

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill consolidates health care facilities licensure standards and regulations into core licensure statutes. The bill streamlines current regulation and decreases unnecessary variations.

B. EFFECT OF PROPOSED CHANGES:

This bill creates part II of Chapter 408, F.S., by establishing a set of minimum core licensing requirements for all health care providers licensed by the Agency for Health Care Administration to eliminate unnecessary duplication and variation of licensure requirements among providers. This organization of core, uniform standards is similar to the regulatory scheme for health care practitioners within Chapter 456 by the Department of Health. Common definitions of basic standards serve to eliminate confusion for operators of multiple provider types and streamline the licensure process. The bill creates streamlined and consistent licensing requirements for all providers regulated by the Agency by standardizing terminology in basic licensure requirements. The bill deletes from each specific authorizing statute those licensing requirements encompassed by part II of Chapter 408, F.S, but retains in each specific authorizing statute (referred to as the authorizing statute) those regulatory standards unique to that health care provider including fees.

The health care licensing programs subject to part II of Chapter 408, F.S. include:

- Drug Free Workplace Laboratories, as provided under ss. 112.0455 and 440.102, F.S;
- Birth Centers, as provided under Chapter 383;
- Abortion Clinics, as provided under Chapter 390;
- Crisis Stabilization Units, as provided under parts I and IV of Chapter 394;
- Short Term Residential Treatment Units, as provided under Parts I and IV of Chapter 394;
- Residential Treatment Facilities, as provided under Part IV of Chapter 394;
- Residential Treatment Centers for Children and Adolescents, as provided under Part IV of Chapter 394;
- Hospitals, as provided under Part I of Chapter 395;
- Ambulatory Surgical Centers, as provided under Part I of Chapter 395;
- Mobile Surgical Facilities, as provided under Part I of Chapter 395;
- Private Review Agents, as provided under Part I of Chapter 395;
- Health Care Risk Managers, as provided under Part I of Chapter 395;
- Nursing Homes, as provided under Part II of Chapter 400;
- Assisted Living Facilities, as provided under Part III of Chapter 400;
- Home Health Agencies, as provided under Part IV of Chapter 400;
- Nurse Registries, as provided under Part IV of Chapter 400;
- Companion Services or Homemaker Services Providers, as provided under part IV of Chapter 400;
- Adult Day Care Centers, as provided under Part V of Chapter 400;
- Hospices, as provided under Part VI of Chapter 400;
- Adult Family-Care Homes, as provided under Part VII of Chapter 400;
- Homes for Special Services, as provided under Part VIII of Chapter 400;
- Transitional Living Facilities, as provided under Part VIII of Chapter 400;
- Prescribed Pediatric Extended Care Centers, as provided under Part IX of Chapter 400;
- Home Medical Equipment Providers, as provided under Part X of Chapter 400;

- Intermediate Care Facilities for the Developmentally Disabled, as provided under Part XI of Chapter 400;
- Health Care Services Pools, as provided under Part XII of Chapter 400;
- Health Care Clinics, as provided under Part XIII of Chapter 400;
- Clinical Laboratories, as provided under Part I of Chapter 483;
- Multiphasic Health Testing Centers, as provided under Part II of Chapter 483; and
- Certification of Organizations Engaged in the Practice Of Cadaveric Organ and Tissue Procurement, Certification of Organ Procurement Organizations, Tissue Banks and Eye Banks, as provided under Chapter 765.

The bill creates licensing and regulatory standards applicable to all of the above programs.

Licensure Requirements

The bill provides that it is unlawful to provide or offer services that require a license without first obtaining a license. Applicants must submit the appropriate application with license fee to the Agency. The license fee cannot exceed the actual cost of regulation pursuant to part II of Chapter 408, F.S., authorizing statutes, and administrative rules. Licensure fees may be adjusted annually based on the change in the consumer price index within existing maximum levels if increases are necessary to support the actual cost of regulation.

Inspection Fees

The bill provides for the assessment of inspection fees if required by authorizing statute and a fee assessment for license re-issuance due to a reported change by the provider.

Licensure Renewals

The bill mandates the timeframes for initial, renewal, and change of ownership application submission; the timeframe for Agency review and approval or denial of applications; and the timeframe for applicant submission of omitted application information. These timeframes provide more specific direction than the broad licensing requirements of s. 120.60, F.S., and are significantly shorter than the requirements in s. 120.6, F.S., in most cases. The duration of a license is typically two years, but conditions of licensure category can shorten that period, such as the issuance of a provisional license. Change of ownership responsibilities of the transferor and transferee are specified in the bill.

Licensure Categories

The bill details the conditions for issuing a standard, provisional, or inactive license.

Background Check Requirements

Federal Bureau of Investigation (FBI) and Florida Department of Law Enforcement (FDLE) background screening is required for administrators, individual owners, and financial officers. A person with controlling interest is subject to background screening when there is reason to believe such person has a disqualifying offense. Notice of change of a person required to undergo background screening must be reported to the Agency, pursuant to the specific authorizing statute and rule requirements. New persons who are subject to the screening requirements must comply with background screening requirements; however, they may be employed pending FBI screening results if the state level (FDLE) screening is clear.

Agency Right of Entry & Administrative Actions

The Agency has the right of entry and inspection of premises to determine compliance with part II of Chapter 408, F.S., authorizing statutes, and rules. The Agency may not enter into a premise, which the Agency believes is operating without a valid license unless permission is granted by the owner or a warrant is first obtained. The bill provides for administrative actions against unlicensed providers. The bill allows the Agency to impose administrative fines, a moratorium on admissions, license denial, emergency suspension, or revocation or seek injunctive relief for regulatory violations affecting resident health, safety or welfare.

Fees

The Agency is directed to deposit all fees and fines into the Health Care Trust Fund unless otherwise specified by authorizing statutes. The bill allows the Agency to adopt rules to administer part II of Chapter 408, F.S.

Nursing Home Reporting

The bill streamlines two major sources of consumer information produced by the Agency, serving to align information from the Nursing Home Guide and the Nursing Home Watch List. The Nursing Home Watch List would be published within the Nursing Home Guide, thereby providing a consolidated document for consumers to reference when reviewing nursing home information. The Watch List history information would be changed from the number of times a facility has appeared on a Watch List to the number and percentage of days a facility was conditional; a more accurate representation of the duration of problems. The Nursing Home Guide and Watch List are revised to include 30 months of regulatory history for each nursing home to be consistent with timeframes common for programs such as the Governor's Gold Seal Award for nursing homes.

New Regulatory Authority

The bill shifts the primary authority to adopt rules from the Department of Elder Affairs to the Agency for assisted living facilities, adult family care homes, adult day care centers and hospice. Rules would be initially transferred to the Agency from the Department of Elder Affairs.

PRESENT SITUATION

The licensure statutes for the various health care providers regulated by the Agency contain duplication and variation of certain basic licensing standards. These standards include the application process, changes of ownership, licensure categories, background screening, changes of administrator, right of inspection, inspection reports, unlicensed activity, administrative fines, moratoriums, and license denial and revocation. The majority of licenses are required to be renewed annually, although some programs call for biennial licensure. Each of these regulatory statutes has evolved independently and as such there is variation in the definitions of similar requirements. Licensure processing occurs within the broad requirements of licensure under the Administrative Procedures Act, s. 120.60, F.S., and many unique requirements within each specific authorizing statutes or rules.

Consumers seeking information about nursing homes have many different tools available to review specific information about these facilities. However, the variation of the information presented can be confusing for consumers and appear conflicting. The Agency publishes the Nursing Home Guide (Guide) and the Nursing Home Watch List (Watch List). Both are required by s. 400.191, F.S., and are published quarterly. The Guide presents a 45-month review of regulatory compliance (using stars) and demographic information for each nursing home licensed in Florida, while the Watch List reflects only those nursing homes that were issued a conditional license or were under bankruptcy protection during a quarter. A conditional license can be used both for serious deficiencies and for the failure to correct relatively minor deficiencies. Therefore, a nursing home can appear on a Watch List but may have a high ranking in the Guide, thereby confusing consumers.

The Department of Elder Affairs currently has the rule writing authority for the assisted living facility, adult family care home, adult day care center, and hospice programs. The Agency has rule writing authority for the majority of the other programs it licenses including hospitals, nursing homes, home health agencies, and others.

C. SECTION DIRECTORY:

Section 1. Creates Part I of Chapter 408, F.S., entitled "Health Facility and Services Planning," consisting of ss. 408.031 – 408.7071, F.S.

Section 2. Creates Part II of Chapter 408, F.S., entitled "Health Care Licensing: General Provisions," consisting of ss. 408.801 – 408.819, and s. 408.831, F.S.

Section 3. Creates Part III of Chapter 408, F.S., entitled “Health Insurance Access,” consisting of ss. 408.90 – 408.909, F.S.

Section 4. Creates Part IV of Chapter 408, F.S., entitled “Health and Human Services Eligibility Access System,” consisting of ss. 408.911 – 408.918, F.S.

Section 5. Creates ss. 408.801 – 408.819, F.S., as the Health Care Licensing Procedures Act, specifying legislative intent to eliminate unnecessary duplication and variation of licensure requirements by health care providers regulated by the Agency for Health Care Administration (AHCA). The purpose of this act is to create streamlined and consistent licensing requirements for all providers regulated by the Agency by standardizing terminology and basic licensure requirements issues not adequately addressed in specific authorizing statutes.

Creates s. 408.802, F.S., specifying provision of services pursuant to part II of Chapter 408, F.S. requiring licensure or registration of entities licensed or registered by the Agency as described in Chapters 112, 383, 390, 394, 395, 400, 440, 483, and 765, F.S. The entities include Drug Free Workplace Laboratories, Birth Centers, Abortion Clinics, Crisis Stabilization Units, Short Term Residential Treatment Units, Residential Treatment Facilities, Residential Treatment Centers for Children and Adolescents, Hospitals, Ambulatory Surgical Centers, Mobile Surgical Facilities, Private Review Agents, Health Care Risk Managers, Nursing Homes, Assisted Living Facilities, Home Health Agencies, Nurse Registries, Companion Services or Homemaker Services Providers, Adult Day Care Centers, Hospices, Adult Family-Care Homes, Homes for Special Services, Transitional Living Facilities, Prescribed Pediatric Extended Care Centers, Home Medical Equipment Providers, Intermediate Care Facilities for the Developmentally Disabled, Health Care Services Pools, Health Care Clinics, Clinical Laboratories, Multiphasic Health Testing Centers, and Certification of Organizations Engaged in the Practice Of Cadaveric Organ and Tissue Procurement, Certification of Organ Procurement Organizations, Tissue Banks and Eye Banks.

Creates s. 408.803, F.S., to define standardized terms to be used by the Agency and applicants for licensure or registration. Those terms include:

- **“Authorizing statute”** meaning the statute authorizing the licensed operation of a provider listed in s. 408.802, F.S., including chapters 112, 383, 390, 394, 395, 400, 440, 483, and 765;
- **“Certification”**, meaning certification as a Medicare or Medicaid provider of the services that necessitate licensure, or certification pursuant to the federal Clinical Laboratory Improvement Amendments (CLIA);
- **“Change in Ownership”** meaning an event in which the licensee changes to a different legal entity or in which 45 percent or more of the ownership, voting shares, or interest is transferred or assigned, including the final transfer or assignment of multiple transfers or assignments over a two-year period which cumulatively total 45 percent or greater. However, a change solely in the management company is not a change of ownership;
- **“Controlling interest”** meaning (a) The applicant or a licensee, or (b) A person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the applicant or licensee, or (c) A person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the management company or other entity, related or unrelated, which the applicant or licensee contracts with to manage the provider. The term does not include a voluntary board member.
- **“Voluntary board member”** means a board member of a not-for-profit corporation or organization who serves solely in a voluntary capacity, does not receive any remuneration for his or her services on the board of directors, and has no financial interest in the corporation or organization. The Agency shall recognize a person as a voluntary board member following submission of a statement to the Agency by the board member and the not-for-profit corporation or organization, which affirms the board member, conforms to this definition. The statement affirming the status of the board member must be submitted to the Agency on a form provided by the Agency.

Creates s. 408.804, F.S., to prohibit the provision of services requiring licensure without first obtaining a license from the Agency.

The bill requires the license to be conspicuously displayed at the location notated on the license that is readily visible to clients. The bill specifies that licenses are only valid for the entity to which it is issued, the location for which issued, and is not subject to sale, assignment or transfer.

Creates s. 408.805, F.S., to require the Agency to collect license fees that cover the cost of regulation and enforcement unless otherwise limited by authorizing statutes.

The bill requires the adjustment of licensure fees for biennial licensure in Agency rule; annual licensure fee adjustments, including fees paid per bed, not to exceed the change in the consumer price index; allows the Agency to adopt rules to adjust licensure fees; requires payment of inspection fees pursuant to authorizing statutes; specifies that fees are nonrefundable; allows fee assessment for changes resulting in the issuance of a license by the Agency, and allows fee assessment for issuance of a duplicate license not to exceed duplication and postage costs.

Creates s. 408.806, F.S., requiring applicant submission of a licensure application under oath on forms provided by the Agency with appropriate fee; information pursuant to authorizing statutes and rules; applicant and each controlling interest's name, address, and social security number if an individual; applicant and each controlling interest's name, address, federal employer identification number or taxpayer identification number if not an individual; provider name; requested beds or capacity; zoning approval report from local zoning authority; compliance with zoning pursuant to Chapter 419 if applicant meets definition of community residential home; zoning report or letter not required at time of license renewal if provider location has not changed; satisfactory fire safety report; name of person or persons operating the provider and administrator's name if required; a certificate of authority as required under Chapter 651 if the applicant offers continuing care agreements and other necessary information under this part, authorizing statutes, and applicable rules including satisfactory inspection results.

The bill requires the Agency to notify a licensee by mail or electronically at least 90 days prior to license expiration. This section requires licensure renewal application submission by the applicant and receipt by the Agency at least 60 days prior to license expiration; change of ownership application submission and receipt by the Agency at least 60 days prior to the change of ownership date; initial application submission and receipt by the Agency at least 90 days prior to provider availability for inspection, and for all other applications or requests submission and receipt by the Agency at least 60 days prior to the requested effective date, unless otherwise specified by authorizing statutes or rules.

This bill requires the Agency to review licensure applications and notify the applicant in writing of errors or omitted information within 30 days of receipt. Omitted licensure, renewal, or change of ownership application information shall be filed with the Agency within 21 days of the Agency's request or the application will be deemed incomplete with no further consideration. However, an inspection may take longer than 21 days if needed.

Licenses are issued for a two-year period, unless conditions of license specify a shorter period such as the issuance of a provisional license. Between October 1, 2005 and September 30, 2006, the bill allows the Agency to issue licenses for less than two years, charging a prorated fee, and adjusting the renewal date for the purposes of transitioning affected providers from a one-year to two-year licensure cycle. Applicant failure to apply for re-licensure prior to license expiration shall render the license null and void. A licensee shall be assessed a late fee of 50% of the license fee for failure to file a timely application and fee, which shall not exceed \$5,000 aggregate. If the application is received after the filing date and has a cancelled postmark from the United States Post Office on or before the required filing date, no late fee will be assessed.

License applications must be approved or denied within 60 days of a complete application.

The bill requires that licenses include the licensee's name, the provider type or service authorized to operate or offer, the effective and expiration dates, maximum capacity of licensed premises if applicable, and other information required or deemed necessary by the Agency.

In accordance with this part, authorizing statutes and applicable rules, proof of compliance with minimum licensure requirements as specified in section 408.810, F.S., must be submitted with a licensure application.

The bill requires that an applicant demonstrate compliance with this part, authorizing statutes and applicable rules during an inspection if required by authorizing statutes. An initial survey is not required for Companion Services or Homemaker Services Providers, or Health Care Services Pools. All inspections other than initial inspections are unannounced except for inspections of clinical laboratories in physicians' offices licensed under s. 483.035, F.S. Hospitals, ambulatory surgery centers, birth centers and mobile surgical facilities are exempt from unannounced inspections as the Agency is required under current law to coordinate inspections to minimize disruption of services for these providers. Provider unavailability at the time of inspection will result in the application being denied.

The bill allows the Agency to develop by rule requirements for electronic submission of applications, required signatures, payment of fees, application notarization, and of any other required documents any documents or information required by this part or authorizing statutes.

Creates s. 408.807, F.S., specifying during changes of ownership the transferor (licensee/seller) must notify the Agency in writing a minimum of 60 days before the transfer of ownership date and the transferee (applicant/buyer) must submit a change of ownership application to the Agency at least 60 days prior to the change of ownership date. The transferor is responsible for all penalties imposed against the transferor before the change of ownership date. License restrictions such as a conditional license during change of ownership remain in place until removed by the Agency. The new owner must maintain required records of the previous owner including all client records, inspection reports, and all records required to be maintained on Medicaid recipients if applicable.

Creates s. 408.808, F.S., to identify licensure categories, conditions for issuance, and licensure time periods. The Agency may issue a standard license to an applicant at the time of initial, renewal, or change of ownership when the applicant is in compliance with all statutory requirements and Agency rules. Standard licenses must be issued for a two-year period, unless sooner revoked.

The bill allows the Agency to issue a provisional license to an applicant when individuals required to undergo background screening have met screening requirements through the Florida Department of Law Enforcement and are pending the results with the Federal Bureau of Investigation. Pending a licensure denial or revocation proceeding, a provisional license may be issued until final Agency decision.

The bill allows a court having jurisdiction to issue an order regarding Agency issuance of a temporary permit to a facility during the pendency of a judicial proceeding when judicial relief is sought by the facility from an Agency administrative order.

The bill allows the issuance of an inactive license to a health care provider under the certificate of need provisions in ss. 408.031 – 408.045, F.S. (defined as part I of Chapter 408 in the bill), when the provider is currently licensed, does not have a provisional license, and is temporarily unable to provide services, but will resume services within 12 months. Inactive licenses are not to exceed 12 months but can be renewed for up to six months based on the provider's progress toward reopening. Written submissions to the Agency from the licensee for inactive license status or to extend the inactive period must include justification, beginning and ending dates of inactivity, plan for transferring clients to other providers, and required licensure fees. Inactive license requests received by the Agency after the provider has initiated closure, suspension of service, or client notification of closure or suspension

cannot be accepted. Providers approved for inactive license status shall notify each client of discharge or transfer pursuant to authorizing statutes and applicable rules. The inactive license begins the date the provider ceases operation. The provider's license expires at the end of the inactive license period; all fees must be paid, and may be prorated. A renewal application with appropriate fee and Agency inspections indicating all requirements of part II of Chapter 408, F.S., authorizing statutes, and applicable rules must be met before reactivation of an inactive license.

The bill allows the issuance of other licensure types pursuant to authorizing statutes and applicable rules.

Creates s. 408.809, F.S., to require employee background screening standards pursuant to Chapter 435. The bill states that level 2 background screening must be conducted through the Agency on the individual owner(s), administrator or similar person responsible for day-to-day operations of the provider, financial officer or similar person responsible for financial operations of the licensee or provider, and any person who is a controlling interest if reason to believe such person's conviction of any offense prohibited by s. 435.04, F.S. The licensee must submit a description and explanation of the conviction with the license application.

The bill provides that documentation submitted of a satisfactory level 2 background screening conducted within the previous five years to meet Agency, Department of Health, or Department of Children and Family Services provider or professional licensure requirements satisfies the background screening requirements, provided such proof is accompanied by an affidavit of current compliance with Chapter 435 using forms provided by the Agency. Proof of compliance with background screening requirements submitted within the last five years to operate a continuing care retirement community under Chapter 651 satisfies the level 2 background check.

This bill allows the Agency to issue a provisional license upon satisfactory compliance with the Florida Department of Law Enforcement background check for persons required to be screened pending the screening results of the Federal Bureau of Investigation. A standard license may be issued when the Agency receives a satisfactory Federal Bureau of Investigation background screening report or upon the Agency granting a disqualification exemption pursuant to Chapter 435.

Changes of any person required to undergo level 2 background screening must be reported to the Agency by the licensee within the timeframe specified in authorizing statutes or rules, and submit to the Agency information necessary to conduct Level 2 screening, or provide evidence of background screening compliance. The person may serve in his or her capacity pending the Agency's receipt of the report from the Federal Bureau of Investigation, if he or she has met the standards for the Department of Law Enforcement background check. However, the person may not continue to serve if the report indicates any violation of background screening standards unless an exemption from disqualification has been granted by the Agency as set forth in Chapter 435.

Background screening is not required to obtain a Certificate of Exemption authorizing a clinical lab to perform waived tests, issued under s. 483.106, F.S.

Creates s. 408.810, F.S., to specify the requirements to obtain and maintain a license issued by the Agency. In addition to the licensure requirements in this part, authorizing statutes, and applicable rules, each applicant and licensee must comply with background screening; disclosure of exclusion, suspensions, or terminations from Medicare, Medicaid, or Clinical Laboratory Improvement Amendments (CLIA) programs, and unless specified differently in authorizing statutes, or rules, any required reporting information must be submitted to the Agency within 21 calendar days after the report period or effective date of information.

Upon discontinuance of a provider, the licensee must inform the Agency at least 30 days before discontinuance of operation, inform clients of discharge in accordance with authorizing statutes, and surrender the license to the Agency for cancellation. Upon closure, the licensee is responsible for

retention and distribution of all records within timeframes specified in authorized statutes and rules. Upon licensee death or dissolution, the estate or agent of the licensee must provide copies of record to clients or their representative or publish a notice in the newspaper of greatest general circulation in the county where the provider was located, which notifies clients of the death or dissolution. The notice must advise clients that copies of their records may be obtained and must include the name, address and telephone number of the person from whom the copies may be obtained. The notice shall appear at least once a week for four consecutive weeks. Failure to comply is a second degree misdemeanor.

The bill requires that each licensure applicant must provide notice of toll-free telephone numbers on or before first day of services to client of the right to report complaints to the Agency, and to report abuse, neglect, or exploitation to the central abuse hotline. The Agency must publish changes in toll-free telephone numbers at least 90 days before the change occurs. A licensee must establish policy and procedure for notifying clients of the changes in toll-free telephone numbers.

The bill requires applicants to submit proof of legal right to occupy the property; proof of liability insurance pursuant to Chapters 624, 626, 627, or 628, F.S., unless otherwise stated in authorizing statute; proof of financial ability to operate for initial or change of ownership application in accordance with authorizing statutes and applicable rules; the Agency must establish standards for determining financial ability to operate including the applicant's controlling interests, applicant documentation requirements, anticipated revenues and expenditures, basis for financing anticipated cash-flow, and access to contingency financing; a current Chapter 651 certificate of authority may be submitted to the Agency as proof of financial ability to operate; the bill allows the Agency to require the licensee to submit proof of financial stability when evidence of financial instability of a licensed provider exists; and the bill prohibits a controlling interest from withholding from the Agency evidence of financial instability. Providers not required to provide proof of financial ability to operate are intended to be exempt from this requirement in their authorizing statutes.

Creates s. 408.810(10), F.S., to require a certificate of need (CON) prior to licensure for those health care facilities already required to obtain a CON including hospitals, nursing homes, hospices, and intermediate care facilities for the developmentally disabled. The bill reiterates that a certificate of need merges into the license upon licensure and has no force if the license is terminated.

Creates s. 408.811, F.S., to authorize the Agency to conduct inspections and investigations to determine compliance. The right of inspection includes businesses the Agency believes are being operated without the appropriate license, but such inspection of a suspected unlicensed entity requires permission of the owner or person in charge unless a warrant is obtained from circuit court. An application for a license gives the Agency the right to conduct appropriate inspections in connection with the application. Initial licensure inspections and inspections conducted pursuant to s. 483.035, F.S., for clinical laboratories operating in physicians' offices shall be announced, however, all other inspections shall be unannounced. Re-licensure inspections must be conducted biennially unless otherwise specified in authorizing statutes or applicable rules.

The bill allows for certification inspections in lieu of complete licensure inspections. If certain licensure requirements are not included in the certification inspection, a licensure inspection may also be conducted. The Agency has access to all required records and the licensee must provide copies of required records at no cost to the Agency.

A licensee must maintain and make available to the public all inspection reports filed by the Agency unless those reports are exempt from, or contain information that is exempt from s. 119.07(1), F.S., or is otherwise made confidential by law. Effective October 1, 2005, such reports shall be retained in the provider's records for at least three years from the date filed and issued. A licensee must provide at the request of any person who has completed an admissions application to the provider, a client of the provider, relative, spouse, or guardian, a copy of the last inspection report issued by the Agency or an accrediting organization whichever is most recent.

Creates s. 408.812, F.S., to prohibit persons or entities from offering or advertising services that require licensure without first obtaining a valid license from the Agency. A licensee is prohibited from advertising or holding out to the public a license other than the license actually held.

The bill specifies that operating or maintaining an unlicensed provider or providing services necessitating licensure without such licensure is unlawful. Unlicensed activity constitutes harm materially affecting client health, safety and welfare. The bill allows the Agency, or state attorney, to file an injunction to cease unlicensed activity, or enjoin future operation, maintenance, or provision of services until compliance has been determined by the Agency.

An unlicensed provider owner or operator failing to cease operation and apply for licensure after Agency notification commits a third degree felony. Each day the provider continues to operate is a separate offense. A second or subsequent unlicensed provider violation is a second degree felony. The Agency may fine an unlicensed provider who fails to cease operation \$1,000 for each day of noncompliance.

A licensee or controlling interest having more than one provider, who fails to license any of the providers requiring licensure, is subject to license revocation, moratorium, and fines pursuant to the authorizing statutes, against those licenses until such time as the appropriate license is obtained for the unlicensed operation.

In addition to an injunction, an owner of an unlicensed provider is subject to the same actions and fines imposed against a licensed provider if the Agency determines that a condition exists that poses a threat to client health, safety, or welfare. Persons aware of the operation of an unlicensed provider must report that provider and operator to the Agency.

Creates s. 408.813, F.S., to allow the Agency to impose an administrative fine for any violations. Fines may be imposed both in lieu of and in addition to other penalties provided for in Part II, Chapter 408, F.S. The fine amount imposed shall be in accordance with authorizing statutes or applicable rules. If the fine amount is not specified in authorizing statutes or applicable rules, the Agency may establish criteria for the fine amount by rule. Each day of violation constitutes a separate violation and is subject to a separate fine. If fines are upheld as a result of an administrative or judicial review, the violator must pay the fine plus interest for each day beyond the original date for payment.

Creates s. 408.814, F.S., to allow the Agency to impose an immediate moratorium or emergency suspension on a provider or licensee if conditions present a threat to client health, safety, or welfare. A license denial or revocation may be subject to moratorium or emergency suspension to run concurrent with licensure denial, revocation, or injunction. A moratorium or emergency suspension will remain in place during a change of ownership unless the Agency determines that conditions resulting in the moratorium or emergency suspension or denial have been corrected. Moratorium or emergency suspension notices must be posted and visible to the public at the provider's location until the moratorium or emergency suspension has been removed by the Agency.

Creates s. 408.815, F.S., to allow the Agency to deny and revoke a license or application for violations and actions by a controlling interest that include false representation, or intentional omission of material fact in the application; intentional or negligent act affecting client health, safety, or welfare; a pattern of deficient performance, and applicant, licensee, or controlling interest exclusion, suspension, termination, or has been excluded from Medicaid or Medicare program.

A licensee must continue to meet licensure requirements including submission of a license renewal application and fee while lawfully operating pending litigation for license denial or revocation. The bill allows the Agency to withhold final decisions on any application or request filed with the Agency pending final Agency action in pending litigation.

A moratorium, emergency suspension, or license denial against a transferor may be grounds for license denial of a change of ownership to the transferee.

Creates s. 408.816, F.S., to allow the Agency to seek injunctive proceedings in court to restrain or prevent operation or establishment of an unlicensed provider or a provider in violation of regulations. The Agency may seek injunctive relief when violations result in an emergency immediately affecting client health, safety, or welfare. An injunction may be sought by the Agency when administrative sanctions against the provider to correct the violations affecting client health, safety, or welfare have failed; to terminate the operation of a provider for regulations and violations affecting client health, safety, or welfare. Injunctions may be temporary or permanent.

Creates s. 408.817, F.S., to require that administrative proceedings challenging Agency actions be reviewed on the facts and conditions resulting in Agency action.

Creates s. 408.818, F.S., to require all fees and fines collected to be deposited into the Health Care Trust Fund and used to offset Agency regulatory costs, unless otherwise specified in authorizing statutes.

Creates s. 408.819, F.S., by allowing the Agency to promulgate rules to implement part II of Chapter 408, F.S.; requiring that licensed providers operating at time of rule adoption be given reasonable time not to exceed six months after the effective date of the rule to comply with such rule, unless otherwise specified by rule.

Section 6. Amends Drug Free Workplace licensure requirements in s. 112.0455, F.S., to conform to the provisions of “Health Care Licensing Procedures Act” in part II of Chapter 408, F.S., and deletes requirements that are now found in the “Health Care Licensing Procedures Act.” Deleted language includes owner/operator background screening, basic grounds for Agency action, and standard requirements for license renewal. Current annual fees of between \$8,000 and \$10,000 are modified to be between \$16,000 and \$20,000 for a two-year license. These providers remain exempt from the requirement to notify clients of the Agency complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need. The bill also changes the phrase “state drug-testing program” to “drug-free workplace testing,” to clarify the Agency’s rulemaking authority for drug free workplace licensure.

Section 7. Amends s. 381.0303, F.S., relating to special needs shelters correcting cross-references due to statutory changes in the bill.

Section 8. Amends s. 381.78, F.S., relating to the advisory council on brain and spinal cord injury correcting cross-references due to statutory changes in the bill.

Birth Centers

Section 9. Amends birth center licensure requirements in s. 383.301, F.S., to conform to the provisions of the “Health Care Licensing Procedures Act” of part II of Chapter 408, F.S.

Section 10. Repeals s. 383.304, F.S., removing requirements that are now found in the “Health Care Licensing Procedures Act” of part II of Chapter 408, F.S. Deleted language includes requirement to be licensed and prohibition of unlicensed operation.

Section 11. Amends s. 383.305, F.S., to remove requirements for birth center licensure that are now found in the “Health Care Licensing Procedures Act” of part II of Chapter 408, F.S., regarding licensing and background screening requirements and authorizes licensure fee to be established by rule. These providers remain exempt from the requirements to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 12. Amends s. 383.309, F.S., to insert references to the “Health Care Licensing Procedures Act,” of part II of Chapter 408, F.S., as additional requirements regarding the adoption and enforcement of rules related to birth centers; deleting subsection (2) which provides existing facilities one year to meet the requirements of newly adopted rules; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 13. Amends s. 383.315, F.S., to modify the time period for facility consultant agreements for birth centers to be consistent with the new two-year licensure period.

Section 14. Amends s. 383.324, F.S., to remove language regarding inspections and investigations of birth centers; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 15. Repeals s. 383.325, F.S., to remove language regarding the maintaining of inspection reports, and providing copies in birth centers; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 16. Amends s. 383.33, F.S., to remove language regarding facility penalties, emergency orders, and moratoria on admissions, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., in their place; these standards are now in the core licensure requirements of part II of Chapter 408, F.S.

Section 17. Repeals s. 383.331, F.S., to remove language regarding Agency injunctive relief regarding birth centers.

Section 18. Repeals s. 383.332, F.S., to remove language regarding Agency injunctive relief regarding birth centers; these standards are now in the core licensure requirements in part II of Chapter 408, F.S.

Section 19. Amends s. 383.335, F.S., to insert references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., birth center facility partial exemption provisions.

Section 20. Amends s. 383.50, F.S., correcting cross-references due to statutory changes in the bill.

Abortion Clinics

Section 21.. Amends s. 390.011(5), F.S., to clarify the definition of “hospital” as used in relation to abortion clinics.

Section 22. Amends abortion clinic licensure in s. 390.012, F.S., to insert references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., as additional requirements regarding the development and enforcement of rules related to abortion clinics.

Section 23. Repeals s. 390.013, F.S., deleting provision, which provide existing providers one year to meet the requirements of newly adopted rules; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 24. Amends s. 390.014, F.S., removing language regarding licensing procedures, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., regarding licensing requirements for abortion clinics. The bill deletes language regarding the display of license within abortion clinics. Current annual fees of between \$35 and \$250 are modified to be between \$70 and \$500 for a two-year license. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 25. Repeals s. 390.015, F.S., removing language regarding licensing procedures for abortion clinics; repeals s. 390.016, F.S., removing language regarding license expiration for abortion clinics; repeals s. 390.017, F.S., removing language regarding suspension or revocation of abortion clinic licenses. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 26. Repeals s. 390.016, F.S., removing language regarding license expiration for abortion clinics. These standards are now addressed in the core licensure requirements of part II Chapter 408, F.S.

Section 27. Repeals s. 390.017, F.S., removing language regarding license suspension of abortion clinics. These standards are now addressed in the core licensure requirements of part II Chapter 408, F.S.

Section 28. Amends s. 390.018, F.S., removing language regarding facility penalties, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., regarding facility discipline for abortion clinics; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 29. Repeals s. 390.019, F.S., removing language regarding inspections and investigations of abortion clinics.

Section 30. Repeals s. 390.021, F.S., removing language regarding Agency injunctive relief regarding abortion clinics. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Community Mental Health Facilities including Crisis Stabilization Units, Short Term Residential Treatment Units, Residential Treatment Facilities, and Residential Treatment Centers for Children and Adolescents

Section 31. Amends s. 394.455(13), F.S., clarifying the definition of “hospital” as used in relation to community mental health facilities.

Section 32. Amends s. 394.4787(7), F.S., correcting cross-references due to statutory changes in the bill.

Section 33. Amends s. 394.67(2), F.S., deleting language defining “applicant;” this definition is now in the core licensure requirements of part II of Chapter 408, F.S. This section adds a definition of “short-term residential treatment facility.”

Section 34. Amends s. 394.74(3), F.S. correcting cross-references due to statutory changes in the bill.

Section 35. Amends ss. 394.82(1) and (5), F.S. correcting cross-references due to statutory changes in the bill.

Section 36. Amends s. 394.875, F.S., removing language regarding licensing and background screening requirements, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., regarding licensing and background screening requirements for community mental health facilities; adding a purpose statement for short term residential treatment units; providing for licensure exemption for hospitals licensed under Chapter 395, F.S.; deleting licensure exemption for homes for special services licensed under Chapter 400, F.S. These providers remain exempt from the requirements to provide proof of financial ability to operate, to report evidence of financial instability and certificate of need.

Section 37. Repeals s. 394.876, F.S., to remove language regarding licensing application for community mental health facilities. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 38. Amends s. 394.877, F.S., to remove language regarding licensing fees, inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., and authorizing fees be determined by rule.

Section 39. Amends s. 394.878, F.S., to remove language regarding licensing procedures for community mental health facilities. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 40. Amends s. 394.879, F.S., inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., as additional requirements regarding the development and enforcement of rules related to community mental health facilities.

Section 41. Amends s. 394.90, F.S., inserting reference to s. 408.811 of the “Health Care Licensing Procedures Act” regarding right of inspection of licensed community mental health facilities.

Section 42. Repeals s. 394.902, F.S., removing language regarding facility penalties for community mental health facilities. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 43. Amends s. 394.907, F.S., replacing the term “agency” with “licensee” to avoid confusion in use of the term “agency” to describe the Agency for Health Care Administration.

Hospitals, Ambulatory surgical centers, Private Review Agents, and Mobile Surgical Facilities

Section 44. Amends s. 395.002(4), F.S., deleting language defining “applicant” as related to licensure of hospitals, ambulatory surgical centers, and mobile surgical facilities. This definition is now in the core licensure requirements of part II of Chapter 408, F.S.

Section 45. Amends s. 395.003, F.S., to remove language regarding licensing procedures, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., regarding licensing requirements for hospitals, ambulatory surgical centers and mobile surgical facilities. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, and the requirement to report evidence of financial instability, and ambulatory surgical centers and mobile surgical facilities remain exempt from certificate of need.

Section 46. Amends s. 395.004, F.S., to remove language regarding licensing fees, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., regarding licensing fees for hospitals, ambulatory surgical centers and mobile surgical facilities. Authorizes fees be determined by rule.

Section 47. Repeals s. 395.0055, F.S., deleting language regarding background screening as related to licensure of hospitals, ambulatory surgical centers, and mobile surgical facilities. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 48. Amends s. 395.0161, F.S., to remove an exemption from licensure inspection and inspection fees for state operated facilities, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S. regarding licensure inspection and inspection fees for hospitals, ambulatory surgical centers and mobile surgical facilities. The bill retains the fee exemption for state licensed facilities.

Section 49. Repeals s. 395.0162, F.S., deleting language regarding inspection reports for hospitals, ambulatory surgical centers, and mobile surgical facilities. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 50. Allows an ambulatory surgical center licensee that has failed to renew its license prior to expiration to re-apply as an initial applicant for licensure and meet the Florida Building Code requirements in effect at the time of prior initial licensure if the application is filed within 30 days of the license expiration. This provision only applies to a license that expired between July 1, 2004 and December 31, 2004.

Section 51. Amends s. 395.0163, F.S., inserting reference to s. 408.811, F.S., of the "Health Care Licensing Procedures Act" regarding inspection of mobile surgical facilities. Repeals s. 395.0163(2)(b), F.S., deleting obsolete reference to the Planning and Regulation Trust Fund.

Section 52. Amends s. 395.0191, F.S., to require that a registered nurse with training and experience in perioperative nursing to be present in the operating room of a hospital and function as the circulating nurse during all operative, surgical and invasive procedures.

Section 53. Amends s. 395.0193(4), F.S., to remove obsolete language related to probable cause and update statutory references related to the move of Medical Quality Assurance from the Agency to the Department of Health.

Section 54. Amends s. 395.0197, F.S., correcting cross-references due to statutory changes in the bill.

Section 55. Amends private utilization review requirements in s. 395.0199, F.S., removing language regarding licensing and background screening requirements, and inserting references to the "Health Care Licensing Procedures Act," part II of Chapter 408, F.S., regarding licensing and background screening requirements for utilization review agents; removes language regarding discipline for utilization review agents. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Retains maximum fee amount and authorizes fees be established by rule. These providers to remain exempt from the requirement to notify clients of the Agency complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need. These providers also remain exempt from right of entry and unlicensed activity since they do not apply to individuals.

Section 56. Amends s. 395.1046, F.S., inserting reference to s. 408.811 of the "Health Care Licensing Procedures Act" regarding Agency right of entry for complaint investigation in hospitals. Removes obsolete language related to probable cause determinations.

Section 57. Amends s. 395.1055, F.S., inserting references to the "Health Care Licensing Procedures Act," part II of Chapter 408, F.S., as additional requirements regarding the adoption and enforcement of rules related to hospitals, ambulatory surgical centers, and mobile surgical facilities; deleting subsection (7) which provides existing facilities one year to meet the requirements of newly adopted rules; this standard is now in the core licensure requirements of part II of Chapter 408, F.S.

This section requires as a condition of licensure that hospitals comply with section 381.005(2) that requires that hospitals offer the immunization against the influenza virus and pneumococcal bacteria to all patients age 65 or older between October 1 and February 1, if the vaccinations are available.

Section 58. Amends s. 395.1065, F.S., removing language regarding facility penalties, emergency orders, and moratoria on admissions, and inserting references to the "Health Care Licensing Procedures Act," part II of Chapter 408, F.S., regarding facility discipline for hospitals, ambulatory surgical centers, and mobile surgical facilities. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Risk Manager

Section 59. Amends s. 395.10973, F.S., inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., as additional requirements regarding the development and enforcement of rules related to health care risk managers.

Section 60. Amends s. 395.10974, F.S., removing language regarding licensing requirements, and inserting references to the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S., regarding licensing requirements for health care risk managers. These providers remain exempt from minimum requirements of licensure in s. 408.810, inspections, as well as physical plant requirements of zoning and fire safety.

Nursing Homes

Section 61. Repeals subsections (5) and (20) of s. 400.021, F.S., defining “controlling interest” and “voluntary board member” as these terms are now defined in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S.

Section 62. Amends s. 395.602(2)(c) correcting cross-references due to statutory changes in the bill.

Section 63. Amends s. 395.701(1)(c) correcting cross-references due to statutory changes in the bill

Section 64. Amends s. 400.022(3), F.S., regarding grounds for Agency action for nursing home violations of residents’ rights under the provisions of s. 400.102, 400.121, or Part II of Chapter 408.

Section 65. Amends s. 400.051(1)(b), F.S., to correct a cross-reference in the definition of hospital used in this part.

Section 66. Amends s. 400.062, F.S., to reference the requirement of a nursing home license to operate pursuant to part II of Chapter 408, F.S. Requires separate licenses for facilities maintained in separate premises even though operated under the same management but not separate buildings on the same grounds. The bill establishes a biennial licensure period. Current annual per bed fees of \$50 are modified to be \$100 for a two-year license unless modified by rule. Deletes reference to adjustment of a per-bed licensure fee by the Consumer Price Index to cover costs of regulation under this part. Current resident protection fee of 25 cents per bed is modified to be 50 cents per bed for a two-year license. Current Resident Protection Fund rate of \$10 per bed is modified to be \$20 per bed for a two-year license. The bill allows for the Agency to prorate the biennial license fee for any license issued for less than two years and removes language regarding fee deposits and display of license. It also removes language related to sale, transfer, or assignment of facility license. Deleted language is reinstated in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S. Each applicant for licensure and licensee is exempt from s. 408.810(7), F.S., relating to insurance. Nursing homes must continue to meet the insurance requirements in Chapter 400, Part II.

Section 67. Amends s. 400.063(1), F.S., to correct a cross-reference to the Resident Protection Trust Fund to revise the statutory reference of s. 400.062(3)(b) to s. 400.062(3), F.S. The bill also deletes the statutory reference of s. 400.111(1), F.S., pertaining to the expiration of a license.

Section 68. Amends s. 400.071, F.S., regarding application for licensure to delete sections related to the application and licensure processes. Adds the reference of controlling interests as defined in part II of Chapter 408. This section deleted language related to background screening, certain licensure application documentation requirements, and in the case of applicants offering continuing care the need to provide proof of a certificate of authority. Deletes the requirement to provide proof of property ownership or the legal right to occupy the property. Deleted language is reinstated in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S.

Section 69. Subsection (3) of section 400.0712, F.S. regarding inactive license is repealed. Deleted language is reinstated in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S.

Section 70. Amends s. 400.102, F.S., regarding grounds for action by the Agency against the nursing home licensee in addition to the grounds listed in part II of Chapter 408. This section deletes reference to certain violations as grounds for action by the Agency against the licensee.

Section 71. Amends title of s. 400.111, F.S., regarding Renewal of License in addition to the requirements of part II of Chapter 408. This section also deletes references to the expiration of licenses, revocation of licenses, suspension of licenses, and any judicial proceedings instituted by the Agency of licenses. Also deleted is language related to non-renewal of licenses for failure to pay any fines assessed by Final Order. Deleted language is reinstated in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S.

Section 72. Amends subsection (2) of s. 400.1183, F.S., regarding resident grievance procedures to replace the term “annually” with “at the time of relicensure” for reporting the total number of grievances handled by the facility. Deleted is subsection (5) of the section regarding the execution of an administrative fine for noncompliance with this section; such action is already authorized as general compliance with Chapter 400, Part II.

Section 73. Amends s. 400.121, F.S., related to the Agency’s ability to deny an application, revoke and suspend a license, and impose an administrative fine for violations of any provision of this part, part II of Chapter 408, or applicable rule. Deletes references for failure to pay any outstanding fines assessed by final order, exclusion from the Medicare or Medicaid program and execution of a moratorium. Deleted language is reinstated in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S. This section further eliminates reference to the suspension of the nursing homes management company, where one exists, and the requirement of the Agency to take the nursing home into receivership during suspension.

Section 74. Repeals s. 400.125, F.S. regarding injunctive authority. Deleted language is reinstated in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S.

Section 75. Amends subsections (14), (15), (16), and (20) of section 400.141, F.S., regarding the administration and management of nursing home facilities. Corrects cross-reference of s. 400.071(1)(a), F.S., regarding submission of a signed affidavit of financial or ownership interest by controlling interest. Requires quarterly submission of staff-to-resident ratios, staff turnover and staff stability instead of semiannual submission. Clarifies that a nursing home that fails to meet state staffing standards and does not self impose a moratorium on admissions shall be assigned a conditional license status by the agency in accordance with s. 400.23(7)(a), F.S., with compliance requirements found in s. 400.23(3), F.S., for that period in which the conditional license is effective until a standard license is issued. The bill provides that nursing home occupancy reports are due by the 10th of the next month.

Section 76. Amends s. 400.162, F.S., by allowing, in the event of resident death, the release of all funds and trust funds from the nursing home to the funeral home for actual charges of the funeral, when there is not a completed designation of beneficiary form, designated spouse or adult next of kin and no personal representative appointed.

Section 77. Amends the title of s. 400.179, F.S., to Liability for Medicaid underpayments and overpayments and deletes subsections (2), (3) and (4) regarding the sale or transfer of ownership of a nursing facility. Regarding the requirements of a leasehold licensee, deletes the reference of payment at the time of any subsequent annual license renewal to payment annually thereafter since licensure will be biennial. Deletes reference to collaborative study of Medicaid overpayments. Reference to the word “operator” is deleted and inserted is the word “licensee”. Further eliminated is the word “cancel”

and also changes the words “or suspend” to “and suspend” a license. Provides reference pursuant to part II of Chapter 408, F.S., in regards to assigning a moratorium.

Section 78. Amends s. 400.18(1) and (4), F.S., regarding closing of a nursing facility pursuant to part II of Chapter 408, F.S., that provides at least 90 days notification of closure to each resident or next of kin. Deletes the requirement to the surrendering of license to the Agency immediately upon discontinuing operation.

Section 79. Amends s. 400.19(1), (2) and (3), F.S., regarding the right of entry and inspections in accordance with part II of Chapter 408. This section deletes references to the right of entry and inspection to any premises which the Agency has reason to believe is being operated without a license and the right of entry into facilities applying for initial or renewal of a license. Deletes references to the distribution of rules promulgated by the Agency. Deletes requirement to pay one-half of the six-month survey fine (\$3,000) after the completion of each survey. This installment has been difficult to monitor as surveys are unscheduled and since the fine is imposed by final Agency action, the entire fine amount is appropriate to be collected as specified in the Agency’s final order. Eliminates reference to annual licensure cycle. Eliminates Agency’s ability to correct a Class III deficiency without an onsite visit; this is consistent with federal nursing home certification requirements. Retains the Agency’s ability to verify correction of a Class III deficiency without an onsite visit.

Section 80. Amends s. 400.191, F.S., regarding the availability, distribution and posting of reports and records to include the provision that the Agency may provide electronic access to inspection reports as a substitute for sending copies. In addition, the section specifies the publication of the Guide to Nursing Homes in Florida and provides that the Guide will include any prior name a facility was known by during the previous 12-month period and the most recently available facility occupancy data. Other amendments include replacing the reference of the Health Care Financing Administration with the new title of Centers for Medicare and Medicaid Services and reducing the time period from the previous 45 months to 30 months for supplying survey and deficiency information in the Guide. This will make the time period for the Guide consistent with the time period for the Nursing Home Gold Seal Program.

The Agency publication “Nursing Home Guide Watch List” would be published within the Guide to Nursing Homes providing a consolidated document for consumers to reference when reviewing nursing home information. The Watch List history information would be changed from the number of times a facility has appeared on a Watch List to the number and percentage of days a facility was conditional and was on the Watch List in the past 30 months; a more accurate representation of the duration of problems. The Agency must send a copy of all Guide pages listing the facility to each nursing home facility upon publication. The bill requires each nursing home to submit required information electronically when such option is available. The bill requires the Agency post to its website the Nursing Home Guide by the 15th calendar day 2 months following the end of the calendar quarter. Each nursing home must retrieve the most recent version of the Nursing Home Guide from the Agency’s website.

Section 81. Amends s. 400.20, F.S., regarding licensed nursing home administrators to establish that a facility may not operate except under the supervision of a licensed nursing home administrator.

Section 82. Amends s. 400.23(2), (7) and (8), F.S., regarding rules, evaluation and deficiencies and licensure status to include reference to part II of Chapter 408, F.S., and deletes reference to the requirement that each licensee post its license in a prominent place. Replaces the word “annual” inspection with the word “licensure” inspection. Requires the Agency to adopt rules pursuant to this part and part II of Chapter 408, F.S. The bill clarifies that nursing home residents can choose their bed placement in their rooms, and it provides procedures for residents who choose to arrange their rooms contrary to building code requirements.

Section 83. Repeals 400.241(1) and (2), F.S., regarding the unlawful act of operating a nursing home without a valid license and to advertise or hold out to the public that it holds a license for a facility other than that for which it actually holds a license.

Assisted Living Facilities

Section 84. Amends s. 400.402, F.S, repealing subsection (5), definition of applicant, which is now defined in the core licensure requirements of part II of Chapter 408, F.S.; amending subsection (19), definition of resident, to include those persons only receiving services during the day pursuant to s. 400.553(2), F.S, and deleting “department” and inserting “agency” for purposes of moving rule development authority from the Department of Elder Affairs to the Agency.

Section 85. Amends s. 400.407(1), F.S., by striking language requiring an assisted living facility (ALF) license to operate and inserting new language that the requirements of part II of Chapter 408 and part II of Chapter 400, F.S., apply to the provision of services requiring licensure, and to ALF licensed entities and applicants. ALFs remain exempt from certificate of need.

Amends s. 400.407(3), F.S., by deleting certain items required on an ALF license which are specified in s. 408.806 F.S., of this bill as applicable to all licensure programs; inserts reference to s. 408.806 F.S., for purposes of designation of extended congregate care services (ECC) license; inserts approval or deny notification of ECC application (must be in accordance with part II of Chapter 408 F.S.); retains revocation and denial authority. Strikes “on admissions” after moratorium, relying on the definition of moratorium in part II of Chapter 408, F.S. Strikes “department” for purposes of rule development; deletes department responsibility for annual ECC report to Governor and Legislature and inserts the Agency as responsible for the report; inserts reference to s. 408.806 F.S., for purposes of designation of limited nursing services (LNS) license, and inserts that approval or denial notification of LNS application must be in accordance with part II of Chapter 408, F.S.

Amends s. 400.407(4), F.S., by inserting authority to charge license fees pursuant to s. 408.805, F.S., and to establish the amount in rule; deletes ability to adjust per bed fees and license fees annually by change in consumer price index; deletes ability to adjust ECC per bed fees and ECC license fees annually by not more than the average rate of inflation, and deletes ability to adjust LNS per bed fees and LNS license fees biennially by not more than the average rate of inflation. Amends s. 400.407(6), F.S., by deleting requirement to display ALF license in conspicuous place inside facility. Amends s. 400.407(7), F.S., by deleting conditions in which ALF license is valid.

Amends s. 400.407(8), F.S., by deleting that the Agency may charge the facility for request for a duplicate license. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 86. Amends s. 400.4075(1), F.S., by inserting reference to s. 408.806, F.S., for purposes of designation of limited mental health (LMH) license, and inserts approval or deny notification of LMH application must be in accordance with part II of Chapter 408, F.S., authorizing statute, and applicable rules.

Section 87. Amends s. 400.408(1), F.S., by deleting the prohibition of owning, operating, or maintaining an ALF without a license; deleting the operation of an unlicensed ALF as a third degree felony; deleting the operation of an unlicensed ALF a second or subsequent time as a second degree felony; removes language allowing the Agency to fine unlicensed facilities for each day of noncompliance for failing to cease operations; deletes the Agency’s authority to revoke the license, impose a moratorium, or impose a fine against a licensed ALF owner who fails to license all ALF operations in which the owner has interest; removes the provision that owners of unlicensed ALFs in which conditions exist threatening resident health, safety or welfare are subject to the same adverse actions and fines of licensed facilities; deletes the requirement for persons to report unlicensed ALFs to the Agency, and removes the requirement for the Agency to provide the Department of Elder Affairs information and referral providers a county list of licensed ALFs for persons considering placement. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.408(3), F.S., by inserting new statutory reference for imposition of a moratorium pursuant to s. 408.814, F.S., for referral to an ALF under moratorium.

Section 88. Amends s. 400.411(1), F.S., by inserting each ALF applicant must comply with all requirements of ss. 408.801 - 408.819, F.S. Deleting description of applicant; requirement that the application be under oath, deleting disclosure of applicant name, address, date of birth, social security number, and deleting name and address of persons with five percent or greater ownership interest in corporation; disclosure of name and address of long term facilities which the applicant has owned or been employed within the previous five years and those entities which closed due to financial problems, had receiver appointed, license denied, suspended, revoked, moratorium imposed, or had an injunction proceeding initiated. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Deleting name and address of person's professional service, firm, association, partnership or association that provides goods or services to the ALF.

Deletes requirement to provide satisfactory proof of financial ability to operate; submission of continuing care retirement community certificate of authority; proof of liability insurance; proof of meeting Chapter 419 requirements; proof of legal right to occupy property; proof of a satisfactory fire safety inspection; compliance with level 2 background screening for owners/operators. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 89. Amends s. 400.412, F.S., by inserting compliance with part II of Chapter 408, F.S., for ALF changes of ownership.

Revised s. 400.412(1), F.S., by deleting transferee submission of an application at least 60 days before transfer of ownership, and transferor versus transferee responsibilities; these standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.412(4), F.S., by stating that failure to correct a condition which resulted in a moratorium pursuant to part II of Chapter 408 or denial of licensure is grounds for denial of the transferee's license.

Section 90. Amends s. 400.414, F.S., by inserting Agency ability to impose a moratorium and to suspend a license; inserts a violation of Chapter 400, Part III, part II of Chapter 408, F.S., or applicable rule as a basis for license denial, revocation, moratorium, and administrative fine. Deletes violation of moratorium as a basis for denial or revocation, failure of applicant to meet minimum licensure requirements. Deletes as a reason for denial or revocation a fraudulent statement or omission of material fact or suspension or termination from Medicare or Medicaid programs, the provision that administrative proceedings are to be reviewed on the basis of facts and conditions resulting in the Agency action. Deletes officer or board member of an applicant and inserts controlling interest as defined in s. 408.803, F.S., for purposes of Agency ability to deny a license due to ownership interest in other facilities that within the previous five years closed due to financial inability to operate, had receiver appointed, license denied, suspended, revoked, moratorium imposed, or had an injunction proceeding initiated. Deleted standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 91. Section 400.415, F.S., regarding moratorium on admissions is repealed and inserted in s. 408.814, F.S.

Section 92. Amends s. 400.417, F.S., by deleting reference to biennial licensure timeframe and expiration; deletes Agency notification to renewal applicant 120 days prior to license expiration and submission of renewal application by applicant at least 90 days prior to license expiration; deletes that fees must be prorated; and deletes assessment of late fees. Inserts that licenses shall be renewed pursuant to part II of Chapter 408; deleting that licenses be renewed within 90 days of applicant timely filing, and inserts compliance with the background screening requirements of s. 408.809. Deletes

renewal applicant requirement to establish proof of financial ability to operate; deletes provision that license not be renewed if licensee has outstanding fines; deletes ability to issue a conditional license pending final Agency action. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. The bill eliminates requirement to provide annual attestation of compliance with background screening.

Amends s. 400.417(7), F.S., by deleting “department” and inserting “Agency” for rule development authority.

Section 93. Amends s. 400.4174, F.S., by deleting level 2 background screening requirements and issuance of provisional license pending Federal Bureau of Investigation results. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 94. Amends s. 400.4176, F.S., by deleting requirement that background screening be completed on any new administrator. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 95. Repeals s. 400.4178(7), F.S., regarding Alzheimer’s disease and related disorders training fees. Deletes obsolete exemption from training fees for ALFs that serve a large proportion of Optional State Supplement (OSS) residents. Training has been privatized and exemptions cannot be made to fees charged by private entities.

Section 96. Amends s. 400.418, F.S., by deleting language showing fees are deposited into the Health Care Trust Fund; this is now in the core licensure requirements of part II of Chapter 408, F.S. Deletes trust funds to be used for the costs of conducting background investigations, and inserting trust funds to be used for the purpose of conducting inspections and monitoring visits pursuant to part II of Chapter 408, F.S. Applicants and licensees directly pay their own costs of background screening fees and these fees are not funded through licensure fees.

Section 97. Amends s. 400.419(1), F.S., by inserting a violation of part II of Chapter 400, and part II of Chapter 408, F.S., or applicable rule to impose an administrative fine. Deletes language regarding payment of fine with interest for Agency actions upheld following administrative or judicial review. Deletes unlicensed activity fines. These deleted standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Amends s. 400.419(3), F.S., by specifying that Agency consideration of factors in determining if a penalty is imposed and the amount imposed is specific to violations pursuant to s. 400.419, F.S.

Section 98. Repeals s. 400.421, F.S., regarding injunctive proceedings which is in the “Health Care Licensing Procedures Act,” part II of Chapter 408, F.S.

Section 99. Amends s. 400.422, F.S. correcting cross-references due to statutory changes in the bill.

Section 100. Amends s. 400.423(10), F.S., by deleting department and inserting Agency rule development authority.

Section 101. Amends s. 400.424(3)(a), F.S., by specifying that fines for failure to comply with refund provisions of s. 400.424(3)(a), F.S., are specified in that section and shall not be subject to the mitigation provisions of s. 400.419(3), F.S., in determining whether to impose a fine and the fine amount. Amends s. 400.424(8), F.S., by deleting department and inserting Agency rule development authority.

Section 102. Amends s. 400.4255(3), F.S., by deleting department and inserting Agency rule development authority.

Section 103. Amends s. 400.4256(6), F.S., by deleting department and inserting Agency rule development authority.

Section 104. Amends s. 400.426 (9), F.S. correcting cross-references due to statutory changes in the bill.

Section 105. Amends s. 400.427(8), F.S., by deleting department and inserting Agency rule development authority.

Section 106. Amends s. 400.4275(4), F.S., by deleting department and inserting Agency rule development authority.

Section 107. Amends s. 400.431, F.S., by deleting facility written notification to the Agency at least 90 days prior to voluntary closure and deleting the provision that administrative fines collected pursuant to facility closure violations be deposited into the Health Care Trust Fund. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.431(1), F.S., by requiring compliance with part II of Chapter 408, in addition to the facility informing each resident or the next of kin, legal representative, or Agency acting on each resident's behalf, of the fact and the proposed time of discontinuance of operation, following the notification requirements provided in s. 400.428(1)(k), resident bill of rights.

Deletes s. 400.431(4), F.S., requiring the owner to surrender the license to the Agency upon discontinuance of operation and Agency cancellation of the license. These requirements were moved to s. 408.810(4)(a), F.S.

Section 108. Amends s. 400.434, F.S., by deleting the right of inspection for unlicensed activity and authority for inspection. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 109. Repeals s. 400.435(1), F.S., regarding facility retention and availability to the public of all inspection reports. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.435(2) to incorporate the inspection provision in the core licensure requirements.

Section 110. Amends s. 400.441(1), F.S., by deleting department and inserting Agency rule development authority to administer Chapter 400, Part III, and part II of Chapter 408, F.S.; provides that the Agency consult with the department in the rulemaking process; deletes Agency from promulgating rules regarding license application, license renewal, charging for copies of regulations, and transfer of ownership, financial ability to operate, and moratoriums. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.441(2), F.S., by deleting department and inserting Agency rule development authority.

Amends s. 400.441(3), F.S., by deleting requirement that a copy of the proposed ALF rule be submitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees for review and comment before promulgation, and deletes department and inserts Agency rule development authority. Rule distribution standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.441(4), F.S., by deleting the requirement that the Department of Elder Affairs in consultation with the Agency report annually to the Legislature concerning its implementation of abbreviated inspections.

Section 111. Amends s. 400.442(4), F.S., by deleting department and inserting Agency rule development authority.

Section 112. Amends s. 400.444(3), F.S., by deleting department and inserting Agency rule development authority.

Section 113. Repeals s. 400.447(1), (2), and (3), F.S., regarding unlawful advertising, withholding evidence of financial instability, and violation of second-degree misdemeanor. These requirements are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Repeals s. 400.451, F.S., allowing facilities up to six months to comply with new rules and standards. This standard is now in the core licensure requirements of part II of Chapter 408, F.S.

Section 114. Repeals s. 400.451, F.S., regarding allowing a reasonable time to comply with new rules of up to six months. This standard is now in the core licensure requirements of part II of Chapter 408, F.S.

Section 115. Amends s. 400.452 paragraphs (1), (3) and (6), F.S., to move the rule promulgation authority for assisted living facilities from Department of Elder Affairs to the Agency.

Section 116. Amends s. 400.454(1), F.S., by deleting department and inserting Agency for purposes of collection of information requested by the Legislature, to conduct field visits and audits as necessary. Amends s. 400.454(2), F.S., by deleting department and inserting Agency approval of local government or organization contribution to local facility resident cost of care.

Home Health Agencies

Section 117. Amends s. 400.464, F.S., by adding the requirement that home health agencies comply with the requirements for licensing in ss. 408.801 through 408.819; deleting the requirement to be licensed to operate; and deleting the one year time period for a license. Deleting the requirement that a home health agency have a valid license in order to offer, advertise or provide services. Deleting the penalty for advertising and offering services without a license. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Amends the statutory reference for an injunction from s. 400.515 to s. 408.816. These providers remain exempt from certificate of need.

Section 118. Amends s. 400.471, F.S., by adding the requirement that applicants for a home health agency license comply with part II of Chapter 408, F.S. and deleting the requirements that application be made under oath on forms provided by the Agency, provide proof of financial ability to operate, background screening compliance, and information on exclusions from Medicare or Medicaid, as well as the time frame for the Agency to take final action on applications for initial licensure. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Requires payment of a fee for each application as required in part II of Chapter 408, F.S., and as established by rule. Current annual fees which may not exceed \$1,000 are modified not to exceed \$2,000 for a two-year license; deletes the requirement for the deposit of fees in the Health Care Trust Fund. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Deletes requirement to display the license and that it cannot be sold, assigned or transferred; deletes issuance of a provisional license when a revocation or suspension proceeding is pending; and deletes Agency prohibition from issuing a license to a home health agency with an unpaid fine. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 119. Amends s. 400.474, F.S., by adding compliance with part II of Chapter 408, F.S. In addition to this part and applicable rules as the basis for denial, suspension, fines or injunction actions for home health agencies.

Deletes the penalties for operating without a license for home health agencies. Clarifies that home health agencies found to be operating without a license and obtaining any government reimbursement shall be reported for fraud. Deletes s. 400.474(4), F.S., that provided authority for the Agency to deny, revoke or suspend the license or impose an administrative fine on home health agencies for specified violations. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 120. Amends s. 400.484(1), F.S., by adding reference to s. 408.811, F.S., on the right of inspection by the Agency; by deleting the right of inspection in suspected unlicensed activity; and deleting the provision that an application permits inspection for verification of information. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Amends s. 400.484(2), F.S., by permitting the Agency to impose a moratorium as well as a revocation and adding reference to compliance with part II of Chapter 408, F.S., for moratoriums.

Section 121. Amends s. 400.487, F.S., by adding that physician's assistants and advanced registered nurse practitioners may sign treatment orders and review plans of care; by replacing the requirement that orders be signed within 30 days after the start of care with signatures required prior to submitting claims to a managed care organization; and by permitting the sources of payment, such as Medicare and Medicaid, to be included in the agreement instead of the method of payment. Currently only physicians can sign treatment orders and review plans. Permitting physician's assistants and advanced registered nurse practitioners to sign orders will save time for physicians and home health agencies who have had difficulties getting signatures within the current time frame.

Section 122. Amends s. 400.494, F.S., regarding confidentiality of patient information by correcting the reference to the Medicaid Fraud Control Unit as being in the Office of the Attorney General and clarifying that the section does not apply to information requested under s. 408.811, F.S., for inspections by the Agency.

Section 123. Amends s. 400.495, F.S., by referencing the requirements in 408.810(5), F.S., for distribution of toll-free phone numbers; by deleting the requirement for distribution of the central abuse hotline number and advance notification if the hotline number changes. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 124. Amends s. 400.497, F.S., by requiring the Agency to adopt rules to implement part II of Chapter 408, F.S.

Nurse Registries and Homemaker Services Providers

Section 125. Amends s. 400.506(1), F.S., by adding the requirement that nurse registries comply with the requirements for licensure in part II of Chapter 408, F.S., with the exception of 408.810(6) and (10). Amends s. 400.506, F.S., regarding nurse registries application requirements by including the provisions in part II of Chapter 408, F.S. Deleting the background screening requirements for applicants through FDLE and FBI, the authority to grant a provisional license when FDLE requirements are met, the requirement for applicant information on any exclusions from Medicare or Medicaid and any convictions of prohibited offenses; and by deleting the authority to deny an application for such exclusions or certain false information. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Nurse registries remain exempt from the requirement to provide proof of right to occupy property and certificate of need.

Current annual fees which may not exceed \$1,000 are modified not to exceed \$2,000 for a two-year license. Fees are established by rule.

The bill deletes violations that may result in denial, revocation, and suspension of nurse registry licenses and imposition of administrative fines, and deletes the one-year licensure period, renewal

licensing requirements, and authority to issue a conditional license when revocation or suspension proceedings are pending. Also, the bill deletes the Agency's authority to institute injunctive proceedings under s. 400.515, F.S., and deletes prohibition of offering or advertising services without a license and providing for injunctive proceedings for violation. The bill deletes the right of the Agency to make inspections to respond to complaints and verify compliance and to report suspected criminal activity or abuse, neglect or exploitation. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends subsection (10), renumbered as (5), paragraph (c) to delete the requirement for monthly visits by registered nurses to patients being cared for by certified nursing assistants and home health aides and adding that a nurse registry shall advise the patient of the availability of registered nurses to make visits to the patient's home.

Amends subsection (17), renumbered as (12), paragraph (a) to permit physician's assistants and advanced registered nurse practitioners to review and sign medical plans of treatment and prepare additional orders or changes in orders, as well as physicians. This is similar to the amended language in section 107 above for home health agencies.

Amends subsection (15) adding the requirement for the Agency to adopt rules to implement part II of Chapter 408, F.S.

Companion or Homemaker Services

Section 126. Amends s. 400.509(2), F.S., by requiring applicants for homemaker companion registration comply with part II of Chapter 408, F.S., with the exception of ss. 408.810(6) - (10), F.S., and by deleting the application content requirements. Companion or homemaker services providers remain exempt from the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need. Current annual fee of \$25 is modified to \$50 for a two-year license.

Deletes background screening requirements for applicants, the requirement for applicant information on any exclusions from Medicare or Medicaid and any convictions of prohibited offenses; and the authority to deny an application for such exclusions or certain false information. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Deletes the requirements for notification of the toll-free central abuse hotline number; the one year time period for the registration; the reasons to deny, suspend or revoke a registration; the provision for injunctive proceedings under s. 400.515, F.S., and Agency's right to make inspections to investigate complaints or determine compliance and to report suspected criminal activity or abuse, neglect or exploitation. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 127. Deletes s. 400.512(2), F.S., requiring the administrator of each home health agency, the managing employee of each nurse registry and homemaker companion service to sign an affidavit annually that all personnel have been background screened. This is no longer necessary since all direct care staff must be screened.

Amends s. 400.512(7), F.S., by deleting the penalty for operating with persons who do not meet the minimum standards for good moral character. The registration could be revoked or renewal denied for operating with persons who do not meet such standards since s. 408.815, F.S., permits this action for violation of statutes and rules.

Section 128. Repeals s. 400.515, F.S., regarding injunctions. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Adult Day Care Centers (ADCC)

Section 129. Amends s. 400.551, F.S, by inserting “licensee” to the definitions of operator and owner.

Section 130. Amends s. 400.554(1), F.S., by striking existing language requiring an ADCC license before operating an ADCC and inserting new language that the requirements of part II of Chapter 408 and Chapter 400, Part V, apply to the provision of services requiring licensure and to ADCC licensed entities and applicants.

Amends s. 400.554(3), F.S., by inserting authority to charge license fees pursuant to s. 408.805, F.S., and to establish the amount in rule.

Deletes the requirement to display ADCC license in conspicuous place inside center and conditions in which ADCC license is valid. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. These providers remain exempt from certificate of need.

Section 131. Amends s. 400.555, F.S., by deleting required submission of ADCC application and appropriate fee to Agency and inserting that each ADCC applicant must comply with all requirements of ss. 408.801 - 408.819, F.S. Deletes requirement to provide satisfactory proof of financial ability to operate, providing proof of liability insurance, compliance with level 2 background screening, and description of Medicare or Medicaid exclusions, suspensions or terminations. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 132. Amends s. 400.556, F.S, by inserting Agency ability to impose an emergency action; inserts a violation of Chapter 400, Part V, part II of Chapter 408, F.S., or applicable rule as a basis for license denial, revocation, emergency action and administrative fine, and deletes suspension or termination from Medicare or Medicaid programs as a basis for denial, revocation, emergency action, or administrative fine. Deleted standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 133. Amends s. 400.5565(1), F.S., by inserting part II of Chapter 408, F.S., as a basis for actions against an adult day care center; deletes provision regarding payment of fine with interest for Agency actions upheld following administrative or judicial review; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 134. Amends s. 400.557, F.S., by deleting reference to biennial licensure timeframe and expiration; Agency notification to renewal applicant 120-days prior to license expiration and submission of renewal application by applicant at least 90 days prior to license expiration; renewal applicant requirement to establish proof of financial ability to operate, and Agency issuance of a conditional license at time of renewal if license revocation or suspension pending at time of renewal. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 135. Amends s. 400.5572, F.S., by deleting level 2 background screening requirements and issuance of provisional license pending Federal Bureau of Investigation results. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 136. Repeals ss. 400.5575, F.S., regarding disposition of fees and administrative fines. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 137. Repeals s. 400.558, F.S., regarding injunctive relief. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 138. Amends s. 400.559, F.S., by deleting requirement for adult day care center written notification to the Agency at least 60 days prior to voluntary closure; the requirement for the center to surrender their license upon discontinuing operation; the requirement that a new center owner apply for

a license at least 60 days before the change of ownership date; the requirement to notify the Agency in writing within 30 days of a change of operator. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 139. Amends s. 400.56, F.S., by deleting the right of inspection for licensure or unlicensed activity. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 140. Amends s. 400.562(1), F.S., by deleting Department of Elder Affairs and inserting Agency rule development authority to administer Chapter 400, part V, and part II of Chapter 408; provides that the Agency consult with the department in the rulemaking process; and inserts consultation with the Department of Elder Affairs in developing components of the comprehensive emergency management plan.

Deletes s. 400.562(2), F.S., allowing the Agency to charge a fee to persons requesting a copy of the ADCC law and rule. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 141. Repeals s. 400.564, F.S., regarding unlawful advertising and violation of second degree misdemeanor. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Hospices

Section 142. Amends s. 400.602, F.S., by adding that hospices comply with the requirements for licensure in part II of Chapter 408, F.S.; by deleting the requirement to have a license to operate a hospice and the display and assignment of the license. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 143. Amends s. 400.605(1), F.S., by requiring the Agency to write hospice rules in consultation with the Department of Elder Affairs pursuant to this part and part II of Chapter 408, F.S., and by deleting that the rules include the licensure application procedures and requirements. Rules for licensure application procedures are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.605(2), F.S., by requiring payment of a fee for each licensure application as specified in part II of Chapter 408, F.S., and as established by rule; current annual fees of no more than \$600 are modified to be no more than \$1,200 for a two-year license. Deleting the requirement that the Agency furnish the application forms and issue licenses. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.605(3), F.S., by adding the requirements of s.400.811, F.S., for conducting inspections and the requirements of part II of Chapter 408, F.S. and applicable rules for determining compliance; and by deleting the provisions regarding the Agency's right of inspection of hospices.

Amends s. 400.605(4), F.S., by adding that the Agency may impose a fine in accordance with part II of Chapter 408, F.S., for any violations of those subsections or applicable rules.

Section 144. Amends s. 400.606, F.S., by adding that any change of ownership must include the same plan for delivery of services as currently required for initial applicants; by deleting the requirement that the plan include a statement of financial resources and personnel; and by clarifying the reference to existing health care providers as being licensed to operate. Deleting the requirement for the application forms; the submission of information on any Medicare or Medicaid exclusions by the owners or board members; the time period for the hospice license and the requirements for renewal of the hospice license; and the issuance of a conditional license to any hospice that has pending revocation or

suspension proceedings. These deleted standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 145. Amends s. 400.6065, F.S., by deleting background screening requirements for hospice owners and operators; deleting subsection (6) requiring an affidavit annually that all personnel have been screened; and by deleting the penalty for operating with persons who do not meet the minimum standards for good moral character.

Section 146. Amends s. 400.607, F.S., by deleting the references to permanent suspensions, by adding that a moratorium or suspension may be imposed under s. 408.814, F.S., by adding that administrative actions may be taken for violation of any provision of this part, part II of Chapter 408, or applicable rules. Deletes the provisions for denial or revocation of a hospice license, and injunctive relief to enforce compliance. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 147. Amends s. 400.6095(8), F.S., to state that the Agency instead of the Department of Elder Affairs will write rules on the implementation of orders to withhold or withdraw cardiopulmonary resuscitation.

Adult Family Care Homes

Section 148. Amends s. 400.617(5), F.S., by deleting department and inserting Agency rule development authority for adult family care homes.

Section 149. Amends s. 400.619, F.S., by striking existing language requiring an AFCH to apply for a license at least 90 days before they intend to operate the home and inserting new language that the requirements of part II of Chapter 408 and Chapter 400, Part VII, apply to the provision of services requiring licensure, and to AFCH licensed entities and applicants. Inserting authority to charge license fees pursuant to s. 408.805, F.S. Current annual fees \$100 are modified to be \$200 for a two-year license. Deleting Agency notification to renewal applicant 120-days prior to license expiration. Amending s. 400.619(4), F.S., clarifying that applicant or licensee is responsible for paying required background screening fees. Deletes the requirement to submit a description and explanation of any exclusions, suspensions, or terminations from Medicare or Medicaid programs, or other health care programs; one-year licensure timeframe and expiration; items required on a license; assessment of renewal application late fee; conditions in which AFCH license is valid; collection of license fees and fines to be deposited into the Department of Elder Affairs Administrative Trust Fund. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. These providers remain exempt from PFA, liability insurance, requirement to provide financial ability to operate, requirement to report evidence of financial instability, and certificate of need.

Amends s. 400.619(10), F.S., by deleting department and inserting Agency rule development authority.

Section 150. Amends s. 400.6194, F.S., by inserting the requirements of part II of Chapter 408, F.S., as a basis for license denial, suspension, and revocation. Deletes license denial or revocation due to an intentional or negligent act affecting resident health, safety or welfare; license denial or revocation due to a fraudulent statement or omission of material fact; license denial or revocation due to failure to pay administrative fine pursuant to Chapter 400, part VII; license denial or revocation due to conditions or practices directly threatening resident physical or emotional health, safety or welfare; license denial or revocation due to failure to submit a complete application within the required timeframe. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 151. Amends s. 400.6196, F.S., by titling this section Classification of deficiencies; administrative fines.

Amends s. 400.6196(1), F.S., by inserting a violation of part II of Chapter 408, F.S., Chapter 400, Part VII, or applicable rules as the authority to impose an administrative fine in accordance with part II of Chapter 408, F.S., and such violation is a basis for imposing an administrative fine for violations that cannot be cited as a Class I, II, III, or IV violation. Deletes each day of violation as a separate offense; collection of civil penalties to be deposited into the Department of Elder Affairs Administrative Trust Fund; and moratorium on admissions. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 152. Amends s. 400.621, F.S., by deleting department and inserting Agency for rule development authority. Deleting subsection (4), which provides existing facilities six months to meet the requirements of newly adopted rules; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 153. Amends s. 400.6211(3), F.S., by deleting department and inserting Agency development of a reasonable time period for providers to complete AFCH basic training.

Section 154. Repeals s. 400.622, F.S., regarding injunctive proceedings. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 155. Amends s. 400.625(2), F.S., by deleting department and inserting Agency rule development authority.

Homes for Special Services

Section 156. Amends Home for Special Services licensure requirements in s. 400.801, F.S., to delete the current licensure and fee requirements and add reference to part II of Chapter 408, F.S., to include the application for licensure and payment of a fee to be established by rule. Current annual fees of no more than \$1,000 and are modified to be no more than \$2,000 for a two-year license. Deleted language includes owner/operator background screening, basic ground for Agency action, and annual licensure standard requirements for license renewal. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Transitional Living Facilities.

Section 157. Amends Transitional Living Facility licensure requirements in s. 400.805, F.S., to delete current licensure and fee requirements and include licensure and fee requirements pursuant to part II of Chapter 408, F.S. Current annual fees of \$2,000 per facility and \$39.25 per bed are modified to be \$4,000 per facility and \$78.50 per bed for a two-year license, unless modified by rule. Deleted language includes owner/operator background screening, basic grounds for Agency action, and annual licensure standard requirements for license renewal. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. These providers remain exempt from the requirement to provide proof of liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Prescribed Pediatric Extended Care Centers (PPEC)

Section 158. Amends s. 400.902(4), F.S., to modify definition of “owner or operator” to mean a licensee.

Section 159. Adds subsection (3) to 400.903, F.S., to insert part II of Chapter 408, F.S., as a requirement of licensure of PPEC facilities. These providers are exempt from certificate of need.

Section 160. Amends s. 400.905, F.S., to reference the requirements of part II of Chapter 408, F.S., regarding the requirement of a license and the payment of fees. Current annual fees of between \$500 and \$1,500 are modified to be between \$1,000 and \$3,000 for a two-year license. Deleted language includes owner/operator background screening, basic ground for Agency action, and annual licensure standard requirements for license renewal. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. The bill allows these providers to remain exempt from certificate of need.

Section 161. Repeals s. 400.906, F.S., regarding initial application processing for licensure of PPEC facilities. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 162. Amends s. 400.907, F.S., to reference the requirements of part II of Chapter 408, F.S., regarding the denial or revocation of a license. Eliminates permanent suspension as an Agency sanction. Deletes Agency investigation responsibility; this standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 163. Amends s. 400.908, F.S., regarding administrative fines to include a violation of part II of Chapter 408, F.S. as grounds for Agency fines.

Section 164. Repeals s. 400.910, F.S., regarding the expiration of a license, license renewal, issuance of a conditional license. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 165. Repeals s. 400.911, F.S., regarding injunction proceedings. These standards are now addressed in the core licensure requirements of part II Chapter 408, F.S.

Section 166. Amends s. 400.912, F.S., regarding the closing of a PPEC facility to delete the requirement that a facility inform the Agency in writing at least 30 days before the discontinuance of operation. Reference to surrendering the license is also deleted. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 167. Repeals s. 400.913, F.S., regarding the right of entry and inspection. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 168. Amends s. 400.914(1), F.S., to require Agency rules be promulgated pursuant to part II of Chapter 408, F.S.

Section 169. Amends s. 400.915, F.S., to reference the requirements of part II of Chapter 408, F.S., regarding construction and renovation of PPEC facilities.

Section 170. Repeals s. 400.916, F.S., regarding prohibited acts, such as operating without a license, and the subsequent penalties. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 171. Repeals s. 400.917, F.S., regarding the disposition of moneys from fines and fees. These standards are now addressed in the core licensure requirements of part II Chapter 408, F.S.

Home Medical Equipment Providers

Section 172. Amends s. 400.925, F.S., by deleting the definitions of affiliated person and applicant; and revising the definition of moratorium so it has the same meaning as 408.803, except that home medical equipment sold prior to the moratorium must continue to be serviced unless deemed otherwise by the Agency.

Section 173. Amends s. 400.93, F.S., by adding the requirement that home medical equipment providers comply with the requirements for licensing in part II of Chapter 408, F.S.; by deleting the requirement to be licensed to operate; and deleting the two-year time period for a license; and deletes the penalties for operating an unlicensed provider. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. These providers remain exempt from the requirement to provide proof of financial ability to operate, and certificate of need.

Section 174. Amends s. 400.931, F.S., deleting the requirements for submitting a home medical equipment application for a license on Agency forms; financial inability to operate; background screening requirement for owners/operators; requirement for applicant information on any exclusions from Medicare or Medicaid and any convictions of prohibited offenses; the requirement to submit an affidavit of compliance with background screening for personnel; and removing the requirements for issuing provisional licenses, for renewing licenses, and for submitting applications for changes of ownership.

The bill clarifies that the current surety bond may be submitted as an alternative to submitting proof of financial ability to operate as required in s. 408.810(8), F.S. and, adds the reference to part II of Chapter 408, F.S. regarding insurance.

Amends s.400.931(5), F.S., by requiring payment of a fee in accordance with s. 408.805 for each licensure application submitted under this part and part II of Chapter 408, F.S. Current annual licensure fees of no more than \$150 are modified to be no more than \$300 for a two-year license. The requirement that fees are non refundable and are deposited in the Health Care Trust Fund is deleted. Deletes reference to the licensing fee and clarifies that the existing inspection fee is also paid as currently required in (6). These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Deletes s. 400.931(13) through (17), F.S., by removing the requirements for fees for changes that requires issuance of a license, for issuing duplicate licenses, and for mailing application forms; removing the requirement for display of the license and that it cannot be transferred; and removing the provision for issuance of a provisional license when a revocation or suspension proceeding is pending. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 175. Amends s. 400.932, F.S., by eliminating the reference to permanent suspension of a license; deleting the provision that making false representation or omission of a material fact, including ownership, is grounds for denial or revocation; and deleting the issuance of emergency orders to suspend or revoke licenses and imposing moratoriums. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 176. Amends s. 400.933, F.S., by deleting the provisions for making inspections and complaint investigations; and by renumbering subsequent sections. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 177. Amends s. 400.935, F.S., by adding the provisions of part II of Chapter 408, F.S., to the rule writing authority; by deleting the requirement that standards be included in the rules for license application and renewal and fees.

Section 178. Repeals s. 400.95, F.S., on the notice of the central abuse toll-free telephone number; repeals the requirement in ss. 400.953(2) and 400.955(4) for the general manager to sign an affidavit of compliance with background screening of personnel; and repeals s. 400.956 on injunction proceedings. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 179. Amends s. 400.953, F.S., to remove language regarding background screening of home medical equipment personnel. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 180. Amends s. 400.955, F.S., to remove language regarding screening procedures for home medical equipment provider personnel. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 181. Repeals s. 400.956, F.S., regarding injunction proceedings. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Intermediate Care Facilities for the Developmentally Disabled

Section 182. Delete definition of client and client advocate stated in s. 400.960 (5) and (6). Amend s. 400.960 (1), (10), (12) and (13) to include definition of resident and resident advocate, and amends the definitions of active treatment and intermediate care facility for the developmentally disabled.

Section 183. Amends intermediate care facilities for the developmentally disabled licensure requirements in s. 400.962, F.S., to conform to the provisions of part II of Chapter 408, F.S., and deletes requirements that are now found in the core licensure standards of part II of Chapter 408, F.S. Deleted language includes owner/operator background screening, basic grounds for Agency action, and standard requirements for license renewal. This section does not provide for the payment of fees with the submission of an application. Current annual fees are \$117 and the bill would modify to be \$234 for a two-year license, unless modified by rule. The bill allows these providers to remain exempt from the requirement to provide proof of liability insurance.

Section 184. Repeals s. 400.963, F.S., regarding injunctive proceedings and grounds for Agency action against an ICF-DD. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 185. Repeals s. 400.965, F.S. regarding personnel screening requirements. This standard is now addressed in the core licensure requirements of part II of Chapter 408.

Section 186. Amends s. 400.967 (6) to add, as a condition of licensure, that each licensee of an intermediate care facility comply with section 393.13, F.S., regarding The Bill of Rights of Persons who are Developmentally Disabled. Also amends s. 400.967, F.S., regarding rules and classification of deficiencies to include references to part II of Chapter 408, F.S.; corrects a technical error of the word “and” to “an;” and deletes references to civil penalties deposited in the Health Care Trust Fund. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 187. Amends s. 400.968, F.S., by partially deleting the section title and renaming to Right of Entry. Deletes subsections (2) and (3) regarding injunctive proceedings and imposing a moratorium on admissions when conditions in a facility present a threat to the health, safety, or welfare of the residents. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 188. Amends s. 400.9685 adding language that unlicensed direct care staff may administer medications and the Agency shall adopt rules to enforce this section.

Section 189. Amends s. 400.969(1), F.S., by inserting a violation of ss. 408.801 – 408.819, F.S., as punishable by an administrative or civil penalty not to exceed \$5,000.

Health Care Services Pools

Section 190. Amends Health Care Services Pool licensure requirements in s. 400.980, F.S., by requiring applicants for health care services pool registration to comply with part II of Chapter 408, F.S. These providers remain exempt from the requirement provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and

certificate of need. Deletes the requirement that each separate business location be registered; deleting the provision that the Agency may inspect to determine compliance; information required in the application; background screening requirements; the requirement for applicant information on any exclusions from Medicare or Medicaid and any convictions of prohibited offenses; the time frame for Agency action on an application; and the authority to deny an application or suspend or revoke a registration for specified violations. Deletes the prohibition of a health care services pool from offering or advertising services without a registration, the provision of injunctive proceedings, and the registration period and requirements for submission of renewal and change of ownership applications. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Amends subsection (10) to include the authority to write rules on part II of Chapter 408, F.S.

Health Care Clinics

Section 191. Amends health care clinic licensure in s. 400.991, F.S., by adding the core licensing requirements by reference. These providers remain exempt from the requirement to provide proof of right to occupy property, liability insurance, and certificate of need. Deletes the requirement that a clinic must be licensed and maintain a license with the Agency; biennial licensure; requirements that the license application be notarized and final Agency taken on an application within 60 days of receipt of all required information; disclosure of five % owners, general partners in limited partnership; background screening of owner/operators; and definition of applicant. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amends s. 400.991(6)(a), F.S., by deleting reference to proof of financial ability. These requirements have been enlarged in the core licensing provisions by permitting the Agency to establish standards to determine whether the clinic will be financially able to operate. Currently, the statute lists two criteria that a licensee must meet. The core licensing bill is broader and gives the Agency more discretion to deal with the issue within the confines of the particular facility type involved.

Section 192. Amends ss. 400.9915, F.S., by deleting renewal application requirements, unannounced inspections and access to records requirements. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Subsection (3) allows the Agency to issue a moratorium or emergency suspension when the Agency finds that the clinic failed to employ a medical or clinic director. The bill reinstates the ability to impose an emergency suspension.

Section 193. Section 400.992, F.S., is repealed; deleting license renewal, transfer of ownership and provisional licenses. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 194. Amends s. 400.9925, (1) and (3), F.S. Subsection (1) adds the core rulemaking reference that is a general grant of authority to the Agency to promulgate rules. Subsection (3) is substantially amended by deleting the license fee requirements and the formula's for setting the fee. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 195. Amends s. 400.993(1)-(7), F.S., by deleting these subsections related to unlicensed clinics; criminal penalties for operating unlicensed clinics; penalties for subsequent convictions; fines for operating unlicensed clinic after notice; administrative penalties for operating unlicensed clinic where at least one clinic, under common ownership, is licensed; unpaid fines and proscriptions against failure to report unlicensed clinic activity. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 196. Amends s. 400.9935(1)(f), F.S., by adding the requirements of part II of Chapter 408, F.S., to the paragraph. Deletes the requirement that a clinic file an application for a license within 5 days of becoming a clinic; granting to the Agency the power to revoke, suspend or fine a clinic for violation of this part; and display of the license in a conspicuous location. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 197. Repeals s. 400.994, F.S. Under s. 400.994, F.S., the Agency was authorized, after notice, to file for an injunction against unlicensed clinics violating minimum standards affecting the health, safety and welfare of patients and in life-threatening situations. Section 400.9945, F.S., required the Agency to limit its scope of Agency action to the facts and circumstances of the current case. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 198. Repeals s. 400.9945, F.S. relating to Agency administrative penalties. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 199. Amends s. 400.995, F.S., by deleting subsection (2) that permitted a fine to be levied for each day of a continuing violation. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Amending s. 400.995, F.S., by deleting subsections (4), (5) and (7), respectively. Subsection (4) provided for interest to be added to over-due fines; subsection (5) provided a fine of \$1,000 per day against unlicensed clinics; and subsection (7) provided a fine of \$5,000 for a late change of ownership application. The interest on over-due fines has been moved to the core-licensing bill; fines for unlicensed activity are replaced with an unlicensed activity section that includes similar language as current law plus other remedies; and, change of ownership requirements are more comprehensive in the core licensing bill and authorize fines against the transferee in a change of ownership application and restriction on transfer when administrative proceedings are pending against a licensee prior a change of ownership.

Amends s. 400.9935(9), F.S., by deleting the requirement that fines are to be deposited in the Health Care Trust Fund. The core bill requires that both fees and fines be deposited into the Fund. There is no substantial net change.

Section 200. Amending s. 401.265, F.S., by requiring that each licensee provide for the quality assurance review of all emergency medical technicians and paramedics providing basic life support or advanced life support services for that licensee. The medical director of the licensee is required to provide medical direction and oversight of the quality review.

Section 201. Amending s. 402.164(2), F.S. relating to advocacy councils, correcting cross-references due to statutory changes in the bill.

Section 202. Amends s. 408.831(1), F.S. This section of law currently gives the Agency authority to take action against any entity it regulates (including a licensee subject to this part which shares a common controlling interest with the applicant) or deny any submission that requires Agency review and approval for failure to pay all outstanding monies due to the Agency. The ability to seek permanent suspension is eliminated and the term "affiliated business entity" is added clarifying that if an affiliated entity of an applicant owes monies, an application may be denied or a license or registration revoked.

Section 203. Amending s. 409.815, F.S. relating to Medicaid benefits, correcting cross-references due to statutory changes in the bill.

Section 204, Amending s. 409.905, F.S. relating to Medicaid services, correcting cross-references due to statutory changes in the bill.

Section 205. Amending s. 409.907, F.S. relating to Medicaid provider agreements, correcting cross-references due to statutory changes in the bill.

Section 206. Amends Drug Free Workplace Program licensure requirements in s. 440.102(9) and (10), F.S., to conform to the provisions of part II of Chapter 408, F.S. Section 440.102(10), F.S., is also

amended to change the phrase “state drug-testing program” to “drug-free workplace laboratories.” The effect of this change is to clarify the Agency’s rulemaking authority. These providers remain exempt from the requirement to notify clients of the Agency complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 207. Amends s. 464.015(5), F.S., by inserting that only certified registered nurse anesthetists in Florida shall use the title “Certified Registered Nurse Anesthetist,” “anesthetist,” or “C.R.N.A.”

Section 208. Amends s. 468.016(2)(a), F.S., by specifying that using the name or title of “Certified Registered Nurse Anesthetist” is a first degree misdemeanor unless such person is duly licensed or certified.

Section 209. Amending s. 468.505, F.S. relating to dietetics and nutrition practice, correcting cross-references due to statutory changes in the bill.

Clinical Laboratories

Section 210. Amends s. 483.035, F.S., to conform to the provisions of part II of Chapter 408, F.S. These providers remain exempt from the requirement to notify clients of the Agency complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 211. Amends s. 483.051(1), F.S., deleting Agency authority to deny or revoke a license. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 212. Amends s. 483.061, F.S., deleting Agency right of entry. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. Modifies the Agency’s requirement to inspect an out-of-state clinical laboratory to “may” instead of “shall,” as some of these labs are located great distances from the state.

Section 213. Amends s. 483.091, F.S., deleting requirement to have a license, prohibition on transferring a license, and 60-day application filing requirement for changes of ownership. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 214. Amends s. 483.101, F.S., deleting the requirement to submit an application, background screening requirements of owner/operators, grounds for revocation or denial, requirements for renewal applications, and Agency requirement to send copies of regulations upon request. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 215. Amends s. 483.106, F.S., relating to certificates of exemption, correcting cross-references due to statutory changes in the bill.

Section 216. Amends s. 483.111, F.S., to incorporate rule authority for part II of Chapter 408, F.S.

Section 217. Repeals s. 483.131, F.S., deleting requirement to display license. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 218. Amends s. 483.172, F.S., regarding licensure fees; no change is made to fee amounts; fees may be modified by rule.

Section 219. Amends s. 483.201, F.S., deleting making false application as grounds for Agency action. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 220. Amends s. 483.221, F.S., modifying the title changing penalties to fines, and authorizing fines for violations of ss. 408.801-408.819, F.S. Deleting Agency authority for emergency actions, and deleting reference to Health Care Trust Fund for deposit of fees. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 221. Amends s. 483.23, F.S., deleting criminal penalty for failure to obtain a license when required. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 222. Repeals s. 483.25, F.S., deletes Agency injunctive authority. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Multiphasic Health Testing

Section 223. Amends s. 483.291, F.S., to incorporate rule authority for part II of Chapter 408, F.S. Deletes annual licensing requirement. Current annual fees of between \$300 and \$1,000 are modified to be between \$600 and \$2,000 for a two-year license.

Section 224. Amends s. 483.294, F.S., to delete requirements of Agency inspections found in part II of Chapter 408, F.S. Retains annual inspections.

Section 225. Amends s. 483.30, F.S., to delete requirement to obtain a license, prohibition of transfer of license, change of ownership requirements, submission of applications, background screening of owner/operators, and Agency authority to deny or revoke a license. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S. These providers remain exempt from the requirement to notify clients of the Agency complaint and Florida Abuse Registry hotline numbers, the requirement to provide proof of right to occupy property, liability insurance, financial ability to operate, the requirement to report evidence of financial instability and certificate of need.

Section 226. Amends s. 483.302, F.S., deleting requirement to provide application information. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 227. Repeals s. 483.311, F.S., and subsection (1) of s. 483.317, F.S., regarding display of license and grounds for action based on fraudulent statements. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 228. Amends s. 483.317, F.S. deleting fraudulent statements as ground for disciplinary action. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 229. Amends s. 483.32, F.S., modifying the title changing penalties to fines, and authorizing fines for violations of ss. 408.801-408.819, F.S. Deleting Agency authority for emergency actions, and deleting reference to Health Care Trust Fund for deposit of fees. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 230. Repeals subsection (1) of s. 483.322, F.S., deleting unlicensed activity prohibition, and Agency injunctive authority. These standards are now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 231. Repeals s. 483.328, F.S. relating to injunctions. This standard is now addressed in the core licensure requirements of part II of Chapter 408, F.S.

Certification of Organizations Engaged in the Practice of Cadaveric Organ and Tissue Procurement and Certification of Organ Procurement Organizations, Tissue Banks and Eye Banks.

Section 232. Amends subsection (2) of s. 765.541, F.S, by adding the standards addressed in the core licensure requirements of part II of Chapter 408, F.S.

Section 233. Amends subsection (1) of s. 765.542, F.S, by adding the requirement to comply with standards addressed in the core licensure requirements of part II of Chapter 408, F.S. These organizations remain exempt from the requirement to have insurance, demonstrate proof of financial ability to operate and certificate of need requirements.

Section 234. Amends s. 765.544, F.S, by adding the requirement to comply with the standards addressed in the core licensure requirements of part II of Chapter 408, F.S., related to fees which remain unchanged in the bill unless modified by rule.

Section 235. Amends s. 766.118, F.S., relating to non-economic damages for medical malpractice, correcting cross-references due to statutory changes in the bill.

Section 236. Amends s. 766.316, F.S., relating to notice to obstetrical patients of participation in the Florida Birth-Related Neurological Injury Compensation Plan, correcting cross-references due to statutory changes in the bill.

Section 237. Amends s. 812.014, F.S. relating to theft, correcting cross-references due to statutory changes in the bill.

Section 238. The provisions of part II of Chapter 408, F.S., prevail over provider authorizing statutes in case of a conflict.

Section 239. This section transfers rules for assisted living facilities, adult family care home, adult day care, and hospice licensure from the Department of Elder Affairs to the AHCA.

Section 240. This section allows the Agency between October 1, 2005 and September 30, 2006 to issue any license for less than two years by charging a prorated fee and specifying a different renewal date. This will allow for staggering of expiration dates as providers change from annual to biennial licensure.

Section 241. This section specifies the effective date of the bill as October 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Licensure fees may be adjusted annually based on the change in the consumer price index within existing maximum levels if increases are necessary to support the actual cost of regulation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes rule making authority for the Agency for Health Care Administration to carry out provisions of the core licensing provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 6, 2005, the Health Care Regulation Committee adopted 6 amendments sponsored by Representative Garcia and voted the bill favorably.

Amendment 1: Makes several technical and clarifying changes to the bill. It clarifies change of facility ownership, zoning and reporting requirements, and renewal licensure notification.

Amendment 2: Retains current law for hospitals, ambulatory surgery centers, and mobile surgical facilities related to insurance, financial ability to operate, and Certificate of Need.

Amendment 3: Makes several technical and clarifying changes to the bill. It retains current liability insurance requirements, Agency for Health Care Administration rights of inspection, and clarifies the publication time-frame of the Nursing Home Guide and Watch List. It also provides certified registered nursing assistants (CRNAs) title protection and allows funeral homes to be paid from a deceased resident's fund when there is no spouse, next of kin, or designated beneficiary. It also clarifies nursing home bed placement requirements.

Amendment 4: Retains current law for adult family care homes related to insurance, financial ability to operate, and certification of need (CON).

Amendment 5: Retains current law for health care clinics related to insurance fraud convictions and the review of applicant background screenings.

Amendment 6: Clarifies that emergency medical services (EMS) licensees have the responsibility to provide for quality assurance review of their emergency medical technicians and paramedics.

On April 22, 2005, the Health and Families Council adopted 8 amendments sponsored by Representative Garcia and voted the bill favorably.

Amendment 1: removes language from the bill that would require a licensee to go through the lengthy Certificate of Need (C.O.N.) process for failing to renew a license

Amendment 2: allows the Agency for Health Care Administration (AHCA) to issue a provisional license to licensees who have had their license revoked, until the end of the appeal process.

Amendment 3: clarifies that current maximum fines are retained in the new core licensing provisions.

Amendment 4: clarifies that AHCA may deny a license application to an applicant that does not provide the required license information after being notified by AHCA of the missing requirements.

Amendment 5: fixes a technical problem with the bill. It clarifies that nursing home occupancy reports are due by the 10th of the next month.

Amendment 6: clarifies that nursing home residents can choose the bed placement in their rooms, and it provides procedures for residents who choose to arrange their rooms contrary to building code requirements.

Amendment 7: fixes a technical problem in the bill. It specified that current background screenings for health care clinics remain effective.

Amendment 8: clarifies that past due fines must be paid before AHCA can approve a new license.

This analysis is written to the committee substitute.