

By Senator Trumbull

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1 A bill to be entitled
2 An act relating to ambulatory surgical centers;
3 creating ch. 396, F.S., to be entitled "Ambulatory
4 Surgical Centers"; creating s. 396.201, F.S.;
5 providing legislative intent; creating s. 396.202,
6 F.S.; defining terms; creating s. 396.203, F.S.;
7 providing requirements for issuance, denial,
8 suspension, and revocation of ambulatory surgical
9 center licenses; creating s. 396.204, F.S.; providing
10 for application fees; creating s. 396.205, F.S.;
11 providing requirements for specified clinical and
12 diagnostic results as a condition for issuance or
13 renewal of a license; creating s. 396.206, F.S.;
14 requiring the Agency for Health Care Administration to
15 make or cause to be made specified inspections of
16 licensed facilities; authorizing the agency to accept
17 surveys or inspections from certain accrediting
18 organizations in lieu of its own periodic inspections,
19 provided certain conditions are met; requiring the
20 agency to develop and adopt by rule certain criteria;
21 requiring an applicant or a licensee to pay certain
22 fees at the time of inspection; requiring the agency
23 to coordinate periodic inspections to minimize costs
24 and disruption of services; creating s. 396.207, F.S.;
25 requiring each licensed facility to maintain and
26 provide upon request records of all inspection reports
27 pertaining to that facility; providing that such
28 reports be retained for a specified timeframe;
29 prohibiting the distribution of specified records;

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30 requiring a licensed facility to provide a copy of its
31 most recent inspection report to certain parties upon
32 request; providing for a charge for such copies;
33 creating s. 396.208, F.S.; providing that specified
34 provisions govern the design, construction, erection,
35 alteration, modification, repair, and demolition of
36 licensed facilities; requiring the agency to review
37 facility plans and survey the construction of licensed
38 facilities; authorizing the agency to conduct certain
39 inspections and investigations; authorizing the agency
40 to adopt certain rules; requiring the agency to
41 approve or disapprove facility plans and
42 specifications within a specified timeframe; providing
43 an extension under certain circumstances; deeming a
44 facility plan or specification approved if the agency
45 fails to act within the specified timeframe; requiring
46 the agency to set forth in writing its reasons for any
47 disapprovals; authorizing the agency to charge and
48 collect specified fees; creating s. 396.209, F.S.;
49 prohibiting any person from paying or receiving a
50 commission, bonus, kickback, or rebate for referring a
51 patient to a licensed facility; requiring agency
52 enforcement; providing administrative penalties;
53 creating s. 396.211, F.S.; providing facility
54 requirements for considering and acting upon
55 applications for staff membership and clinical
56 privileges at a licensed facility; requiring a
57 licensed facility to establish rules and procedures
58 for consideration of such applications; specifying

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59 requirements for such rules and procedures; providing
60 for the termination of clinical privileges for
61 physician assistants under certain circumstances;
62 requiring a licensed facility to make available
63 specified membership or privileges to physicians under
64 certain circumstances; providing construction;
65 requiring the governing board of a licensed facility
66 to set standards and procedures to be applied in
67 considering and acting upon applications; providing
68 that such standards and procedures must be made
69 available for public inspection; requiring a licensed
70 facility to provide an applicant with reasons for
71 denial within a specified timeframe; providing
72 immunity from monetary liability to certain persons
73 and entities; providing that investigations,
74 proceedings, and records produced or acquired by the
75 governing board or its agent are not subject to
76 discovery or introduction into evidence in certain
77 proceedings under certain circumstances; providing for
78 the award of specified fees and costs; requiring
79 applicants who bring an action against a review team
80 to post a bond or other security in a certain amount,
81 as set by the court; creating s. 396.212, F.S.;

82 providing legislative intent; requiring licensed
83 facilities to provide for peer review of certain
84 physicians and develop procedures to conduct such
85 reviews; providing requirements for such procedures;
86 providing grounds for peer review and reporting
87 requirements; providing immunity from monetary

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88 liability to certain persons and entities; providing
89 construction; providing administrative penalties;
90 providing that certain proceedings and records of peer
91 review panels, committees, and governing boards or
92 agents thereof are exempt from public record
93 requirements and are not subject to discovery or
94 introduction into evidence in certain proceedings;
95 prohibiting persons in attendance at certain meetings
96 from testifying in certain civil or administrative
97 actions; providing construction; providing for the
98 award of specified fees and costs; requiring persons
99 who bring an action against a review team to post a
100 bond or other security in a certain amount, as set by
101 the court; creating s. 396.213, F.S.; requiring
102 licensed facilities to establish an internal risk
103 management program; providing requirements for such
104 program; providing that the governing board of the
105 licensed facility is responsible for the program;
106 requiring licensed facilities to hire a risk manager;
107 providing requirements for such risk manager;
108 encouraging licensed facilities to implement certain
109 innovative approaches; requiring licensed facilities
110 to report specified information annually to the
111 Department of Health; requiring the agency and the
112 department to include certain statistical information
113 in their respective annual reports; requiring the
114 agency to adopt certain rules relating to internal
115 risk management programs; defining the term "adverse
116 incident"; requiring licensed facilities to report

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117 specified information annually to the agency;
118 requiring the agency to review the reported
119 information and make certain determinations; providing
120 that the reported information is exempt from public
121 record requirements and is not discoverable or
122 admissible in civil or administrative actions, with
123 exceptions; requiring licensed facilities to report
124 certain adverse incidents to the agency within a
125 specified timeframe; authorizing the agency to grant
126 extensions to the reporting requirement under certain
127 circumstances and subject to certain conditions;
128 providing that such reports are exempt from public
129 records requirements and are not discoverable or
130 admissible in civil an administrative actions, with
131 exceptions; authorizing the agency to investigate
132 reported adverse incidents and prescribe response
133 measures; requiring the agency to review adverse
134 incidents and make certain determinations; requiring
135 the agency to publish certain reports and summaries
136 within certain timeframes on its website; providing a
137 purpose; providing certain investigative and reporting
138 requirements for internal risk managers relating to
139 the investigation and reporting of allegations of
140 sexual misconduct or sexual abuse at licensed
141 facilities; specifying requirements for witnesses to
142 such allegations; defining the term "sexual abuse";
143 providing criminal penalties for making a false
144 allegation of sexual misconduct; requiring the agency
145 to require a written plan of correction from the

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146 licensed facility for certain violations; requiring
147 licensed facilities to provide the agency with all
148 access to the facility records it needs for specified
149 purposes; providing that such records obtained by the
150 agency are exempt from public record requirements and
151 are not discoverable or admissible in civil and
152 administrative actions, with exceptions; providing an
153 exemption from public meeting and record requirements
154 for certain meetings of the committees and governing
155 board of a licensed facility; requiring the agency to
156 review the internal risk management program of each
157 licensed facility as part of its licensure review
158 process; providing risk managers with immunity from
159 monetary and civil liability in certain proceedings
160 under certain circumstances; providing immunity from
161 civil liability to risk managers and licensed
162 facilities in certain actions, with an exception;
163 requiring the agency to report certain investigative
164 results to the applicable regulatory board;
165 prohibiting intimidation of a risk manager; providing
166 for civil penalties; creating s. 396.214, F.S.;
167 requiring licensed facilities to comply with specified
168 requirements for the transportation of biomedical
169 waste; creating s. 396.215, F.S.; requiring licensed
170 facilities to adopt a patient safety plan, appoint a
171 patient safety officer, and conduct a patient safety
172 culture survey at least biennially; providing
173 requirements for such survey; requiring that survey
174 data be submitted to the agency in a certain format;

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175 authorizing licensed facilities to develop an internal
176 action plan for a certain purpose; creating s.
177 396.216, F.S.; requiring licensed facilities to adopt
178 specified protocols for the treatment of victims of
179 child abuse, abandonment, or neglect; requiring
180 licensed facilities to submit a copy of such protocols
181 to the agency and the Department of Children and
182 Families; providing for administrative penalties;
183 creating s. 396.217, F.S.; providing requirements for
184 notifying patients about adverse incidents; providing
185 construction; creating s. 396.218, F.S.; requiring the
186 agency to adopt specified rules relating to minimum
187 standards for licensed facilities; providing
188 construction; providing that certain licensed
189 facilities have a specified timeframe in which to
190 comply with any newly adopted agency rules; preempting
191 the adoption of certain rules to the Florida Building
192 Commission and the State Fire Marshal; creating s.
193 396.219, F.S.; providing criminal and administrative
194 penalties; authorizing the agency to impose an
195 immediate moratorium on elective admissions to any
196 licensed facility under certain circumstances;
197 creating s. 396.221, F.S.; providing powers and duties
198 of the agency; creating s. 396.222, F.S.; requiring a
199 licensed facility to provide timely and accurate
200 financial information and quality of service measures
201 to certain individuals; providing an exemption;
202 requiring a licensed facility to make available on its
203 website certain information on payments made to that

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204 facility for defined bundles of services and
205 procedures and other information for consumers and
206 patients; requiring that facility websites provide
207 specified information and notify and inform patients
208 or prospective patients of certain information;
209 defining the terms "shoppable health care services"
210 and "standard charge"; requiring a licensed facility
211 to provide a written or an electronic good faith
212 estimate of charges to a patient or prospective
213 patient within a certain timeframe; specifying
214 requirements for such estimates; requiring a licensed
215 facility to provide information regarding financial
216 assistance from the facility which may be available to
217 a patient or a prospective patient; providing a civil
218 penalty for failing to provide an estimate of charges
219 to a patient; requiring licensed facilities to provide
220 an itemized statement or bill to a patient or his or
221 her survivor or legal guardian within a specified
222 timeframe upon request and after discharge; specifying
223 requirements for the statement or bill; requiring
224 licensed facilities to make available certain records
225 to the patient within a specified timeframe and in a
226 specified manner; authorizing licensed facilities to
227 charge fees in a specified amount for copies of such
228 records; requiring licensed facilities to establish
229 certain internal processes relating to itemized
230 statements and bills and grievances; requiring
231 licensed facilities to disclose certain information
232 relating to the patient's cost-sharing obligation;

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233 providing an administrative penalty for failure to
234 disclose such information; creating s. 396.223, F.S.;

235 defining the term "extraordinary collection action";
236 prohibiting certain collection actions by a licensed
237 facility; creating s. 396.224, F.S.; prohibiting the
238 fraudulent alteration, defacement, or falsification of
239 medical records; providing criminal penalties and for
240 disciplinary action; creating s. 396.225, F.S.;

241 providing requirements for appropriate disclosure of
242 patient records; specifying authorized charges for
243 copies of such records; providing for confidentiality
244 of patient records; providing exceptions; authorizing
245 the department to examine certain records for certain
246 purposes; providing criminal penalties; providing
247 content and use requirements for patient records;
248 requiring a licensed facility to furnish, in a timely
249 manner, a true and correct copy of all patient records
250 to certain persons; providing exemptions from public
251 records requirements for specified personal
252 information relating to employees of licensed
253 facilities who provide direct patient care or security
254 services and their spouses and children, and for
255 specified personal information relating to other
256 employees of licensed facilities and their spouses and
257 children upon their request; amending ss. 383.145,
258 383.50, 385.211, 390.011, 394.4787, 395.001, 395.002,
259 395.003, 395.1055, 395.10973, 395.3025, 395.607,
260 395.701, 400.518, 400.93, 400.9935, 401.272, 408.051,
261 408.07, 408.802, 408.820, 409.905, 409.906, 409.975,

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262 456.041, 456.053, 456.056, 458.3145, 458.320, 458.351,
 263 459.0085, 459.026, 465.0125, 468.505, 627.351,
 264 627.357, 627.6056, 627.6405, 627.64194, 627.6616,
 265 627.736, 627.912, 765.101, 766.101, 766.110, 766.1115,
 266 766.118, 766.202, 766.316, 812.014, 945.6041, and
 267 985.6441, F.S.; conforming cross-references and
 268 provisions to changes made by the act; bifurcating
 269 fees applicable to ambulatory surgical centers under
 270 ch. 395, F.S., and transferring them to ch. 396, F.S.;
 271 authorizing the agency to maintain its current fees
 272 for ambulatory surgical centers and adopt certain
 273 rules; bifurcating public records and public meetings
 274 exemptions applicable to ambulatory surgical centers
 275 under ch. 395, F.S., and preserving them under ch.
 276 396, F.S.; providing an effective date.

277
 278 Be It Enacted by the Legislature of the State of Florida:

279
 280 Section 1. Chapter 396, Florida Statutes, consisting of ss.
 281 396.201-396.225, Florida Statutes, is created and entitled
 282 "Ambulatory Surgical Centers."

283 Section 2. Section 396.201, Florida Statutes, is created to
 284 read:

285 396.201 Legislative intent.—It is the intent of the
 286 Legislature to provide for the protection of public health and
 287 safety in the establishment, construction, maintenance, and
 288 operation of ambulatory surgical centers by providing for
 289 licensure of the same and for the development, establishment,
 290 and enforcement of minimum standards with respect thereto.

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291 Section 3. Section 396.202, Florida Statutes, is created to
292 read:

293 396.202 Definitions.—As used in this chapter, the term:

294 (1) "Accrediting organization" means a national accrediting
295 organization approved by the Centers for Medicare and Medicaid
296 Services whose standards incorporate comparable licensure
297 regulations required by this state.

298 (2) "Agency" means the Agency for Health Care
299 Administration.

300 (3) "Ambulatory surgical center" means a facility, the
301 primary purpose of which is to provide elective surgical care,
302 in which the patient is admitted to and discharged from such
303 facility within 24 hours, and which is not part of a hospital.
304 The term does not include a facility existing for the primary
305 purpose of performing terminations of pregnancy, an office
306 maintained by a physician for the practice of medicine, or an
307 office maintained for the practice of dentistry, except that
308 that any such facility or office that is certified or seeks
309 certification as a Medicare ambulatory surgical center must be
310 licensed as an ambulatory surgical center under this chapter.

311 (4) "Biomedical waste" has the same meaning as provided in
312 s. 381.0098(2).

313 (5) "Clinical privileges" means the privileges granted to a
314 physician or other licensed health care practitioner to render
315 patient care services in a hospital, but does not include the
316 privilege of admitting patients.

317 (6) "Department" means the Department of Health.

318 (7) "Director" means any member of the official board of
319 directors as reported in the organization's annual corporate

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320 report to the Department of State or, if no such report is made,
321 any member of the operating board of directors. The term does
322 not include members of separate, restricted boards who serve
323 only in an advisory capacity to the operating board.

324 (8) "Licensed facility" means an ambulatory surgical center
325 licensed under this chapter.

326 (9) "Lifesafety" means the control and prevention of fire
327 and other life-threatening conditions on a premises for the
328 purpose of preserving human life.

329 (10) "Managing employee" means the administrator or other
330 similarly titled individual who is responsible for the daily
331 operation of the licensed facility.

332 (11) "Medical staff" means physicians licensed under
333 chapter 458 or chapter 459 with privileges in a licensed
334 facility, as well as other licensed health care practitioners
335 with clinical privileges as approved by a licensed facility's
336 governing board.

337 (12) "Person" means any individual, partnership,
338 corporation, association, or governmental unit.

339 (13) "Validation inspection" means an inspection of the
340 premises of a licensed facility by the agency to assess whether
341 a review by an accrediting organization has adequately evaluated
342 the licensed facility according to minimum state standards.

343 Section 4. Section 396.203, Florida Statutes, is created to
344 read:

345 396.203 Licensure; denial, suspension, and revocation.-

346 (1) (a) The requirements of part II of chapter 408 apply to
347 the provision of services that require licensure pursuant to ss.
348 396.201-396.225 and part II of chapter 408 and to entities

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349 licensed by or applying for such licensure from the Agency for
350 Health Care Administration pursuant to ss. 396.201-396.225. A
351 license issued by the agency is required in order to operate an
352 ambulatory surgical center in this state.

353 (b)1. It is unlawful for a person to use or advertise to
354 the public, in any way or by any medium whatsoever, any facility
355 as an "ambulatory surgical center" unless such facility has
356 first secured a license under this chapter.

357 2. This chapter does not apply to veterinary hospitals or
358 to commercial business establishments using the word "hospital"
359 or "ambulatory surgical center" as a part of a trade name if no
360 treatment of human beings is performed on the premises of such
361 establishments.

362 (2) In addition to the requirements in part II of chapter
363 408, the agency shall, at the request of a licensee, issue a
364 single license to a licensee for facilities located on separate
365 premises. Such a license shall specifically state the location
366 of the facilities, the services, and the licensed beds available
367 on each separate premises. If a licensee requests a single
368 license, the licensee shall designate which facility or office
369 is responsible for receipt of information, payment of fees,
370 service of process, and all other activities necessary for the
371 agency to implement this chapter.

372 (3) In addition to the requirements of s. 408.807, after a
373 change of ownership has been approved by the agency, the
374 transferee shall be liable for any liability to the state,
375 regardless of when identified, resulting from changes to
376 allowable costs affecting provider reimbursement for Medicaid
377 participation or Public Medical Assistance Trust Fund

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378 Assessments, and related administrative fines.

379 (4) An ambulatory surgical center must comply with ss.
380 627.64194 and 641.513 as a condition of licensure.

381 (5) In addition to the requirements of part II of chapter
382 408, whenever the agency finds that there has been a substantial
383 failure to comply with the requirements established under this
384 chapter or in rules, the agency is authorized to deny, modify,
385 suspend, and revoke:

386 (a) A license;

387 (b) That part of a license which is limited to a separate
388 premises, as designated on the license; or

389 (c) Licensure approval limited to a facility, building, or
390 portion thereof, or a service, within a given premises.

391 Section 5. Section 396.204, Florida Statutes, is created to
392 read:

393 396.204 Application for license; fees.—In accordance with
394 s. 408.805, an applicant or a licensee shall pay a fee for each
395 license application submitted under this chapter, part II of
396 chapter 408, and applicable rules. The amount of the fee shall
397 be established by rule. The license fee required of a facility
398 licensed under this chapter shall be established by rule except
399 that the minimum license fee shall be \$1,500.

400 Section 6. Section 396.205, Florida Statutes, is created to
401 read:

402 396.205 Minimum standards for clinical laboratory test
403 results and diagnostic X-ray results; prerequisite for issuance
404 or renewal of license.—

405 (1) As a requirement for issuance or renewal of its
406 license, each licensed facility shall require that all clinical

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407 laboratory tests performed by or for the licensed facility be
408 performed by a clinical laboratory appropriately certified by
409 the Centers for Medicare and Medicaid Services under the federal
410 Clinical Laboratory Improvement Amendments and the federal rules
411 adopted thereunder.

412 (2) Each licensed facility, as a requirement for issuance
413 or renewal of its license, shall establish minimum standards for
414 acceptance of results of diagnostic X rays performed by or for
415 the licensed facility. Such standards shall require licensure or
416 registration of the source of ionizing radiation under chapter
417 404.

418 (3) The results of clinical laboratory tests and diagnostic
419 X rays performed before admission which meet the minimum
420 standards required by law shall be accepted in lieu of routine
421 examinations required upon admission and in lieu of clinical
422 laboratory tests and diagnostic X rays which may be ordered by a
423 physician for patients of the licensed facility.

424 Section 7. Section 396.206, Florida Statutes, is created to
425 read:

426 396.206 Licensure inspection.-

427 (1) In addition to the requirement of s. 408.811, the
428 agency shall make or cause to be made such inspections and
429 investigations as it deems necessary, including, but not limited
430 to, all of the following:

431 (a) Inspections directed by the Centers for Medicare and
432 Medicaid Services.

433 (b) Validation inspections.

434 (c) Lifesafety inspections.

435 (d) Licensure complaint investigations, including full

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436 licensure investigations with a review of all licensure
437 standards as outlined in the administrative rules. Complaints
438 received by the agency from individuals, organizations, or other
439 sources are subject to review and investigation by the agency.

440 (e) Emergency access complaint investigations.

441 (2) The agency shall accept, in lieu of its own periodic
442 inspections for licensure, the survey or inspection of an
443 accrediting organization, provided that the accreditation of the
444 licensed facility is not provisional and provided that the
445 licensed facility authorizes release of, and the agency receives
446 the report of, the accrediting organization. The agency shall
447 develop, and adopt by rule, criteria for accepting survey
448 reports of accrediting organizations in lieu of conducting a
449 state licensure inspection.

450 (3) In accordance with s. 408.805, an applicant or a
451 licensee shall pay a fee for each license application submitted
452 under this chapter, part II of chapter 408, and applicable
453 rules. With the exception of state-operated licensed facilities,
454 each facility licensed under this chapter shall pay to the
455 agency, at the time of inspection, the following fees:

456 (a) Inspection for licensure.—A fee of at least \$400 per
457 facility.

458 (b) Inspection for lifesafety only.—A fee of at least \$40
459 per facility.

460 (4) The agency shall coordinate all periodic inspections
461 for licensure made by the agency to ensure that the cost to the
462 facility of such inspections and the disruption of services by
463 such inspections are minimized.

464 Section 8. Section 396.207, Florida Statutes, is created to

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465 read:

466 396.207 Inspection reports.-

467 (1) Each licensed facility shall maintain as public
468 information, available upon request, records of all inspection
469 reports pertaining to that facility. Copies of such reports
470 shall be retained in its records for at least 5 years after the
471 date the reports are filed and issued.

472 (2) Any records, reports, or documents which are
473 confidential and exempt from s. 119.07(1) may not be distributed
474 or made available for purposes of compliance with this section
475 unless or until such confidential status expires.

476 (3) A licensed facility shall, upon the request of any
477 person who has completed a written application with intent to be
478 admitted to such facility, any person who is a patient of such
479 facility, or any relative, spouse, guardian, or surrogate of any
480 such person, furnish to the requester a copy of the last
481 inspection report filed with or issued by the agency pertaining
482 to the licensed facility, as provided in subsection (1),
483 provided that the person requesting such report agrees to pay a
484 reasonable charge to cover copying costs, not to exceed \$1 per
485 page.

486 Section 9. Section 396.208, Florida Statutes, is created to
487 read:

488 396.208 Construction inspections; plan submission and
489 approval; fees.-

490 (1)(a) The design, construction, erection, alteration,
491 modification, repair, and demolition of all licensed health care
492 facilities are governed by the Florida Building Code and the
493 Florida Fire Prevention Code under ss. 553.73 and 633.206. In

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494 addition to the requirements of ss. 553.79 and 553.80, the
495 agency shall review facility plans and survey the construction
496 of any facility licensed under this chapter. The agency shall
497 make, or cause to be made, such construction inspections and
498 investigations as it deems necessary. The agency may prescribe
499 by rule that any licensee or applicant desiring to make
500 specified types of alterations or additions to its facilities or
501 to construct new facilities shall, before commencing such
502 alteration, addition, or new construction, submit plans and
503 specifications therefor to the agency for preliminary inspection
504 and approval or recommendation with respect to compliance with
505 applicable provisions of the Florida Building Code or agency
506 rules and standards. The agency shall approve or disapprove the
507 plans and specifications within 60 days after receipt of the fee
508 for review of plans as required in subsection (2). The agency
509 may be granted one 15-day extension for the review period if the
510 director of the agency approves the extension. If the agency
511 fails to act within the specified time, it shall be deemed to
512 have approved the plans and specifications. When the agency
513 disapproves plans and specifications, it shall set forth in
514 writing the reasons for its disapproval. Conferences and
515 consultations may be provided as necessary.

516 (b) All licensed facilities shall submit plans and
517 specifications to the agency for review under this section.

518 (2) The agency may charge an initial fee of \$2,000 for
519 review of plans and construction on all projects, no part of
520 which is refundable. The agency may also collect a fee, not to
521 exceed 1 percent of the estimated construction cost or the
522 actual cost of review, whichever is less, for the portion of the

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523 review which encompasses initial review through the initial
524 revised construction document review. The agency is further
525 authorized to collect its actual costs on all subsequent
526 portions of the review and construction inspections. The initial
527 fee payment shall accompany the initial submission of plans and
528 specifications. Any subsequent payment that is due is payable
529 upon receipt of the invoice from the agency.

530 Section 10. Section 396.209, Florida Statutes, is created
531 to read:

532 396.209 Rebates prohibited; penalties.-

533 (1) It is unlawful for any person to pay or receive any
534 commission, bonus, kickback, or rebate or engage in any split-
535 fee arrangement, in any form whatsoever, with any physician,
536 surgeon, organization, or person, either directly or indirectly,
537 for patients referred to a licensed facility.

538 (2) The agency shall enforce subsection (1). In the case of
539 an entity not licensed by the agency, administrative penalties
540 may include:

541 (a) A fine not to exceed \$1,000.

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

544 Section 11. Section 396.211, Florida Statutes, is created
545 to read:

546 396.211 Staff membership and clinical privileges.-

547 (1) A licensed facility, in considering and acting upon an
548 application for staff membership or clinical privileges, may not
549 deny the application of a qualified doctor of medicine licensed
550 under chapter 458, a doctor of osteopathic medicine licensed
551 under chapter 459, a doctor of dentistry licensed under chapter

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552 466, a doctor of podiatric medicine licensed under chapter 461,
553 or a psychologist licensed under chapter 490 for such staff
554 membership or clinical privileges within the scope of his or her
555 respective licensure solely because the applicant is licensed
556 under any of such chapters.

557 (2) (a) Each licensed facility shall establish rules and
558 procedures for consideration of an application for clinical
559 privileges submitted by an advanced practice registered nurse
560 licensed under part I of chapter 464, in accordance with this
561 section. A licensed facility may not deny such application
562 solely because the applicant is licensed under part I of chapter
563 464 or because the applicant is not a participant in the Florida
564 Birth-Related Neurological Injury Compensation Plan.

565 (b) An advanced practice registered nurse who is certified
566 as a registered nurse anesthetist licensed under part I of
567 chapter 464 may administer anesthesia under the onsite medical
568 direction of a professional licensed under chapter 458, chapter
569 459, or chapter 466, and in accordance with an established
570 protocol approved by the medical staff. The medical direction
571 shall specifically address the needs of the individual patient.

572 (c) Each licensed facility shall establish rules and
573 procedures for consideration of an application for clinical
574 privileges submitted by a physician assistant licensed pursuant
575 to s. 458.347 or s. 459.022. Clinical privileges granted to a
576 physician assistant pursuant to this subsection shall
577 automatically terminate upon termination of staff membership of
578 the physician assistant's supervising physician.

579 (3) When a licensed facility requires, as a precondition to
580 obtaining staff membership or clinical privileges, the

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581 completion of, eligibility in, or graduation from any program or
582 society established by or relating to the American Medical
583 Association or the Liaison Committee on Graduate Medical
584 Education, the licensed facility shall also make available such
585 membership or privileges to physicians who have attained
586 completion of, eligibility in, or graduation from any equivalent
587 program established by or relating to the American Osteopathic
588 Association.

589 (4) This section does not restrict in any way the authority
590 of the medical staff of a licensed facility to review for
591 approval or disapproval all applications for appointment and
592 reappointment to all categories of staff and to make
593 recommendations on each applicant to the governing board,
594 including the delineation of privileges to be granted in each
595 case. In making such recommendations and in the delineation of
596 privileges, each applicant shall be considered individually
597 pursuant to criteria for a doctor licensed under chapter 458,
598 chapter 459, chapter 461, or chapter 466, or for an advanced
599 practice registered nurse licensed under part I of chapter 464,
600 or for a psychologist licensed under chapter 490, as applicable.
601 The applicant's eligibility for staff membership or clinical
602 privileges shall be determined by the applicant's background,
603 experience, health, training, and demonstrated competency; the
604 applicant's adherence to applicable professional ethics; the
605 applicant's reputation; and the applicant's ability to work with
606 others and by such other elements as determined by the governing
607 board, consistent with this chapter.

608 (5) The governing board of each licensed facility shall set
609 standards and procedures to be applied by the licensed facility

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610 and its medical staff in considering and acting upon
611 applications for staff membership or clinical privileges. Such
612 standards and procedures must be made available for public
613 inspection.

614 (6) Upon the written request of the applicant, any licensed
615 facility that has denied staff membership or clinical privileges
616 to an applicant specified in subsection (1) or subsection (2)
617 must, within 30 days after such request, provide the applicant
618 with the reasons for such denial in writing. A denial of staff
619 membership or clinical privileges to any applicant shall be
620 submitted, in writing, to the applicant's respective licensing
621 board.

622 (7) There is no monetary liability on the part of, and no
623 cause of action for injunctive relief or damages may arise
624 against, any licensed facility, its governing board or governing
625 board members, medical staff, or disciplinary board or against
626 its agents, investigators, witnesses, or employees, or against
627 any other person, for any action arising out of or related to
628 carrying out this section, absent intentional fraud.

629 (8) The investigations, proceedings, and records of the
630 board, or its agent with whom there is a specific written
631 contract for the purposes of this section, as described in this
632 section are not subject to discovery or introduction into
633 evidence in any civil action against a provider of professional
634 health services arising out of matters that are the subject of
635 evaluation and review by such board, and any person who was in
636 attendance at a meeting of such board or its agent is not
637 permitted or required to testify in any such civil action as to
638 any evidence or other matters produced or presented during the

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639 proceedings of such board or its agent or as to any findings,
640 recommendations, evaluations, opinions, or other actions of such
641 board or its agent or any members thereof. However, information,
642 documents, or records otherwise available from original sources
643 are not to be construed as immune from discovery or use in any
644 such civil action merely because they were presented during
645 proceedings of such board; nor should any person who testifies
646 before such board or who is a member of such board be prevented
647 from testifying as to matters within his or her knowledge, but
648 such witness cannot be asked about his or her testimony before
649 such a board or opinions formed by him or her as a result of
650 such board hearings.

651 (9) (a) If the defendant prevails in an action brought by an
652 applicant against any person or entity that initiated,
653 participated in, was a witness in, or conducted any review as
654 authorized by this section, the court shall award reasonable
655 attorney fees and costs to the defendant.

656 (b) As a condition of any applicant bringing any action
657 against any person or entity that initiated, participated in,
658 was a witness in, or conducted any review as authorized by this
659 section and before any responsive pleading is due, the applicant
660 shall post a bond or other security, as set by the court having
661 jurisdiction in the action, in an amount sufficient to pay the
662 costs and attorney fees.

663 Section 12. Section 396.212, Florida Statutes, is created
664 to read:

665 396.212 Licensed facilities; peer review; disciplinary
666 powers; agency or partnership with physicians.—

667 (1) It is the intent of the Legislature that good faith

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668 participants in the process of investigating and disciplining
669 physicians pursuant to the state-mandated peer review process
670 shall, in addition to receiving immunity from retaliatory tort
671 suits pursuant to s. 456.073(12), be protected from federal
672 antitrust suits filed under the Sherman Antitrust Act, 15 U.S.C.
673 ss. 1 et seq. Such intent is within the public policy of the
674 state to secure the provision of quality medical services to the
675 public.

676 (2) Each licensed facility, as a condition of licensure,
677 shall provide for peer review of physicians who deliver health
678 care services at the facility. Each licensed facility shall
679 develop written, binding procedures by which such peer review
680 shall be conducted. Such procedures shall include all of the
681 following:

682 (a) A mechanism for choosing the membership of the body or
683 bodies that conduct peer review.

684 (b) Adoption of rules of order for the peer review process.

685 (c) Fair review of the case with the physician involved.

686 (d) A mechanism to identify and avoid conflict of interest
687 on the part of the peer review panel members.

688 (e) Recording of agendas and minutes that do not contain
689 confidential material, for review by the Division of Health
690 Quality Assurance of the agency.

691 (f) A review, at least annually, of the peer review
692 procedures by the governing board of the licensed facility.

693 (g) Focus the peer review process on reviewing professional
694 practices at the facility to reduce morbidity and mortality and
695 to improve patient care.

696 (3) If reasonable belief exists that conduct by a staff

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697 member or physician who delivers health care services at the
698 licensed facility may constitute one or more grounds for
699 discipline as provided in this subsection, a peer review panel
700 must investigate and determine whether grounds for discipline
701 exist with respect to such staff member or physician. The
702 governing board of a licensed facility, after considering the
703 recommendations of its peer review panel, shall suspend, deny,
704 revoke, or curtail the privileges, or reprimand, counsel, or
705 require education, of any such staff member or physician after a
706 final determination has been made that one or more of the
707 following grounds exist:

708 (a) Incompetence.

709 (b) Being found to be a habitual user of intoxicants or
710 drugs to the extent that he or she is deemed dangerous to
711 himself, herself, or others.

712 (c) Mental or physical impairment which may adversely
713 affect patient care.

714 (d) Being found liable by a court of competent jurisdiction
715 for medical negligence or malpractice involving negligent
716 conduct.

717 (e) One or more settlements exceeding \$10,000 for medical
718 negligence or malpractice involving negligent conduct by the
719 staff member or physician.

720 (f) Medical negligence other than as specified in paragraph
721 (d) or paragraph (e).

722 (g) Failure to comply with the policies, procedures, or
723 directives of the risk management program or any quality
724 assurance committees of any licensed facility.

725 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary

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726 actions taken under subsection (3) shall be reported in writing
727 to the Division of Medical Quality Assurance of the Department
728 of Health within 30 working days after its initial occurrence,
729 regardless of the pendency of appeals to the governing board of
730 the licensed facility. The notification shall identify the
731 disciplined practitioner, the action taken, and the reason for
732 such action. All final disciplinary actions taken under
733 subsection (3), if different from those which were reported to
734 the agency within 30 days after the initial occurrence, shall be
735 reported within 10 working days to the Division of Medical
736 Quality Assurance in writing and shall specify the disciplinary
737 action taken and the specific grounds therefor. The division
738 shall review each report and determine whether it potentially
739 involved conduct by the licensee which is subject to
740 disciplinary action, in which case s. 456.073 shall apply. The
741 reports are not subject to inspection under s. 119.07(1) even if
742 the division's investigation results in a finding of probable
743 cause.

744 (5) There is no monetary liability on the part of, and no
745 cause of action for damages may rise against, any licensed
746 facility, its governing board or governing board members, peer
747 review panel, medical staff, or disciplinary body, or its
748 agents, investigators, witnesses, or employees; a committee of a
749 licensed facility; or any other person for any action taken
750 without intentional fraud in carrying out this section.

751 (6) For a single incident or series of isolated incidents
752 that are nonwillful violations of the reporting requirements of
753 this section or part II of chapter 408, the agency shall first
754 seek to obtain corrective action by the licensed facility. If

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755 correction is not demonstrated within the timeframe established
756 by the agency or if there is a pattern of nonwillful violations
757 of this section or part II of chapter 408, the agency may impose
758 an administrative fine, not to exceed \$5,000 for any violation
759 of the reporting requirements of this section or part II of
760 chapter 408. The administrative fine for repeated nonwillful
761 violations may not exceed \$10,000 for any violation. The
762 administrative fine for each intentional and willful violation
763 may not exceed \$25,000 per violation, per day. The fine for an
764 intentional and willful violation of this section or part II of
765 chapter 408 may not exceed \$250,000. In determining the amount
766 of fine to be levied, the agency shall be guided by s.
767 395.1065(2) (b) .

768 (7) The proceedings and records of peer review panels,
769 committees, and governing boards or agents thereof which relate
770 solely to actions taken in carrying out this section are not
771 subject to inspection under s. 119.07(1); and meetings held
772 pursuant to achieving the objectives of such panels, committees,
773 and governing boards or agents thereof are not open to the
774 public under chapter 286.

775 (8) The investigations, proceedings, and records of the
776 peer review panel, a committee of an ambulatory surgical center,
777 a disciplinary board, or a governing board, or agents thereof
778 with whom there is a specific written contract for that purpose,
779 as described in this section are not subject to discovery or
780 introduction into evidence in any civil or administrative action
781 against a provider of professional health services arising out
782 of the matters that are the subject of evaluation and review by
783 such group or its agent, and a person who was in attendance at a

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784 meeting of such group or its agent is not permitted and may not
785 be required to testify in any such civil or administrative
786 action as to any evidence or other matters produced or presented
787 during the proceedings of such group or its agent or as to any
788 findings, recommendations, evaluations, opinions, or other
789 actions of such group or its agent or any members thereof.
790 However, information, documents, or records otherwise available
791 from original sources are not to be construed as immune from
792 discovery or use in any such civil or administrative action
793 merely because they were presented during proceedings of such
794 group, and any person who testifies before such group or who is
795 a member of such group may not be prevented from testifying as
796 to matters within his or her knowledge, but such witness may not
797 be asked about his or her testimony before such a group or
798 opinions formed by him or her as a result of such group
799 hearings.

800 (9) (a) If the defendant prevails in an action brought by a
801 staff member or physician who delivers health care services at
802 the licensed facility against any person or entity that
803 initiated, participated in, was a witness in, or conducted any
804 review as authorized by this section, the court shall award
805 reasonable attorney fees and costs to the defendant.

806 (b) As a condition of any staff member or physician
807 bringing any action against any person or entity that initiated,
808 participated in, was a witness in, or conducted any review as
809 authorized by this section and before any responsive pleading is
810 due, the staff member or physician shall post a bond or other
811 security, as set by the court having jurisdiction in the action,
812 in an amount sufficient to pay the costs and attorney fees.

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813 Section 13. Section 396.213, Florida Statutes, is created
814 to read:

815 396.213 Internal risk management program.—

816 (1) Every licensed facility shall, as a part of its
817 administrative functions, establish an internal risk management
818 program that includes, at a minimum, all of the following
819 components:

820 (a) The investigation and analysis of the frequency and
821 causes of general categories and specific types of adverse
822 incidents to patients.

823 (b) The development of appropriate measures to minimize the
824 risk of adverse incidents to patients, including, but not
825 limited to:

826 1. Risk management and risk prevention education and
827 training of all nonphysician personnel as follows:

828 a. Such education and training of all nonphysician
829 personnel as part of their initial orientation; and

830 b. At least 1 hour of such education and training annually
831 for all personnel of the licensed facility working in clinical
832 areas and providing patient care, except those persons licensed
833 as health care practitioners who are required to complete
834 continuing education coursework pursuant to chapter 456 or the
835 respective practice act.

836 2. A prohibition, except when emergency circumstances
837 require otherwise, against a staff member of the licensed
838 facility attending a patient in the recovery room, unless the
839 staff member is authorized to attend the patient in the recovery
840 room and is in the company of at least one other person.

841 However, a licensed facility is exempt from the two-person

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842 requirement if it has:

843 a. Live visual observation;

844 b. Electronic observation; or

845 c. Any other reasonable measure taken to ensure patient
846 protection and privacy.

847 3. A prohibition against an unlicensed person assisting or
848 participating in any surgical procedure unless the licensed
849 facility has authorized the person to do so following a
850 competency assessment, and such assistance or participation is
851 done under the direct and immediate supervision of a licensed
852 physician and is not otherwise an activity that may only be
853 performed by a licensed health care practitioner.

854 4. Development, implementation, and ongoing evaluation of
855 procedures, protocols, and systems to accurately identify
856 patients, planned procedures, and the correct site of planned
857 procedures so as to minimize the performance of a surgical
858 procedure on the wrong patient, a wrong surgical procedure, a
859 wrong-site surgical procedure, or a surgical procedure otherwise
860 unrelated to the patient's diagnosis or medical condition.

861 (c) The analysis of patient grievances that relate to
862 patient care and the quality of medical services.

863 (d) A system for informing a patient or an individual
864 identified pursuant to s. 765.401(1) that the patient was the
865 subject of an adverse incident, as defined in subsection (5).
866 Such notice shall be given by an appropriately trained person
867 designated by the licensed facility as soon as practicable to
868 allow the patient an opportunity to minimize damage or injury.

869 (e) The development and implementation of an incident
870 reporting system based upon the affirmative duty of all health

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871 care providers and all agents and employees of the licensed
872 facility to report adverse incidents to the risk manager, or to
873 his or her designee, within 3 business days after the occurrence
874 of such incidents.

875 (2) The internal risk management program is the
876 responsibility of the governing board of the licensed facility.
877 Each licensed facility shall hire a risk manager who is
878 responsible for implementation and oversight of the facility's
879 internal risk management program and who demonstrates
880 competence, through education or experience, in all of the
881 following areas:

- 882 (a) Applicable standards of health care risk management.
883 (b) Applicable federal, state, and local health and safety
884 laws and rules.
885 (c) General risk management administration.
886 (d) Patient care.
887 (e) Medical care.
888 (f) Personal and social care.
889 (g) Accident prevention.
890 (h) Departmental organization and management.
891 (i) Community interrelationships.
892 (j) Medical terminology.

893 (3) In addition to the programs mandated by this section,
894 other innovative approaches intended to reduce the frequency and
895 severity of medical malpractice and patient injury claims are
896 encouraged and their implementation and operation facilitated.
897 Such additional approaches may include extending internal risk
898 management programs to health care providers' offices and the
899 assuming of provider liability by a licensed facility for acts

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900 or omissions occurring within the licensed facility. Each
901 licensed facility shall annually report to the agency and the
902 Department of Health the name and judgments entered against each
903 health care practitioner for which it assumes liability. The
904 agency and the department, in their respective annual reports,
905 shall include statistics that report the number of licensed
906 facilities that assume such liability and the number of health
907 care practitioners, by profession, for whom they assume
908 liability.

909 (4) The agency shall adopt rules governing the
910 establishment of internal risk management programs to meet the
911 needs of individual licensed facilities. Each internal risk
912 management program shall include the use of incident reports to
913 be filed with a responsible individual who is competent in risk
914 management techniques, such as an insurance coordinator, in the
915 employ of each licensed facility, or who is retained by the
916 licensed facility as a consultant. The individual responsible
917 for the risk management program shall have free access to all
918 medical records of the licensed facility. The incident reports
919 are part of the workpapers of the attorney defending the
920 licensed facility in litigation relating to the licensed
921 facility and are subject to discovery, but are not admissible as
922 evidence in court. A person filing an incident report is not
923 subject to civil suit by virtue of such incident report. As a
924 part of each internal risk management program, the incident
925 reports shall be used to develop categories of incidents which
926 identify problem areas. Once identified, procedures shall be
927 adjusted to correct the problem areas.

928 (5) For purposes of reporting to the agency pursuant to

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929 this section, the term "adverse incident" means an event over
930 which health care personnel could exercise control and which is
931 associated in whole or in part with medical intervention, rather
932 than the condition for which such intervention occurred, and
933 which:

934 (a) Results in one of the following outcomes:

935 1. Death;

936 2. Brain or spinal damage;

937 3. Permanent disfigurement;

938 4. Fracture or dislocation of bones or joints;

939 5. A resulting limitation of neurological, physical, or
940 sensory function which continues after discharge from the
941 licensed facility;

942 6. Any condition that required specialized medical
943 attention or surgical intervention resulting from nonemergency
944 medical intervention, other than an emergency medical condition,
945 to which the patient has not given his or her informed consent;
946 or

947 7. Any condition that required the transfer of the patient,
948 within or outside the licensed facility, to a unit providing a
949 more acute level of care due to the adverse incident, rather
950 than the patient's condition before the adverse incident.

951 (b) Was the performance of a surgical procedure on the
952 wrong patient, a wrong surgical procedure, a wrong-site surgical
953 procedure, or a surgical procedure otherwise unrelated to the
954 patient's diagnosis or medical condition;

955 (c) Required the surgical repair of damage resulting to a
956 patient from a planned surgical procedure, where the damage was
957 not a recognized specific risk, as disclosed to the patient and

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958 documented through the informed-consent process; or

959 (d) Was a procedure to remove unplanned foreign objects
960 remaining from a surgical procedure.

961 (6) (a) Each licensed facility subject to this section shall
962 submit an annual report to the agency summarizing the adverse
963 incident reports that have been filed in the facility for that
964 year. The report shall include:

965 1. The total number of adverse incidents.

966 2. A listing, by category, of the types of operations,
967 diagnostic or treatment procedures, or other actions causing the
968 injuries, and the number of incidents occurring within each
969 category.

970 3. A listing, by category, of the types of injuries caused
971 and the number of incidents occurring within each category.

972 4. A code number using the health care professional's
973 licensure number and a separate code number identifying all
974 other individuals directly involved in adverse incidents to
975 patients, the relationship of the individual to the licensed
976 facility, and the number of incidents in which each individual
977 has been directly involved. Each licensed facility shall
978 maintain names of the health care professionals and individuals
979 identified by code numbers for purposes of this section.

980 5. A description of all malpractice claims filed against
981 the licensed facility, including the total number of pending and
982 closed claims and the nature of the incident which led to, the
983 persons involved in, and the status and disposition of each
984 claim. Each report shall update status and disposition for all
985 prior reports.

986 (b) The information reported to the agency pursuant to

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987 paragraph (a) which relates to persons licensed under chapter
988 458, chapter 459, chapter 461, or chapter 466 shall be reviewed
989 by the agency. The agency shall determine whether any of the
990 incidents potentially involved conduct by a health care
991 professional who is subject to disciplinary action, in which
992 case s. 456.073 applies.

993 (c) The report submitted to the agency must also contain
994 the name of the risk manager of the licensed facility, a copy of
995 the policies and procedures governing the measures taken by the
996 licensed facility and its risk manager to reduce the risk of
997 injuries and adverse incidents, and the results of such
998 measures. The annual report is confidential and is not available
999 to the public pursuant to s. 119.07(1) or any other law
1000 providing access to public records. The annual report is not
1001 discoverable or admissible in any civil or administrative
1002 action, except in disciplinary proceedings by the agency or the
1003 appropriate regulatory board. The annual report is not available
1004 to the public as part of the record of investigation for and
1005 prosecution in disciplinary proceedings made available to the
1006 public by the agency or the appropriate regulatory board.
1007 However, the agency or the appropriate regulatory board shall
1008 make available, upon written request by a health care
1009 professional against whom probable cause has been found, any
1010 such records which form the basis of the determination of
1011 probable cause.

1012 (7) Any of the following adverse incidents, whether
1013 occurring in the licensed facility or arising from health care
1014 services administered before admission in the licensed facility,
1015 shall be reported by the licensed facility to the agency within

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1016 15 calendar days after its occurrence:

1017 (a) The death of a patient;

1018 (b) Brain or spinal damage to a patient;

1019 (c) The performance of a surgical procedure on the wrong
1020 patient;

1021 (d) The performance of a wrong-site surgical procedure;

1022 (e) The performance of a wrong surgical procedure;

1023 (f) The performance of a surgical procedure that is
1024 medically unnecessary or otherwise unrelated to the patient's
1025 diagnosis or medical condition;

1026 (g) The surgical repair of damage resulting to a patient
1027 from a planned surgical procedure, where the damage is not a
1028 recognized specific risk, as disclosed to the patient and
1029 documented through the informed-consent process; or

1030 (h) The performance of procedures to remove unplanned
1031 foreign objects remaining from a surgical procedure.

1032
1033 The agency may grant extensions to this reporting requirement
1034 for more than 15 days upon justification submitted in writing by
1035 the licensed facility administrator to the agency. The agency
1036 may require an additional, final report. These reports may not
1037 be available to the public pursuant to s. 119.07(1) or any other
1038 law providing access to public records, nor be discoverable or
1039 admissible in any civil or administrative action, except in
1040 disciplinary proceedings by the agency or the appropriate
1041 regulatory board, nor shall they be available to the public as
1042 part of the record of investigation for and prosecution in
1043 disciplinary proceedings made available to the public by the
1044 agency or the appropriate regulatory board. However, the agency

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1045 or the appropriate regulatory board shall make available, upon
1046 written request by a health care professional against whom
1047 probable cause has been found, any such records which form the
1048 basis of the determination of probable cause. The agency may
1049 investigate, as it deems appropriate, any such incident and
1050 prescribe measures that must or may be taken in response to the
1051 incident. The agency shall review each incident and determine
1052 whether it potentially involved conduct by the health care
1053 professional, who would be subject to disciplinary action, in
1054 which case s. 456.073 applies.

1055 (8) The agency shall publish on the agency's website, at
1056 least quarterly, a summary and trend analysis of adverse
1057 incident reports received pursuant to this section, which may
1058 not include information that would identify the patient, the
1059 reporting facility, or the health care practitioners involved.
1060 The agency shall publish on the agency's website an annual
1061 summary and trend analysis of all adverse incident reports and
1062 malpractice claims information provided by licensed facilities
1063 in their annual reports, which may not include information that
1064 would identify the patient, the reporting facility, or the
1065 practitioners involved. The purpose of the publication of the
1066 summary and trend analysis is to promote the rapid dissemination
1067 of information relating to adverse incidents and malpractice
1068 claims to assist in avoidance of similar incidents and reduce
1069 morbidity and mortality.

1070 (9) The internal risk manager of each licensed facility
1071 shall:

1072 (a) Investigate every allegation of sexual misconduct which
1073 is made against a member of the licensed facility's personnel

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1074 who has direct patient contact, when the allegation is that the
1075 sexual misconduct occurred at the facility or on the grounds of
1076 the facility.

1077 (b) Report every allegation of sexual misconduct to the
1078 administrator of the licensed facility.

1079 (c) Notify the family or guardian of the victim, if a
1080 minor, that an allegation of sexual misconduct has been made and
1081 that an investigation is being conducted.

1082 (d) Report to the Department of Health every allegation of
1083 sexual misconduct, as defined in chapter 456 and the respective
1084 practice act, by a licensed health care practitioner which
1085 involves a patient.

1086 (10) Any witness who witnessed or who possesses actual
1087 knowledge of the act that is the basis of an allegation of
1088 sexual abuse shall:

1089 (a) Notify the local police; and

1090 (b) Notify the risk manager and the administrator.

1091
1092 For purposes of this subsection, the term "sexual abuse" means
1093 acts of a sexual nature committed for the sexual gratification
1094 of anyone upon, or in the presence of, a vulnerable adult,
1095 without the vulnerable adult's informed consent, or a minor. The
1096 term includes, but is not limited to, the acts defined in s.
1097 794.011(1)(j), fondling, exposure of a vulnerable adult's or
1098 minor's sexual organs, or the use of the vulnerable adult or
1099 minor to solicit for or engage in prostitution or sexual
1100 performance. The term does not include any act intended for a
1101 valid medical purpose or any act which may reasonably be
1102 construed to be a normal caregiving action.

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1103 (11) A person who, with malice or with intent to discredit
1104 or harm a licensed facility or any person, makes a false
1105 allegation of sexual misconduct against a member of a licensed
1106 facility's personnel is guilty of a misdemeanor of the second
1107 degree, punishable as provided in s. 775.082 or s. 775.083.

1108 (12) In addition to any penalty imposed pursuant to this
1109 section or part II of chapter 408, the agency shall require a
1110 written plan of correction from the licensed facility. For a
1111 single incident or series of isolated incidents that are
1112 nonwillful violations of the reporting requirements of this
1113 section or part II of chapter 408, the agency shall first seek
1114 to obtain corrective action by the licensed facility. If the
1115 correction is not demonstrated within the timeframe established
1116 by the agency or if there is a pattern of nonwillful violations
1117 of this section or part II of chapter 408, the agency may impose
1118 an administrative fine, not to exceed \$5,000 for any violation
1119 of the reporting requirements of this section or part II of
1120 chapter 408. The administrative fine for repeated nonwillful
1121 violations may not exceed \$10,000 for any violation. The
1122 administrative fine for each intentional and willful violation
1123 may not exceed \$25,000 per violation, per day. The fine for an
1124 intentional and willful violation of this section or part II of
1125 chapter 408 may not exceed \$250,000. In determining the amount
1126 of fine to be levied, the agency shall be guided by s.
1127 395.1065(2)(b).

1128 (13) The agency must be given access to all licensed
1129 facility records necessary to carry out this section. The
1130 records obtained by the agency under subsection (6), subsection
1131 (7), or subsection (9) are not available to the public under s.

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1132 119.07(1), nor are they discoverable or admissible in any civil
1133 or administrative action, except in disciplinary proceedings by
1134 the agency or the appropriate regulatory board, nor are records
1135 obtained pursuant to s. 456.071 available to the public as part
1136 of the record of investigation for and prosecution in
1137 disciplinary proceedings made available to the public by the
1138 agency or the appropriate regulatory board. However, the agency
1139 or the appropriate regulatory board shall make available, upon
1140 written request by a health care practitioner against whom
1141 probable cause has been found, any such records which form the
1142 basis of the determination of probable cause, except that, with
1143 respect to medical review committee records, s. 766.101
1144 controls.

1145 (14) The meetings of the committees and governing board of
1146 a licensed facility held solely for the purpose of achieving the
1147 objectives of risk management as provided by this section may
1148 not be open to the public under chapter 286. The records of such
1149 meetings are confidential and exempt from s. 119.07(1), except
1150 as provided in subsection (13).

1151 (15) The agency shall review, as part of its licensure
1152 inspection process, the internal risk management program at each
1153 licensed facility regulated by this section to determine whether
1154 the program meets standards established in statutes and rules,
1155 whether the program is being conducted in a manner designed to
1156 reduce adverse incidents, and whether the program is
1157 appropriately reporting incidents under this section.

1158 (16) There is no monetary liability on the part of, and no
1159 cause of action for damages may arise against, any risk manager
1160 for the implementation and oversight of the internal risk

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1161 management program in a facility licensed under this chapter or
1162 chapter 390 as required by this section, for any act or
1163 proceeding undertaken or performed within the scope of the
1164 functions of such internal risk management program, if the risk
1165 manager acts without intentional fraud.

1166 (17) A privilege against civil liability is granted to any
1167 risk manager or licensed facility with regard to information
1168 furnished pursuant to this chapter, unless the risk manager or
1169 facility acted in bad faith or with malice in providing such
1170 information.

1171 (18) If the agency, through its receipt of any reports
1172 required under this section or through any investigation, has a
1173 reasonable belief that conduct by a staff member or employee of
1174 a licensed facility is grounds for disciplinary action by the
1175 appropriate regulatory board, the agency shall report this fact
1176 to such regulatory board.

1177 (19) It is unlawful for any person to coerce, intimidate,
1178 or preclude a risk manager from lawfully executing his or her
1179 reporting obligations pursuant to this chapter. Such unlawful
1180 action is subject to civil monetary penalties not to exceed
1181 \$10,000 per violation.

1182 Section 14. Section 396.214, Florida Statutes, is created
1183 to read:

1184 396.214 Identification, segregation, and separation of
1185 biomedical waste.—Each licensed facility shall comply with the
1186 requirements in s. 381.0098 relating to biomedical waste. Any
1187 transporter or potential transporter of such waste shall be
1188 notified of the existence and locations of such waste.

1189 Section 15. Section 396.215, Florida Statutes, is created

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1190 to read:

1191 396.215 Patient safety.-

1192 (1) Each licensed facility must adopt a patient safety
1193 plan. A plan adopted to implement the requirements of 42 C.F.R.
1194 s. 482.21 shall be deemed to comply with this requirement.

1195 (2) Each licensed facility shall appoint a patient safety
1196 officer for the purpose of promoting the health and safety of
1197 patients, reviewing and evaluating the quality of patient safety
1198 measures used by the facility, and assisting in the
1199 implementation of the facility patient safety plan.

1200 (3) Each licensed facility must, at least biennially,
1201 conduct a patient safety culture survey using the applicable
1202 Survey on Patient Safety Culture developed by the federal Agency
1203 for Healthcare Research and Quality. Each licensed facility
1204 shall conduct the survey anonymously to encourage completion of
1205 the survey by staff working in or employed by the facility. Each
1206 licensed facility may contract to administer the survey. Each
1207 licensed facility shall biennially submit the survey data to the
1208 agency in a format specified by rule, which must include the
1209 survey participation rate. Each licensed facility may develop an
1210 internal action plan between conducting surveys to identify
1211 measures to improve the survey and submit the plan to the
1212 agency.

1213 Section 16. Section 396.216, Florida Statutes, is created
1214 to read:

1215 396.216 Cases of child abuse, abandonment, or neglect;
1216 duties.-Each licensed facility shall adopt a protocol that, at a
1217 minimum, requires the facility to:

1218 (1) Incorporate a facility policy that every staff member

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1219 has an affirmative duty to report, pursuant to chapter 39, any
1220 actual or suspected case of child abuse, abandonment, or
1221 neglect; and

1222 (2) In any case involving suspected child abuse,
1223 abandonment, or neglect, designate, at the request of the
1224 Department of Children and Families, a staff physician to act as
1225 a liaison between the licensed facility and the Department of
1226 Children and Families office that is investigating the suspected
1227 abuse, abandonment, or neglect, and the Child Protection Team,
1228 as defined in s. 39.01, when the case is referred to such a
1229 team.

1230
1231 Each licensed facility shall provide a copy of its policy to the
1232 agency and the department as specified by agency rule. Failure
1233 to comply with this section is punishable by a fine not to
1234 exceed \$1,000, to be fixed, imposed, and collected by the
1235 agency. Each day in violation of this section is considered a
1236 separate offense.

1237 Section 17. Section 396.217, Florida Statutes, is created
1238 to read:

1239 396.217 Duty to notify patients.—An appropriately trained
1240 person designated by each licensed facility shall inform each
1241 patient, or an individual identified pursuant to s. 765.401(1),
1242 in person about adverse incidents that result in serious harm to
1243 the patient. Notifications of outcomes of care that result in
1244 harm to the patient under this section do not constitute an
1245 acknowledgment or admission of liability, and may not be
1246 introduced as evidence.

1247 Section 18. Section 396.218, Florida Statutes, is created

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1248 to read:

1249 396.218 Rules and enforcement.-

1250 (1) The agency shall adopt rules pursuant to ss. 120.536(1)
1251 and 120.54 to implement this chapter, which shall include
1252 reasonable and fair minimum standards for ensuring that:

1253 (a) Sufficient numbers and qualified types of personnel and
1254 occupational disciplines are on duty and available at all times
1255 to provide necessary and adequate patient care and safety.

1256 (b) Infection control, housekeeping, sanitary conditions,
1257 and medical record procedures that will adequately protect
1258 patient care and safety are established and implemented.

1259 (c) A comprehensive emergency management plan is prepared
1260 and updated annually. Such standards must be included in the
1261 rules adopted by the agency after consulting with the Division
1262 of Emergency Management. At a minimum, the rules must provide
1263 for plan components that address emergency evacuation
1264 transportation; adequate sheltering arrangements; postdisaster
1265 activities, including emergency power, food, and water;
1266 postdisaster transportation; supplies; staffing; emergency
1267 equipment; individual identification of residents and transfer
1268 of records, and responding to family inquiries. The
1269 comprehensive emergency management plan is subject to review and
1270 approval by the local emergency management agency. During its
1271 review, the local emergency management agency shall ensure that
1272 the following agencies, at a minimum, are given the opportunity
1273 to review the plan: the Department of Elderly Affairs, the
1274 Department of Health, the Agency for Health Care Administration,
1275 and the Division of Emergency Management. Also, appropriate
1276 volunteer organizations must be given the opportunity to review

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1277 the plan. The local emergency management agency shall complete
1278 its review within 60 days and either approve the plan or advise
1279 the licensed facility of necessary revisions.

1280 (d) Licensed facilities are established, organized, and
1281 operated consistent with established standards and rules.

1282 (e) Licensed facility beds conform to minimum space,
1283 equipment, and furnishings standards as specified by the
1284 department.

1285 (f) Each licensed facility has a quality improvement
1286 program designed according to standards established by its
1287 current accrediting organization. This program will enhance
1288 quality of care and emphasize quality patient outcomes,
1289 corrective action for problems, governing board review, and
1290 reporting to the agency of standardized data elements necessary
1291 to analyze quality of care outcomes. The agency shall use
1292 existing data, when available, and may not duplicate the efforts
1293 of other state agencies in order to obtain such data.

1294 (g) Licensed facilities make available on their Internet
1295 websites, and in a hard copy format upon request, a description
1296 of and a link to the patient charge and performance outcome data
1297 collected from licensed facilities pursuant to s. 408.061.

1298 (2) The agency shall adopt rules that establish minimum
1299 standards for pediatric patient care in ambulatory surgical
1300 centers to ensure the safe and effective delivery of surgical
1301 care to children. Such standards must include quality of care,
1302 nurse staffing, physician staffing, and equipment standards.
1303 Ambulatory surgical centers may not provide operative procedures
1304 to children under 18 years of age which require a length of stay
1305 past midnight until such standards are established by rule.

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1306 (3) Any rule adopted under this chapter by the agency may
1307 not deny a license to a facility required to be licensed under
1308 this chapter solely by reason of the school or system of
1309 practice employed or permitted to be employed by physicians
1310 therein, provided that such school or system of practice is
1311 recognized by the laws of this state. However, this subsection
1312 does not limit the powers of the agency to provide and require
1313 minimum standards for the maintenance and operation of, and for
1314 the treatment of patients in, those licensed facilities which
1315 receive federal aid, in order to meet minimum standards related
1316 to such matters in such licensed facilities which may now or
1317 hereafter be required by appropriate federal officers or
1318 agencies pursuant to federal law or rules adopted pursuant
1319 thereto.

1320 (4) Any licensed facility which is in operation at the time
1321 of adoption of any applicable rules under this chapter must be
1322 given a reasonable time, under the particular circumstances, but
1323 not to exceed 1 year after the date of such adoption, within
1324 which to comply with such rules.

1325 (5) The agency may not adopt any rule governing the design,
1326 construction, erection, alteration, modification, repair, or
1327 demolition of any ambulatory surgical center. It is the intent
1328 of the Legislature to preempt that function to the Florida
1329 Building Commission and the State Fire Marshal through adoption
1330 and maintenance of the Florida Building Code and the Florida
1331 Fire Prevention Code. However, the agency shall provide
1332 technical assistance to the commission and the State Fire
1333 Marshal in updating the construction standards of the Florida
1334 Building Code and the Florida Fire Prevention Code which govern

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1335 ambulatory surgical centers.

1336 Section 19. Section 396.219, Florida Statutes, is created
1337 to read:

1338 396.219 Criminal and administrative penalties; moratorium.-

1339 (1) In addition to s. 408.812, any person establishing,
1340 conducting, managing, or operating any facility without a
1341 license under this chapter commits a misdemeanor and, upon
1342 conviction, shall be fined not more than \$500 for the first
1343 offense and not more than \$1,000 for each subsequent offense,
1344 and each day of continuing violation after conviction is
1345 considered a separate offense.

1346 (2) (a) The agency may impose an administrative fine, not to
1347 exceed \$1,000 per violation, per day, for the violation of any
1348 provision of this chapter, part II of chapter 408, or applicable
1349 rules. Each day of violation constitutes a separate violation
1350 and is subject to a separate fine.

1351 (b) In determining the amount of fine to be levied for a
1352 violation, as provided in paragraph (a), the following factors
1353 must be considered:

1354 1. The severity of the violation, including the probability
1355 that death or serious harm to the health or safety of any person
1356 will result or has resulted, the severity of the actual or
1357 potential harm, and the extent to which the provisions of this
1358 chapter were violated.

1359 2. Actions taken by the licensee to correct the violations
1360 or to remedy complaints.

1361 3. Any previous violations of the licensee.

1362 (c) The agency may impose an administrative fine for the
1363 violation of s. 641.3154 or, if sufficient claims due to a

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1364 provider from a health maintenance organization do not exist to
1365 enable the take-back of an overpayment, as provided under s.
1366 641.3155(5), for the violation of s. 641.3155(5). The
1367 administrative fine for a violation cited in this paragraph
1368 shall be in the amounts specified in s. 641.52(5), and paragraph
1369 (a) does not apply.

1370 (3) In accordance with part II of chapter 408, the agency
1371 may impose an immediate moratorium on elective admissions to any
1372 licensed facility, building, or portion thereof, or service,
1373 when the agency determines that any condition in the licensed
1374 facility presents a threat to public health or safety.

1375 (4) The agency shall impose a fine of \$500 for each
1376 instance of the licensed facility's failure to provide the
1377 information required by rules adopted pursuant to s.
1378 395.1055(1)(g).

1379 Section 20. Section 396.221, Florida Statutes, is created
1380 to read:

1381 396.221 Powers and duties of the agency.—The agency shall:

1382 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
1383 implement this chapter and part II of chapter 408 conferring
1384 duties upon it.

1385 (2) Develop a model risk management program for licensed
1386 facilities which will satisfy the requirements of s. 395.0197.

1387 (3) Enforce the special-occupancy provisions of the Florida
1388 Building Code which apply to ambulatory surgical centers in
1389 conducting any inspection authorized by this chapter and part II
1390 of chapter 408.

1391 Section 21. Section 396.222, Florida Statutes, is created
1392 to read:

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1393 396.222 Price transparency; itemized patient statement or
1394 bill; patient admission status notification.-

1395 (1) A facility licensed under this chapter shall provide
1396 timely and accurate financial information and quality of service
1397 measures to patients and prospective patients of the facility,
1398 or to patients' survivors or legal guardians, as appropriate.
1399 Such information shall be provided in accordance with this
1400 section and rules adopted by the agency pursuant to this chapter
1401 and s. 408.05. Licensed facilities operating exclusively as
1402 state facilities are exempt from this subsection.

1403 (a) Each licensed facility shall make available to the
1404 public on its website information on payments made to that
1405 facility for defined bundles of services and procedures. The
1406 payment data must be presented and searchable in accordance
1407 with, and through a hyperlink to, the system established by the
1408 agency and its vendor using the descriptive service bundles
1409 developed under s. 408.05(3)(c). At a minimum, the licensed
1410 facility shall provide the estimated average payment received
1411 from all payors, excluding Medicaid and Medicare, for the
1412 descriptive service bundles available at that facility and the
1413 estimated payment range for such bundles. Using plain language,
1414 comprehensible to an ordinary layperson, the licensed facility
1415 must disclose that the information on average payments and the
1416 payment ranges is an estimate of costs that may be incurred by
1417 the patient or prospective patient and that actual costs will be
1418 based on the services actually provided to the patient. The
1419 licensed facility's website must:

1420 1. Provide information to prospective patients on the
1421 licensed facility's financial assistance policy, including the

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1422 application process, payment plans, and discounts, and the
1423 facility's charity care policy and collection procedures.

1424 2. If applicable, notify patients and prospective patients
1425 that services may be provided in the licensed facility by that
1426 facility as well as by other health care providers who may
1427 separately bill the patient and that such health care providers
1428 may or may not participate with the same health insurers or
1429 health maintenance organizations as the facility.

1430 3. Inform patients and prospective patients that they may
1431 request from the licensed facility and other health care
1432 providers a more personalized estimate of charges and other
1433 information, and inform patients that they should contact each
1434 health care practitioner who will provide services in the
1435 facility to determine the health insurers and health maintenance
1436 organizations with which the health care practitioner
1437 participates as a network provider or preferred provider.

1438 4. Provide the names, mailing addresses, and telephone
1439 numbers of the health care practitioners and medical practice
1440 groups with which it contracts to provide services in the
1441 licensed facility and instructions on how to contact the
1442 practitioners and groups to determine the health insurers and
1443 health maintenance organizations with which they participate as
1444 network providers or preferred providers.

1445 (b) Each licensed facility shall post on its website a
1446 consumer-friendly list of standard charges for at least 300
1447 shoppable health care services, or an Internet-based price
1448 estimator tool meeting federal standards. If a licensed facility
1449 provides fewer than 300 distinct shoppable health care services,
1450 it shall make available on its website the standard charges for

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1451 each service it provides. As used in this paragraph, the term:

1452 1. "Shoppable health care service" means a service that can
1453 be scheduled by a healthcare consumer in advance. The term
1454 includes, but is not limited to, the services described in s.
1455 627.6387(2)(e) and any services defined in regulations or
1456 guidance issued by the United States Department of Health and
1457 Human Services.

1458 2. "Standard charge" has the same meaning as that term is
1459 defined in regulations or guidance issued by the United States
1460 Department of Health and Human Services for purposes of
1461 ambulatory surgical center price transparency.

1462 (c)1. Before providing any nonemergency medical services,
1463 each licensed facility shall provide in writing or by electronic
1464 means a good faith estimate of reasonably anticipated charges
1465 for the treatment of a patient's or prospective patient's
1466 specific condition. The licensed facility is not required to
1467 adjust the estimate for any potential insurance coverage. The
1468 licensed facility must provide the estimate to the patient's
1469 health insurer, as defined in s. 627.446(1), and the patient at
1470 least 3 business days before the date such service is to be
1471 provided, but no later than 1 business day after the date such
1472 service is scheduled or, in the case of a service scheduled at
1473 least 10 business days in advance, no later than 3 business days
1474 after the date the service is scheduled. The licensed facility
1475 must provide the estimate to the patient no later than 3
1476 business days after the date the patient requests an estimate.
1477 The estimate may be based on the descriptive service bundles
1478 developed by the agency under s. 408.05(3)(c) unless the patient
1479 or prospective patient requests a more personalized and specific

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1480 estimate that accounts for the specific condition and
1481 characteristics of the patient or prospective patient. The
1482 licensed facility shall inform the patient or prospective
1483 patient that he or she may contact his or her health insurer for
1484 additional information concerning cost-sharing responsibilities.

1485 2. In the estimate, the licensed facility shall provide to
1486 the patient or prospective patient information on the facility's
1487 financial assistance policy, including the application process,
1488 payment plans, and discounts and the facility's charity care
1489 policy and collection procedures.

1490 3. The estimate shall clearly identify any facility fees
1491 and, if applicable, include a statement notifying the patient or
1492 prospective patient that a facility fee is included in the
1493 estimate, the purpose of the fee, and that the patient may pay
1494 less for the procedure or service at another facility or in
1495 another health care setting.

1496 4. The licensed facility shall notify the patient or
1497 prospective patient of any revision to the estimate.

1498 5. In the estimate, the licensed facility must notify the
1499 patient or prospective patient that services may be provided in
1500 the facility by the facility as well as by other health care
1501 providers that may separately bill the patient, if applicable.

1502 6. Failure to timely provide the estimate pursuant to this
1503 paragraph shall result in a daily fine of \$1,000 until the
1504 estimate is provided to the patient or prospective patient and
1505 the health insurer. The total fine per patient estimate may not
1506 exceed \$10,000.

1507 (d) Each licensed facility shall make available on its
1508 website a hyperlink to the health-related data, including

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1509 quality measures and statistics that are disseminated by the
1510 agency pursuant to s. 408.05. The licensed facility shall also
1511 take action to notify the public that such information is
1512 electronically available and provide a hyperlink to the agency's
1513 website.

1514 (e)1. Upon request, and after the patient's discharge or
1515 release from a licensed facility, the facility must provide to
1516 the patient or to the patient's survivor or legal guardian, as
1517 appropriate, an itemized statement or a bill detailing in plain
1518 language, comprehensible to an ordinary layperson, the specific
1519 nature of charges or expenses incurred by the patient. The
1520 initial statement or bill shall be provided within 7 days after
1521 the patient's discharge or release or after a request for such
1522 statement or bill, whichever is later. The initial statement or
1523 bill must contain a statement of specific services received and
1524 expenses incurred by date and provider for such items of
1525 service, enumerating in detail as prescribed by the agency the
1526 constituent components of the services received within each
1527 department of the licensed facility and including unit price
1528 data on rates charged by the licensed facility. The statement or
1529 bill must also clearly identify any facility fee and explain the
1530 purpose of the fee. The statement or bill must identify each
1531 item as paid, pending payment by a third party, or pending
1532 payment by the patient, and must include the amount due, if
1533 applicable. If an amount is due from the patient, a due date
1534 must be included. The initial statement or bill must direct the
1535 patient or the patient's survivor or legal guardian, as
1536 appropriate, to contact the patient's insurer or health
1537 maintenance organization regarding the patient's cost-sharing

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1538 responsibilities.

1539 2. Any subsequent statement or bill provided to a patient
1540 or to the patient's survivor or legal guardian, as appropriate,
1541 relating to the episode of care must include all of the
1542 information required by subparagraph 1., with any revisions
1543 clearly delineated.

1544 3. Each statement or bill provided pursuant to this
1545 subsection:

1546 a. Must include notice of physicians and other health care
1547 providers who bill separately.

1548 b. May not include any generalized category of expenses
1549 such as "other" or "miscellaneous" or similar categories.

1550 (2) Each itemized statement or bill must prominently
1551 display the telephone number of the licensed facility's patient
1552 liaison who is responsible for expediting the resolution of any
1553 billing dispute between the patient, or the patient's survivor
1554 or legal guardian, and the billing department.

1555 (3) A licensed facility shall make available to a patient
1556 all records necessary for verification of the accuracy of the
1557 patient's statement or bill within 10 business days after the
1558 request for such records. The records must be made available in
1559 the licensed facility's offices and through electronic means
1560 that comply with the Health Insurance Portability and
1561 Accountability Act of 1996, 42 U.S.C. s. 1320d, as amended. Such
1562 records must be available to the patient before and after
1563 payment of the statement or bill. The licensed facility may not
1564 charge the patient for making such verification records
1565 available; however, the facility may charge fees for providing
1566 copies of records as specified in s. 395.3025(1).

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1567 (4) Each licensed facility shall establish a method for
1568 reviewing and responding to questions from patients concerning
1569 the patient's itemized statement or bill. Such response shall be
1570 provided within 7 business days after the date a question is
1571 received. If the patient is not satisfied with the response, the
1572 facility must provide the patient with the contact information
1573 of the agency to which the issue may be sent for review.

1574 (5) Each licensed facility shall establish an internal
1575 process for reviewing and responding to grievances from
1576 patients. Such process must allow a patient to dispute charges
1577 that appear on the patient's itemized statement or bill. The
1578 licensed facility shall prominently post on its website and
1579 indicate in bold print on each itemized statement or bill the
1580 instructions for initiating a grievance and the direct contact
1581 information required to initiate the grievance process. The
1582 licensed facility must provide an initial response to a patient
1583 grievance within 7 business days after the patient formally
1584 files a grievance disputing all or a portion of an itemized
1585 statement or bill.

1586 (6) Each licensed facility shall disclose to a patient, a
1587 prospective patient, or a patient's legal guardian whether a
1588 cost-sharing obligation for a particular covered health care
1589 service or item exceeds the charge that applies to an individual
1590 who pays cash or the cash equivalent for the same health care
1591 service or item in the absence of health insurance coverage.
1592 Failure to provide a disclosure in compliance with this
1593 subsection may result in a fine not to exceed \$500 per incident.

1594 Section 22. Section 396.223, Florida Statutes, is created
1595 to read:

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1596 396.223 Billing and collection activities.-

1597 (1) As used in this section, the term "extraordinary
1598 collection action" means any of the following actions taken by a
1599 licensed facility against an individual in relation to obtaining
1600 payment of a bill for care covered under the licensed facility's
1601 financial assistance policy:

1602 (a) Selling the individual's debt to another party.

1603 (b) Reporting adverse information about the individual to
1604 consumer credit reporting agencies or credit bureaus.

1605 (c) Deferring, denying, or requiring a payment before
1606 providing medically necessary care because of the individual's
1607 nonpayment of one or more bills for previously provided care
1608 covered under the licensed facility's financial assistance
1609 policy.

1610 (d) Actions that require a legal or judicial process,
1611 including, but not limited to:

1612 1. Placing a lien on the individual's property;

1613 2. Foreclosing on the individual's real property;

1614 3. Attaching or seizing the individual's bank account or
1615 any other personal property;

1616 4. Commencing a civil action against the individual;

1617 5. Causing the individual's arrest; or

1618 6. Garnishing the individual's wages.

1619 (2) A licensed facility may not engage in an extraordinary
1620 collection action against an individual to obtain payment for
1621 services:

1622 (a) Before the licensed facility has made reasonable
1623 efforts to determine whether the individual is eligible for
1624 assistance under its financial assistance policy for the care

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1625 provided and, if eligible, before a decision is made by the
1626 facility on the patient's application for such financial
1627 assistance.

1628 (b) Before the licensed facility has provided the
1629 individual with an itemized statement or bill.

1630 (c) During an ongoing grievance process as described in s.
1631 395.301(6) or an ongoing appeal of a claim adjudication.

1632 (d) Before billing any applicable insurer and allowing the
1633 insurer to adjudicate a claim.

1634 (e) For 30 days after notifying the patient in writing, by
1635 certified mail or by other traceable delivery method, that a
1636 collection action will commence absent additional action by the
1637 patient.

1638 (f) While the individual:

1639 1. Negotiates in good faith the final amount of a bill for
1640 services rendered; or

1641 2. Complies with all terms of a payment plan with the
1642 licensed facility.

1643 Section 23. Section 396.224, Florida Statutes, is created
1644 to read:

1645 396.224 Patient records; penalties for alteration.-

1646 (1) Any person who fraudulently alters, defaces, or
1647 falsifies any medical record, or causes or procures any of these
1648 offenses to be committed, commits a misdemeanor of the second
1649 degree, punishable as provided in s. 775.082 or s. 775.083.

1650 (2) A conviction under subsection (1) is also grounds for
1651 restriction, suspension, or termination of a license.

1652 Section 24. Section 396.225, Florida Statutes, is created
1653 to read:

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1654 396.225 Patient and personnel records; copies;
1655 examination.-

1656 (1) A licensed facility shall, upon written request, and
1657 only after discharge of the patient, furnish, in a timely
1658 manner, without delays for legal review, to any person admitted
1659 to the licensed facility for care and treatment or treated at
1660 the licensed facility, or to any such person's guardian,
1661 curator, or personal representative, or in the absence of one of
1662 those persons, to the next of kin of a decedent or the parent of
1663 a minor, or to anyone designated by such person in writing, a
1664 true and correct copy of all patient records, including X rays,
1665 and insurance information concerning such person, which records
1666 are in the possession of the licensed facility, provided that
1667 the person requesting such records agrees to pay a charge. The
1668 exclusive charge for copies of patient records may include sales
1669 tax and actual postage, and, except for nonpaper records that
1670 are subject to a charge not to exceed \$2, may not exceed \$1 per
1671 page. A fee of up to \$1 may be charged for each year of records
1672 requested. These charges shall apply to all records furnished,
1673 whether directly from the licensed facility or from a copy
1674 service providing these services on behalf of the licensed
1675 facility. However, a patient whose records are copied or
1676 searched for the purpose of continuing to receive medical care
1677 is not required to pay a charge for copying or for the search.
1678 The licensed facility shall further allow any such person to
1679 examine the original records in its possession, or microforms or
1680 other suitable reproductions of the records, upon such
1681 reasonable terms as shall be imposed to ensure that the records
1682 will not be damaged, destroyed, or altered.

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1683 (2) Patient records are confidential and must not be
1684 disclosed without the consent of the patient or his or her legal
1685 representative, but appropriate disclosure may be made without
1686 such consent to:

1687 (a) Licensed facility personnel, attending physicians, or
1688 other health care practitioners and providers currently involved
1689 in the care or treatment of the patient for use only in
1690 connection with the treatment of the patient.

1691 (b) Licensed facility personnel only for administrative
1692 purposes or risk management and quality assurance functions.

1693 (c) The agency, for purposes of health care cost
1694 containment.

1695 (d) In any civil or criminal action, unless otherwise
1696 prohibited by law, upon the issuance of a subpoena from a court
1697 of competent jurisdiction and proper notice by the party seeking
1698 such records to the patient or his or her legal representative.

1699 (e) The agency upon subpoena issued pursuant to s. 456.071,
1700 but the records obtained must be used solely for the purpose of
1701 the agency and the appropriate professional board in its
1702 investigation, prosecution, and appeal of disciplinary
1703 proceedings. If the agency requests copies of the records, the
1704 licensed facility shall charge no more than its actual copying
1705 costs, including reasonable staff time. The records must be
1706 sealed and must not be available to the public pursuant to s.
1707 119.07(1) or any other statute providing access to records, nor
1708 may they be available to the public as part of the record of
1709 investigation for and prosecution in disciplinary proceedings
1710 made available to the public by the agency or the appropriate
1711 regulatory board. However, the agency must make available, upon

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1712 written request by a practitioner against whom probable cause
1713 has been found, any such records that form the basis of the
1714 determination of probable cause.

1715 (f) The Medicaid Fraud Control Unit in the Department of
1716 Legal Affairs pursuant to s. 409.920.

1717 (g) The Department of Financial Services, or an agent,
1718 employee, or independent contractor of the department who is
1719 auditing for unclaimed property pursuant to chapter 717.

1720 (h) If applicable to a licensed facility, a regional poison
1721 control center for purposes of treating a poison episode under
1722 evaluation, case management of poison cases, or compliance with
1723 data collection and reporting requirements of s. 395.1027 and
1724 the professional organization that certifies poison control
1725 centers in accordance with federal law.

1726 (3) The Department of Health may examine patient records of
1727 a licensed facility, whether held by the licensed facility or
1728 the agency, for the purpose of epidemiological investigations.
1729 The unauthorized release of information by agents of the
1730 department which would identify an individual patient is a
1731 misdemeanor of the first degree, punishable as provided in s.
1732 775.082 or s. 775.083.

1733 (4) Patient records shall contain information required for
1734 completion of birth, death, and fetal death certificates.

1735 (5) (a) If the content of any record of patient treatment is
1736 provided under this section, the recipient, if other than the
1737 patient or the patient's representative, may use such
1738 information only for the purpose provided and may not further
1739 disclose any information to any other person or entity, unless
1740 expressly permitted by the written consent of the patient. A

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1741 general authorization for the release of medical information is
1742 not sufficient for this purpose. The content of such patient
1743 treatment record is confidential and exempt from s. 119.07(1)
1744 and s. 24(a), Art. I of the State Constitution.

1745 (b) Absent a specific written release or authorization
1746 permitting utilization of patient information for solicitation
1747 or marketing the sale of goods or services, any use of that
1748 information for those purposes is prohibited.

1749 (6) Patient records at ambulatory surgical centers are
1750 exempt from disclosure under s. 119.07(1), except as provided in
1751 subsections (1)-(5).

1752 (7) A licensed facility may prescribe the content and
1753 custody of limited-access records which the facility may
1754 maintain on its employees. Such records shall be limited to
1755 information regarding evaluations of employee performance,
1756 including records forming the basis for evaluation and
1757 subsequent actions, and shall be open to inspection only by the
1758 employee and by officials of the licensed facility who are
1759 responsible for the supervision of the employee. The custodian
1760 of limited-access employee records shall release information
1761 from such records to other employers or only upon authorization
1762 in writing from the employee or upon order of a court of
1763 competent jurisdiction. Any licensed facility releasing such
1764 records pursuant to this chapter is considered to be acting in
1765 good faith and may not be held liable for information contained
1766 in such records, absent a showing that the facility maliciously
1767 falsified such records. Such limited-access employee records are
1768 exempt from s. 119.07(1) for a period of 5 years from the date
1769 such records are designated limited-access records.

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1770 (8) The home addresses, telephone numbers, and photographs
1771 of employees of any licensed facility who provide direct patient
1772 care or security services; the home addresses, telephone
1773 numbers, and places of employment of the spouses and children of
1774 such persons; and the names and locations of schools and day
1775 care facilities attended by the children of such persons are
1776 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
1777 of the State Constitution. However, any state or federal agency
1778 that is authorized to have access to such information by any
1779 provision of law shall be granted such access in the furtherance
1780 of its statutory duties, notwithstanding this subsection. The
1781 Department of Financial Services, or an agent, employee, or
1782 independent contractor of the department who is auditing for
1783 unclaimed property pursuant to chapter 717, shall be granted
1784 access to the name, address, and social security number of any
1785 employee owed unclaimed property.

1786 (9) The home addresses, telephone numbers, and photographs
1787 of employees of any licensed facility who have a reasonable
1788 belief, based upon specific circumstances that have been
1789 reported in accordance with the procedure adopted by the
1790 licensed facility, that release of the information may be used
1791 to threaten, intimidate, harass, inflict violence upon, or
1792 defraud the employee or any member of the employee's family; the
1793 home addresses, telephone numbers, and places of employment of
1794 the spouses and children of such persons; and the names and
1795 locations of schools and day care facilities attended by the
1796 children of such persons are confidential and exempt from s.
1797 119.07(1) and s. 24(a), Art. I of the State Constitution.
1798 However, any state or federal agency that is authorized to have

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1799 access to such information by any provision of law shall be
1800 granted such access in the furtherance of its statutory duties,
1801 notwithstanding this subsection. The licensed facility shall
1802 maintain the confidentiality of the personal information only if
1803 the employee submits a written request for confidentiality to
1804 the licensed facility.

1805 Section 25. Paragraph (d) of subsection (2) of section
1806 383.145, Florida Statutes, is amended to read:

1807 383.145 Newborn, infant, and toddler hearing screening.—

1808 (2) DEFINITIONS.—As used in this section, the term:

1809 (d) "Hospital" means a facility as defined in s. 395.002 ~~s.~~
1810 ~~395.002(13)~~ and licensed under chapter 395 and part II of
1811 chapter 408.

1812 Section 26. Paragraph (b) of subsection (4) of section
1813 383.50, Florida Statutes, is amended to read:

1814 383.50 Treatment of surrendered infant.—

1815 (4)

1816 (b) Each hospital of this state subject to s. 395.1041
1817 shall, and any other hospital may, admit and provide all
1818 necessary emergency services and care, as defined in s. 395.002
1819 ~~s. 395.002(9)~~, to any infant left with the hospital in
1820 accordance with this section. The hospital or any of its medical
1821 staff or licensed health care professionals shall consider these
1822 actions as implied consent for treatment, and a hospital
1823 accepting physical custody of an infant has implied consent to
1824 perform all necessary emergency services and care. The hospital
1825 or any of its medical staff or licensed health care
1826 professionals are immune from criminal or civil liability for
1827 acting in good faith in accordance with this section. This

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1828 subsection does not limit liability for negligence.

1829 Section 27. Subsection (2) of section 385.211, Florida
1830 Statutes, is amended to read:

1831 385.211 Refractory and intractable epilepsy treatment and
1832 research at recognized medical centers.—

1833 (2) Notwithstanding chapter 893, medical centers recognized
1834 pursuant to s. 381.925, or an academic medical research
1835 institution legally affiliated with a licensed children's
1836 specialty hospital as defined in s. 395.002 ~~s. 395.002(28)~~ that
1837 contracts with the Department of Health, may conduct research on
1838 cannabidiol and low-THC cannabis. This research may include, but
1839 is not limited to, the agricultural development, production,
1840 clinical research, and use of liquid medical derivatives of
1841 cannabidiol and low-THC cannabis for the treatment for
1842 refractory or intractable epilepsy. The authority for recognized
1843 medical centers to conduct this research is derived from 21
1844 C.F.R. parts 312 and 316. Current state or privately obtained
1845 research funds may be used to support the activities described
1846 in this section.

1847 Section 28. Subsection (8) of section 390.011, Florida
1848 Statutes, is amended to read:

1849 390.011 Definitions.—As used in this chapter, the term:

1850 (8) "Hospital" means a facility as defined in s. 395.002 ~~s.~~
1851 ~~395.002(12)~~ and licensed under chapter 395 and part II of
1852 chapter 408.

1853 Section 29. Subsection (7) of section 394.4787, Florida
1854 Statutes, is amended to read:

1855 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
1856 394.4789.—As used in this section and ss. 394.4786, 394.4788,

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1857 and 394.4789:

1858 (7) "Specialty psychiatric hospital" means a hospital
1859 licensed by the agency pursuant to s. 395.002 ~~s. 395.002(28)~~ and
1860 part II of chapter 408 as a specialty psychiatric hospital.

1861 Section 30. Section 395.001, Florida Statutes, is amended
1862 to read:

1863 395.001 Legislative intent.—It is the intent of the
1864 Legislature to provide for the protection of public health and
1865 safety in the establishment, construction, maintenance, and
1866 operation of hospitals ~~and ambulatory surgical centers~~ by
1867 providing for licensure of same and for the development,
1868 establishment, and enforcement of minimum standards with respect
1869 thereto.

1870 Section 31. Subsections (3), (10), (17), (23), and (28) of
1871 section 395.002, Florida Statutes, are amended to read:

1872 395.002 Definitions.—As used in this chapter:

1873 ~~(3) "Ambulatory surgical center" means a facility, the
1874 primary purpose of which is to provide elective surgical care,
1875 in which the patient is admitted to and discharged from such
1876 facility within 24 hours, and which is not part of a hospital.
1877 However, a facility existing for the primary purpose of
1878 performing terminations of pregnancy, an office maintained by a
1879 physician for the practice of medicine, or an office maintained
1880 for the practice of dentistry may not be construed to be an
1881 ambulatory surgical center, provided that any facility or office
1882 which is certified or seeks certification as a Medicare
1883 ambulatory surgical center shall be licensed as an ambulatory
1884 surgical center pursuant to s. 395.003.~~

1885 (9) ~~(10)~~ "General hospital" means any facility which meets

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1886 the provisions of subsection (11) ~~(12)~~ and which regularly makes
1887 its facilities and services available to the general population.

1888 (16) ~~(17)~~ "Licensed facility" means a hospital ~~or ambulatory~~
1889 ~~surgical center~~ licensed in accordance with this chapter.

1890 (22) ~~(23)~~ "Premises" means those buildings, beds, and
1891 equipment located at the address of the licensed facility and
1892 all other buildings, beds, and equipment for the provision of
1893 hospital ~~or ambulatory surgical~~ care located in such reasonable
1894 proximity to the address of the licensed facility as to appear
1895 to the public to be under the dominion and control of the
1896 licensee. For any licensee that is a teaching hospital as
1897 defined in s. 408.07, reasonable proximity includes any
1898 buildings, beds, services, programs, and equipment under the
1899 dominion and control of the licensee that are located at a site
1900 with a main address that is within 1 mile of the main address of
1901 the licensed facility; and all such buildings, beds, and
1902 equipment may, at the request of a licensee or applicant, be
1903 included on the facility license as a single premises.

1904 (27) ~~(28)~~ "Specialty hospital" means any facility which
1905 meets the provisions of subsection (11) ~~(12)~~, and which
1906 regularly makes available either:

1907 (a) The range of medical services offered by general
1908 hospitals but restricted to a defined age or gender group of the
1909 population;

1910 (b) A restricted range of services appropriate to the
1911 diagnosis, care, and treatment of patients with specific
1912 categories of medical or psychiatric illnesses or disorders; or

1913 (c) Intensive residential treatment programs for children
1914 and adolescents as defined in subsection (15) ~~(16)~~.

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1915 Section 32. Subsection (1) and paragraph (d) of subsection
 1916 (5) of section 395.003, Florida Statutes, are amended to read:

1917 395.003 Licensure; denial, suspension, and revocation.—

1918 (1)(a) The requirements of part II of chapter 408 apply to
 1919 the provision of services that require licensure pursuant to ss.
 1920 395.001-395.1065 and part II of chapter 408 and to entities
 1921 licensed by or applying for such licensure from the Agency for
 1922 Health Care Administration pursuant to ss. 395.001-395.1065. A
 1923 license issued by the agency is required in order to operate a
 1924 hospital ~~or ambulatory surgical center~~ in this state.

1925 (b)1. It is unlawful for a person to use or advertise to
 1926 the public, in any way or by any medium whatsoever, any facility
 1927 as a "hospital" ~~or "ambulatory surgical center"~~ unless such
 1928 facility has first secured a license under this chapter ~~part~~.

1929 2. This part does not apply to veterinary hospitals or to
 1930 commercial business establishments using the word "hospital" ~~or~~
 1931 ~~"ambulatory surgical center"~~ as a part of a trade name if no
 1932 treatment of human beings is performed on the premises of such
 1933 establishments.

1934 (5)

1935 (d) A hospital, ~~an ambulatory surgical center,~~ a specialty
 1936 hospital, or an urgent care center shall comply with ss.
 1937 627.64194 and 641.513 as a condition of licensure.

1938 Section 33. Subsections (2), (3), and (9) of section
 1939 395.1055, Florida Statutes, are amended to read:

1940 395.1055 Rules and enforcement.—

1941 (2) Separate standards may be provided for general and
 1942 specialty hospitals, ~~ambulatory surgical centers,~~ and statutory
 1943 rural hospitals as defined in s. 395.602.

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1944 ~~(3) The agency shall adopt rules that establish minimum~~
1945 ~~standards for pediatric patient care in ambulatory surgical~~
1946 ~~centers to ensure the safe and effective delivery of surgical~~
1947 ~~care to children in ambulatory surgical centers. Such standards~~
1948 ~~must include quality of care, nurse staffing, physician~~
1949 ~~staffing, and equipment standards. Ambulatory surgical centers~~
1950 ~~may not provide operative procedures to children under 18 years~~
1951 ~~of age which require a length of stay past midnight until such~~
1952 ~~standards are established by rule.~~

1953 (8)~~(9)~~ The agency may not adopt any rule governing the
1954 design, construction, erection, alteration, modification,
1955 repair, or demolition of any public or private hospital or~~7~~
1956 intermediate residential treatment facility, ~~or ambulatory~~
1957 ~~surgical center.~~ It is the intent of the Legislature to preempt
1958 that function to the Florida Building Commission and the State
1959 Fire Marshal through adoption and maintenance of the Florida
1960 Building Code and the Florida Fire Prevention Code. However, the
1961 agency shall provide technical assistance to the commission and
1962 the State Fire Marshal in updating the construction standards of
1963 the Florida Building Code and the Florida Fire Prevention Code
1964 which govern hospitals and~~7~~ intermediate residential treatment
1965 facilities, ~~and ambulatory surgical centers.~~

1966 Section 34. Subsection (3) of section 395.10973, Florida
1967 Statutes, is amended to read:

1968 395.10973 Powers and duties of the agency.—It is the
1969 function of the agency to:

1970 (3) Enforce the special-occupancy provisions of the Florida
1971 Building Code which apply to hospitals and~~7~~ intermediate
1972 residential treatment facilities, ~~and ambulatory surgical~~

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1973 ~~centers~~ in conducting any inspection authorized by this chapter
1974 and part II of chapter 408.

1975 Section 35. Subsection (8) of section 395.3025, Florida
1976 Statutes, is amended to read:

1977 395.3025 Patient and personnel records; copies;
1978 examination.—

1979 (8) Patient records at hospitals ~~and ambulatory surgical~~
1980 ~~centers~~ are exempt from disclosure under s. 119.07(1), except as
1981 provided by subsections (1)-(5).

1982 Section 36. Subsection (3) of section 395.607, Florida
1983 Statutes, is amended to read:

1984 395.607 Rural emergency hospitals.—

1985 (3) Notwithstanding s. 395.002 ~~s. 395.002(12)~~, a rural
1986 emergency hospital is not required to offer acute inpatient care
1987 or care beyond 24 hours, or to make available treatment
1988 facilities for surgery, obstetrical care, or similar services in
1989 order to be deemed a hospital as long as it maintains its
1990 designation as a rural emergency hospital, and may be required
1991 to make such services available only if it ceases to be
1992 designated as a rural emergency hospital.

1993 Section 37. Paragraphs (b) and (c) of subsection (1) of
1994 section 395.701, Florida Statutes, are amended to read:

1995 395.701 Annual assessments on net operating revenues for
1996 inpatient and outpatient services to fund public medical
1997 assistance; administrative fines for failure to pay assessments
1998 when due; exemption.—

1999 (1) For the purposes of this section, the term:

2000 (b) "Gross operating revenue" or "gross revenue" means the
2001 sum of daily hospital service charges, ~~ambulatory service~~

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2002 ~~charges~~, ancillary service charges, and other operating revenue.

2003 (c) "Hospital" means a health care institution as defined
 2004 in s. 395.202 ~~s. 395.002(12)~~, but does not include any hospital
 2005 operated by a state agency.

2006 Section 38. Paragraph (b) of subsection (3) of section
 2007 400.518, Florida Statutes, is amended to read:

2008 400.518 Prohibited referrals to home health agencies.-

2009 (3)

2010 (b) A physician who violates this section is subject to
 2011 disciplinary action by the appropriate board under s. 458.331(2)
 2012 or s. 459.015(2). A hospital ~~or ambulatory surgical center~~ that
 2013 violates this section is subject to s. 395.0185(2). An
 2014 ambulatory surgical center that violates this section is subject
 2015 to s. 396.209.

2016 Section 39. Paragraph (h) of subsection (5) of section
 2017 400.93, Florida Statutes, is amended to read:

2018 400.93 Licensure required; exemptions; unlawful acts;
 2019 penalties.-

2020 (5) The following are exempt from home medical equipment
 2021 provider licensure, unless they have a separate company,
 2022 corporation, or division that is in the business of providing
 2023 home medical equipment and services for sale or rent to
 2024 consumers at their regular or temporary place of residence
 2025 pursuant to the provisions of this part:

2026 (h) Hospitals licensed under chapter 395 and ambulatory
 2027 surgical centers licensed under chapter 396 ~~395~~.

2028 Section 40. Paragraph (i) of subsection (1) of section
 2029 400.9935, Florida Statutes, is amended to read:

2030 400.9935 Clinic responsibilities.-

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2031 (1) Each clinic shall appoint a medical director or clinic
2032 director who shall agree in writing to accept legal
2033 responsibility for the following activities on behalf of the
2034 clinic. The medical director or the clinic director shall:

2035 (i) Ensure that the clinic publishes a schedule of charges
2036 for the medical services offered to patients. The schedule must
2037 include the prices charged to an uninsured person paying for
2038 such services by cash, check, credit card, or debit card. The
2039 schedule may group services by price levels, listing services in
2040 each price level. The schedule must be posted in a conspicuous
2041 place in the reception area of any clinic that is considered an
2042 urgent care center as defined in s. 395.002 ~~s. 395.002(30)(b)~~
2043 and must include, but is not limited to, the 50 services most
2044 frequently provided by the clinic. The posting may be a sign
2045 that must be at least 15 square feet in size or through an
2046 electronic messaging board that is at least 3 square feet in
2047 size. The failure of a clinic, including a clinic that is
2048 considered an urgent care center, to publish and post a schedule
2049 of charges as required by this section shall result in a fine of
2050 not more than \$1,000, per day, until the schedule is published
2051 and posted.

2052 Section 41. Paragraph (b) of subsection (2) of section
2053 401.272, Florida Statutes, is amended to read:

2054 401.272 Emergency medical services community health care.—

2055 (2) Notwithstanding any other provision of law to the
2056 contrary:

2057 (b) Paramedics and emergency medical technicians shall
2058 operate under the medical direction of a physician through two-
2059 way communication or pursuant to established standing orders or

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2060 protocols and within the scope of their training when a patient
2061 is not transported to an emergency department or is transported
2062 to a facility other than a hospital as defined in s. 395.002 ~~s.~~
2063 ~~395.002(12)~~.

2064 Section 42. Subsections (4) and (5) of section 408.051,
2065 Florida Statutes, are amended to read:

2066 408.051 Florida Electronic Health Records Exchange Act.—

2067 (4) EMERGENCY RELEASE OF IDENTIFIABLE HEALTH RECORD.—A
2068 health care provider may release or access an identifiable
2069 health record of a patient without the patient's consent for use
2070 in the treatment of the patient for an emergency medical
2071 condition, as defined in s. 395.002 ~~s. 395.002(8)~~, when the
2072 health care provider is unable to obtain the patient's consent
2073 or the consent of the patient representative due to the
2074 patient's condition or the nature of the situation requiring
2075 immediate medical attention. A health care provider who in good
2076 faith releases or accesses an identifiable health record of a
2077 patient in any form or medium under this subsection is immune
2078 from civil liability for accessing or releasing an identifiable
2079 health record.

2080 (5) HOSPITAL DATA.—A hospital as defined in s. 395.002 ~~s.~~
2081 ~~395.002(12)~~ which maintains certified electronic health record
2082 technology must make available admit, transfer, and discharge
2083 data to the agency's Florida Health Information Exchange program
2084 for the purpose of supporting public health data registries and
2085 patient care coordination. The agency may adopt rules to
2086 implement this subsection.

2087 Section 43. Subsection (6) of section 408.07, Florida
2088 Statutes, is amended to read:

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2089 408.07 Definitions.—As used in this chapter, with the
2090 exception of ss. 408.031-408.045, the term:

2091 (6) "Ambulatory surgical center" means a facility licensed
2092 as an ambulatory surgical center under chapter 396 ~~395~~.

2093 Section 44. Subsection (9) of section 408.802, Florida
2094 Statutes, is amended to read:

2095 408.802 Applicability.—This part applies to the provision
2096 of services that require licensure as defined in this part and
2097 to the following entities licensed, registered, or certified by
2098 the agency, as described in chapters 112, 383, 390, 394, 395,
2099 400, 429, 440, and 765:

2100 (9) Ambulatory surgical centers, as provided under ~~part I~~
2101 ~~of~~ chapter 396 ~~395~~.

2102 Section 45. Subsection (9) of section 408.820, Florida
2103 Statutes, is amended to read:

2104 408.820 Exemptions.—Except as prescribed in authorizing
2105 statutes, the following exemptions shall apply to specified
2106 requirements of this part:

2107 (9) Ambulatory surgical centers, as provided under ~~part I~~
2108 ~~of~~ chapter 396 ~~395~~, are exempt from s. 408.810(7)-(10).

2109 Section 46. Subsection (8) of section 409.905, Florida
2110 Statutes, is amended to read:

2111 409.905 Mandatory Medicaid services.—The agency may make
2112 payments for the following services, which are required of the
2113 state by Title XIX of the Social Security Act, furnished by
2114 Medicaid providers to recipients who are determined to be
2115 eligible on the dates on which the services were provided. Any
2116 service under this section shall be provided only when medically
2117 necessary and in accordance with state and federal law.

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2118 Mandatory services rendered by providers in mobile units to
2119 Medicaid recipients may be restricted by the agency. Nothing in
2120 this section shall be construed to prevent or limit the agency
2121 from adjusting fees, reimbursement rates, lengths of stay,
2122 number of visits, number of services, or any other adjustments
2123 necessary to comply with the availability of moneys and any
2124 limitations or directions provided for in the General
2125 Appropriations Act or chapter 216.

2126 (8) NURSING FACILITY SERVICES.—The agency shall pay for 24-
2127 hour-a-day nursing and rehabilitative services for a recipient
2128 in a nursing facility licensed under part II of chapter 400 or
2129 in a rural hospital, as defined in s. 395.602, or in a Medicare
2130 certified skilled nursing facility operated by a hospital, as
2131 defined in s. 395.002 ~~by s. 395.002(10)~~, that is licensed under
2132 part I of chapter 395, and in accordance with provisions set
2133 forth in s. 409.908(2)(a), which services are ordered by and
2134 provided under the direction of a licensed physician. However,
2135 if a nursing facility has been destroyed or otherwise made
2136 uninhabitable by natural disaster or other emergency and another
2137 nursing facility is not available, the agency must pay for
2138 similar services temporarily in a hospital licensed under part I
2139 of chapter 395 provided federal funding is approved and
2140 available. The agency shall pay only for bed-hold days if the
2141 facility has an occupancy rate of 95 percent or greater. The
2142 agency is authorized to seek any federal waivers to implement
2143 this policy.

2144 Section 47. Subsection (3) of section 409.906, Florida
2145 Statutes, is amended to read:

2146 409.906 Optional Medicaid services.—Subject to specific

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2147 appropriations, the agency may make payments for services which
 2148 are optional to the state under Title XIX of the Social Security
 2149 Act and are furnished by Medicaid providers to recipients who
 2150 are determined to be eligible on the dates on which the services
 2151 were provided. Any optional service that is provided shall be
 2152 provided only when medically necessary and in accordance with
 2153 state and federal law. Optional services rendered by providers
 2154 in mobile units to Medicaid recipients may be restricted or
 2155 prohibited by the agency. Nothing in this section shall be
 2156 construed to prevent or limit the agency from adjusting fees,
 2157 reimbursement rates, lengths of stay, number of visits, or
 2158 number of services, or making any other adjustments necessary to
 2159 comply with the availability of moneys and any limitations or
 2160 directions provided for in the General Appropriations Act or
 2161 chapter 216. If necessary to safeguard the state's systems of
 2162 providing services to elderly and disabled persons and subject
 2163 to the notice and review provisions of s. 216.177, the Governor
 2164 may direct the Agency for Health Care Administration to amend
 2165 the Medicaid state plan to delete the optional Medicaid service
 2166 known as "Intermediate Care Facilities for the Developmentally
 2167 Disabled." Optional services may include:

2168 (3) AMBULATORY SURGICAL CENTER SERVICES.—The agency may pay
 2169 for services provided to a recipient in an ambulatory surgical
 2170 center licensed under ~~part I of~~ chapter 396 395, by or under the
 2171 direction of a licensed physician or dentist.

2172 Section 48. Paragraph (b) of subsection (1) of section
 2173 409.975, Florida Statutes, is amended to read:

2174 409.975 Managed care plan accountability.—In addition to
 2175 the requirements of s. 409.967, plans and providers

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2176 participating in the managed medical assistance program shall
2177 comply with the requirements of this section.

2178 (1) PROVIDER NETWORKS.—Managed care plans must develop and
2179 maintain provider networks that meet the medical needs of their
2180 enrollees in accordance with standards established pursuant to
2181 s. 409.967(2)(c). Except as provided in this section, managed
2182 care plans may limit the providers in their networks based on
2183 credentials, quality indicators, and price.

2184 (b) Certain providers are statewide resources and essential
2185 providers for all managed care plans in all regions. All managed
2186 care plans must include these essential providers in their
2187 networks. Statewide essential providers include:

2188 1. Faculty plans of Florida medical schools.

2189 2. Regional perinatal intensive care centers as defined in
2190 s. 383.16(2).

2191 3. Hospitals licensed as specialty children's hospitals as
2192 defined in s. 395.002 ~~s. 395.002(28)~~.

2193 4. Accredited and integrated systems serving medically
2194 complex children which comprise separately licensed, but
2195 commonly owned, health care providers delivering at least the
2196 following services: medical group home, in-home and outpatient
2197 nursing care and therapies, pharmacy services, durable medical
2198 equipment, and Prescribed Pediatric Extended Care.

2199 5. Florida cancer hospitals that meet the criteria in 42
2200 U.S.C. s. 1395ww(d)(1)(B)(v).

2201

2202 Managed care plans that have not contracted with all statewide
2203 essential providers in all regions as of the first date of
2204 recipient enrollment must continue to negotiate in good faith.

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2205 Payments to physicians on the faculty of nonparticipating
2206 Florida medical schools shall be made at the applicable Medicaid
2207 rate. Payments for services rendered by regional perinatal
2208 intensive care centers shall be made at the applicable Medicaid
2209 rate as of the first day of the contract between the agency and
2210 the plan. Except for payments for emergency services, payments
2211 to nonparticipating specialty children's hospitals, and payments
2212 to nonparticipating Florida cancer hospitals that meet the
2213 criteria in 42 U.S.C. s. 1395ww(d) (1) (B) (v), shall equal the
2214 highest rate established by contract between that provider and
2215 any other Medicaid managed care plan.

2216 Section 49. Subsection (5) of section 456.041, Florida
2217 Statutes, is amended to read:

2218 456.041 Practitioner profile; creation.—

2219 (5) The Department of Health shall include the date of a
2220 hospital or ambulatory surgical center disciplinary action taken
2221 by a licensed hospital or an ambulatory surgical center, in
2222 accordance with the requirements of s. 395.0193 and s. 396.212,
2223 in the practitioner profile. The department shall state whether
2224 the action related to professional competence and whether it
2225 related to the delivery of services to a patient.

2226 Section 50. Paragraph (n) of subsection (3) of section
2227 456.053, Florida Statutes, is amended to read:

2228 456.053 Financial arrangements between referring health
2229 care providers and providers of health care services.—

2230 (3) DEFINITIONS.—For the purpose of this section, the word,
2231 phrase, or term:

2232 (n) "Referral" means any referral of a patient by a health
2233 care provider for health care services, including, without

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2234 limitation:

2235 1. The forwarding of a patient by a health care provider to
2236 another health care provider or to an entity which provides or
2237 supplies designated health services or any other health care
2238 item or service; or

2239 2. The request or establishment of a plan of care by a
2240 health care provider, which includes the provision of designated
2241 health services or other health care item or service.

2242 3. The following orders, recommendations, or plans of care
2243 do ~~shall~~ not constitute a referral by a health care provider:

2244 a. By a radiologist for diagnostic-imaging services.

2245 b. By a physician specializing in the provision of
2246 radiation therapy services for such services.

2247 c. By a medical oncologist for drugs and solutions to be
2248 prepared and administered intravenously to such oncologist's
2249 patient, as well as for the supplies and equipment used in
2250 connection therewith to treat such patient for cancer and the
2251 complications thereof.

2252 d. By a cardiologist for cardiac catheterization services.

2253 e. By a pathologist for diagnostic clinical laboratory
2254 tests and pathological examination services, if furnished by or
2255 under the supervision of such pathologist pursuant to a
2256 consultation requested by another physician.

2257 f. By a health care provider who is the sole provider or
2258 member of a group practice for designated health services or
2259 other health care items or services that are prescribed or
2260 provided solely for such referring health care provider's or
2261 group practice's own patients, and that are provided or
2262 performed by or under the supervision of such referring health

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2263 care provider or group practice if such supervision complies
2264 with all applicable Medicare payment and coverage rules for
2265 services; provided, however, a physician licensed pursuant to
2266 chapter 458, chapter 459, chapter 460, or chapter 461 or an
2267 advanced practice registered nurse registered under s. 464.0123
2268 may refer a patient to a sole provider or group practice for
2269 diagnostic imaging services, excluding radiation therapy
2270 services, for which the sole provider or group practice billed
2271 both the technical and the professional fee for or on behalf of
2272 the patient, if the referring physician or advanced practice
2273 registered nurse registered under s. 464.0123 has no investment
2274 interest in the practice. The diagnostic imaging service
2275 referred to a group practice or sole provider must be a
2276 diagnostic imaging service normally provided within the scope of
2277 practice to the patients of the group practice or sole provider.
2278 The group practice or sole provider may accept no more than 15
2279 percent of their patients receiving diagnostic imaging services
2280 from outside referrals, excluding radiation therapy services.
2281 However, the 15 percent limitation of this sub-subparagraph and
2282 the requirements of subparagraph (4)(a)2. do not apply to a
2283 group practice entity that owns an accountable care organization
2284 or an entity operating under an advanced alternative payment
2285 model according to federal regulations if such entity provides
2286 diagnostic imaging services and has more than 30,000 patients
2287 enrolled per year.

2288 g. By a health care provider for services provided by an
2289 ambulatory surgical center licensed under chapter 396 ~~395~~.

2290 h. By a urologist for lithotripsy services.

2291 i. By a dentist for dental services performed by an

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2292 employee of or health care provider who is an independent
2293 contractor with the dentist or group practice of which the
2294 dentist is a member.

2295 j. By a physician for infusion therapy services to a
2296 patient of that physician or a member of that physician's group
2297 practice.

2298 k. By a nephrologist for renal dialysis services and
2299 supplies, except laboratory services.

2300 l. By a health care provider whose principal professional
2301 practice consists of treating patients in their private
2302 residences for services to be rendered in such private
2303 residences, except for services rendered by a home health agency
2304 licensed under chapter 400. For purposes of this sub-
2305 subparagraph, the term "private residences" includes patients'
2306 private homes, independent living centers, and assisted living
2307 facilities, but does not include skilled nursing facilities.

2308 m. By a health care provider for sleep-related testing.

2309 Section 51. Subsection (3) of section 456.056, Florida
2310 Statutes, is amended to read:

2311 456.056 Treatment of Medicare beneficiaries; refusal,
2312 emergencies, consulting physicians.—

2313 (3) If treatment is provided to a beneficiary for an
2314 emergency medical condition as defined in s. 395.002 ~~s.~~
2315 ~~395.002(8)(a)~~, the physician must accept Medicare assignment
2316 provided that the requirement to accept Medicare assignment for
2317 an emergency medical condition does ~~shall~~ not apply to treatment
2318 rendered after the patient is stabilized, or ~~the treatment that~~
2319 is unrelated to the original emergency medical condition. For
2320 the purpose of this subsection "stabilized" is defined to mean

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2321 with respect to an emergency medical condition, that no material
2322 deterioration of the condition is likely within reasonable
2323 medical probability.

2324 Section 52. Subsection (3) of section 458.3145, Florida
2325 Statutes, is amended to read:

2326 458.3145 Medical faculty certificate.—

2327 (3) The holder of a medical faculty certificate issued
2328 under this section has all rights and responsibilities
2329 prescribed by law for the holder of a license issued under s.
2330 458.311, except as specifically provided otherwise by law. Such
2331 responsibilities include compliance with continuing medical
2332 education requirements as set forth by rule of the board. A
2333 hospital or ambulatory surgical center licensed under chapter
2334 396 ~~395~~, health maintenance organization certified under chapter
2335 641, insurer as defined in s. 624.03, multiple-employer welfare
2336 arrangement as defined in s. 624.437, or any other entity in
2337 this state, in considering and acting upon an application for
2338 staff membership, clinical privileges, or other credentials as a
2339 health care provider, may not deny the application of an
2340 otherwise qualified physician for such staff membership,
2341 clinical privileges, or other credentials solely because the
2342 applicant is a holder of a medical faculty certificate under
2343 this section.

2344 Section 53. Subsection (2) of section 458.320, Florida
2345 Statutes, is amended to read:

2346 458.320 Financial responsibility.—

2347 (2) Physicians who perform surgery in an ambulatory
2348 surgical center licensed under chapter 396 ~~395~~ and, as a
2349 continuing condition of hospital staff privileges, physicians

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2350 who have staff privileges must also establish financial
2351 responsibility by one of the following methods:

2352 (a) Establishing and maintaining an escrow account
2353 consisting of cash or assets eligible for deposit in accordance
2354 with s. 625.52 in the per claim amounts specified in paragraph
2355 (b). The required escrow amount set forth in this paragraph may
2356 not be used for litigation costs or attorney ~~attorney's~~ fees for
2357 the defense of any medical malpractice claim.

2358 (b) Obtaining and maintaining professional liability
2359 coverage in an amount not less than \$250,000 per claim, with a
2360 minimum annual aggregate of not less than \$750,000 from an
2361 authorized insurer as defined under s. 624.09, from a surplus
2362 lines insurer as defined under s. 626.914(2), from a risk
2363 retention group as defined under s. 627.942, from the Joint
2364 Underwriting Association established under s. 627.351(4),
2365 through a plan of self-insurance as provided in s. 627.357, or
2366 through a plan of self-insurance which meets the conditions
2367 specified for satisfying financial responsibility in s. 766.110.
2368 The required coverage amount set forth in this paragraph may not
2369 be used for litigation costs or attorney ~~attorney's~~ fees for the
2370 defense of any medical malpractice claim.

2371 (c) Obtaining and maintaining an unexpired irrevocable
2372 letter of credit, established pursuant to chapter 675, in an
2373 amount not less than \$250,000 per claim, with a minimum
2374 aggregate availability of credit of not less than \$750,000. The
2375 letter of credit must be payable to the physician as beneficiary
2376 upon presentment of a final judgment indicating liability and
2377 awarding damages to be paid by the physician or upon presentment
2378 of a settlement agreement signed by all parties to such

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2379 agreement when such final judgment or settlement is a result of
2380 a claim arising out of the rendering of, or the failure to
2381 render, medical care and services. The letter of credit may not
2382 be used for litigation costs or attorney ~~attorney's~~ fees for the
2383 defense of any medical malpractice claim. The letter of credit
2384 must be nonassignable and nontransferable. The letter of credit
2385 must be issued by any bank or savings association organized and
2386 existing under the laws of this state or any bank or savings
2387 association organized under the laws of the United States which
2388 has its principal place of business in this state or has a
2389 branch office that is authorized under the laws of this state or
2390 of the United States to receive deposits in this state.

2391
2392 This subsection shall be inclusive of the coverage in subsection
2393 (1).

2394 Section 54. Paragraph (f) of subsection (4) of section
2395 458.351, Florida Statutes, is amended to read:

2396 458.351 Reports of adverse incidents in office practice
2397 settings.—

2398 (4) For purposes of notification to the department pursuant
2399 to this section, the term "adverse incident" means an event over
2400 which the physician or licensee could exercise control and which
2401 is associated in whole or in part with a medical intervention,
2402 rather than the condition for which such intervention occurred,
2403 and which results in the following patient injuries:

2404 (f) Any condition that required the transfer of a patient
2405 to a hospital licensed under chapter 395 from an ambulatory
2406 surgical center licensed under chapter 396 ~~395~~ or any facility
2407 or any office maintained by a physician for the practice of

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2408 medicine which is not licensed under chapter 395.

2409 Section 55. Subsection (2) of section 459.0085, Florida
2410 Statutes, is amended to read:

2411 459.0085 Financial responsibility.—

2412 (2) Osteopathic physicians who perform surgery in an
2413 ambulatory surgical center licensed under chapter 396 ~~395~~ and,
2414 as a continuing condition of hospital staff privileges,
2415 osteopathic physicians who have staff privileges must also
2416 establish financial responsibility by one of the following
2417 methods:

2418 (a) Establishing and maintaining an escrow account
2419 consisting of cash or assets eligible for deposit in accordance
2420 with s. 625.52 in the per-claim amounts specified in paragraph
2421 (b). The required escrow amount set forth in this paragraph may
2422 not be used for litigation costs or attorney ~~attorney's~~ fees for
2423 the defense of any medical malpractice claim.

2424 (b) Obtaining and maintaining professional liability
2425 coverage in an amount not less than \$250,000 per claim, with a
2426 minimum annual aggregate of not less than \$750,000 from an
2427 authorized insurer as defined under s. 624.09, from a surplus
2428 lines insurer as defined under s. 626.914(2), from a risk
2429 retention group as defined under s. 627.942, from the Joint
2430 Underwriting Association established under s. 627.351(4),
2431 through a plan of self-insurance as provided in s. 627.357, or
2432 through a plan of self-insurance that meets the conditions
2433 specified for satisfying financial responsibility in s. 766.110.
2434 The required coverage amount set forth in this paragraph may not
2435 be used for litigation costs or attorney ~~attorney's~~ fees for the
2436 defense of any medical malpractice claim.

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2437 (c) Obtaining and maintaining an unexpired, irrevocable
2438 letter of credit, established pursuant to chapter 675, in an
2439 amount not less than \$250,000 per claim, with a minimum
2440 aggregate availability of credit of not less than \$750,000. The
2441 letter of credit must be payable to the osteopathic physician as
2442 beneficiary upon presentment of a final judgment indicating
2443 liability and awarding damages to be paid by the osteopathic
2444 physician or upon presentment of a settlement agreement signed
2445 by all parties to such agreement when such final judgment or
2446 settlement is a result of a claim arising out of the rendering
2447 of, or the failure to render, medical care and services. The
2448 letter of credit may not be used for litigation costs or
2449 attorney ~~attorney's~~ fees for the defense of any medical
2450 malpractice claim. The letter of credit must be nonassignable
2451 and nontransferable. The letter of credit must be issued by any
2452 bank or savings association organized and existing under the
2453 laws of this state or any bank or savings association organized
2454 under the laws of the United States which has its principal
2455 place of business in this state or has a branch office that is
2456 authorized under the laws of this state or of the United States
2457 to receive deposits in this state.

2458

2459 This subsection shall be inclusive of the coverage in subsection
2460 (1).

2461 Section 56. Paragraph (f) of subsection (4) of section
2462 459.026, Florida Statutes, is amended to read:

2463 459.026 Reports of adverse incidents in office practice
2464 settings.—

2465 (4) For purposes of notification to the department pursuant

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2466 to this section, the term "adverse incident" means an event over
2467 which the physician or licensee could exercise control and which
2468 is associated in whole or in part with a medical intervention,
2469 rather than the condition for which such intervention occurred,
2470 and which results in the following patient injuries:

2471 (f) Any condition that required the transfer of a patient
2472 to a hospital licensed under chapter 395 from an ambulatory
2473 surgical center licensed under chapter 396 ~~395~~ or any facility
2474 or any office maintained by a physician for the practice of
2475 medicine which is not licensed under chapter 395.

2476 Section 57. Paragraph (e) of subsection (1) of section
2477 465.0125, Florida Statutes, is amended to read:

2478 465.0125 Consultant pharmacist license; application,
2479 renewal, fees; responsibilities; rules.—

2480 (1) The department shall issue or renew a consultant
2481 pharmacist license upon receipt of an initial or renewal
2482 application that conforms to the requirements for consultant
2483 pharmacist initial licensure or renewal as adopted by the board
2484 by rule and a fee set by the board not to exceed \$250. To be
2485 licensed as a consultant pharmacist, a pharmacist must complete
2486 additional training as required by the board.

2487 (e) For purposes of this subsection, the term "health care
2488 facility" means a ~~an ambulatory surgical center or~~ hospital
2489 licensed under chapter 395, an ambulatory surgical center
2490 licensed under chapter 396, an alcohol or chemical dependency
2491 treatment center licensed under chapter 397, an inpatient
2492 hospice licensed under part IV of chapter 400, a nursing home
2493 licensed under part II of chapter 400, an ambulatory care center
2494 as defined in s. 408.07, or a nursing home component under

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2495 chapter 400 within a continuing care facility licensed under
2496 chapter 651.

2497 Section 58. Paragraph (l) of subsection (1) of section
2498 468.505, Florida Statutes, is amended to read:

2499 468.505 Exemptions; exceptions.—

2500 (1) Nothing in this part may be construed as prohibiting or
2501 restricting the practice, services, or activities of:

2502 (1) A person employed by a nursing facility exempt from
2503 licensing under s. 395.002 ~~s. 395.002(12)~~, or a person exempt
2504 from licensing under s. 464.022.

2505 Section 59. Paragraph (h) of subsection (4) of section
2506 627.351, Florida Statutes, is amended to read:

2507 627.351 Insurance risk apportionment plans.—

2508 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION
2509 CONTRACTS AND PURCHASES.—

2510 (h) As used in this subsection:

2511 1. "Health care provider" means hospitals licensed under
2512 chapter 395; physicians licensed under chapter 458; osteopathic
2513 physicians licensed under chapter 459; podiatric physicians
2514 licensed under chapter 461; dentists licensed under chapter 466;
2515 chiropractic physicians licensed under chapter 460; naturopaths
2516 licensed under chapter 462; nurses licensed under part I of
2517 chapter 464; midwives licensed under chapter 467; physician
2518 assistants licensed under chapter 458 or chapter 459; physical
2519 therapists and physical therapist assistants licensed under
2520 chapter 486; health maintenance organizations certificated under
2521 part I of chapter 641; ambulatory surgical centers licensed
2522 under chapter 396 ~~395~~; other medical facilities as defined in
2523 subparagraph 2.; blood banks, plasma centers, industrial

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2524 clinics, and renal dialysis facilities; or professional
2525 associations, partnerships, corporations, joint ventures, or
2526 other associations for professional activity by health care
2527 providers.

2528 2. "Other medical facility" means a facility the primary
2529 purpose of which is to provide human medical diagnostic services
2530 or a facility providing nonsurgical human medical treatment, to
2531 which facility the patient is admitted and from which facility
2532 the patient is discharged within the same working day, and which
2533 facility is not part of a hospital. However, a facility existing
2534 for the primary purpose of performing terminations of pregnancy
2535 or an office maintained by a physician or dentist for the
2536 practice of medicine may not be construed to be an "other
2537 medical facility."

2538 3. "Health care facility" means any hospital licensed under
2539 chapter 395, health maintenance organization certificated under
2540 part I of chapter 641, ambulatory surgical center licensed under
2541 chapter 396 ~~395~~, or other medical facility as defined in
2542 subparagraph 2.

2543 Section 60. Paragraph (b) of subsection (1) of section
2544 627.357, Florida Statutes, is amended to read:

2545 627.357 Medical malpractice self-insurance.—

2546 (1) DEFINITIONS.—As used in this section, the term:

2547 (b) "Health care provider" means any:

2548 1. Hospital licensed under chapter 395.

2549 2. Physician licensed, or physician assistant licensed,
2550 under chapter 458.

2551 3. Osteopathic physician or physician assistant licensed
2552 under chapter 459.

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- 2553 4. Podiatric physician licensed under chapter 461.
- 2554 5. Health maintenance organization certificated under part
- 2555 I of chapter 641.
- 2556 6. Ambulatory surgical center licensed under chapter 396
- 2557 ~~395~~.
- 2558 7. Chiropractic physician licensed under chapter 460.
- 2559 8. Psychologist licensed under chapter 490.
- 2560 9. Optometrist licensed under chapter 463.
- 2561 10. Dentist licensed under chapter 466.
- 2562 11. Pharmacist licensed under chapter 465.
- 2563 12. Registered nurse, licensed practical nurse, or advanced
- 2564 practice registered nurse licensed or registered under part I of
- 2565 chapter 464.
- 2566 13. Other medical facility.
- 2567 14. Professional association, partnership, corporation,
- 2568 joint venture, or other association established by the
- 2569 individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9.,
- 2570 10., 11., and 12. for professional activity.
- 2571 Section 61. Section 627.6056, Florida Statutes, is amended
- 2572 to read:
- 2573 627.6056 Coverage for ambulatory surgical center service.—
- 2574 An ~~No~~ individual health insurance policy providing coverage on
- 2575 an expense-incurred basis or individual service or indemnity-
- 2576 type contract issued by a nonprofit corporation, of any kind or
- 2577 description, may not ~~shall~~ be issued unless coverage provided
- 2578 for any service performed in an ambulatory surgical center, as
- 2579 defined in s. 396.202 ~~s. 395.002~~, is provided if such service
- 2580 would have been covered under the terms of the policy or
- 2581 contract as an eligible inpatient service.

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2582 Section 62. Subsection (3) of section 627.6405, Florida
2583 Statutes, is amended to read:

2584 627.6405 Decreasing inappropriate utilization of emergency
2585 care.—

2586 (3) As a disincentive for insureds to inappropriately use
2587 emergency department services for nonemergency care, health
2588 insurers may require higher copayments for urgent care or
2589 primary care provided in an emergency department and higher
2590 copayments for use of out-of-network emergency departments.
2591 Higher copayments may not be charged for the utilization of the
2592 emergency department for emergency care. For the purposes of
2593 this section, the term "emergency care" has the same meaning as
2594 the term "emergency services and care" as defined in s. 395.002
2595 ~~s. 395.002(9)~~ and includes services provided to rule out an
2596 emergency medical condition.

2597 Section 63. Paragraph (b) of subsection (1) of section
2598 627.64194, Florida Statutes, is amended to read:

2599 627.64194 Coverage requirements for services provided by
2600 nonparticipating providers; payment collection limitations.—

2601 (1) As used in this section, the term:

2602 (b) "Facility" means a licensed facility as defined in s.
2603 395.002 ~~s. 395.002(17)~~ and an urgent care center as defined in
2604 s. 395.002.

2605 Section 64. Section 627.6616, Florida Statutes, is amended
2606 to read:

2607 627.6616 Coverage for ambulatory surgical center service.—A
2608 ~~Ne~~ group health insurance policy providing coverage on an
2609 expense-incurred basis, or group service or indemnity-type
2610 contract issued by a nonprofit corporation, or self-insured

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2611 group health benefit plan or trust, of any kind or description,
2612 may not ~~shall~~ be issued unless coverage provided for any service
2613 performed in an ambulatory surgical center, as defined in s.
2614 396.202 ~~s. 395.002~~, is provided if such service would have been
2615 covered under the terms of the policy or contract as an eligible
2616 inpatient service.

2617 Section 65. Paragraph (a) of subsection (1) of section
2618 627.736, Florida Statutes, is amended to read:

2619 627.736 Required personal injury protection benefits;
2620 exclusions; priority; claims.—

2621 (1) REQUIRED BENEFITS.—An insurance policy complying with
2622 the security requirements of s. 627.733 must provide personal
2623 injury protection to the named insured, relatives residing in
2624 the same household unless excluded under s. 627.747, persons
2625 operating the insured motor vehicle, passengers in the motor
2626 vehicle, and other persons struck by the motor vehicle and
2627 suffering bodily injury while not an occupant of a self-
2628 propelled vehicle, subject to subsection (2) and paragraph
2629 (4) (e), to a limit of \$10,000 in medical and disability benefits
2630 and \$5,000 in death benefits resulting from bodily injury,
2631 sickness, disease, or death arising out of the ownership,
2632 maintenance, or use of a motor vehicle as follows:

2633 (a) *Medical benefits.*—Eighty percent of all reasonable
2634 expenses for medically necessary medical, surgical, X-ray,
2635 dental, and rehabilitative services, including prosthetic
2636 devices and medically necessary ambulance, hospital, and nursing
2637 services if the individual receives initial services and care
2638 pursuant to subparagraph 1. within 14 days after the motor
2639 vehicle accident. The medical benefits provide reimbursement

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2640 only for:

2641 1. Initial services and care that are lawfully provided,
2642 supervised, ordered, or prescribed by a physician licensed under
2643 chapter 458 or chapter 459, a dentist licensed under chapter
2644 466, a chiropractic physician licensed under chapter 460, or an
2645 advanced practice registered nurse registered under s. 464.0123
2646 or that are provided in a hospital or in a facility that owns,
2647 or is wholly owned by, a hospital. Initial services and care may
2648 also be provided by a person or entity licensed under part III
2649 of chapter 401 which provides emergency transportation and
2650 treatment.

2651 2. Upon referral by a provider described in subparagraph
2652 1., follow-up ~~followup~~ services and care consistent with the
2653 underlying medical diagnosis rendered pursuant to subparagraph
2654 1. which may be provided, supervised, ordered, or prescribed
2655 only by a physician licensed under chapter 458 or chapter 459, a
2656 chiropractic physician licensed under chapter 460, a dentist
2657 licensed under chapter 466, or an advanced practice registered
2658 nurse registered under s. 464.0123, or, to the extent permitted
2659 by applicable law and under the supervision of such physician,
2660 osteopathic physician, chiropractic physician, or dentist, by a
2661 physician assistant licensed under chapter 458 or chapter 459 or
2662 an advanced practice registered nurse licensed under chapter
2663 464. Follow-up ~~Followup~~ services and care may also be provided
2664 by the following persons or entities:

2665 a. A hospital or ambulatory surgical center licensed under
2666 chapter 396 ~~395~~.

2667 b. An entity wholly owned by one or more physicians
2668 licensed under chapter 458 or chapter 459, chiropractic

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2669 physicians licensed under chapter 460, advanced practice
2670 registered nurses registered under s. 464.0123, or dentists
2671 licensed under chapter 466 or by such practitioners and the
2672 spouse, parent, child, or sibling of such practitioners.

2673 c. An entity that owns or is wholly owned, directly or
2674 indirectly, by a hospital or hospitals.

2675 d. A physical therapist licensed under chapter 486, based
2676 upon a referral by a provider described in this subparagraph.

2677 e. A health care clinic licensed under part X of chapter
2678 400 which is accredited by an accrediting organization whose
2679 standards incorporate comparable regulations required by this
2680 state, or

2681 (I) Has a medical director licensed under chapter 458,
2682 chapter 459, or chapter 460;

2683 (II) Has been continuously licensed for more than 3 years
2684 or is a publicly traded corporation that issues securities
2685 traded on an exchange registered with the United States
2686 Securities and Exchange Commission as a national securities
2687 exchange; and

2688 (III) Provides at least four of the following medical
2689 specialties:

2690 (A) General medicine.

2691 (B) Radiography.

2692 (C) Orthopedic medicine.

2693 (D) Physical medicine.

2694 (E) Physical therapy.

2695 (F) Physical rehabilitation.

2696 (G) Prescribing or dispensing outpatient prescription
2697 medication.

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2698 (H) Laboratory services.

2699 3. Reimbursement for services and care provided in
2700 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
2701 licensed under chapter 458 or chapter 459, a dentist licensed
2702 under chapter 466, a physician assistant licensed under chapter
2703 458 or chapter 459, or an advanced practice registered nurse
2704 licensed under chapter 464 has determined that the injured
2705 person had an emergency medical condition.

2706 4. Reimbursement for services and care provided in
2707 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
2708 provider listed in subparagraph 1. or subparagraph 2. determines
2709 that the injured person did not have an emergency medical
2710 condition.

2711 5. Medical benefits do not include massage therapy as
2712 defined in s. 480.033 or acupuncture as defined in s. 457.102,
2713 regardless of the person, entity, or licensee providing massage
2714 therapy or acupuncture, and a licensed massage therapist or
2715 licensed acupuncturist may not be reimbursed for medical
2716 benefits under this section.

2717 6. The Financial Services Commission shall adopt by rule
2718 the form that must be used by an insurer and a health care
2719 provider specified in sub-subparagraph 2.b., sub-subparagraph
2720 2.c., or sub-subparagraph 2.e. to document that the health care
2721 provider meets the criteria of this paragraph. Such rule must
2722 include a requirement for a sworn statement or affidavit.

2723
2724 Only insurers writing motor vehicle liability insurance in this
2725 state may provide the required benefits of this section, and
2726 such insurer may not require the purchase of any other motor

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2727 vehicle coverage other than the purchase of property damage
2728 liability coverage as required by s. 627.7275 as a condition for
2729 providing such benefits. Insurers may not require that property
2730 damage liability insurance in an amount greater than \$10,000 be
2731 purchased in conjunction with personal injury protection. Such
2732 insurers shall make benefits and required property damage
2733 liability insurance coverage available through normal marketing
2734 channels. An insurer writing motor vehicle liability insurance
2735 in this state who fails to comply with such availability
2736 requirement as a general business practice violates part IX of
2737 chapter 626, and such violation constitutes an unfair method of
2738 competition or an unfair or deceptive act or practice involving
2739 the business of insurance. An insurer committing such violation
2740 is subject to the penalties provided under that part, as well as
2741 those provided elsewhere in the insurance code.

2742 Section 66. Paragraph (a) of subsection (1) of section
2743 627.912, Florida Statutes, is amended to read:

2744 627.912 Professional liability claims and actions; reports
2745 by insurers and health care providers; annual report by office.—

2746 (1)(a) Each self-insurer authorized under s. 627.357 and
2747 each commercial self-insurance fund authorized under s. 624.462,
2748 authorized insurer, surplus lines insurer, risk retention group,
2749 and joint underwriting association providing professional
2750 liability insurance to a practitioner of medicine licensed under
2751 chapter 458, to a practitioner of osteopathic medicine licensed
2752 under chapter 459, to a podiatric physician licensed under
2753 chapter 461, to a dentist licensed under chapter 466, to a
2754 hospital licensed under chapter 395, to a crisis stabilization
2755 unit licensed under part IV of chapter 394, to a health

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2756 maintenance organization certificated under part I of chapter
 2757 641, to clinics included in chapter 390, or to an ambulatory
 2758 surgical center as defined in s. 396.202 ~~s. 395.002~~, and each
 2759 insurer providing professional liability insurance to a member
 2760 of The Florida Bar shall report to the office as set forth in
 2761 paragraph (c) any written claim or action for damages for
 2762 personal injuries claimed to have been caused by error,
 2763 omission, or negligence in the performance of such insured's
 2764 professional services or based on a claimed performance of
 2765 professional services without consent.

2766 Section 67. Subsection (2) of section 765.101, Florida
 2767 Statutes, is amended to read:

2768 765.101 Definitions.—As used in this chapter:

2769 (2) "Attending physician" means the physician who has
 2770 primary responsibility for the treatment and care of the patient
 2771 while the patient receives such treatment or care in a hospital
 2772 as defined in s. 395.002 ~~s. 395.002(12)~~.

2773 Section 68. Paragraph (a) of subsection (1) of section
 2774 766.101, Florida Statutes, is amended to read:

2775 766.101 Medical review committee, immunity from liability.—

2776 (1) As used in this section:

2777 (a) The term "medical review committee" or "committee"
 2778 means:

2779 1.a. A committee of a hospital or ambulatory surgical
 2780 center licensed under chapter 396 ~~395~~ or a health maintenance
 2781 organization certificated under part I of chapter 641;

2782 b. A committee of a physician-hospital organization, a
 2783 provider-sponsored organization, or an integrated delivery
 2784 system;

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- 2785 c. A committee of a state or local professional society of
2786 health care providers;
- 2787 d. A committee of a medical staff of a licensed hospital or
2788 nursing home, provided the medical staff operates pursuant to
2789 written bylaws that have been approved by the governing board of
2790 the hospital or nursing home;
- 2791 e. A committee of the Department of Corrections or the
2792 Correctional Medical Authority as created under s. 945.602, or
2793 employees, agents, or consultants of either the department or
2794 the authority or both;
- 2795 f. A committee of a professional service corporation formed
2796 under chapter 621 or a corporation organized under part I of
2797 chapter 607 or chapter 617, which is formed and operated for the
2798 practice of medicine as defined in s. 458.305(3), and which has
2799 at least 25 health care providers who routinely provide health
2800 care services directly to patients;
- 2801 g. A committee of the Department of Children and Families
2802 which includes employees, agents, or consultants to the
2803 department as deemed necessary to provide peer review,
2804 utilization review, and mortality review of treatment services
2805 provided pursuant to chapters 394, 397, and 916;
- 2806 h. A committee of a mental health treatment facility
2807 licensed under chapter 394 or a community mental health center
2808 as defined in s. 394.907, provided the quality assurance program
2809 operates pursuant to the guidelines that have been approved by
2810 the governing board of the agency;
- 2811 i. A committee of a substance abuse treatment and education
2812 prevention program licensed under chapter 397 provided the
2813 quality assurance program operates pursuant to the guidelines

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2814 that have been approved by the governing board of the agency;

2815 j. A peer review or utilization review committee organized
2816 under chapter 440;

2817 k. A committee of the Department of Health, a county health
2818 department, healthy start coalition, or certified rural health
2819 network, when reviewing quality of care, or employees of these
2820 entities when reviewing mortality records; or

2821 l. A continuous quality improvement committee of a pharmacy
2822 licensed pursuant to chapter 465,

2823
2824 which committee is formed to evaluate and improve the quality of
2825 health care rendered by providers of health service, to
2826 determine that health services rendered were professionally
2827 indicated or were performed in compliance with the applicable
2828 standard of care, or that the cost of health care rendered was
2829 considered reasonable by the providers of professional health
2830 services in the area; or

2831 2. A committee of an insurer, self-insurer, or joint
2832 underwriting association of medical malpractice insurance, or
2833 other persons conducting review under s. 766.106.

2834 Section 69. Subsection (3) of section 766.110, Florida
2835 Statutes, is amended to read:

2836 766.110 Liability of health care facilities.—

2837 (3) In order to ensure comprehensive risk management for
2838 diagnosis of disease, a health care facility, including a
2839 hospital or ambulatory surgical center, as defined in chapter
2840 396 ~~395~~, may use scientific diagnostic disease methodologies
2841 that use information regarding specific diseases in health care
2842 facilities and that are adopted by the facility's medical review

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2843 committee.

2844 Section 70. Paragraph (d) of subsection (3) of section

2845 766.1115, Florida Statutes, is amended to read:

2846 766.1115 Health care providers; creation of agency

2847 relationship with governmental contractors.—

2848 (3) DEFINITIONS.—As used in this section, the term:

2849 (d) "Health care provider" or "provider" means:

2850 1. A birth center licensed under chapter 383.

2851 2. An ambulatory surgical center licensed under chapter 396

2852 ~~395~~.

2853 3. A hospital licensed under chapter 395.

2854 4. A physician or physician assistant licensed under

2855 chapter 458.

2856 5. An osteopathic physician or osteopathic physician

2857 assistant licensed under chapter 459.

2858 6. A chiropractic physician licensed under chapter 460.

2859 7. A podiatric physician licensed under chapter 461.

2860 8. A registered nurse, nurse midwife, licensed practical

2861 nurse, or advanced practice registered nurse licensed or

2862 registered under part I of chapter 464 or any facility which

2863 employs nurses licensed or registered under part I of chapter

2864 464 to supply all or part of the care delivered under this

2865 section.

2866 9. A midwife licensed under chapter 467.

2867 10. A health maintenance organization certificated under

2868 part I of chapter 641.

2869 11. A health care professional association and its

2870 employees or a corporate medical group and its employees.

2871 12. Any other medical facility the primary purpose of which

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2872 is to deliver human medical diagnostic services or which
2873 delivers nonsurgical human medical treatment, and which includes
2874 an office maintained by a provider.

2875 13. A dentist or dental hygienist licensed under chapter
2876 466.

2877 14. A free clinic that delivers only medical diagnostic
2878 services or nonsurgical medical treatment free of charge to all
2879 low-income recipients.

2880 15. Any other health care professional, practitioner,
2881 provider, or facility under contract with a governmental
2882 contractor, including a student enrolled in an accredited
2883 program that prepares the student for licensure as any one of
2884 the professionals listed in subparagraphs 4.-9.

2885
2886 The term includes any nonprofit corporation qualified as exempt
2887 from federal income taxation under s. 501(a) of the Internal
2888 Revenue Code, and described in s. 501(c) of the Internal Revenue
2889 Code, which delivers health care services provided by licensed
2890 professionals listed in this paragraph, any federally funded
2891 community health center, and any volunteer corporation or
2892 volunteer health care provider that delivers health care
2893 services.

2894 Section 71. Subsection (4) and paragraph (b) of subsection
2895 (6) of section 766.118, Florida Statutes, are amended to read:

2896 766.118 Determination of noneconomic damages.—

2897 (4) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF
2898 PRACTITIONERS PROVIDING EMERGENCY SERVICES AND CARE.—

2899 Notwithstanding subsections (2) and (3), with respect to a cause
2900 of action for personal injury or wrongful death arising from

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2901 medical negligence of practitioners providing emergency services
2902 and care, as defined in s. 395.002 ~~s. 395.002(9)~~, or providing
2903 services as provided in s. 401.265, or providing services
2904 pursuant to obligations imposed by 42 U.S.C. s. 1395dd to
2905 persons with whom the practitioner does not have a then-existing
2906 health care patient-practitioner relationship for that medical
2907 condition:

2908 (a) Regardless of the number of such practitioner
2909 defendants, noneconomic damages may ~~shall~~ not exceed \$150,000
2910 per claimant.

2911 (b) Notwithstanding paragraph (a), the total noneconomic
2912 damages recoverable by all claimants from all such practitioners
2913 may ~~shall~~ not exceed \$300,000.

2914
2915 The limitation provided by this subsection applies only to
2916 noneconomic damages awarded as a result of any act or omission
2917 of providing medical care or treatment, including diagnosis that
2918 occurs prior to the time the patient is stabilized and is
2919 capable of receiving medical treatment as a nonemergency
2920 patient, unless surgery is required as a result of the emergency
2921 within a reasonable time after the patient is stabilized, in
2922 which case the limitation provided by this subsection applies to
2923 any act or omission of providing medical care or treatment which
2924 occurs prior to the stabilization of the patient following the
2925 surgery.

2926 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
2927 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
2928 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
2929 respect to a cause of action for personal injury or wrongful

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2930 death arising from medical negligence of a practitioner
 2931 committed in the course of providing medical services and
 2932 medical care to a Medicaid recipient, regardless of the number
 2933 of such practitioner defendants providing the services and care,
 2934 noneconomic damages may not exceed \$300,000 per claimant, unless
 2935 the claimant pleads and proves, by clear and convincing
 2936 evidence, that the practitioner acted in a wrongful manner. A
 2937 practitioner providing medical services and medical care to a
 2938 Medicaid recipient is not liable for more than \$200,000 in
 2939 noneconomic damages, regardless of the number of claimants,
 2940 unless the claimant pleads and proves, by clear and convincing
 2941 evidence, that the practitioner acted in a wrongful manner. The
 2942 fact that a claimant proves that a practitioner acted in a
 2943 wrongful manner does not preclude the application of the
 2944 limitation on noneconomic damages prescribed elsewhere in this
 2945 section. For purposes of this subsection:

2946 (b) The term "practitioner," in addition to the meaning
 2947 prescribed in subsection (1), includes a any hospital or
 2948 ~~ambulatory surgical center~~ as defined and licensed under chapter
 2949 395 or an ambulatory surgical center as defined and licensed
 2950 under chapter 396.

2951 Section 72. Subsection (4) of section 766.202, Florida
 2952 Statutes, is amended to read:

2953 766.202 Definitions; ss. 766.201-766.212.—As used in ss.
 2954 766.201-766.212, the term:

2955 (4) "Health care provider" means a any hospital or
 2956 ~~ambulatory surgical center~~ as defined and licensed under chapter
 2957 395; an ambulatory surgical center as defined and licensed under
 2958 chapter 396; a birth center licensed under chapter 383; any

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2959 person licensed under chapter 458, chapter 459, chapter 460,
2960 chapter 461, chapter 462, chapter 463, part I of chapter 464,
2961 chapter 466, chapter 467, part XIV of chapter 468, or chapter
2962 486; a health maintenance organization certificated under part I
2963 of chapter 641; a blood bank; a plasma center; an industrial
2964 clinic; a renal dialysis facility; or a professional association
2965 partnership, corporation, joint venture, or other association
2966 for professional activity by health care providers.

2967 Section 73. Section 766.316, Florida Statutes, is amended
2968 to read:

2969 766.316 Notice to obstetrical patients of participation in
2970 the plan.—Each hospital with a participating physician on its
2971 staff and each participating physician, other than residents,
2972 assistant residents, and interns deemed to be participating
2973 physicians under s. 766.314(4)(c), under the Florida Birth-
2974 Related Neurological Injury Compensation Plan shall provide
2975 notice to the obstetrical patients as to the limited no-fault
2976 alternative for birth-related neurological injuries. Such notice
2977 shall be provided on forms furnished by the association and
2978 shall include a clear and concise explanation of a patient's
2979 rights and limitations under the plan. The hospital or the
2980 participating physician may elect to have the patient sign a
2981 form acknowledging receipt of the notice form. Signature of the
2982 patient acknowledging receipt of the notice form raises a
2983 rebuttable presumption that the notice requirements of this
2984 section have been met. Notice need not be given to a patient
2985 when the patient has an emergency medical condition as defined
2986 in s. 395.002 ~~s. 395.002(8)(b)~~ or when notice is not
2987 practicable.

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2988 Section 74. Paragraph (b) of subsection (2) of section
2989 812.014, Florida Statutes, is amended to read:
2990 812.014 Theft.—
2991 (2)
2992 (b)1. If the property stolen is valued at \$20,000 or more,
2993 but less than \$100,000;
2994 2. If the property stolen is cargo valued at less than
2995 \$50,000 that has entered the stream of interstate or intrastate
2996 commerce from the shipper's loading platform to the consignee's
2997 receiving dock;
2998 3. If the property stolen is emergency medical equipment,
2999 valued at \$300 or more, that is taken from a facility licensed
3000 under chapter 395 or from an aircraft or vehicle permitted under
3001 chapter 401; or
3002 4. If the property stolen is law enforcement equipment,
3003 valued at \$300 or more, that is taken from an authorized
3004 emergency vehicle, as defined in s. 316.003,
3005
3006 the offender commits grand theft in the second degree,
3007 punishable as a felony of the second degree, as provided in s.
3008 775.082, s. 775.083, or s. 775.084. Emergency medical equipment
3009 means mechanical or electronic apparatus used to provide
3010 emergency services and care as defined in s. 395.002 ~~s.~~
3011 ~~395.002(9)~~ or to treat medical emergencies. Law enforcement
3012 equipment means any property, device, or apparatus used by any
3013 law enforcement officer as defined in s. 943.10 in the officer's
3014 official business. However, if the property is stolen during a
3015 riot or an aggravated riot prohibited under s. 870.01 and the
3016 perpetration of the theft is facilitated by conditions arising

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3017 from the riot; or within a county that is subject to a state of
3018 emergency declared by the Governor under chapter 252, the theft
3019 is committed after the declaration of emergency is made, and the
3020 perpetration of the theft is facilitated by conditions arising
3021 from the emergency, the theft is a felony of the first degree,
3022 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3023 As used in this paragraph, the term "conditions arising from the
3024 riot" means civil unrest, power outages, curfews, or a reduction
3025 in the presence of or response time for first responders or
3026 homeland security personnel and the term "conditions arising
3027 from the emergency" means civil unrest, power outages, curfews,
3028 voluntary or mandatory evacuations, or a reduction in the
3029 presence of or response time for first responders or homeland
3030 security personnel. A person arrested for committing a theft
3031 during a riot or an aggravated riot or within a county that is
3032 subject to a state of emergency may not be released until the
3033 person appears before a committing magistrate at a first
3034 appearance hearing. For purposes of sentencing under chapter
3035 921, a felony offense that is reclassified under this paragraph
3036 is ranked one level above the ranking under s. 921.0022 or s.
3037 921.0023 of the offense committed.

3038 Section 75. Paragraph (b) of subsection (1) of section
3039 945.6041, Florida Statutes, is amended to read:

3040 945.6041 Inmate medical services.—

3041 (1) As used in this section, the term:

3042 (b) "Health care provider" means:

3043 1. A hospital licensed under chapter 395.

3044 2. A physician or physician assistant licensed under
3045 chapter 458.

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3046 3. An osteopathic physician or physician assistant licensed
3047 under chapter 459.

3048 4. A podiatric physician licensed under chapter 461.

3049 5. A health maintenance organization certificated under
3050 part I of chapter 641.

3051 6. An ambulatory surgical center licensed under chapter 396
3052 ~~395~~.

3053 7. A professional association, partnership, corporation,
3054 joint venture, or other association established by the
3055 individuals set forth in subparagraphs 2., 3., and 4. for
3056 professional activity.

3057 8. An other medical facility.

3058 a. As used in this subparagraph, the term "other medical
3059 facility" means:

3060 (I) A facility the primary purpose of which is to provide
3061 human medical diagnostic services, or a facility providing
3062 nonsurgical human medical treatment which discharges patients on
3063 the same working day that the patients are admitted; and

3064 (II) A facility that is not part of a hospital.

3065 b. The term does not include a facility existing for the
3066 primary purpose of performing terminations of pregnancy, or an
3067 office maintained by a physician or dentist for the practice of
3068 medicine.

3069 Section 76. Paragraph (a) of subsection (1) of section
3070 985.6441, Florida Statutes, is amended to read:

3071 985.6441 Health care services.—

3072 (1) As used in this section, the term:

3073 (a) "Health care provider" means:

3074 1. A hospital licensed under chapter 395.

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- 3075 2. A physician or physician assistant licensed under
3076 chapter 458.
- 3077 3. An osteopathic physician or physician assistant licensed
3078 under chapter 459.
- 3079 4. A podiatric physician licensed under chapter 461.
- 3080 5. A health maintenance organization certificated under
3081 part I of chapter 641.
- 3082 6. An ambulatory surgical center licensed under chapter 396
3083 ~~395~~.
- 3084 7. A professional association, partnership, corporation,
3085 joint venture, or other association established by the
3086 individuals set forth in subparagraphs 2.-4. for professional
3087 activity.
- 3088 8. An other medical facility.
- 3089 a. As used in this subparagraph, the term "other medical
3090 facility" means:
- 3091 (I) A facility the primary purpose of which is to provide
3092 human medical diagnostic services, or a facility providing
3093 nonsurgical human medical treatment which discharges patients on
3094 the same working day that the patients are admitted; and
- 3095 (II) A facility that is not part of a hospital.
- 3096 b. The term does not include a facility existing for the
3097 primary purpose of performing terminations of pregnancy, or an
3098 office maintained by a physician or dentist for the practice of
3099 medicine.
- 3100 Section 77. (1) It is the intent of the Legislature to
3101 bifurcate all fees applicable to ambulatory surgical centers
3102 authorized and imposed under chapter 395, Florida Statutes
3103 (2024), and transfer them to chapter 396, Florida Statutes, as

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3104 created by this act. The Agency for Health Care Administration
3105 may maintain its current fees for ambulatory surgical centers
3106 and may adopt rules to codify such fees in rule to conform to
3107 changes made by this act.

3108 (2) It is further the intent of the Legislature to
3109 bifurcate any exemptions from public records and public meetings
3110 requirements applicable to ambulatory surgical centers under
3111 chapter 395, Florida Statutes (2024), and preserve such
3112 exemptions under chapter 396, Florida Statutes, as created by
3113 this act.

3114 Section 78. This act shall take effect July 1, 2025.