchise policy of health
3474 insurance which ~~that~~ provides coverage for maternity care must
3475 also cover the services of certified nurse-midwives and midwives
3476 licensed pursuant to chapter 467, and the services of birth
3477 centers licensed under ss. 383.30-383.332 ~~383.30-383.335~~.

3478 Section 110. Paragraph (j) of subsection (1) of section
3479 641.185, Florida Statutes, is amended to read:

3480 641.185 Health maintenance organization subscriber

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3481 protections.—

3482 (1) With respect to the provisions of this part and part
3483 III, the principles expressed in the following statements shall
3484 serve as standards to be followed by the commission, the office,
3485 the department, and the Agency for Health Care Administration in
3486 exercising their powers and duties, in exercising administrative
3487 discretion, in administrative interpretations of the law, in
3488 enforcing its provisions, and in adopting rules:

3489 ~~(j) A health maintenance organization should receive timely~~
3490 ~~and, if necessary, urgent review by an independent state~~
3491 ~~external review organization for unresolved grievances and~~
3492 ~~appeals pursuant to s. 408.7056.~~

3493 Section 111. Paragraph (a) of subsection (18) of section
3494 641.31, Florida Statutes, is amended to read:

3495 641.31 Health maintenance contracts.—

3496 (18) (a) Health maintenance contracts that provide coverage,
3497 benefits, or services for maternity care must provide, as an
3498 option to the subscriber, the services of nurse-midwives and
3499 midwives licensed pursuant to chapter 467, and the services of
3500 birth centers licensed pursuant to ss. 383.30-383.332 ~~383.30-~~
3501 ~~383.335~~, if such services are available within the service area.

3502 Section 112. Section 641.312, Florida Statutes, is amended
3503 to read:

3504 641.312 Scope.—The Office of Insurance Regulation may adopt
3505 rules to administer ~~the provisions of~~ the National Association
3506 of Insurance Commissioners' Uniform Health Carrier External
3507 Review Model Act, issued by the National Association of
3508 Insurance Commissioners and dated April 2010. This section does
3509 not apply to ~~a health maintenance contract that is subject to~~

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3510 ~~the Subscriber Assistance Program under s. 408.7056 or to the~~
3511 ~~types of benefits or coverages provided under s. 627.6513(1)-~~
3512 ~~(14) issued in any market.~~

3513 Section 113. Subsection (4) of section 641.3154, Florida
3514 Statutes, is amended to read:

3515 641.3154 Organization liability; provider billing
3516 prohibited.-

3517 (4) A provider or any representative of a provider,
3518 regardless of whether the provider is under contract with the
3519 health maintenance organization, may not collect or attempt to
3520 collect money from, maintain any action at law against, or
3521 report to a credit agency a subscriber of an organization for
3522 payment of services for which the organization is liable, if the
3523 provider in good faith knows or should know that the
3524 organization is liable. This prohibition applies during the
3525 pendency of any claim for payment made by the provider to the
3526 organization for payment of the services and any legal
3527 proceedings or dispute resolution process to determine whether
3528 the organization is liable for the services if the provider is
3529 informed that such proceedings are taking place. It is presumed
3530 that a provider does not know and should not know that an
3531 organization is liable unless:

3532 (a) The provider is informed by the organization that it
3533 accepts liability;

3534 (b) A court of competent jurisdiction determines that the
3535 organization is liable; or

3536 ~~(c) The office or agency makes a final determination that~~
3537 ~~the organization is required to pay for such services subsequent~~
3538 ~~to a recommendation made by the Subscriber Assistance Panel~~

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3539 ~~pursuant to s. 408.7056; or~~

3540 (c)~~(d)~~ The agency issues a final order that the
3541 organization is required to pay for such services subsequent to
3542 a recommendation made by a resolution organization pursuant to
3543 s. 408.7057.

3544 Section 114. Paragraph (c) of subsection (5) of section
3545 641.51, Florida Statutes, is amended to read:

3546 641.51 Quality assurance program; second medical opinion
3547 requirement.—

3548 (5) (c) For second opinions provided by contract physicians
3549 the organization is prohibited from charging a fee to the
3550 subscriber in an amount in excess of the subscriber fees
3551 established by contract for referral contract physicians. The
3552 organization shall pay the amount of all charges, which are
3553 usual, reasonable, and customary in the community, for second
3554 opinion services performed by a physician not under contract
3555 with the organization, but may require the subscriber to be
3556 responsible for up to 40 percent of such amount. The
3557 organization may require that any tests deemed necessary by a
3558 noncontract physician shall be conducted by the organization.
3559 The organization may deny reimbursement rights granted under
3560 this section in the event the subscriber seeks in excess of
3561 three such referrals per year if such subsequent referral costs
3562 are deemed by the organization to be evidence that the
3563 subscriber has unreasonably overutilized the second opinion
3564 privilege. A subscriber ~~thus~~ denied reimbursement under this
3565 section has ~~shall have~~ recourse to grievance procedures as
3566 specified in ss. ~~408.7056~~, 641.495~~7~~, and 641.511. The
3567 organization's physician's professional judgment concerning the

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3568 treatment of a subscriber derived after review of a second
3569 opinion is ~~shall be~~ controlling as to the treatment obligations
3570 of the health maintenance organization. Treatment not authorized
3571 by the health maintenance organization is ~~shall be~~ at the
3572 subscriber's expense.

3573 Section 115. Subsection (1), paragraph (e) of subsection
3574 (3), paragraph (d) of subsection (4), paragraphs (g) and (h) of
3575 subsection (6), and subsections (7) through (12) of section
3576 641.511, Florida Statutes, are amended to read:

3577 641.511 Subscriber grievance reporting and resolution
3578 requirements.—

3579 (1) Every organization must have a grievance procedure
3580 available to its subscribers for the purpose of addressing
3581 complaints and grievances. Every organization must notify its
3582 subscribers that a subscriber must submit a grievance within 1
3583 year after the date of occurrence of the action that initiated
3584 the grievance, ~~and may submit the grievance for review to the~~
3585 ~~Subscriber Assistance Program panel as provided in s. 408.7056~~
3586 ~~after receiving a final disposition of the grievance through the~~
3587 ~~organization's grievance process.~~ An organization shall maintain
3588 records of all grievances and shall report annually to the
3589 agency the total number of grievances handled, a categorization
3590 of the cases underlying the grievances, and the final
3591 disposition of the grievances.

3592 (3) Each organization's grievance procedure, as required
3593 under subsection (1), must include, at a minimum:

3594 (e) A notice that a subscriber may voluntarily pursue
3595 binding arbitration in accordance with the terms of the contract
3596 if offered by the organization, after completing the

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3597 organization's grievance procedure and ~~as an alternative to the~~
3598 ~~Subscriber Assistance Program~~. Such notice shall include an
3599 explanation that the subscriber may incur some costs if the
3600 subscriber pursues binding arbitration, depending upon the terms
3601 of the subscriber's contract.

3602 (4)

3603 ~~(d) In any case when the review process does not resolve a~~
3604 ~~difference of opinion between the organization and the~~
3605 ~~subscriber or the provider acting on behalf of the subscriber,~~
3606 ~~the subscriber or the provider acting on behalf of the~~
3607 ~~subscriber may submit a written grievance to the Subscriber~~
3608 ~~Assistance Program.~~

3609 (6)

3610 ~~(g) In any case when the expedited review process does not~~
3611 ~~resolve a difference of opinion between the organization and the~~
3612 ~~subscriber or the provider acting on behalf of the subscriber,~~
3613 ~~the subscriber or the provider acting on behalf of the~~
3614 ~~subscriber may submit a written grievance to the Subscriber~~
3615 ~~Assistance Program.~~

3616 (g)~~(h)~~ An organization shall not provide an expedited
3617 retrospective review of an adverse determination.

3618 ~~(7) Each organization shall send to the agency a copy of~~
3619 ~~its quarterly grievance reports submitted to the office pursuant~~
3620 ~~to s. 408.7056(12).~~

3621 (7)~~(8)~~ The agency shall investigate all reports of
3622 unresolved quality of care grievances received from:

3623 ~~(a)~~ annual and quarterly grievance reports submitted by the
3624 organization to the office.

3625 ~~(b) Review requests of subscribers whose grievances remain~~

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3626 ~~unresolved after the subscriber has followed the full grievance~~
3627 ~~procedure of the organization.~~

3628 ~~(9) (a) The agency shall advise subscribers with grievances~~
3629 ~~to follow their organization's formal grievance process for~~
3630 ~~resolution prior to review by the Subscriber Assistance Program.~~
3631 ~~The subscriber may, however, submit a copy of the grievance to~~
3632 ~~the agency at any time during the process.~~

3633 ~~(b) Requiring completion of the organization's grievance~~
3634 ~~process before the Subscriber Assistance Program panel's review~~
3635 ~~does not preclude the agency from investigating any complaint or~~
3636 ~~grievance before the organization makes its final determination.~~

3637 ~~(10) Each organization must notify the subscriber in a~~
3638 ~~final decision letter that the subscriber may request review of~~
3639 ~~the organization's decision concerning the grievance by the~~
3640 ~~Subscriber Assistance Program, as provided in s. 408.7056, if~~
3641 ~~the grievance is not resolved to the satisfaction of the~~
3642 ~~subscriber. The final decision letter must inform the subscriber~~
3643 ~~that the request for review must be made within 365 days after~~
3644 ~~receipt of the final decision letter, must explain how to~~
3645 ~~initiate such a review, and must include the addresses and toll-~~
3646 ~~free telephone numbers of the agency and the Subscriber~~
3647 ~~Assistance Program.~~

3648 ~~(8) (11)~~ (8) Each organization, as part of its contract with any
3649 provider, must require the provider to post a consumer
3650 assistance notice prominently displayed in the reception area of
3651 the provider and clearly noticeable by all patients. The
3652 consumer assistance notice must state the addresses and toll-
3653 free telephone numbers of the Agency for Health Care
3654 Administration, ~~the Subscriber Assistance Program,~~ and the

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3655 Department of Financial Services. The consumer assistance notice
3656 must also clearly state that the address and toll-free telephone
3657 number of the organization's grievance department shall be
3658 provided upon request. The agency may adopt rules to implement
3659 this section.

3660 (9)~~(12)~~ The agency may impose administrative sanction, in
3661 accordance with s. 641.52, against an organization for
3662 noncompliance with this section.

3663 Section 116. Subsection (1) of section 641.515, Florida
3664 Statutes, is amended to read:

3665 641.515 Investigation by the agency.—

3666 (1) The agency shall investigate further any quality of
3667 care issue contained in recommendations and reports submitted
3668 pursuant to s. ~~ss. 408.7056~~ and 641.511. The agency shall also
3669 investigate further any information that indicates that the
3670 organization does not meet accreditation standards or the
3671 standards of the review organization performing the external
3672 quality assurance assessment pursuant to reports submitted under
3673 s. 641.512. Every organization shall submit its books and
3674 records and take other appropriate action as may be necessary to
3675 facilitate an examination. The agency shall have access to the
3676 organization's medical records of individuals and records of
3677 employed and contracted physicians, with the consent of the
3678 subscriber or by court order, as necessary to administer ~~carry~~
3679 ~~out the provisions of this part.~~

3680 Section 117. Subsection (2) of section 641.55, Florida
3681 Statutes, is amended to read:

3682 641.55 Internal risk management program.—

3683 (2) The risk management program shall be the responsibility

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3684 of the governing authority or board of the organization. Every
3685 organization which has an annual premium volume of \$10 million
3686 or more and which directly provides health care in a building
3687 owned or leased by the organization shall hire a risk manager,
3688 ~~certified under ss. 395.10971-395.10975~~, who is ~~shall be~~
3689 responsible for implementation of the organization's risk
3690 management program required by this section. A part-time risk
3691 manager may ~~shall~~ not be responsible for risk management
3692 programs in more than four organizations or facilities. Every
3693 organization that ~~which~~ does not directly provide health care in
3694 a building owned or leased by the organization and every
3695 organization with an annual premium volume of less than \$10
3696 million shall designate an officer or employee of the
3697 organization to serve as the risk manager.

3698
3699 The gross data compiled under this section or s. 395.0197 shall
3700 be furnished by the agency upon request to organizations to be
3701 utilized for risk management purposes. The agency shall adopt
3702 rules necessary to administer ~~carry out the provisions of this~~
3703 section.

3704 Section 118. Section 641.60, Florida Statutes, is repealed.

3705 Section 119. Section 641.65, Florida Statutes, is repealed.

3706 Section 120. Section 641.67, Florida Statutes, is repealed.

3707 Section 121. Section 641.68, Florida Statutes, is repealed.

3708 Section 122. Section 641.70, Florida Statutes, is repealed.

3709 Section 123. Section 641.75, Florida Statutes, is repealed.

3710 Section 124. Paragraph (b) of subsection (6) of section

3711 766.118, Florida Statutes, is amended to read:

3712 766.118 Determination of noneconomic damages.—

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3713 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
3714 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
3715 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
3716 respect to a cause of action for personal injury or wrongful
3717 death arising from medical negligence of a practitioner
3718 committed in the course of providing medical services and
3719 medical care to a Medicaid recipient, regardless of the number
3720 of such practitioner defendants providing the services and care,
3721 noneconomic damages may not exceed \$300,000 per claimant, unless
3722 the claimant pleads and proves, by clear and convincing
3723 evidence, that the practitioner acted in a wrongful manner. A
3724 practitioner providing medical services and medical care to a
3725 Medicaid recipient is not liable for more than \$200,000 in
3726 noneconomic damages, regardless of the number of claimants,
3727 unless the claimant pleads and proves, by clear and convincing
3728 evidence, that the practitioner acted in a wrongful manner. The
3729 fact that a claimant proves that a practitioner acted in a
3730 wrongful manner does not preclude the application of the
3731 limitation on noneconomic damages prescribed elsewhere in this
3732 section. For purposes of this subsection:

3733 (b) The term "practitioner," in addition to the meaning
3734 prescribed in subsection (1), includes any hospital or
3735 ambulatory surgical center, ~~or mobile surgical facility~~ as
3736 defined and licensed under chapter 395.

3737 Section 125. Subsection (4) of section 766.202, Florida
3738 Statutes, is amended to read:

3739 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
3740 766.201-766.212, the term:

3741 (4) "Health care provider" means any hospital or

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3742 ambulatory surgical center, ~~or mobile surgical facility~~ as
3743 defined and licensed under chapter 395; a birth center licensed
3744 under chapter 383; any person licensed under chapter 458,
3745 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
3746 part I of chapter 464, chapter 466, chapter 467, part XIV of
3747 chapter 468, or chapter 486; ~~a clinical lab licensed under~~
3748 ~~chapter 483~~; a health maintenance organization certificated
3749 under part I of chapter 641; a blood bank; a plasma center; an
3750 industrial clinic; a renal dialysis facility; or a professional
3751 association partnership, corporation, joint venture, or other
3752 association for professional activity by health care providers.

3753 Section 126. Section 945.36, Florida Statutes, is amended
3754 to read:

3755 945.36 ~~Exemption from health testing regulations for Law~~
3756 enforcement personnel authorized to conduct ~~conducting~~ drug
3757 tests on inmates and releasees.-

3758 (1) Any law enforcement officer, state or county probation
3759 officer, employee of the Department of Corrections, or employee
3760 of a contracted community correctional center who is certified
3761 by the Department of Corrections pursuant to subsection (2) may
3762 administer, ~~is exempt from part I of chapter 483, for the~~
3763 ~~limited purpose of administering~~ a urine screen drug test to:

- 3764 (a) Persons during incarceration;
- 3765 (b) Persons released as a condition of probation for either
3766 a felony or misdemeanor;
- 3767 (c) Persons released as a condition of community control;
- 3768 (d) Persons released as a condition of conditional release;
- 3769 (e) Persons released as a condition of parole;
- 3770 (f) Persons released as a condition of provisional release;

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3771 (g) Persons released as a condition of pretrial release; or
3772 (h) Persons released as a condition of control release.

3773 (2) The Department of Corrections shall develop a procedure
3774 for certification of any law enforcement officer, state or
3775 county probation officer, employee of the Department of
3776 Corrections, or employee of a contracted community correctional
3777 center to perform a urine screen drug test on the persons
3778 specified in subsection (1).

3779 Section 127. Paragraph (b) of subsection (2) of section
3780 1009.65, Florida Statutes, is amended to read:

3781 1009.65 Medical Education Reimbursement and Loan Repayment
3782 Program.—

3783 (2) From the funds available, the Department of Health
3784 shall make payments to selected medical professionals as
3785 follows:

3786 (b) All payments are ~~shall be~~ contingent on continued proof
3787 of primary care practice in an area defined in s. 395.602(2)(b)
3788 ~~s. 395.602(2)(c)~~, or an underserved area designated by the
3789 Department of Health, provided the practitioner accepts Medicaid
3790 reimbursement if eligible for such reimbursement. Correctional
3791 facilities, state hospitals, and other state institutions that
3792 employ medical personnel shall be designated by the Department
3793 of Health as underserved locations. Locations with high
3794 incidences of infant mortality, high morbidity, or low Medicaid
3795 participation by health care professionals may be designated as
3796 underserved.

3797 Section 128. Subsection (2) of section 1011.52, Florida
3798 Statutes, is amended to read:

3799 1011.52 Appropriation to first accredited medical school.—

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3800 (2) In order for a medical school to qualify under ~~the~~
3801 ~~provisions of~~ this section and to be entitled to the benefits
3802 herein, such medical school:

3803 (a) Must be primarily operated and established to offer,
3804 afford, and render a medical education to residents of the state
3805 qualifying for admission to such institution;

3806 (b) Must be operated by a municipality or county of this
3807 state, or by a nonprofit organization heretofore or hereafter
3808 established exclusively for educational purposes;

3809 (c) Must, upon the formation and establishment of an
3810 accredited medical school, transmit and file with the Department
3811 of Education documentary proof evidencing the facts that such
3812 institution has been certified and approved by the council on
3813 medical education and hospitals of the American Medical
3814 Association and has adequately met the requirements of that
3815 council in regard to its administrative facilities,
3816 administrative plant, clinical facilities, curriculum, and all
3817 other such requirements as may be necessary to qualify with the
3818 council as a recognized, approved, and accredited medical
3819 school;

3820 (d) Must certify to the Department of Education the name,
3821 address, and educational history of each student approved and
3822 accepted for enrollment in such institution for the ensuing
3823 school year; and

3824 (e) Must have in place an operating agreement with a
3825 government-owned hospital that is located in the same county as
3826 the medical school and that is a statutory teaching hospital as
3827 defined in s. 408.07(44) ~~s. 408.07(45)~~. The operating agreement
3828 must ~~shall~~ provide for the medical school to maintain the same

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3829 level of affiliation with the hospital, including the level of
3830 services to indigent and charity care patients served by the
3831 hospital, which was in place in the prior fiscal year. Each
3832 year, documentation demonstrating that an operating agreement is
3833 in effect shall be submitted jointly to the Department of
3834 Education by the hospital and the medical school prior to the
3835 payment of moneys from the annual appropriation.

3836 Section 129. This act shall take effect July 1, 2018.