

1 A bill to be entitled
2 An act relating to the reduction and simplification of
3 health care provider regulation; amending s. 112.0455,
4 F.S., relating to the Drug-Free Workplace Act; deleting an
5 obsolete provision; amending s. 318.21, F.S.; revising
6 distribution of funds from civil penalties imposed for
7 traffic infractions by county courts; repealing s.
8 383.325, F.S., relating to confidentiality of inspection
9 reports of licensed birth center facilities; amending s.
10 395.002, F.S.; revising and deleting definitions
11 applicable to regulation of hospitals and other licensed
12 facilities; conforming a cross-reference; amending s.
13 395.003, F.S.; deleting an obsolete provision; amending s.
14 395.0193, F.S.; requiring a licensed facility to report
15 certain peer review information and final disciplinary
16 actions to the Division of Medical Quality Assurance of
17 the Department of Health rather than the Division of
18 Health Quality Assurance of the Agency for Health Care
19 Administration; amending s. 395.1023, F.S.; providing for
20 the Department of Children and Family Services rather than
21 the Department of Health to perform certain functions with
22 respect to child protection cases; requiring certain
23 hospitals to notify the Department of Children and Family
24 Services of compliance; amending s. 395.1041, F.S.,
25 relating to hospital emergency services and care; deleting
26 obsolete provisions; repealing s. 395.1046, F.S., relating
27 to complaint investigation procedures; amending s.
28 395.1055, F.S.; requiring licensed facility beds to

29 conform to standards specified by the Agency for Health
30 Care Administration, the Florida Building Code, and the
31 Florida Fire Prevention Code; amending s. 395.10972, F.S.;
32 revising a reference to the Florida Society of Healthcare
33 Risk Management to conform to the current designation;
34 amending s. 395.2050, F.S.; revising a reference to the
35 federal Health Care Financing Administration to conform to
36 the current designation; amending s. 395.3036, F.S.;
37 correcting a reference; repealing s. 395.3037, F.S.,
38 relating to redundant definitions; amending ss. 154.11,
39 394.741, 395.3038, 400.925, 400.9935, 408.05, 440.13,
40 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015,
41 F.S.; revising references to the Joint Commission on
42 Accreditation of Healthcare Organizations and the Council
43 on Accreditation of Children and Family Services to
44 conform to the current designation; amending s. 395.602,
45 F.S.; revising the definition of the term "rural hospital"
46 to delete an obsolete provision; amending s. 400.021,
47 F.S.; revising the definition of the term "geriatric
48 outpatient clinic"; amending s. 400.063, F.S.; deleting an
49 obsolete provision; amending ss. 400.071 and 400.0712,
50 F.S.; revising applicability of general licensure
51 requirements under pt. II of ch. 408, F.S., to
52 applications for nursing home licensure; revising
53 provisions governing inactive licenses; amending s.
54 400.111, F.S.; providing for disclosure of controlling
55 interest of a nursing home facility upon request by the
56 Agency for Health Care Administration; amending s.

57 | 400.1183, F.S.; revising grievance record maintenance and
58 | reporting requirements for nursing homes; amending s.
59 | 400.141, F.S.; conforming a reference; requiring
60 | facilities to maintain clinical records that meet
61 | specified standards; providing a fine; deleting
62 | requirement for facilities to submit certain information
63 | related to management companies to the agency; amending s.
64 | 400.142, F.S.; deleting language relating to agency
65 | adoption of rules; amending 400.147, F.S.; revising
66 | reporting requirements for licensed nursing home
67 | facilities relating to adverse incidents; repealing s.
68 | 400.148, F.S., relating to the Medicaid "Up-or-Out"
69 | Quality of Care Contract Management Program; amending s.
70 | 400.162, F.S., requiring nursing homes to provide a
71 | resident property statement annually and upon request;
72 | amending s. 400.179, F.S.; revising requirements for
73 | nursing home lease bond alternative fees; deleting an
74 | obsolete provision; amending s. 400.19, F.S.; revising
75 | inspection requirements; repealing s. 400.195, F.S.,
76 | relating to agency reporting requirements; amending s.
77 | 400.23, F.S.; deleting an obsolete provision; clarifying a
78 | reference; amending s. 400.275, F.S.; revising agency
79 | duties with regard to training nursing home surveyor
80 | teams; revising requirements for team members; amending s.
81 | 400.484, F.S.; revising the schedule of home health agency
82 | inspection violations; amending s. 400.606, F.S.; revising
83 | the content requirements of the plan accompanying an
84 | initial or change-of-ownership application for licensure

85 | of a hospice; revising requirements relating to
86 | certificates of need for certain hospice facilities;
87 | amending s. 400.607, F.S.; revising grounds for agency
88 | action against a hospice; amending s. 400.931, F.S.;
89 | deleting a requirement that an applicant for a home
90 | medical equipment provider license submit a surety bond to
91 | the agency; amending s. 400.932, F.S.; revising grounds
92 | for the imposition of administrative penalties for certain
93 | violations by an employee of a home medical equipment
94 | provider; amending s. 400.967, F.S.; revising the schedule
95 | of inspection violations for intermediate care facilities
96 | for the developmentally disabled; providing a penalty for
97 | certain violations; amending s. 400.9905, F.S.; revising
98 | definitions under the Health Care Clinic Act; amending s.
99 | 400.991, F.S.; conforming terminology; revising
100 | application requirements relating to documentation of
101 | financial ability to operate a mobile clinic; amending s.
102 | 408.034, F.S.; revising agency authority relating to
103 | licensing of intermediate care facilities for the
104 | developmentally disabled; amending s. 408.036, F.S.;
105 | deleting an exemption from certain certificate-of-need
106 | review requirements for a hospice or a hospice inpatient
107 | facility; amending s. 408.043, F.S.; revising requirements
108 | for certain freestanding inpatient hospice care facilities
109 | to obtain a certificate of need; amending s. 408.061,
110 | F.S.; revising health care facility data reporting
111 | requirements; amending s. 408.10, F.S.; removing agency
112 | authority to investigate certain consumer complaints;

113 | amending s. 408.802, F.S.; removing applicability of pt.
114 | II of ch. 408, F.S., relating to general licensure
115 | requirements, to private review agents; amending s.
116 | 408.804, F.S.; providing penalties for altering, defacing,
117 | or falsifying a license certificate issued by the agency
118 | or displaying such an altered, defaced, or falsified
119 | certificate; amending s. 408.806, F.S.; revising agency
120 | responsibilities for notification of licensees of
121 | impending expiration of a license; removing an exception
122 | from the imposition of a fee for late filing of an
123 | application for renewal of a license; requiring payment of
124 | a late fee for a license application to be considered
125 | complete under certain circumstances; amending s. 408.810,
126 | F.S.; revising provisions relating to information required
127 | for licensure; requiring proof of submission of notice to
128 | a mortgagor or landlord regarding provision of services
129 | requiring licensure; requiring disclosure of information
130 | by a controlling interest of certain court actions
131 | relating to financial instability within a specified time
132 | period; amending s. 408.813, F.S.; authorizing the agency
133 | to impose fines for unclassified violations of pt. II of
134 | ch. 408, F.S.; amending s. 408.815, F.S.; authorizing the
135 | agency to extend a license expiration date under certain
136 | circumstances; amending s. 409.221, F.S.; deleting a
137 | reporting requirement relating to the consumer-directed
138 | care program; amending s. 429.07, F.S.; deleting the
139 | requirement for an assisted living facility to obtain an
140 | additional license in order to provide limited nursing

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141 services; deleting the requirement for the agency to
142 conduct quarterly monitoring visits of facilities that
143 hold a license to provide extended congregate care
144 services; deleting the requirement for the department to
145 report annually on the status of and recommendations
146 related to extended congregate care; deleting the
147 requirement for the agency to conduct monitoring visits at
148 least twice a year to facilities providing limited nursing
149 services; increasing the licensure fees and the maximum
150 fee required for the standard license; increasing the
151 licensure fees for the extended congregate care license;
152 eliminating the license fee for the limited nursing
153 services license; transferring from another provision of
154 law the requirement that a biennial survey of an assisted
155 living facility include specific actions to determine
156 whether the facility is adequately protecting residents'
157 rights; providing that an assisted living facility that
158 has a class I or class II violation is subject to
159 monitoring visits; requiring a registered nurse to
160 participate in certain monitoring visits; amending s.
161 429.11, F.S.; revising licensure application requirements
162 for assisted living facilities to eliminate provisional
163 licenses; amending s. 429.12, F.S.; revising notification
164 requirements for the sale or transfer of ownership of an
165 assisted living facility; amending s. 429.14, F.S.;
166 removing a ground for the imposition of an administrative
167 penalty; clarifying language relating to a facility's
168 request for a hearing under certain circumstances;

169 | authorizing the agency to provide certain information
170 | relating to the licensure status of assisted living
171 | facilities electronically or through the agency's Internet
172 | website; amending s. 429.17, F.S.; deleting provisions
173 | relating to the limited nursing services license; revising
174 | agency responsibilities regarding the issuance of
175 | conditional licenses; amending s. 429.19, F.S.; clarifying
176 | that a monitoring fee may be assessed in addition to an
177 | administrative fine; amending s. 429.23, F.S.; deleting
178 | reporting requirements for assisted living facilities
179 | relating to liability claims; amending s. 429.255, F.S.;
180 | eliminating provisions authorizing the use of volunteers
181 | to provide certain health-care-related services in
182 | assisted living facilities; authorizing assisted living
183 | facilities to provide limited nursing services; requiring
184 | an assisted living facility to be responsible for certain
185 | recordkeeping and staff to be trained to monitor residents
186 | receiving certain health-care-related services; amending
187 | s. 429.28, F.S.; deleting a requirement for a biennial
188 | survey of an assisted living facility, to conform to
189 | changes made by the act; amending s. 429.35, F.S.;
190 | authorizing the agency to provide certain information
191 | relating to the inspections of assisted living facilities
192 | electronically or through the agency's Internet website;
193 | amending s. 429.41, F.S., relating to rulemaking;
194 | conforming provisions to changes made by the act; amending
195 | s. 429.53, F.S.; revising provisions relating to
196 | consultation by the agency; revising a definition;

197 | amending s. 429.54, F.S.; requiring licensed assisted
 198 | living facilities to electronically report certain data
 199 | semiannually to the agency in accordance with rules
 200 | adopted by the department; amending s. 429.71, F.S.;
 201 | revising schedule of inspection violations for adult
 202 | family-care homes; amending s. 429.911, F.S.; deleting a
 203 | ground for agency action against an adult day care center;
 204 | amending s. 429.915, F.S.; revising agency
 205 | responsibilities regarding the issuance of conditional
 206 | licenses; amending s. 483.294, F.S.; revising frequency of
 207 | agency inspections of multiphasic health testing centers;
 208 | amending ss. 394.4787, 400.0239, 408.07, 430.80, and
 209 | 651.118, F.S.; conforming terminology and cross-
 210 | references; revising a reference; providing an effective
 211 | date.

212 |
 213 | Be It Enacted by the Legislature of the State of Florida:

214 |
 215 | Section 1. Present paragraph (e) of subsection (10) and
 216 | paragraph (e) of subsection (14) of section 112.0455, Florida
 217 | Statutes, are amended, and paragraphs (f) through (k) of
 218 | subsection (10) of that section are redesignated as paragraphs
 219 | (e) through (j), respectively, to read:

220 | 112.0455 Drug-Free Workplace Act.—

221 | (10) EMPLOYER PROTECTION.—

222 | ~~(e) Nothing in this section shall be construed to operate~~
 223 | ~~retroactively, and nothing in this section shall abrogate the~~
 224 | ~~right of an employer under state law to conduct drug tests prior~~

225 ~~to January 1, 1990. A drug test conducted by an employer prior~~
 226 ~~to January 1, 1990, is not subject to this section.~~

227 (14) DISCIPLINE REMEDIES.—

228 (e) Upon resolving an appeal filed pursuant to paragraph
 229 (c), and finding a violation of this section, the commission may
 230 order the following relief:

231 1. Rescind the disciplinary action, expunge related
 232 records from the personnel file of the employee or job applicant
 233 and reinstate the employee.

234 2. Order compliance with paragraph (10) (f) ~~(g)~~.

235 3. Award back pay and benefits.

236 4. Award the prevailing employee or job applicant the
 237 necessary costs of the appeal, reasonable attorney's fees, and
 238 expert witness fees.

239 Section 2. Paragraph (n) of subsection (1) of section
 240 154.11, Florida Statutes, is amended to read:

241 154.11 Powers of board of trustees.—

242 (1) The board of trustees of each public health trust
 243 shall be deemed to exercise a public and essential governmental
 244 function of both the state and the county and in furtherance
 245 thereof it shall, subject to limitation by the governing body of
 246 the county in which such board is located, have all of the
 247 powers necessary or convenient to carry out the operation and
 248 governance of designated health care facilities, including, but
 249 without limiting the generality of, the foregoing:

250 (n) To appoint originally the staff of physicians to
 251 practice in any designated facility owned or operated by the
 252 board and to approve the bylaws and rules to be adopted by the

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253 | medical staff of any designated facility owned and operated by
 254 | the board, such governing regulations to be in accordance with
 255 | the standards of The Joint Commission ~~on the Accreditation of~~
 256 | ~~Hospitals~~ which provide, among other things, for the method of
 257 | appointing additional staff members and for the removal of staff
 258 | members.

259 | Section 3. Subsection (15) of section 318.21, Florida
 260 | Statutes, is amended to read:

261 | 318.21 Disposition of civil penalties by county courts.—
 262 | All civil penalties received by a county court pursuant to the
 263 | provisions of this chapter shall be distributed and paid monthly
 264 | as follows:

265 | (15) Of the additional fine assessed under s. 318.18(3)(e)
 266 | for a violation of s. 316.1893, 50 percent of the moneys
 267 | received from the fines shall be remitted to the Department of
 268 | Revenue and deposited into the Brain and Spinal Cord Injury
 269 | Trust Fund of Department of Health and shall be appropriated to
 270 | the Department of Health ~~Agency for Health Care Administration~~
 271 | as general revenue to ~~provide an enhanced Medicaid payment to~~
 272 | ~~nursing homes that~~ serve Medicaid recipients with spinal cord
 273 | injuries that are medically complex and who are technologically
 274 | and respiratory dependent ~~with brain and spinal cord injuries.~~

275 | The remaining 50 percent of the moneys received from the
 276 | enhanced fine imposed under s. 318.18(3)(e) shall be remitted to
 277 | the Department of Revenue and deposited into the Department of
 278 | Health Administrative Trust Fund to provide financial support to
 279 | certified trauma centers in the counties where enhanced penalty
 280 | zones are established to ensure the availability and

281 accessibility of trauma services. Funds deposited into the
 282 Administrative Trust Fund under this subsection shall be
 283 allocated as follows:

284 (a) Fifty percent shall be allocated equally among all
 285 Level I, Level II, and pediatric trauma centers in recognition
 286 of readiness costs for maintaining trauma services.

287 (b) Fifty percent shall be allocated among Level I, Level
 288 II, and pediatric trauma centers based on each center's relative
 289 volume of trauma cases as reported in the Department of Health
 290 Trauma Registry.

291 Section 4. Section 383.325, Florida Statutes, is repealed.

292 Section 5. Subsection (2) of section 394.741, Florida
 293 Statutes, is amended to read:

294 394.741 Accreditation requirements for providers of
 295 behavioral health care services.—

296 (2) Notwithstanding any provision of law to the contrary,
 297 accreditation shall be accepted by the agency and department in
 298 lieu of the agency's and department's facility licensure onsite
 299 review requirements and shall be accepted as a substitute for
 300 the department's administrative and program monitoring
 301 requirements, except as required by subsections (3) and (4),
 302 for:

303 (a) Any organization from which the department purchases
 304 behavioral health care services that is accredited by The Joint
 305 Commission ~~on Accreditation of Healthcare Organizations~~ or the
 306 Council on Accreditation ~~for Children and Family Services~~, or
 307 has those services that are being purchased by the department
 308 accredited by CARF—the Rehabilitation Accreditation Commission.

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309 (b) Any mental health facility licensed by the agency or
 310 any substance abuse component licensed by the department that is
 311 accredited by The Joint Commission ~~on Accreditation of~~
 312 ~~Healthcare Organizations~~, CARF—the Rehabilitation Accreditation
 313 Commission, or the Council on Accreditation ~~of Children and~~
 314 ~~Family Services~~.

315 (c) Any network of providers from which the department or
 316 the agency purchases behavioral health care services accredited
 317 by The Joint Commission ~~on Accreditation of Healthcare~~
 318 ~~Organizations~~, CARF—the Rehabilitation Accreditation Commission,
 319 the Council on Accreditation ~~of Children and Family Services~~, or
 320 the National Committee for Quality Assurance. A provider
 321 organization, which is part of an accredited network, is
 322 afforded the same rights under this part.

323 Section 6. Present subsections (15) through (32) of
 324 section 395.002, Florida Statutes, are renumbered as subsections
 325 (14) through (28), respectively, and present subsections (1),
 326 (14), (24), (30), and (31), and paragraph (c) of present
 327 subsection (28) of that section are amended to read:

328 395.002 Definitions.—As used in this chapter:

329 (1) "Accrediting organizations" means nationally
 330 recognized or approved accrediting organizations whose standards
 331 incorporate comparable licensure requirements as determined by
 332 the agency ~~the Joint Commission on Accreditation of Healthcare~~
 333 ~~Organizations, the American Osteopathic Association, the~~
 334 ~~Commission on Accreditation of Rehabilitation Facilities, and~~
 335 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

336 ~~(14) "Initial denial determination" means a determination~~
337 ~~by a private review agent that the health care services~~
338 ~~furnished or proposed to be furnished to a patient are~~
339 ~~inappropriate, not medically necessary, or not reasonable.~~

340 ~~(24) "Private review agent" means any person or entity~~
341 ~~which performs utilization review services for third party~~
342 ~~payors on a contractual basis for outpatient or inpatient~~
343 ~~services. However, the term shall not include full-time~~
344 ~~employees, personnel, or staff of health insurers, health~~
345 ~~maintenance organizations, or hospitals, or wholly owned~~
346 ~~subsidiaries thereof or affiliates under common ownership, when~~
347 ~~performing utilization review for their respective hospitals,~~
348 ~~health maintenance organizations, or insureds of the same~~
349 ~~insurance group. For this purpose, health insurers, health~~
350 ~~maintenance organizations, and hospitals, or wholly owned~~
351 ~~subsidiaries thereof or affiliates under common ownership,~~
352 ~~include such entities engaged as administrators of self-~~
353 ~~insurance as defined in s. 624.031.~~

354 ~~(26)(28)~~ (26) "Specialty hospital" means any facility which
355 meets the provisions of subsection (12), and which regularly
356 makes available either:

357 (c) Intensive residential treatment programs for children
358 and adolescents as defined in subsection (14) ~~(15)~~.

359 ~~(30) "Utilization review" means a system for reviewing the~~
360 ~~medical necessity or appropriateness in the allocation of health~~
361 ~~care resources of hospital services given or proposed to be~~
362 ~~given to a patient or group of patients.~~

363 ~~(31) "Utilization review plan" means a description of the~~
 364 ~~policies and procedures governing utilization review activities~~
 365 ~~performed by a private review agent.~~

366 Section 7. Paragraph (c) of subsection (1) of section
 367 395.003, Florida Statutes, is amended to read:

368 395.003 Licensure; denial, suspension, and revocation.—

369 (1)

370 ~~(c) Until July 1, 2006, additional emergency departments~~
 371 ~~located off the premises of licensed hospitals may not be~~
 372 ~~authorized by the agency.~~

373 Section 8. Paragraph (e) of subsection (2) and subsection
 374 (4) of section 395.0193, Florida Statutes, are amended to read:

375 395.0193 Licensed facilities; peer review; disciplinary
 376 powers; agency or partnership with physicians.—

377 (2) Each licensed facility, as a condition of licensure,
 378 shall provide for peer review of physicians who deliver health
 379 care services at the facility. Each licensed facility shall
 380 develop written, binding procedures by which such peer review
 381 shall be conducted. Such procedures shall include:

382 (e) Recording of agendas and minutes which do not contain
 383 confidential material, for review by the Division of Medical
 384 Quality Assurance of the department ~~Health Quality Assurance of~~
 385 ~~the agency.~~

386 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary
 387 actions taken under subsection (3) shall be reported in writing
 388 to the Division of Medical Quality Assurance of the department
 389 ~~Health Quality Assurance of the agency~~ within 30 working days
 390 after its initial occurrence, regardless of the pendency of

391 | appeals to the governing board of the hospital. The notification
 392 | shall identify the disciplined practitioner, the action taken,
 393 | and the reason for such action. All final disciplinary actions
 394 | taken under subsection (3), if different from those which were
 395 | reported to the department ~~agency~~ within 30 days after the
 396 | initial occurrence, shall be reported within 10 working days to
 397 | the Division of Medical Quality Assurance of the department
 398 | ~~Health Quality Assurance of the agency~~ in writing and shall
 399 | specify the disciplinary action taken and the specific grounds
 400 | therefor. The division shall review each report and determine
 401 | whether it potentially involved conduct by the licensee that is
 402 | subject to disciplinary action, in which case s. 456.073 shall
 403 | apply. The reports are not subject to inspection under s.
 404 | 119.07(1) even if the division's investigation results in a
 405 | finding of probable cause.

406 | Section 9. Section 395.1023, Florida Statutes, is amended
 407 | to read:

408 | 395.1023 Child abuse and neglect cases; duties.—Each
 409 | licensed facility shall adopt a protocol that, at a minimum,
 410 | requires the facility to:

411 | (1) Incorporate a facility policy that every staff member
 412 | has an affirmative duty to report, pursuant to chapter 39, any
 413 | actual or suspected case of child abuse, abandonment, or
 414 | neglect; and

415 | (2) In any case involving suspected child abuse,
 416 | abandonment, or neglect, designate, at the request of the
 417 | Department of Children and Family Services, a staff physician to
 418 | act as a liaison between the hospital and the Department of

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419 Children and Family Services office which is investigating the
 420 suspected abuse, abandonment, or neglect, and the child
 421 protection team, as defined in s. 39.01, when the case is
 422 referred to such a team.

423
 424 Each general hospital and appropriate specialty hospital shall
 425 comply with the provisions of this section and shall notify the
 426 agency and the Department of Children and Family Services of its
 427 compliance by sending a copy of its policy to the agency and the
 428 Department of Children and Family Services as required by rule.
 429 The failure by a general hospital or appropriate specialty
 430 hospital to comply shall be punished by a fine not exceeding
 431 \$1,000, to be fixed, imposed, and collected by the agency. Each
 432 day in violation is considered a separate offense.

433 Section 10. Subsection (2) and paragraph (d) of subsection
 434 (3) of section 395.1041, Florida Statutes, are amended to read:
 435 395.1041 Access to emergency services and care.—

436 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency
 437 shall establish and maintain an inventory of hospitals with
 438 emergency services. The inventory shall list all services within
 439 the service capability of the hospital, and such services shall
 440 appear on the face of the hospital license. Each hospital having
 441 emergency services shall notify the agency of its service
 442 capability in the manner and form prescribed by the agency. The
 443 agency shall use the inventory to assist emergency medical
 444 services providers and others in locating appropriate emergency
 445 medical care. The inventory shall also be made available to the
 446 general public. ~~On or before August 1, 1992, the agency shall~~

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447 ~~request that each hospital identify the services which are~~
448 ~~within its service capability. On or before November 1, 1992,~~
449 ~~the agency shall notify each hospital of the service capability~~
450 ~~to be included in the inventory. The hospital has 15 days from~~
451 ~~the date of receipt to respond to the notice. By December 1,~~
452 ~~1992, the agency shall publish a final inventory. Each hospital~~
453 shall reaffirm its service capability when its license is
454 renewed and shall notify the agency of the addition of a new
455 service or the termination of a service prior to a change in its
456 service capability.

457 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
458 FACILITY OR HEALTH CARE PERSONNEL.—

459 (d)1. Every hospital shall ensure the provision of
460 services within the service capability of the hospital, at all
461 times, either directly or indirectly through an arrangement with
462 another hospital, through an arrangement with one or more
463 physicians, or as otherwise made through prior arrangements. A
464 hospital may enter into an agreement with another hospital for
465 purposes of meeting its service capability requirement, and
466 appropriate compensation or other reasonable conditions may be
467 negotiated for these backup services.

468 2. If any arrangement requires the provision of emergency
469 medical transportation, such arrangement must be made in
470 consultation with the applicable provider and may not require
471 the emergency medical service provider to provide transportation
472 that is outside the routine service area of that provider or in
473 a manner that impairs the ability of the emergency medical

474 service provider to timely respond to prehospital emergency
 475 calls.

476 3. A hospital shall not be required to ensure service
 477 capability at all times as required in subparagraph 1. if, prior
 478 to the receiving of any patient needing such service capability,
 479 such hospital has demonstrated to the agency that it lacks the
 480 ability to ensure such capability and it has exhausted all
 481 reasonable efforts to ensure such capability through backup
 482 arrangements. In reviewing a hospital's demonstration of lack of
 483 ability to ensure service capability, the agency shall consider
 484 factors relevant to the particular case, including the
 485 following:

486 a. Number and proximity of hospitals with the same service
 487 capability.

488 b. Number, type, credentials, and privileges of
 489 specialists.

490 c. Frequency of procedures.

491 d. Size of hospital.

492 4. The agency shall publish ~~proposed~~ rules implementing a
 493 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~
 494 ~~1. shall become effective upon the effective date of said rules~~
 495 ~~or January 31, 1993, whichever is earlier. For a period not to~~
 496 ~~exceed 1 year from the effective date of subparagraph 1., a~~
 497 ~~hospital requesting an exemption shall be deemed to be exempt~~
 498 ~~from offering the service until the agency initially acts to~~
 499 ~~deny or grant the original request. The agency has 45 days from~~
 500 the date of receipt of the request to approve or deny the
 501 request. ~~After the first year from the effective date of~~

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502 ~~subparagraph 1.7~~, If the agency fails to initially act within the
 503 time period, the hospital is deemed to be exempt from offering
 504 the service until the agency initially acts to deny the request.

505 Section 11. Section 395.1046, Florida Statutes, is
 506 repealed.

507 Section 12. Paragraph (e) of subsection (1) of section
 508 395.1055, Florida Statutes, is amended to read:

509 395.1055 Rules and enforcement.—

510 (1) The agency shall adopt rules pursuant to ss.
 511 120.536(1) and 120.54 to implement the provisions of this part,
 512 which shall include reasonable and fair minimum standards for
 513 ensuring that:

514 (e) Licensed facility beds conform to minimum space,
 515 equipment, and furnishings standards as specified by the agency,
 516 the Florida Building Code, and the Florida Fire Prevention Code
 517 department.

518 Section 13. Subsection (1) of section 395.10972, Florida
 519 Statutes, is amended to read:

520 395.10972 Health Care Risk Manager Advisory Council.—The
 521 Secretary of Health Care Administration may appoint a seven-
 522 member advisory council to advise the agency on matters
 523 pertaining to health care risk managers. The members of the
 524 council shall serve at the pleasure of the secretary. The
 525 council shall designate a chair. The council shall meet at the
 526 call of the secretary or at those times as may be required by
 527 rule of the agency. The members of the advisory council shall
 528 receive no compensation for their services, but shall be
 529 reimbursed for travel expenses as provided in s. 112.061. The

530 council shall consist of individuals representing the following
 531 areas:

532 (1) Two shall be active health care risk managers,
 533 including one risk manager who is recommended by and a member of
 534 the Florida Society for ~~of~~ Healthcare Risk Management and
 535 Patient Safety.

536 Section 14. Subsection (3) of section 395.2050, Florida
 537 Statutes, is amended to read:

538 395.2050 Routine inquiry for organ and tissue donation;
 539 certification for procurement activities; death records review.—

540 (3) Each organ procurement organization designated by the
 541 federal Centers for Medicare and Medicaid Services ~~Health Care~~
 542 ~~Financing Administration~~ and licensed by the state shall conduct
 543 an annual death records review in the organ procurement
 544 organization's affiliated donor hospitals. The organ procurement
 545 organization shall enlist the services of every Florida licensed
 546 tissue bank and eye bank affiliated with or providing service to
 547 the donor hospital and operating in the same service area to
 548 participate in the death records review.

549 Section 15. Subsection (2) of section 395.3036, Florida
 550 Statutes, is amended to read:

551 395.3036 Confidentiality of records and meetings of
 552 corporations that lease public hospitals or other public health
 553 care facilities.—The records of a private corporation that
 554 leases a public hospital or other public health care facility
 555 are confidential and exempt from the provisions of s. 119.07(1)
 556 and s. 24(a), Art. I of the State Constitution, and the meetings
 557 of the governing board of a private corporation are exempt from

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558 s. 286.011 and s. 24(b), Art. I of the State Constitution when
 559 the public lessor complies with the public finance
 560 accountability provisions of s. 155.40(5) with respect to the
 561 transfer of any public funds to the private lessee and when the
 562 private lessee meets at least three of the five following
 563 criteria:

564 (2) The public lessor and the private lessee do not
 565 commingle any of their funds in any account maintained by either
 566 of them, other than the payment of the rent and administrative
 567 fees or the transfer of funds pursuant to s. 155.40(2)
 568 ~~subsection (2)~~.

569 Section 16. Section 395.3037, Florida Statutes, is
 570 repealed.

571 Section 17. Subsections (1), (4), and (5) of section
 572 395.3038, Florida Statutes, are amended to read:

573 395.3038 State-listed primary stroke centers and
 574 comprehensive stroke centers; notification of hospitals.—

575 (1) The agency shall make available on its website and to
 576 the department a list of the name and address of each hospital
 577 that meets the criteria for a primary stroke center and the name
 578 and address of each hospital that meets the criteria for a
 579 comprehensive stroke center. The list of primary and
 580 comprehensive stroke centers shall include only those hospitals
 581 that attest in an affidavit submitted to the agency that the
 582 hospital meets the named criteria, or those hospitals that
 583 attest in an affidavit submitted to the agency that the hospital
 584 is certified as a primary or a comprehensive stroke center by

585 The Joint Commission ~~on Accreditation of Healthcare~~
 586 ~~Organizations.~~

587 (4) The agency shall adopt by rule criteria for a primary
 588 stroke center which are substantially similar to the
 589 certification standards for primary stroke centers of The Joint
 590 Commission ~~on Accreditation of Healthcare Organizations.~~

591 (5) The agency shall adopt by rule criteria for a
 592 comprehensive stroke center. However, if The Joint Commission ~~on~~
 593 ~~Accreditation of Healthcare Organizations~~ establishes criteria
 594 for a comprehensive stroke center, the agency shall establish
 595 criteria for a comprehensive stroke center which are
 596 substantially similar to those criteria established by The Joint
 597 Commission ~~on Accreditation of Healthcare Organizations.~~

598 Section 18. Paragraph (e) of subsection (2) of section
 599 395.602, Florida Statutes, is amended to read:

600 395.602 Rural hospitals.—

601 (2) DEFINITIONS.—As used in this part:

602 (e) "Rural hospital" means an acute care hospital licensed
 603 under this chapter, having 100 or fewer licensed beds and an
 604 emergency room, which is:

605 1. The sole provider within a county with a population
 606 density of no greater than 100 persons per square mile;

607 2. An acute care hospital, in a county with a population
 608 density of no greater than 100 persons per square mile, which is
 609 at least 30 minutes of travel time, on normally traveled roads
 610 under normal traffic conditions, from any other acute care
 611 hospital within the same county;

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612 3. A hospital supported by a tax district or subdistrict
613 whose boundaries encompass a population of 100 persons or fewer
614 per square mile;

615 ~~4. A hospital in a constitutional charter county with a~~
616 ~~population of over 1 million persons that has imposed a local~~
617 ~~option health service tax pursuant to law and in an area that~~
618 ~~was directly impacted by a catastrophic event on August 24,~~
619 ~~1992, for which the Governor of Florida declared a state of~~
620 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~
621 ~~serves an agricultural community with an emergency room~~
622 ~~utilization of no less than 20,000 visits and a Medicaid~~
623 ~~inpatient utilization rate greater than 15 percent;~~

624 4.5. A hospital with a service area that has a population
625 of 100 persons or fewer per square mile. As used in this
626 subparagraph, the term "service area" means the fewest number of
627 zip codes that account for 75 percent of the hospital's
628 discharges for the most recent 5-year period, based on
629 information available from the hospital inpatient discharge
630 database in the Florida Center for Health Information and Policy
631 Analysis at the Agency for Health Care Administration; or

632 5.6. A hospital designated as a critical access hospital,
633 as defined in s. 408.07(15).

634
635 Population densities used in this paragraph must be based upon
636 the most recently completed United States census. A hospital
637 that received funds under s. 409.9116 for a quarter beginning no
638 later than July 1, 2002, is deemed to have been and shall
639 continue to be a rural hospital from that date through June 30,

640 2015, if the hospital continues to have 100 or fewer licensed
 641 beds and an emergency room, ~~or meets the criteria of~~
 642 ~~subparagraph 4~~. An acute care hospital that has not previously
 643 been designated as a rural hospital and that meets the criteria
 644 of this paragraph shall be granted such designation upon
 645 application, including supporting documentation to the Agency
 646 for Health Care Administration.

647 Section 19. Subsection (8) of section 400.021, Florida
 648 Statutes, is amended to read:

649 400.021 Definitions.—When used in this part, unless the
 650 context otherwise requires, the term:

651 (8) "Geriatric outpatient clinic" means a site for
 652 providing outpatient health care to persons 60 years of age or
 653 older, which is staffed by a registered nurse or a physician
 654 assistant, or a licensed practical nurse under the direct
 655 supervision of a registered nurse, advanced registered nurse
 656 practitioner, or physician assistant.

657 Section 20. Subsection (2) of section 400.063, Florida
 658 Statutes, is amended to read:

659 400.063 Resident protection.—

660 (2) The agency is authorized to establish for each
 661 facility, subject to intervention by the agency, a separate bank
 662 account for the deposit to the credit of the agency of any
 663 moneys received from the Health Care Trust Fund or any other
 664 moneys received for the maintenance and care of residents in the
 665 facility, and the agency is authorized to disburse moneys from
 666 such account to pay obligations incurred for the purposes of
 667 this section. The agency is authorized to requisition moneys

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668 from the Health Care Trust Fund in advance of an actual need for
 669 cash on the basis of an estimate by the agency of moneys to be
 670 spent under the authority of this section. Any bank account
 671 established under this section need not be approved in advance
 672 of its creation as required by s. 17.58, but shall be secured by
 673 depository insurance equal to or greater than the balance of
 674 such account or by the pledge of collateral security ~~in~~
 675 ~~conformance with criteria established in s. 18.11.~~ The agency
 676 shall notify the Chief Financial Officer of any such account so
 677 established and shall make a quarterly accounting to the Chief
 678 Financial Officer for all moneys deposited in such account.

679 Section 21. Subsections (1) and (5) of section 400.071,
 680 Florida Statutes, are amended to read:

681 400.071 Application for license.—

682 (1) In addition to the requirements of part II of chapter
 683 408, the application for a license shall be under oath and must
 684 contain the following:

685 (a) The location of the facility for which a license is
 686 sought and an indication, as in the original application, that
 687 such location conforms to the local zoning ordinances.

688 ~~(b) A signed affidavit disclosing any financial or~~
 689 ~~ownership interest that a controlling interest as defined in~~
 690 ~~part II of chapter 408 has held in the last 5 years in any~~
 691 ~~entity licensed by this state or any other state to provide~~
 692 ~~health or residential care which has closed voluntarily or~~
 693 ~~involuntarily; has filed for bankruptcy; has had a receiver~~
 694 ~~appointed; has had a license denied, suspended, or revoked; or~~
 695 ~~has had an injunction issued against it which was initiated by a~~

696 ~~regulatory agency. The affidavit must disclose the reason any~~
 697 ~~such entity was closed, whether voluntarily or involuntarily.~~

698 ~~(c) The total number of beds and the total number of~~
 699 ~~Medicare and Medicaid certified beds.~~

700 (b) ~~(d)~~ Information relating to the applicant and employees
 701 which the agency requires by rule. The applicant must
 702 demonstrate that sufficient numbers of qualified staff, by
 703 training or experience, will be employed to properly care for
 704 the type and number of residents who will reside in the
 705 facility.

706 (c) ~~(e)~~ Copies of any civil verdict or judgment involving
 707 the applicant rendered within the 10 years preceding the
 708 application, relating to medical negligence, violation of
 709 residents' rights, or wrongful death. As a condition of
 710 licensure, the licensee agrees to provide to the agency copies
 711 of any new verdict or judgment involving the applicant, relating
 712 to such matters, within 30 days after filing with the clerk of
 713 the court. The information required in this paragraph shall be
 714 maintained in the facility's licensure file and in an agency
 715 database which is available as a public record.

716 (5) As a condition of licensure, each facility must
 717 establish ~~and submit with its application~~ a plan for quality
 718 assurance and for conducting risk management.

719 Section 22. Section 400.0712, Florida Statutes, is amended
 720 to read:

721 400.0712 Application for inactive license.—

722 ~~(1) As specified in this section, the agency may issue an~~
 723 ~~inactive license to a nursing home facility for all or a portion~~

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724 ~~of its beds. Any request by a licensee that a nursing home or~~
725 ~~portion of a nursing home become inactive must be submitted to~~
726 ~~the agency in the approved format. The facility may not initiate~~
727 ~~any suspension of services, notify residents, or initiate~~
728 ~~inactivity before receiving approval from the agency; and a~~
729 ~~licensee that violates this provision may not be issued an~~
730 ~~inactive license.~~

731 (1)~~(2)~~ In addition to the powers granted under part II of
732 chapter 408, the agency may issue an inactive license to a
733 nursing home that chooses to use an unoccupied contiguous
734 portion of the facility for an alternative use to meet the needs
735 of elderly persons through the use of less restrictive, less
736 institutional services.

737 (a) An inactive license issued under this subsection may
738 be granted for a period not to exceed the current licensure
739 expiration date but may be renewed by the agency at the time of
740 licensure renewal.

741 (b) A request to extend the inactive license must be
742 submitted to the agency in the approved format and approved by
743 the agency in writing.

744 (c) Nursing homes that receive an inactive license to
745 provide alternative services shall not receive preference for
746 participation in the Assisted Living for the Elderly Medicaid
747 waiver.

748 (2)~~(3)~~ The agency shall adopt rules pursuant to ss.
749 120.536(1) and 120.54 necessary to implement this section.

750 Section 23. Section 400.111, Florida Statutes, is amended
751 to read:

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752 400.111 Disclosure of controlling interest.—In addition to
 753 the requirements of part II of chapter 408, when requested by
 754 the agency, the licensee shall submit a signed affidavit
 755 disclosing any financial or ownership interest that a
 756 controlling interest has held within the last 5 years in any
 757 entity licensed by the state or any other state to provide
 758 health or residential care which entity has closed voluntarily
 759 or involuntarily; has filed for bankruptcy; has had a receiver
 760 appointed; has had a license denied, suspended, or revoked; or
 761 has had an injunction issued against it which was initiated by a
 762 regulatory agency. The affidavit must disclose the reason such
 763 entity was closed, whether voluntarily or involuntarily.

764 Section 24. Subsection (2) of section 400.1183, Florida
 765 Statutes, is amended to read:

766 400.1183 Resident grievance procedures.—

767 (2) Each facility shall maintain records of all grievances
 768 for agency inspection ~~and shall report to the agency at the time~~
 769 ~~of relicensure the total number of grievances handled during the~~
 770 ~~prior licensure period, a categorization of the cases underlying~~
 771 ~~the grievances, and the final disposition of the grievances.~~

772 Section 25. Paragraphs (o) through (w) of subsection (1)
 773 of section 400.141, Florida Statutes, are redesignated as
 774 paragraphs (n) through (u), respectively, and present paragraphs
 775 (g), (j), (n), and (o) of that subsection are amended, to read:

776 400.141 Administration and management of nursing home
 777 facilities.—

778 (1) Every licensed facility shall comply with all
 779 applicable standards and rules of the agency and shall:

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780 (g) If the facility has a standard license or is a Gold
781 Seal facility, exceeds the minimum required hours of licensed
782 nursing and certified nursing assistant direct care per resident
783 per day, and is part of a continuing care facility licensed
784 under chapter 651 or a retirement community that offers other
785 services pursuant to part III of this chapter or part I or part
786 III of chapter 429 on a single campus, be allowed to share
787 programming and staff. At the time of inspection and in the
788 semiannual report required pursuant to paragraph (n) ~~(e)~~, a
789 continuing care facility or retirement community that uses this
790 option must demonstrate through staffing records that minimum
791 staffing requirements for the facility were met. Licensed nurses
792 and certified nursing assistants who work in the nursing home
793 facility may be used to provide services elsewhere on campus if
794 the facility exceeds the minimum number of direct care hours
795 required per resident per day and the total number of residents
796 receiving direct care services from a licensed nurse or a
797 certified nursing assistant does not cause the facility to
798 violate the staffing ratios required under s. 400.23(3)(a).
799 Compliance with the minimum staffing ratios shall be based on
800 total number of residents receiving direct care services,
801 regardless of where they reside on campus. If the facility
802 receives a conditional license, it may not share staff until the
803 conditional license status ends. This paragraph does not
804 restrict the agency's authority under federal or state law to
805 require additional staff if a facility is cited for deficiencies
806 in care which are caused by an insufficient number of certified
807 nursing assistants or licensed nurses. The agency may adopt

808 rules for the documentation necessary to determine compliance
 809 with this provision.

810 (j) Keep full records of resident admissions and
 811 discharges; medical and general health status, including medical
 812 records, personal and social history, and identity and address
 813 of next of kin or other persons who may have responsibility for
 814 the affairs of the residents; and individual resident care plans
 815 including, but not limited to, prescribed services, service
 816 frequency and duration, and service goals. The records shall be
 817 open to inspection by the agency. The facility must maintain
 818 clinical records on each resident in accordance with accepted
 819 professional standards and practices that are complete,
 820 accurately documented, readily accessible, and systematically
 821 organized.

822 ~~(n) Submit to the agency the information specified in s.~~
 823 ~~400.071(1)(b) for a management company within 30 days after the~~
 824 ~~effective date of the management agreement.~~

825 (n)~~(e)~~1. Submit semiannually to the agency, or more
 826 frequently if requested by the agency, information regarding
 827 facility staff-to-resident ratios, staff turnover, and staff
 828 stability, including information regarding certified nursing
 829 assistants, licensed nurses, the director of nursing, and the
 830 facility administrator. For purposes of this reporting:

831 a. Staff-to-resident ratios must be reported in the
 832 categories specified in s. 400.23(3)(a) and applicable rules.
 833 The ratio must be reported as an average for the most recent
 834 calendar quarter.

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835 b. Staff turnover must be reported for the most recent 12-
836 month period ending on the last workday of the most recent
837 calendar quarter prior to the date the information is submitted.
838 The turnover rate must be computed quarterly, with the annual
839 rate being the cumulative sum of the quarterly rates. The
840 turnover rate is the total number of terminations or separations
841 experienced during the quarter, excluding any employee
842 terminated during a probationary period of 3 months or less,
843 divided by the total number of staff employed at the end of the
844 period for which the rate is computed, and expressed as a
845 percentage.

846 c. The formula for determining staff stability is the
847 total number of employees that have been employed for more than
848 12 months, divided by the total number of employees employed at
849 the end of the most recent calendar quarter, and expressed as a
850 percentage.

851 d. A nursing facility that has failed to comply with state
852 minimum-staffing requirements for 2 consecutive days is
853 prohibited from accepting new admissions until the facility has
854 achieved the minimum-staffing requirements for a period of 6
855 consecutive days. For the purposes of this sub-subparagraph, any
856 person who was a resident of the facility and was absent from
857 the facility for the purpose of receiving medical care at a
858 separate location or was on a leave of absence is not considered
859 a new admission. Failure to impose such an admissions moratorium
860 is subject to a \$1,000 fine ~~constitutes a class II deficiency.~~

861 e. A nursing facility which does not have a conditional
862 license may be cited for failure to comply with the standards in

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863 s. 400.23(3)(a)1.a. only if it has failed to meet those
 864 standards on 2 consecutive days or if it has failed to meet at
 865 least 97 percent of those standards on any one day.

866 f. A facility which has a conditional license must be in
 867 compliance with the standards in s. 400.23(3)(a) at all times.

868 2. This paragraph does not limit the agency's ability to
 869 impose a deficiency or take other actions if a facility does not
 870 have enough staff to meet the residents' needs.

871 Section 26. Subsection (3) of section 400.142, Florida
 872 Statutes, is amended to read:

873 400.142 Emergency medication kits; orders not to
 874 resuscitate.—

875 (3) Facility staff may withhold or withdraw
 876 cardiopulmonary resuscitation if presented with an order not to
 877 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
 878 ~~adopt rules providing for the implementation of such orders.~~
 879 Facility staff and facilities shall not be subject to criminal
 880 prosecution or civil liability, nor be considered to have
 881 engaged in negligent or unprofessional conduct, for withholding
 882 or withdrawing cardiopulmonary resuscitation pursuant to such an
 883 order and rules adopted by the agency. The absence of an order
 884 not to resuscitate executed pursuant to s. 401.45 does not
 885 preclude a physician from withholding or withdrawing
 886 cardiopulmonary resuscitation as otherwise permitted by law.

887 Section 27. Subsections (11) through (15) of section
 888 400.147, Florida Statutes, are renumbered as subsections (10)
 889 through (14), respectively, and present subsection (10) is
 890 amended to read:

891 400.147 Internal risk management and quality assurance
 892 program.—

893 ~~(10) By the 10th of each month, each facility subject to~~
 894 ~~this section shall report any notice received pursuant to s.~~
 895 ~~400.0233(2) and each initial complaint that was filed with the~~
 896 ~~clerk of the court and served on the facility during the~~
 897 ~~previous month by a resident or a resident's family member,~~
 898 ~~guardian, conservator, or personal legal representative. The~~
 899 ~~report must include the name of the resident, the resident's~~
 900 ~~date of birth and social security number, the Medicaid~~
 901 ~~identification number for Medicaid-eligible persons, the date or~~
 902 ~~dates of the incident leading to the claim or dates of~~
 903 ~~residency, if applicable, and the type of injury or violation of~~
 904 ~~rights alleged to have occurred. Each facility shall also submit~~
 905 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~
 906 ~~complaints filed with the clerk of the court. This report is~~
 907 ~~confidential as provided by law and is not discoverable or~~
 908 ~~admissible in any civil or administrative action, except in such~~
 909 ~~actions brought by the agency to enforce the provisions of this~~
 910 ~~part.~~

911 Section 28. Section 400.148, Florida Statutes, is
 912 repealed.

913 Section 29. Paragraph (f) of subsection (5) of section
 914 400.162, Florida Statutes, is amended to read:

915 400.162 Property and personal affairs of residents.—

916 (5)

917 (f) At least every 3 months, the licensee shall furnish
 918 the resident and the guardian, trustee, or conservator, if any,

919 | for the resident a complete and verified statement of all funds
 920 | ~~and other property~~ to which this subsection applies, detailing
 921 | the amounts ~~and items~~ received, together with their sources and
 922 | disposition. For resident property, the licensee shall furnish
 923 | such a statement annually and within 7 calendar days after a
 924 | request for a statement. In any event, the licensee shall
 925 | furnish such statements ~~a statement~~ annually and upon the
 926 | discharge or transfer of a resident. Any governmental agency or
 927 | private charitable agency contributing funds or other property
 928 | on account of a resident also shall be entitled to receive such
 929 | statements ~~statement~~ annually and upon discharge or transfer and
 930 | such other report as it may require pursuant to law.

931 | Section 30. Paragraphs (d) and (e) of subsection (2) of
 932 | section 400.179, Florida Statutes, are amended to read:

933 | 400.179 Liability for Medicaid underpayments and
 934 | overpayments.—

935 | (2) Because any transfer of a nursing facility may expose
 936 | the fact that Medicaid may have underpaid or overpaid the
 937 | transferor, and because in most instances, any such underpayment
 938 | or overpayment can only be determined following a formal field
 939 | audit, the liabilities for any such underpayments or
 940 | overpayments shall be as follows:

941 | (d) Where the transfer involves a facility that has been
 942 | leased by the transferor:

943 | 1. The transferee shall, as a condition to being issued a
 944 | license by the agency, acquire, maintain, and provide proof to
 945 | the agency of a bond with a term of 30 months, renewable
 946 | annually, in an amount not less than the total of 3 months'

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947 Medicaid payments to the facility computed on the basis of the
948 preceding 12-month average Medicaid payments to the facility.

949 2. A leasehold licensee may meet the requirements of
950 subparagraph 1. by payment of a nonrefundable fee, paid at
951 initial licensure, paid at the time of any subsequent change of
952 ownership, and paid annually thereafter, in the amount of 1
953 percent of the total of 3 months' Medicaid payments to the
954 facility computed on the basis of the preceding 12-month average
955 Medicaid payments to the facility. If a preceding 12-month
956 average is not available, projected Medicaid payments may be
957 used. The fee shall be deposited into the Grants and Donations
958 Trust Fund and shall be accounted for separately as a Medicaid
959 nursing home overpayment account. These fees shall be used at
960 the sole discretion of the agency to repay nursing home Medicaid
961 overpayments. Payment of this fee shall not release the licensee
962 from any liability for any Medicaid overpayments, nor shall
963 payment bar the agency from seeking to recoup overpayments from
964 the licensee and any other liable party. As a condition of
965 exercising this lease bond alternative, licensees paying this
966 fee must maintain an existing lease bond through the end of the
967 30-month term period of that bond. The agency is herein granted
968 specific authority to promulgate all rules pertaining to the
969 administration and management of this account, including
970 withdrawals from the account, subject to federal review and
971 approval. This provision shall take effect upon becoming law and
972 shall apply to any leasehold license application. The financial
973 viability of the Medicaid nursing home overpayment account shall
974 be determined by the agency through annual review of the account

975 balance and the amount of total outstanding, unpaid Medicaid
 976 overpayments owing from leasehold licensees to the agency as
 977 determined by final agency audits. By March 31 of each year, the
 978 agency shall assess the cumulative fees collected under this
 979 subparagraph, minus any amounts used to repay nursing home
 980 Medicaid overpayments. If the net cumulative collections, minus
 981 amounts utilized to repay nursing home Medicaid overpayments,
 982 exceed \$25 million, the provisions of this paragraph shall not
 983 apply for the subsequent fiscal year.

984 3. The leasehold licensee may meet the bond requirement
 985 through other arrangements acceptable to the agency. The agency
 986 is herein granted specific authority to promulgate rules
 987 pertaining to lease bond arrangements.

988 4. All existing nursing facility licensees, operating the
 989 facility as a leasehold, shall acquire, maintain, and provide
 990 proof to the agency of the 30-month bond required in
 991 subparagraph 1., above, on and after July 1, 1993, for each
 992 license renewal.

993 5. It shall be the responsibility of all nursing facility
 994 operators, operating the facility as a leasehold, to renew the
 995 30-month bond and to provide proof of such renewal to the agency
 996 annually.

997 6. Any failure of the nursing facility operator to
 998 acquire, maintain, renew annually, or provide proof to the
 999 agency shall be grounds for the agency to deny, revoke, and
 1000 suspend the facility license to operate such facility and to
 1001 take any further action, including, but not limited to,
 1002 enjoining the facility, asserting a moratorium pursuant to part

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1003 II of chapter 408, or applying for a receiver, deemed necessary
 1004 to ensure compliance with this section and to safeguard and
 1005 protect the health, safety, and welfare of the facility's
 1006 residents. A lease agreement required as a condition of bond
 1007 financing or refinancing under s. 154.213 by a health facilities
 1008 authority or required under s. 159.30 by a county or
 1009 municipality is not a leasehold for purposes of this paragraph
 1010 and is not subject to the bond requirement of this paragraph.

1011 ~~(c) For the 2009-2010 fiscal year only, the provisions of~~
 1012 ~~paragraph (d) shall not apply. This paragraph expires July 1,~~
 1013 ~~2010.~~

1014 Section 31. Subsection (3) of section 400.19, Florida
 1015 Statutes, is amended to read:

1016 400.19 Right of entry and inspection.—

1017 (3) The agency shall every 15 months conduct at least one
 1018 unannounced inspection to determine compliance by the licensee
 1019 with statutes, and with rules promulgated under the provisions
 1020 of those statutes, governing minimum standards of construction,
 1021 quality and adequacy of care, and rights of residents. The
 1022 survey shall be conducted every 6 months for the next 2-year
 1023 period if the facility has been cited for a class I deficiency,
 1024 has been cited for two or more class II deficiencies arising
 1025 from separate surveys or investigations within a 60-day period,
 1026 or has had three or more substantiated complaints within a 6-
 1027 month period, each resulting in at least one class I or class II
 1028 deficiency. In addition to any other fees or fines in this part,
 1029 the agency shall assess a fine for each facility that is subject
 1030 to the 6-month survey cycle. The fine for the 2-year period

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1031 shall be \$6,000, one-half to be paid at the completion of each
 1032 survey. The agency may adjust this fine by the change in the
 1033 Consumer Price Index, based on the 12 months immediately
 1034 preceding the increase, to cover the cost of the additional
 1035 surveys. The agency shall verify through subsequent inspection
 1036 that any deficiency identified during inspection is corrected.
 1037 However, the agency may verify the correction of a class III or
 1038 class IV deficiency ~~unrelated to resident rights or resident~~
 1039 ~~care~~ without reinspecting the facility if adequate written
 1040 documentation has been received from the facility, which
 1041 provides assurance that the deficiency has been corrected. The
 1042 giving or causing to be given of advance notice of such
 1043 unannounced inspections by an employee of the agency to any
 1044 unauthorized person shall constitute cause for suspension of not
 1045 fewer than 5 working days according to the provisions of chapter
 1046 110.

1047 Section 32. Section 400.195, Florida Statutes, is
 1048 repealed.

1049 Section 33. Subsection (5) of section 400.23, Florida
 1050 Statutes, is amended to read:

1051 400.23 Rules; evaluation and deficiencies; licensure
 1052 status.—

1053 (5) The agency, in collaboration with the Division of
 1054 Children's Medical Services Network of the Department of Health,
 1055 ~~must, no later than December 31, 1993,~~ adopt rules for minimum
 1056 standards of care for persons under 21 years of age who reside
 1057 in nursing home facilities. The rules must include a methodology
 1058 for reviewing a nursing home facility under ss. 408.031-408.045

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1059 | which serves only persons under 21 years of age. A facility may
 1060 | be exempt from these standards for specific persons between 18
 1061 | and 21 years of age, if the person's physician agrees that
 1062 | minimum standards of care based on age are not necessary.

1063 | Section 34. Subsection (1) of section 400.275, Florida
 1064 | Statutes, is amended to read:

1065 | 400.275 Agency duties.—

1066 | (1) ~~The agency shall ensure that each newly hired nursing~~
 1067 | ~~home surveyor, as a part of basic training, is assigned full-~~
 1068 | ~~time to a licensed nursing home for at least 2 days within a 7-~~
 1069 | ~~day period to observe facility operations outside of the survey~~
 1070 | ~~process before the surveyor begins survey responsibilities. Such~~
 1071 | ~~observations may not be the sole basis of a deficiency citation~~
 1072 | ~~against the facility.~~ The agency may not assign an individual to
 1073 | be a member of a survey team for purposes of a survey,
 1074 | evaluation, or consultation visit at a nursing home facility in
 1075 | which the surveyor was an employee within the preceding 2 ~~5~~
 1076 | years.

1077 | Section 35. Subsection (2) of section 400.484, Florida
 1078 | Statutes, is amended to read:

1079 | 400.484 Right of inspection; violations ~~deficiencies~~;
 1080 | fines.—

1081 | (2) The agency shall impose fines for various classes of
 1082 | violations ~~deficiencies~~ in accordance with the following
 1083 | schedule:

1084 | (a) Class I violations are defined in s. 408.813. ~~A class~~
 1085 | ~~I deficiency is any act, omission, or practice that results in a~~
 1086 | ~~patient's death, disablement, or permanent injury, or places a~~

1087 ~~patient at imminent risk of death, disablement, or permanent~~
 1088 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency
 1089 shall impose an administrative fine in the amount of \$15,000 for
 1090 each occurrence and each day that the violation ~~deficiency~~
 1091 exists.

1092 (b) Class II violations are defined in s. 408.813. ~~A class~~
 1093 ~~II deficiency is any act, omission, or practice that has a~~
 1094 ~~direct adverse effect on the health, safety, or security of a~~
 1095 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the
 1096 agency shall impose an administrative fine in the amount of
 1097 \$5,000 for each occurrence and each day that the violation
 1098 ~~deficiency~~ exists.

1099 (c) Class III violations are defined in s. 408.813. ~~A~~
 1100 ~~class III deficiency is any act, omission, or practice that has~~
 1101 ~~an indirect, adverse effect on the health, safety, or security~~
 1102 ~~of a patient.~~ Upon finding an uncorrected or repeated class III
 1103 violation ~~deficiency~~, the agency shall impose an administrative
 1104 fine not to exceed \$1,000 for each occurrence and each day that
 1105 the uncorrected or repeated violation ~~deficiency~~ exists.

1106 (d) Class IV violations are defined in s. 408.813. ~~A class~~
 1107 ~~IV deficiency is any act, omission, or practice related to~~
 1108 ~~required reports, forms, or documents which does not have the~~
 1109 ~~potential of negatively affecting patients. These violations are~~
 1110 ~~of a type that the agency determines do not threaten the health,~~
 1111 ~~safety, or security of patients.~~ Upon finding an uncorrected or
 1112 repeated class IV violation ~~deficiency~~, the agency shall impose
 1113 an administrative fine not to exceed \$500 for each occurrence

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1114 and each day that the uncorrected or repeated violation
 1115 ~~deficiency~~ exists.

1116 Section 36. Paragraph (i) of subsection (1) and subsection
 1117 (4) of section 400.606, Florida Statutes, are amended to read:

1118 400.606 License; application; renewal; conditional license
 1119 or permit; certificate of need.—

1120 (1) In addition to the requirements of part II of chapter
 1121 408, the initial application and change of ownership application
 1122 must be accompanied by a plan for the delivery of home,
 1123 residential, and homelike inpatient hospice services to
 1124 terminally ill persons and their families. Such plan must
 1125 contain, but need not be limited to:

1126 ~~(i) The projected annual operating cost of the hospice.~~

1127
 1128 If the applicant is an existing licensed health care provider,
 1129 the application must be accompanied by a copy of the most recent
 1130 profit-loss statement and, if applicable, the most recent
 1131 licensure inspection report.

1132 (4) A freestanding hospice facility that is ~~primarily~~
 1133 engaged in providing inpatient and related services and that is
 1134 not otherwise licensed as a health care facility shall be
 1135 required to obtain a certificate of need. However, a
 1136 freestanding hospice facility with six or fewer beds shall not
 1137 be required to comply with institutional standards such as, but
 1138 not limited to, standards requiring sprinkler systems, emergency
 1139 electrical systems, or special lavatory devices.

1140 Section 37. Subsection (2) of section 400.607, Florida
 1141 Statutes, is amended to read:

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1142 400.607 Denial, suspension, revocation of license;
 1143 emergency actions; imposition of administrative fine; grounds.-

1144 (2) A violation of this part, part II of chapter 408, or
 1145 applicable rules ~~Any of the following actions~~ by a licensed
 1146 hospice or any of its employees shall be grounds for
 1147 administrative action by the agency against a hospice.†

1148 ~~(a) A violation of the provisions of this part, part II of~~
 1149 ~~chapter 408, or applicable rules.~~

1150 ~~(b) An intentional or negligent act materially affecting~~
 1151 ~~the health or safety of a patient.~~

1152 Section 38. Subsection (1) of section 400.925, Florida
 1153 Statutes, is amended to read:

1154 400.925 Definitions.-As used in this part, the term:

1155 (1) "Accrediting organizations" means The Joint Commission
 1156 ~~on Accreditation of Healthcare Organizations~~ or other national
 1157 accreditation agencies whose standards for accreditation are
 1158 comparable to those required by this part for licensure.

1159 Section 39. Subsections (3) through (6) of section
 1160 400.931, Florida Statutes, are renumbered as subsections (2)
 1161 through (5), respectively, and present subsection (2) of that
 1162 section is amended to read:

1163 400.931 Application for license; fee; ~~provisional license;~~
 1164 ~~temporary permit.~~

1165 ~~(2) As an alternative to submitting proof of financial~~
 1166 ~~ability to operate as required in s. 408.810(8), the applicant~~
 1167 ~~may submit a \$50,000 surety bond to the agency.~~

1168 Section 40. Subsection (2) of section 400.932, Florida
 1169 Statutes, is amended to read:

1170 400.932 Administrative penalties.—
 1171 (2) A violation of this part, part II of chapter 408, or
 1172 applicable rules ~~Any of the following actions~~ by an employee of
 1173 a home medical equipment provider shall be ~~are~~ grounds for
 1174 administrative action or penalties by the agency.†

1175 ~~(a) Violation of this part, part II of chapter 408, or~~
 1176 ~~applicable rules.~~

1177 ~~(b) An intentional, reckless, or negligent act that~~
 1178 ~~materially affects the health or safety of a patient.~~

1179 Section 41. Subsection (3) of section 400.967, Florida
 1180 Statutes, is amended to read:

1181 400.967 Rules and classification of violations
 1182 ~~deficiencies.~~—

1183 (3) The agency shall adopt rules to provide that, when the
 1184 criteria established under this part and part II of chapter 408
 1185 are not met, such violations ~~deficiencies~~ shall be classified
 1186 according to the nature of the violation ~~deficiency~~. The agency
 1187 shall indicate the classification on the face of the notice of
 1188 deficiencies as follows:

1189 (a) Class I violations ~~deficiencies~~ are defined in s.
 1190 408.813 ~~those which the agency determines present an imminent~~
 1191 ~~danger to the residents or guests of the facility or a~~
 1192 ~~substantial probability that death or serious physical harm~~
 1193 ~~would result therefrom. The condition or practice constituting a~~
 1194 ~~class I violation must be abated or eliminated immediately,~~
 1195 ~~unless a fixed period of time, as determined by the agency, is~~
 1196 ~~required for correction.~~ A class I violation ~~deficiency~~ is
 1197 subject to a civil penalty in an amount not less than \$5,000 and

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1198 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may
 1199 be levied notwithstanding the correction of the violation
 1200 ~~deficiency~~.

1201 (b) Class II violations ~~deficiencies~~ are defined in s.
 1202 408.813 ~~those which the agency determines have a direct or~~
 1203 ~~immediate relationship to the health, safety, or security of the~~
 1204 ~~facility residents, other than class I deficiencies~~. A class II
 1205 violation ~~deficiency~~ is subject to a civil penalty in an amount
 1206 not less than \$1,000 and not exceeding \$5,000 for each violation
 1207 ~~deficiency~~. A citation for a class II violation ~~deficiency~~ shall
 1208 specify the time within which the violation ~~deficiency~~ must be
 1209 corrected. If a class II violation ~~deficiency~~ is corrected
 1210 within the time specified, no civil penalty shall be imposed,
 1211 unless it is a repeated offense.

1212 (c) Class III violations ~~deficiencies~~ are defined in s.
 1213 408.813 ~~those which the agency determines to have an indirect or~~
 1214 ~~potential relationship to the health, safety, or security of the~~
 1215 ~~facility residents, other than class I or class II deficiencies~~.
 1216 A class III violation ~~deficiency~~ is subject to a civil penalty
 1217 of not less than \$500 and not exceeding \$1,000 for each
 1218 deficiency. A citation for a class III violation ~~deficiency~~
 1219 shall specify the time within which the violation ~~deficiency~~
 1220 must be corrected. If a class III violation ~~deficiency~~ is
 1221 corrected within the time specified, no civil penalty shall be
 1222 imposed, unless it is a repeated offense.

1223 (d) Class IV violations are defined in s. 408.813. Upon
 1224 finding an uncorrected or repeated class IV violation, the
 1225 agency shall impose an administrative fine not to exceed \$500

1226 | for each occurrence and each day that the uncorrected or
 1227 | repeated violation exists.

1228 | Section 42. Subsections (4) and (7) of section 400.9905,
 1229 | Florida Statutes, are amended to read:

1230 | 400.9905 Definitions.—

1231 | (4) "Clinic" means an entity at which health care services
 1232 | are provided to individuals and which tenders charges for
 1233 | reimbursement for such services, including a mobile clinic and a
 1234 | portable health service or equipment provider. For purposes of
 1235 | this part, the term does not include and the licensure
 1236 | requirements of this part do not apply to:

1237 | (a) Entities licensed or registered by the state under
 1238 | chapter 395; or entities licensed or registered by the state and
 1239 | providing only health care services within the scope of services
 1240 | authorized under their respective licenses granted under ss.
 1241 | 383.30-383.335, chapter 390, chapter 394, chapter 397, this
 1242 | chapter except part X, chapter 429, chapter 463, chapter 465,
 1243 | chapter 466, chapter 478, part I of chapter 483, chapter 484, or
 1244 | chapter 651; end-stage renal disease providers authorized under
 1245 | 42 C.F.R. part 405, subpart U; or providers certified under 42
 1246 | C.F.R. part 485, subpart B or subpart H; or any entity that
 1247 | provides neonatal or pediatric hospital-based health care
 1248 | services or other health care services by licensed practitioners
 1249 | solely within a hospital licensed under chapter 395.

1250 | (b) Entities that own, directly or indirectly, entities
 1251 | licensed or registered by the state pursuant to chapter 395; or
 1252 | entities that own, directly or indirectly, entities licensed or
 1253 | registered by the state and providing only health care services

1254 within the scope of services authorized pursuant to their
 1255 respective licenses granted under ss. 383.30-383.335, chapter
 1256 390, chapter 394, chapter 397, this chapter except part X,
 1257 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
 1258 part I of chapter 483, chapter 484, chapter 651; end-stage renal
 1259 disease providers authorized under 42 C.F.R. part 405, subpart
 1260 U; or providers certified under 42 C.F.R. part 485, subpart B or
 1261 subpart H; or any entity that provides neonatal or pediatric
 1262 hospital-based health care services by licensed practitioners
 1263 solely within a hospital licensed under chapter 395.

1264 (c) Entities that are owned, directly or indirectly, by an
 1265 entity licensed or registered by the state pursuant to chapter
 1266 395; or entities that are owned, directly or indirectly, by an
 1267 entity licensed or registered by the state and providing only
 1268 health care services within the scope of services authorized
 1269 pursuant to their respective licenses granted under ss. 383.30-
 1270 383.335, chapter 390, chapter 394, chapter 397, this chapter
 1271 except part X, chapter 429, chapter 463, chapter 465, chapter
 1272 466, chapter 478, part I of chapter 483, chapter 484, or chapter
 1273 651; end-stage renal disease providers authorized under 42
 1274 C.F.R. part 405, subpart U; or providers certified under 42
 1275 C.F.R. part 485, subpart B or subpart H; or any entity that
 1276 provides neonatal or pediatric hospital-based health care
 1277 services by licensed practitioners solely within a hospital
 1278 under chapter 395.

1279 (d) Entities that are under common ownership, directly or
 1280 indirectly, with an entity licensed or registered by the state
 1281 pursuant to chapter 395; or entities that are under common

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1282 ownership, directly or indirectly, with an entity licensed or
1283 registered by the state and providing only health care services
1284 within the scope of services authorized pursuant to their
1285 respective licenses granted under ss. 383.30-383.335, chapter
1286 390, chapter 394, chapter 397, this chapter except part X,
1287 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
1288 part I of chapter 483, chapter 484, or chapter 651; end-stage
1289 renal disease providers authorized under 42 C.F.R. part 405,
1290 subpart U; or providers certified under 42 C.F.R. part 485,
1291 subpart B or subpart H; or any entity that provides neonatal or
1292 pediatric hospital-based health care services by licensed
1293 practitioners solely within a hospital licensed under chapter
1294 395.

1295 (e) An entity that is exempt from federal taxation under
1296 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
1297 under 26 U.S.C. s. 409 that has a board of trustees not less
1298 than two-thirds of which are Florida-licensed health care
1299 practitioners and provides only physical therapy services under
1300 physician orders, any community college or university clinic,
1301 and any entity owned or operated by the federal or state
1302 government, including agencies, subdivisions, or municipalities
1303 thereof.

1304 (f) A sole proprietorship, group practice, partnership, or
1305 corporation that provides health care services by physicians
1306 covered by s. 627.419, that is directly supervised by one or
1307 more of such physicians, and that is wholly owned by one or more
1308 of those physicians or by a physician and the spouse, parent,
1309 child, or sibling of that physician.

1310 (g) A sole proprietorship, group practice, partnership, or
 1311 corporation that provides health care services by licensed
 1312 health care practitioners under chapter 457, chapter 458,
 1313 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 1314 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
 1315 chapter 490, chapter 491, or part I, part III, part X, part
 1316 XIII, or part XIV of chapter 468, or s. 464.012, which are
 1317 wholly owned by one or more licensed health care practitioners,
 1318 or the licensed health care practitioners set forth in this
 1319 paragraph and the spouse, parent, child, or sibling of a
 1320 licensed health care practitioner, so long as one of the owners
 1321 who is a licensed health care practitioner is supervising the
 1322 business activities and is legally responsible for the entity's
 1323 compliance with all federal and state laws. However, a health
 1324 care practitioner may not supervise services beyond the scope of
 1325 the practitioner's license, except that, for the purposes of
 1326 this part, a clinic owned by a licensee in s. 456.053(3)(b) that
 1327 provides only services authorized pursuant to s. 456.053(3)(b)
 1328 may be supervised by a licensee specified in s. 456.053(3)(b).

1329 (h) Clinical facilities affiliated with an accredited
 1330 medical school at which training is provided for medical
 1331 students, residents, or fellows.

1332 (i) Entities that provide only oncology or radiation
 1333 therapy services by physicians licensed under chapter 458 or
 1334 chapter 459 or entities that provide oncology or radiation
 1335 therapy services by physicians licensed under chapter 458 or
 1336 chapter 459 which are owned by a corporation whose shares are
 1337 publicly traded on a recognized stock exchange.

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1338 (j) Clinical facilities affiliated with a college of
 1339 chiropractic accredited by the Council on Chiropractic Education
 1340 at which training is provided for chiropractic students.

1341 (k) Entities that provide licensed practitioners to staff
 1342 emergency departments or to deliver anesthesia services in
 1343 facilities licensed under chapter 395 and that derive at least
 1344 90 percent of their gross annual revenues from the provision of
 1345 such services. Entities claiming an exemption from licensure
 1346 under this paragraph must provide documentation demonstrating
 1347 compliance.

1348 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or
 1349 perinatology clinical facilities that are a publicly traded
 1350 corporation or that are wholly owned, directly or indirectly, by
 1351 a publicly traded corporation. As used in this paragraph, a
 1352 publicly traded corporation is a corporation that issues
 1353 securities traded on an exchange registered with the United
 1354 States Securities and Exchange Commission as a national
 1355 securities exchange.

1356 (7) "Portable health service or equipment provider" means
 1357 an entity that contracts with or employs persons to provide
 1358 portable health care services or equipment to multiple locations
 1359 ~~performing treatment or diagnostic testing of individuals,~~ that
 1360 bills third-party payors for those services, and that otherwise
 1361 meets the definition of a clinic in subsection (4).

1362 Section 43. Paragraph (b) of subsection (1) and paragraph
 1363 (c) of subsection (4) of section 400.991, Florida Statutes, are
 1364 amended to read:

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1365 400.991 License requirements; background screenings;
 1366 prohibitions.-

1367 (1)

1368 (b) Each mobile clinic must obtain a separate health care
 1369 clinic license and must provide to the agency, at least
 1370 quarterly, its projected street location to enable the agency to
 1371 locate and inspect such clinic. A portable health service or
 1372 equipment provider must obtain a health care clinic license for
 1373 a single administrative office and is not required to submit
 1374 quarterly projected street locations.

1375 (4) In addition to the requirements of part II of chapter
 1376 408, the applicant must file with the application satisfactory
 1377 proof that the clinic is in compliance with this part and
 1378 applicable rules, including:

1379 (c) Proof of financial ability to operate as required
 1380 under ss. s. 408.810(8) and 408.8065. ~~As an alternative to~~
 1381 ~~submitting proof of financial ability to operate as required~~
 1382 ~~under s. 408.810(8), the applicant may file a surety bond of at~~
 1383 ~~least \$500,000 which guarantees that the clinic will act in full~~
 1384 ~~conformity with all legal requirements for operating a clinic,~~
 1385 ~~payable to the agency. The agency may adopt rules to specify~~
 1386 ~~related requirements for such surety bond.~~

1387 Section 44. Paragraph (g) of subsection (1) and paragraph
 1388 (a) of subsection (7) of section 400.9935, Florida Statutes, are
 1389 amended to read:

1390 400.9935 Clinic responsibilities.-

1391 (1) Each clinic shall appoint a medical director or clinic
 1392 director who shall agree in writing to accept legal

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1393 responsibility for the following activities on behalf of the
 1394 clinic. The medical director or the clinic director shall:
 1395 (g) Conduct systematic reviews of clinic billings to
 1396 ensure that the billings are not fraudulent or unlawful. Upon
 1397 discovery of an unlawful charge, the medical director or clinic
 1398 director shall take immediate corrective action. If the clinic
 1399 performs only the technical component of magnetic resonance
 1400 imaging, static radiographs, computed tomography, or positron
 1401 emission tomography, and provides the professional
 1402 interpretation of such services, in a fixed facility that is
 1403 accredited by The Joint Commission ~~on Accreditation of~~
 1404 ~~Healthcare Organizations~~ or the Accreditation Association for
 1405 Ambulatory Health Care, and the American College of Radiology;
 1406 and if, in the preceding quarter, the percentage of scans
 1407 performed by that clinic which was billed to all personal injury
 1408 protection insurance carriers was less than 15 percent, the
 1409 chief financial officer of the clinic may, in a written
 1410 acknowledgment provided to the agency, assume the responsibility
 1411 for the conduct of the systematic reviews of clinic billings to
 1412 ensure that the billings are not fraudulent or unlawful.

1413 (7) (a) Each clinic engaged in magnetic resonance imaging
 1414 services must be accredited by The Joint Commission ~~on~~
 1415 ~~Accreditation of Healthcare Organizations~~, the American College
 1416 of Radiology, or the Accreditation Association for Ambulatory
 1417 Health Care, within 1 year after licensure. A clinic that is
 1418 accredited by the American College of Radiology or is within the
 1419 original 1-year period after licensure and replaces its core
 1420 magnetic resonance imaging equipment shall be given 1 year after

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1421 the date on which the equipment is replaced to attain
 1422 accreditation. However, a clinic may request a single, 6-month
 1423 extension if it provides evidence to the agency establishing
 1424 that, for good cause shown, such clinic cannot be accredited
 1425 within 1 year after licensure, and that such accreditation will
 1426 be completed within the 6-month extension. After obtaining
 1427 accreditation as required by this subsection, each such clinic
 1428 must maintain accreditation as a condition of renewal of its
 1429 license. A clinic that files a change of ownership application
 1430 must comply with the original accreditation timeframe
 1431 requirements of the transferor. The agency shall deny a change
 1432 of ownership application if the clinic is not in compliance with
 1433 the accreditation requirements. When a clinic adds, replaces, or
 1434 modifies magnetic resonance imaging equipment and the
 1435 accreditation agency requires new accreditation, the clinic must
 1436 be accredited within 1 year after the date of the addition,
 1437 replacement, or modification but may request a single, 6-month
 1438 extension if the clinic provides evidence of good cause to the
 1439 agency.

1440 Section 45. Subsection (2) of section 408.034, Florida
 1441 Statutes, is amended to read:

1442 408.034 Duties and responsibilities of agency; rules.—

1443 (2) In the exercise of its authority to issue licenses to
 1444 health care facilities and health service providers, as provided
 1445 under chapters 393 and 395 and parts II, and IV, and VIII of
 1446 chapter 400, the agency may not issue a license to any health
 1447 care facility or health service provider that fails to receive a
 1448 certificate of need or an exemption for the licensed facility or

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1449 service.

1450 Section 46. Paragraph (d) of subsection (1) of section
1451 408.036, Florida Statutes, is amended to read:

1452 408.036 Projects subject to review; exemptions.—

1453 (1) APPLICABILITY.—Unless exempt under subsection (3), all
1454 health-care-related projects, as described in paragraphs (a)-
1455 (g), are subject to review and must file an application for a
1456 certificate of need with the agency. The agency is exclusively
1457 responsible for determining whether a health-care-related
1458 project is subject to review under ss. 408.031-408.045.

1459 (d) The establishment of a hospice or hospice inpatient
1460 facility, ~~except as provided in s. 408.043.~~

1461 Section 47. Subsection (2) of section 408.043, Florida
1462 Statutes, is amended to read:

1463 408.043 Special provisions.—

1464 (2) HOSPICES.—When an application is made for a
1465 certificate of need to establish or to expand a hospice, the
1466 need for such hospice shall be determined on the basis of the
1467 need for and availability of hospice services in the community.
1468 The formula on which the certificate of need is based shall
1469 discourage regional monopolies and promote competition. The
1470 inpatient hospice care component of a hospice which is a
1471 freestanding facility, or a part of a facility, ~~which is~~
1472 ~~primarily engaged in providing inpatient care and related~~
1473 ~~services~~ and is not licensed as a health care facility shall
1474 also be required to obtain a certificate of need. Provision of
1475 hospice care by any current provider of health care is a

1476 significant change in service and therefore requires a
 1477 certificate of need for such services.

1478 Section 48. Paragraph (k) of subsection (3) of section
 1479 408.05, Florida Statutes, is amended to read:

1480 408.05 Florida Center for Health Information and Policy
 1481 Analysis.—

1482 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to
 1483 produce comparable and uniform health information and statistics
 1484 for the development of policy recommendations, the agency shall
 1485 perform the following functions:

1486 (k) Develop, in conjunction with the State Consumer Health
 1487 Information and Policy Advisory Council, and implement a long-
 1488 range plan for making available health care quality measures and
 1489 financial data that will allow consumers to compare health care
 1490 services. The health care quality measures and financial data
 1491 the agency must make available shall include, but is not limited
 1492 to, pharmaceuticals, physicians, health care facilities, and
 1493 health plans and managed care entities. The agency shall submit
 1494 the initial plan to the Governor, the President of the Senate,
 1495 and the Speaker of the House of Representatives by January 1,
 1496 2006, and shall update the plan and report on the status of its
 1497 implementation annually thereafter. The agency shall also make
 1498 the plan and status report available to the public on its
 1499 Internet website. As part of the plan, the agency shall identify
 1500 the process and timeframes for implementation, any barriers to
 1501 implementation, and recommendations of changes in the law that
 1502 may be enacted by the Legislature to eliminate the barriers. As
 1503 preliminary elements of the plan, the agency shall:

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1504 1. Make available patient-safety indicators, inpatient
 1505 quality indicators, and performance outcome and patient charge
 1506 data collected from health care facilities pursuant to s.
 1507 408.061(1)(a) and (2). The terms "patient-safety indicators" and
 1508 "inpatient quality indicators" shall be as defined by the
 1509 Centers for Medicare and Medicaid Services, the National Quality
 1510 Forum, The Joint Commission ~~on Accreditation of Healthcare~~
 1511 ~~Organizations~~, the Agency for Healthcare Research and Quality,
 1512 the Centers for Disease Control and Prevention, or a similar
 1513 national entity that establishes standards to measure the
 1514 performance of health care providers, or by other states. The
 1515 agency shall determine which conditions, procedures, health care
 1516 quality measures, and patient charge data to disclose based upon
 1517 input from the council. When determining which conditions and
 1518 procedures are to be disclosed, the council and the agency shall
 1519 consider variation in costs, variation in outcomes, and
 1520 magnitude of variations and other relevant information. When
 1521 determining which health care quality measures to disclose, the
 1522 agency:

1523 a. Shall consider such factors as volume of cases; average
 1524 patient charges; average length of stay; complication rates;
 1525 mortality rates; and infection rates, among others, which shall
 1526 be adjusted for case mix and severity, if applicable.

1527 b. May consider such additional measures that are adopted
 1528 by the Centers for Medicare and Medicaid Studies, National
 1529 Quality Forum, The Joint Commission ~~on Accreditation of~~
 1530 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
 1531 Quality, Centers for Disease Control and Prevention, or a

1532 similar national entity that establishes standards to measure
 1533 the performance of health care providers, or by other states.

1534
 1535 When determining which patient charge data to disclose, the
 1536 agency shall include such measures as the average of
 1537 undiscounted charges on frequently performed procedures and
 1538 preventive diagnostic procedures, the range of procedure charges
 1539 from highest to lowest, average net revenue per adjusted patient
 1540 day, average cost per adjusted patient day, and average cost per
 1541 admission, among others.

1542 2. Make available performance measures, benefit design,
 1543 and premium cost data from health plans licensed pursuant to
 1544 chapter 627 or chapter 641. The agency shall determine which
 1545 health care quality measures and member and subscriber cost data
 1546 to disclose, based upon input from the council. When determining
 1547 which data to disclose, the agency shall consider information
 1548 that may be required by either individual or group purchasers to
 1549 assess the value of the product, which may include membership
 1550 satisfaction, quality of care, current enrollment or membership,
 1551 coverage areas, accreditation status, premium costs, plan costs,
 1552 premium increases, range of benefits, copayments and
 1553 deductibles, accuracy and speed of claims payment, credentials
 1554 of physicians, number of providers, names of network providers,
 1555 and hospitals in the network. Health plans shall make available
 1556 to the agency any such data or information that is not currently
 1557 reported to the agency or the office.

1558 3. Determine the method and format for public disclosure
 1559 of data reported pursuant to this paragraph. The agency shall

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1560 make its determination based upon input from the State Consumer
1561 Health Information and Policy Advisory Council. At a minimum,
1562 the data shall be made available on the agency's Internet
1563 website in a manner that allows consumers to conduct an
1564 interactive search that allows them to view and compare the
1565 information for specific providers. The website must include
1566 such additional information as is determined necessary to ensure
1567 that the website enhances informed decisionmaking among
1568 consumers and health care purchasers, which shall include, at a
1569 minimum, appropriate guidance on how to use the data and an
1570 explanation of why the data may vary from provider to provider.
1571 The data specified in subparagraph 1. shall be released no later
1572 than January 1, 2006, for the reporting of infection rates, and
1573 no later than October 1, 2005, for mortality rates and
1574 complication rates. The data specified in subparagraph 2. shall
1575 be released no later than October 1, 2006.

1576 4. Publish on its website undiscounted charges for no
1577 fewer than 150 of the most commonly performed adult and
1578 pediatric procedures, including outpatient, inpatient,
1579 diagnostic, and preventative procedures.

1580 Section 49. Paragraph (a) of subsection (1) of section
1581 408.061, Florida Statutes, is amended to read:

1582 408.061 Data collection; uniform systems of financial
1583 reporting; information relating to physician charges;
1584 confidential information; immunity.—

1585 (1) The agency shall require the submission by health care
1586 facilities, health care providers, and health insurers of data
1587 necessary to carry out the agency's duties. Specifications for

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1588 data to be collected under this section shall be developed by
 1589 the agency with the assistance of technical advisory panels
 1590 including representatives of affected entities, consumers,
 1591 purchasers, and such other interested parties as may be
 1592 determined by the agency.

1593 (a) Data submitted by health care facilities, including
 1594 the facilities as defined in chapter 395, shall include, but are
 1595 not limited to: case-mix data, patient admission and discharge
 1596 data, hospital emergency department data which shall include the
 1597 number of patients treated in the emergency department of a
 1598 licensed hospital reported by patient acuity level, data on
 1599 hospital-acquired infections as specified by rule, data on
 1600 complications as specified by rule, data on readmissions as
 1601 specified by rule, with patient and provider-specific
 1602 identifiers included, actual charge data by diagnostic groups,
 1603 financial data, accounting data, operating expenses, expenses
 1604 incurred for rendering services to patients who cannot or do not
 1605 pay, interest charges, depreciation expenses based on the
 1606 expected useful life of the property and equipment involved, and
 1607 demographic data. The agency shall adopt nationally recognized
 1608 risk adjustment methodologies or software consistent with the
 1609 standards of the Agency for Healthcare Research and Quality and
 1610 as selected by the agency for all data submitted as required by
 1611 this section. Data may be obtained from documents such as, but
 1612 not limited to: leases, contracts, debt instruments, itemized
 1613 patient bills, medical record abstracts, and related diagnostic
 1614 information. Reported data elements shall be reported
 1615 electronically and ~~in accordance with rule 59E-7.012, Florida~~

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1616 ~~Administrative Code. Data submitted shall be~~ certified by the
 1617 chief executive officer or an appropriate and duly authorized
 1618 representative or employee of the licensed facility that the
 1619 information submitted is true and accurate.

1620 Section 50. Section 408.10, Florida Statutes, is amended
 1621 to read:

1622 408.10 Consumer complaints.—The agency shall:

1623 ~~(1)~~ publish and make available to the public a toll-free
 1624 telephone number for the purpose of handling consumer complaints
 1625 and shall serve as a liaison between consumer entities and other
 1626 private entities and governmental entities for the disposition
 1627 of problems identified by consumers of health care.

1628 ~~(2) Be empowered to investigate consumer complaints~~
 1629 ~~relating to problems with health care facilities' billing~~
 1630 ~~practices and issue reports to be made public in any cases where~~
 1631 ~~the agency determines the health care facility has engaged in~~
 1632 ~~billing practices which are unreasonable and unfair to the~~
 1633 ~~consumer.~~

1634 Section 51. Subsections (12) through (30) of section
 1635 408.802, Florida Statutes, are renumbered as subsections (11)
 1636 through (29), respectively, and present subsection (11) of that
 1637 section is amended to read:

1638 408.802 Applicability.—The provisions of this part apply
 1639 to the provision of services that require licensure as defined
 1640 in this part and to the following entities licensed, registered,
 1641 or certified by the agency, as described in chapters 112, 383,
 1642 390, 394, 395, 400, 429, 440, 483, and 765:

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1643 ~~(11) Private review agents, as provided under part I of~~
 1644 ~~chapter 395.~~

1645 Section 52. Subsection (3) is added to section 408.804,
 1646 Florida Statutes, to read:

1647 408.804 License required; display.—

1648 (3) Any person who knowingly alters, defaces, or falsifies
 1649 a license certificate issued by the agency, or causes or
 1650 procures any person to commit such an offense, commits a
 1651 misdemeanor of the second degree, punishable as provided in s.
 1652 775.082 or s 775.083. Any licensee or provider who displays an
 1653 altered, defaced, or falsified license certificate is subject to
 1654 the penalties set forth in s. 408.815 and an administrative fine
 1655 of \$1,000 for each day of illegal display.

1656 Section 53. Paragraph (d) of subsection (2) of section
 1657 408.806, Florida Statutes, is amended, present subsections (3)
 1658 through (8) are renumbered as subsections (4) through (9),
 1659 respectively, and a new subsection (3) is added to that section,
 1660 to read:

1661 408.806 License application process.—

1662 (2)

1663 ~~(d) The agency shall notify the licensee by mail or~~
 1664 ~~electronically at least 90 days before the expiration of a~~
 1665 ~~license that a renewal license is necessary to continue~~
 1666 ~~operation.~~ The licensee's failure to timely file ~~submit~~ a
 1667 renewal application and license application fee with the agency
 1668 shall result in a \$50 per day late fee charged to the licensee
 1669 by the agency; however, the aggregate amount of the late fee may
 1670 not exceed 50 percent of the licensure fee or \$500, whichever is

1671 less. The agency shall provide a courtesy notice to the licensee
 1672 by United States mail, electronically, or by any other manner at
 1673 its address of record or mailing address, if provided, at least
 1674 90 days prior to the expiration of a license informing the
 1675 licensee of the expiration of the license. If the agency does
 1676 not provide the courtesy notice or the licensee does not receive
 1677 the courtesy notice, the licensee continues to be legally
 1678 obligated to timely file the renewal application and license
 1679 application fee with the agency and is not excused from the
 1680 payment of a late fee. If an application is received after the
 1681 ~~required filing date and exhibits a hand-canceled postmark~~
 1682 ~~obtained from a United States post office dated on or before the~~
 1683 ~~required filing date, no fine will be levied.~~

1684 (3) Payment of the late fee is required to consider any
 1685 late application complete, and failure to pay the late fee is
 1686 considered an omission from the application.

1687 Section 54. Subsections (6) and (9) of section 408.810,
 1688 Florida Statutes, are amended to read:

1689 408.810 Minimum licensure requirements.—In addition to the
 1690 licensure requirements specified in this part, authorizing
 1691 statutes, and applicable rules, each applicant and licensee must
 1692 comply with the requirements of this section in order to obtain
 1693 and maintain a license.

1694 (6)(a) An applicant must provide the agency with proof of
 1695 the applicant's legal right to occupy the property before a
 1696 license may be issued. Proof may include, but need not be
 1697 limited to, copies of warranty deeds, lease or rental
 1698 agreements, contracts for deeds, quitclaim deeds, or other such

1699 | documentation.

1700 | (b) In the event the property is encumbered by a mortgage
 1701 | or is leased, an applicant must provide the agency with proof
 1702 | that the mortgagor or landlord has been provided written notice
 1703 | of the applicant's intent as mortgagee or tenant to provide
 1704 | services that require licensure and instruct the mortgagor or
 1705 | landlord to serve the agency by certified mail with copies of
 1706 | any foreclosure or eviction actions initiated by the mortgagor
 1707 | or landlord against the applicant.

1708 | (9) A controlling interest may not withhold from the
 1709 | agency any evidence of financial instability, including, but not
 1710 | limited to, checks returned due to insufficient funds,
 1711 | delinquent accounts, nonpayment of withholding taxes, unpaid
 1712 | utility expenses, nonpayment for essential services, or adverse
 1713 | court action concerning the financial viability of the provider
 1714 | or any other provider licensed under this part that is under the
 1715 | control of the controlling interest. A controlling interest
 1716 | shall notify the agency within 10 days after a court action to
 1717 | initiate bankruptcy, foreclosure, or eviction proceedings
 1718 | concerning the provider, in which the controlling interest is a
 1719 | petitioner or defendant. Any person who violates this subsection
 1720 | commits a misdemeanor of the second degree, punishable as
 1721 | provided in s. 775.082 or s. 775.083. Each day of continuing
 1722 | violation is a separate offense.

1723 | Section 55. Subsection (3) is added to section 408.813,
 1724 | Florida Statutes, to read:

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1725 408.813 Administrative fines; violations.—As a penalty for
 1726 any violation of this part, authorizing statutes, or applicable
 1727 rules, the agency may impose an administrative fine.

1728 (3) The agency may impose an administrative fine for a
 1729 violation that does not qualify as a class I, class II, class
 1730 III, or class IV violation. The amount of the fine shall not
 1731 exceed \$500 for each violation. Unclassified violations may
 1732 include:

1733 (a) Violating any term or condition of a license.

1734 (b) Violating any provision of this part, authorizing
 1735 statutes, or applicable rules.

1736 (c) Exceeding licensed capacity.

1737 (d) Providing services beyond the scope of the license.

1738 (e) Violating a moratorium imposed pursuant to s. 408.814.

1739 Section 56. Subsection (5) is added to section 408.815,
 1740 Florida Statutes, to read:

1741 408.815 License or application denial; revocation.—

1742 (5) In order to ensure the health, safety, and welfare of
 1743 clients when a license has been denied, revoked, or is set to
 1744 terminate, the agency may extend the license expiration date for
 1745 a period of up to 60 days for the sole purpose of allowing the
 1746 safe and orderly discharge of clients. The agency may impose
 1747 conditions on the extension, including, but not limited to,
 1748 prohibiting or limiting admissions, expedited discharge
 1749 planning, required status reports, and mandatory monitoring by
 1750 the agency or third parties. In imposing these conditions, the
 1751 agency shall take into consideration the nature and number of
 1752 clients, the availability and location of acceptable alternative

1753 placements, and the ability of the licensee to continue
 1754 providing care to the clients. The agency may terminate the
 1755 extension or modify the conditions at any time. This authority
 1756 is in addition to any other authority granted to the agency
 1757 under chapter 120, this part, and authorizing statutes but
 1758 creates no right or entitlement to an extension of a license
 1759 expiration date.

1760 Section 57. Paragraph (k) of subsection (4) of section
 1761 409.221, Florida Statutes, is amended to read:

1762 409.221 Consumer-directed care program.—

1763 (4) CONSUMER-DIRECTED CARE.—

1764 ~~(k) Reviews and reports. The agency and the Departments of~~
 1765 ~~Elderly Affairs, Health, and Children and Family Services and~~
 1766 ~~the Agency for Persons with Disabilities shall each, on an~~
 1767 ~~ongoing basis, review and assess the implementation of the~~
 1768 ~~consumer-directed care program. By January 15 of each year, the~~
 1769 ~~agency shall submit a written report to the Legislature that~~
 1770 ~~includes each department's review of the program and contains~~
 1771 ~~recommendations for improvements to the program.~~

1772 Section 58. Subsections (3) and (4) of section 429.07,
 1773 Florida Statutes, are amended, and subsections (6) and (7) are
 1774 added to that section, to read:

1775 429.07 License required; fee; inspections.—

1776 (3) In addition to the requirements of s. 408.806, each
 1777 license granted by the agency must state the type of care for
 1778 which the license is granted. Licenses shall be issued for one
 1779 or more of the following categories of care: standard, extended
 1780 congregate care, ~~limited nursing services,~~ or limited mental

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1781 health.

1782 (a) A standard license shall be issued to a facility
1783 ~~facilities~~ providing one or more of the personal services
1784 identified in s. 429.02. Such licensee ~~facilities~~ may also
1785 employ or contract with a person ~~licensed under part I of~~
1786 ~~chapter 464 to administer medications and~~ perform other tasks as
1787 specified in s. 429.255.

1788 (b) An extended congregate care license shall be issued to
1789 a licensee ~~facilities~~ providing, directly or through contract,
1790 services beyond those authorized in paragraph (a), including
1791 acts performed pursuant to part I of chapter 464 by persons
1792 licensed thereunder, and supportive services defined by rule to
1793 persons who otherwise would be disqualified from continued
1794 residence in a facility licensed under this part.

1795 1. In order for extended congregate care services to be
1796 provided in a facility licensed under this part, the agency must
1797 first determine that all requirements established in law and
1798 rule are met and must specifically designate, on the ~~facility's~~
1799 license, that such services may be provided and whether the
1800 designation applies to all or part of a facility. Such
1801 designation may be made at the time of initial licensure or
1802 relicensure, or upon request in writing by a licensee under this
1803 part and part II of chapter 408. Notification of approval or
1804 denial of such request shall be made in accordance with part II
1805 of chapter 408. An existing licensee ~~facilities~~ qualifying to
1806 provide extended congregate care services must have maintained a
1807 standard license and ~~may not have~~ been subject to administrative
1808 sanctions during the previous 2 years, or since initial

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1809 licensure if ~~the facility has been~~ licensed for less than 2
 1810 years, for any of the following reasons:
 1811 a. A class I or class II violation;
 1812 b. Three or more repeat or recurring class III violations
 1813 of identical or similar resident care standards as specified in
 1814 rule from which a pattern of noncompliance is found by the
 1815 agency;
 1816 c. Three or more class III violations that were not
 1817 corrected in accordance with the corrective action plan approved
 1818 by the agency;
 1819 d. Violation of resident care standards resulting in a
 1820 requirement to employ the services of a consultant pharmacist or
 1821 consultant dietitian;
 1822 e. Denial, suspension, or revocation of a license for
 1823 another facility under this part in which the applicant for an
 1824 extended congregate care license has at least 25 percent
 1825 ownership interest; or
 1826 f. Imposition of a moratorium pursuant to this part or
 1827 part II of chapter 408 or initiation of injunctive proceedings.
 1828 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide
 1829 extended congregate care services shall maintain a written
 1830 progress report for ~~on~~ each person who receives such services,
 1831 and the ~~which~~ report must describe ~~describes~~ the type, amount,
 1832 duration, scope, and outcome of services that are rendered and
 1833 the general status of the resident's health. ~~A registered nurse,~~
 1834 ~~or appropriate designee, representing the agency shall visit~~
 1835 ~~such facilities at least quarterly to monitor residents who are~~
 1836 ~~receiving extended congregate care services and to determine if~~

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1837 ~~the facility is in compliance with this part, part II of chapter~~
1838 ~~408, and rules that relate to extended congregate care. One of~~
1839 ~~these visits may be in conjunction with the regular survey. The~~
1840 ~~monitoring visits may be provided through contractual~~
1841 ~~arrangements with appropriate community agencies. A registered~~
1842 ~~nurse shall serve as part of the team that inspects such~~
1843 ~~facility. The agency may waive one of the required yearly~~
1844 ~~monitoring visits for a facility that has been licensed for at~~
1845 ~~least 24 months to provide extended congregate care services,~~
1846 ~~if, during the inspection, the registered nurse determines that~~
1847 ~~extended congregate care services are being provided~~
1848 ~~appropriately, and if the facility has no class I or class II~~
1849 ~~violations and no uncorrected class III violations. Before such~~
1850 ~~decision is made, the agency shall consult with the long-term~~
1851 ~~care ombudsman council for the area in which the facility is~~
1852 ~~located to determine if any complaints have been made and~~
1853 ~~substantiated about the quality of services or care. The agency~~
1854 ~~may not waive one of the required yearly monitoring visits if~~
1855 ~~complaints have been made and substantiated.~~

1856 3. Licensees ~~Facilities~~ that are licensed to provide
1857 extended congregate care services shall:

1858 a. Demonstrate the capability to meet unanticipated
1859 resident service needs.

1860 b. Offer a physical environment that promotes a homelike
1861 setting, provides for resident privacy, promotes resident
1862 independence, and allows sufficient congregate space as defined
1863 by rule.

1864 c. Have sufficient staff available, taking into account

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1865 the physical plant and firesafety features of the building, to
 1866 assist with the evacuation of residents in an emergency, as
 1867 necessary.

1868 d. Adopt and follow policies and procedures that maximize
 1869 resident independence, dignity, choice, and decisionmaking to
 1870 permit residents to age in place to the extent possible, so that
 1871 moves due to changes in functional status are minimized or
 1872 avoided.

1873 e. Allow residents or, if applicable, a resident's
 1874 representative, designee, surrogate, guardian, or attorney in
 1875 fact to make a variety of personal choices, participate in
 1876 developing service plans, and share responsibility in
 1877 decisionmaking.

1878 f. Implement the concept of managed risk.

1879 g. Provide, either directly or through contract, the
 1880 services of a person licensed pursuant to part I of chapter 464.

1881 h. In addition to the training mandated in s. 429.52,
 1882 provide specialized training as defined by rule for facility
 1883 staff.

1884 4. Licensees ~~Facilities~~ licensed to provide extended
 1885 congregate care services are exempt from the criteria for
 1886 continued residency as set forth in rules adopted under s.
 1887 429.41. Licensees ~~Facilities~~ ~~so licensed~~ shall adopt their own
 1888 requirements within guidelines for continued residency set forth
 1889 by rule. However, such licensees ~~facilities~~ may not serve
 1890 residents who require 24-hour nursing supervision. Licensees
 1891 ~~Facilities~~ licensed to provide extended congregate care services
 1892 shall provide each resident with a written copy of facility

1893 policies governing admission and retention.

1894 5. The primary purpose of extended congregate care
 1895 services is to allow residents, as they become more impaired,
 1896 the option of remaining in a familiar setting from which they
 1897 would otherwise be disqualified for continued residency. A
 1898 facility licensed to provide extended congregate care services
 1899 may also admit an individual who exceeds the admission criteria
 1900 for a facility with a standard license, if the individual is
 1901 determined appropriate for admission to the extended congregate
 1902 care facility.

1903 6. Before admission of an individual to a facility
 1904 licensed to provide extended congregate care services, the
 1905 individual must undergo a medical examination as provided in s.
 1906 429.26(4) and the facility must develop a preliminary service
 1907 plan for the individual.

1908 7. When a licensee ~~facility~~ can no longer provide or
 1909 arrange for services in accordance with the resident's service
 1910 plan and needs and the licensee's ~~facility's~~ policy, the
 1911 licensee ~~faeility~~ shall make arrangements for relocating the
 1912 person in accordance with s. 429.28(1)(k).

1913 8. Failure to provide extended congregate care services
 1914 may result in denial of extended congregate care license
 1915 renewal.

1916 ~~9. No later than January 1 of each year, the department,~~
 1917 ~~in consultation with the agency, shall prepare and submit to the~~
 1918 ~~Governor, the President of the Senate, the Speaker of the House~~
 1919 ~~of Representatives, and the chairs of appropriate legislative~~
 1920 ~~committees, a report on the status of, and recommendations~~

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1921 ~~related to, extended congregate care services. The status report~~
 1922 ~~must include, but need not be limited to, the following~~
 1923 ~~information:~~

1924 ~~a. A description of the facilities licensed to provide~~
 1925 ~~such services, including total number of beds licensed under~~
 1926 ~~this part.~~

1927 ~~b. The number and characteristics of residents receiving~~
 1928 ~~such services.~~

1929 ~~c. The types of services rendered that could not be~~
 1930 ~~provided through a standard license.~~

1931 ~~d. An analysis of deficiencies cited during licensure~~
 1932 ~~inspections.~~

1933 ~~e. The number of residents who required extended~~
 1934 ~~congregate care services at admission and the source of~~
 1935 ~~admission.~~

1936 ~~f. Recommendations for statutory or regulatory changes.~~

1937 ~~g. The availability of extended congregate care to state~~
 1938 ~~clients residing in facilities licensed under this part and in~~
 1939 ~~need of additional services, and recommendations for~~
 1940 ~~appropriations to subsidize extended congregate care services~~
 1941 ~~for such persons.~~

1942 ~~h. Such other information as the department considers~~
 1943 ~~appropriate.~~

1944 ~~(c) A limited nursing services license shall be issued to~~
 1945 ~~a facility that provides services beyond those authorized in~~
 1946 ~~paragraph (a) and as specified in this paragraph.~~

1947 ~~1. In order for limited nursing services to be provided in~~
 1948 ~~a facility licensed under this part, the agency must first~~

1949 ~~determine that all requirements established in law and rule are~~
 1950 ~~met and must specifically designate, on the facility's license,~~
 1951 ~~that such services may be provided. Such designation may be made~~
 1952 ~~at the time of initial licensure or relicensure, or upon request~~
 1953 ~~in writing by a licensee under this part and part II of chapter~~
 1954 ~~408. Notification of approval or denial of such request shall be~~
 1955 ~~made in accordance with part II of chapter 408. Existing~~
 1956 ~~facilities qualifying to provide limited nursing services shall~~
 1957 ~~have maintained a standard license and may not have been subject~~
 1958 ~~to administrative sanctions that affect the health, safety, and~~
 1959 ~~welfare of residents for the previous 2 years or since initial~~
 1960 ~~licensure if the facility has been licensed for less than 2~~
 1961 ~~years.~~

1962 ~~2. Facilities that are licensed to provide limited nursing~~
 1963 ~~services shall maintain a written progress report on each person~~
 1964 ~~who receives such nursing services, which report describes the~~
 1965 ~~type, amount, duration, scope, and outcome of services that are~~
 1966 ~~rendered and the general status of the resident's health. A~~
 1967 ~~registered nurse representing the agency shall visit such~~
 1968 ~~facilities at least twice a year to monitor residents who are~~
 1969 ~~receiving limited nursing services and to determine if the~~
 1970 ~~facility is in compliance with applicable provisions of this~~
 1971 ~~part, part II of chapter 408, and related rules. The monitoring~~
 1972 ~~visits may be provided through contractual arrangements with~~
 1973 ~~appropriate community agencies. A registered nurse shall also~~
 1974 ~~serve as part of the team that inspects such facility.~~

1975 ~~3. A person who receives limited nursing services under~~
 1976 ~~this part must meet the admission criteria established by the~~

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1977 ~~agency for assisted living facilities. When a resident no longer~~
 1978 ~~meets the admission criteria for a facility licensed under this~~
 1979 ~~part, arrangements for relocating the person shall be made in~~
 1980 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
 1981 ~~to provide extended congregate care services.~~

1982 (4) In accordance with s. 408.805, an applicant or
 1983 licensee shall pay a fee for each license application submitted
 1984 under this part, part II of chapter 408, and applicable rules.
 1985 The amount of the fee shall be established by rule.

1986 (a) The biennial license fee required of a facility is
 1987 \$356 ~~\$300~~ per license, with an additional fee of \$67.50 ~~\$50~~ per
 1988 resident based on the total licensed resident capacity of the
 1989 facility, except that no additional fee will be assessed for
 1990 beds designated for recipients of optional state supplementation
 1991 payments provided for in s. 409.212. The total fee may not
 1992 exceed \$18,000 ~~\$10,000~~.

1993 (b) In addition to the total fee assessed under paragraph
 1994 (a), the agency shall require facilities that are licensed to
 1995 provide extended congregate care services under this part to pay
 1996 an additional fee per licensed facility. The amount of the
 1997 biennial fee shall be \$501 ~~\$400~~ per license, with an additional
 1998 fee of \$10 per resident based on the total licensed resident
 1999 capacity of the facility.

2000 ~~(c) In addition to the total fee assessed under paragraph~~
 2001 ~~(a), the agency shall require facilities that are licensed to~~
 2002 ~~provide limited nursing services under this part to pay an~~
 2003 ~~additional fee per licensed facility. The amount of the biennial~~
 2004 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~

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2005 ~~resident based on the total licensed resident capacity of the~~
 2006 ~~facility.~~

2007 (6) In order to determine whether the facility is
 2008 adequately protecting residents' rights as provided in s.
 2009 429.28, the biennial survey shall include private informal
 2010 conversations with a sample of residents and consultation with
 2011 the ombudsman council in the planning and service area in which
 2012 the facility is located to discuss residents' experiences within
 2013 the facility.

2014 (7) An assisted living facility that has been cited within
 2015 the previous 24-month period for a class I or class II
 2016 violation, regardless of the status of any enforcement or
 2017 disciplinary action, is subject to periodic unannounced
 2018 monitoring to determine if the facility is in compliance with
 2019 this part, part II of chapter 408, and applicable rules.
 2020 Monitoring may occur through a desk review or an onsite
 2021 assessment. If the class I or class II violation relates to
 2022 providing or failing to provide nursing care, a registered nurse
 2023 must participate in at least two onsite monitoring visits within
 2024 a 12-month period.

2025 Section 59. Subsection (7) of section 429.11, Florida
 2026 Statutes, is renumbered as subsection (6), and present
 2027 subsection (6) of that section is amended to read:

2028 429.11 Initial application for license; ~~provisional~~
 2029 ~~license.~~

2030 ~~(6) In addition to the license categories available in s.~~
 2031 ~~408.808, a provisional license may be issued to an applicant~~
 2032 ~~making initial application for licensure or making application~~

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2033 ~~for a change of ownership. A provisional license shall be~~
 2034 ~~limited in duration to a specific period of time not to exceed 6~~
 2035 ~~months, as determined by the agency.~~

2036 Section 60. Section 429.12, Florida Statutes, is amended
 2037 to read:

2038 429.12 Sale or transfer of ownership of a facility.—It is
 2039 the intent of the Legislature to protect the rights of the
 2040 residents of an assisted living facility when the facility is
 2041 sold or the ownership thereof is transferred. Therefore, in
 2042 addition to the requirements of part II of chapter 408, whenever
 2043 a facility is sold or the ownership thereof is transferred,
 2044 including leasing⁺.

2045 ~~(1)~~ The transferee shall notify the residents, in writing,
 2046 of the change of ownership within 7 days after receipt of the
 2047 new license.

2048 ~~(2) The transferor of a facility the license of which is~~
 2049 ~~denied pending an administrative hearing shall, as a part of the~~
 2050 ~~written change of ownership contract, advise the transferee that~~
 2051 ~~a plan of correction must be submitted by the transferee and~~
 2052 ~~approved by the agency at least 7 days before the change of~~
 2053 ~~ownership and that failure to correct the condition which~~
 2054 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~
 2055 ~~denial of licensure is grounds for denial of the transferee's~~
 2056 ~~license.~~

2057 Section 61. Paragraphs (b) through (l) of subsection (1)
 2058 of section 429.14, Florida Statutes, are redesignated as
 2059 paragraphs (a) through (k), respectively, and present paragraph

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2060 (a) of subsection (1) and subsections (5) and (6) of that
 2061 section are amended to read:

2062 429.14 Administrative penalties.—

2063 (1) In addition to the requirements of part II of chapter
 2064 408, the agency may deny, revoke, and suspend any license issued
 2065 under this part and impose an administrative fine in the manner
 2066 provided in chapter 120 against a licensee of an assisted living
 2067 facility for a violation of any provision of this part, part II
 2068 of chapter 408, or applicable rules, or for any of the following
 2069 actions by a licensee of an assisted living facility, for the
 2070 actions of any person subject to level 2 background screening
 2071 under s. 408.809, or for the actions of any facility employee:

2072 ~~(a) An intentional or negligent act seriously affecting~~
 2073 ~~the health, safety, or welfare of a resident of the facility.~~

2074 (5) An action taken by the agency to suspend, deny, or
 2075 revoke a facility's license under this part or part II of
 2076 chapter 408, in which the agency claims that the facility owner
 2077 or an employee of the facility has threatened the health,
 2078 safety, or welfare of a resident of the facility shall be heard
 2079 by the Division of Administrative Hearings of the Department of
 2080 Management Services within 120 days after receipt of the
 2081 facility's request for a hearing, unless that time limitation is
 2082 waived by both parties. The administrative law judge must render
 2083 a decision within 30 days after receipt of a proposed
 2084 recommended order.

2085 (6) The agency shall provide to the Division of Hotels and
 2086 Restaurants of the Department of Business and Professional
 2087 Regulation, on a monthly basis, a list of those assisted living

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2088 facilities that have had their licenses denied, suspended, or
 2089 revoked or that are involved in an appellate proceeding pursuant
 2090 to s. 120.60 related to the denial, suspension, or revocation of
 2091 a license. This information may be provided electronically or
 2092 through the agency's Internet website.

2093 Section 62. Subsections (1), (4), and (5) of section
 2094 429.17, Florida Statutes, are amended to read:

2095 429.17 Expiration of license; renewal; conditional
 2096 license.—

2097 (1) ~~Limited nursing,~~ Extended congregate care, and limited
 2098 mental health licenses shall expire at the same time as the
 2099 facility's standard license, regardless of when issued.

2100 (4) In addition to the license categories available in s.
 2101 408.808, a conditional license may be issued to an applicant for
 2102 license renewal if the applicant fails to meet all standards and
 2103 requirements for licensure. A conditional license issued under
 2104 this subsection shall be limited in duration to a specific
 2105 period of time not to exceed 6 months, as determined by the
 2106 agency, ~~and shall be accompanied by an agency approved plan of~~
 2107 ~~correction.~~

2108 (5) When an extended congregate care ~~or limited nursing~~
 2109 ~~license~~ is requested during a facility's biennial license
 2110 period, the fee shall be prorated in order to permit the
 2111 additional license to expire at the end of the biennial license
 2112 period. The fee shall be calculated as of the date the
 2113 additional license application is received by the agency.

2114 Section 63. Subsection (7) of section 429.19, Florida
 2115 Statutes, is amended to read:

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2116 429.19 Violations; imposition of administrative fines;
 2117 grounds.—

2118 (7) In addition to any administrative fines imposed, the
 2119 agency may assess a survey or monitoring fee, equal to the
 2120 lesser of one half of the facility's biennial license and bed
 2121 fee or \$500, to cover the cost of conducting initial complaint
 2122 investigations that result in the finding of a violation that
 2123 was the subject of the complaint or to monitor the health,
 2124 safety, or security of residents under s. 429.07(7) monitoring
 2125 ~~visits conducted under s. 429.28(3)(c) to verify the correction~~
 2126 ~~of the violations.~~

2127 Section 64. Subsections (6) through (10) of section
 2128 429.23, Florida Statutes, are renumbered as subsections (5)
 2129 through (9), respectively, and present subsection (5) of that
 2130 section is amended to read:

2131 429.23 Internal risk management and quality assurance
 2132 program; adverse incidents and reporting requirements.—

2133 ~~(5) Each facility shall report monthly to the agency any~~
 2134 ~~liability claim filed against it. The report must include the~~
 2135 ~~name of the resident, the dates of the incident leading to the~~
 2136 ~~claim, if applicable, and the type of injury or violation of~~
 2137 ~~rights alleged to have occurred. This report is not discoverable~~
 2138 ~~in any civil or administrative action, except in such actions~~
 2139 ~~brought by the agency to enforce the provisions of this part.~~

2140 Section 65. Paragraph (a) of subsection (1) and subsection
 2141 (2) of section 429.255, Florida Statutes, are amended to read:

2142 429.255 Use of personnel; emergency care.—

2143 (1) (a) Persons under contract to the facility or facility

2144 staff, ~~or volunteers,~~ who are licensed according to part I of
 2145 chapter 464, or those persons exempt under s. 464.022(1), and
 2146 others as defined by rule, may administer medications to
 2147 residents, take residents' vital signs, manage individual weekly
 2148 pill organizers for residents who self-administer medication,
 2149 give prepackaged enemas ordered by a physician, observe
 2150 residents, document observations on the appropriate resident's
 2151 record, report observations to the resident's physician, and
 2152 contract or allow residents or a resident's representative,
 2153 designee, surrogate, guardian, or attorney in fact to contract
 2154 with a third party, provided residents meet the criteria for
 2155 appropriate placement as defined in s. 429.26. Persons under
 2156 contract to the facility or facility staff who are licensed
 2157 according to part I of chapter 464 may provide limited nursing
 2158 services. Nursing assistants certified pursuant to part II of
 2159 chapter 464 may take residents' vital signs as directed by a
 2160 licensed nurse or physician. The facility is responsible for
 2161 maintaining documentation of services provided under this
 2162 paragraph as required by rule and ensuring that staff are
 2163 adequately trained to monitor residents receiving these
 2164 services.

2165 (2) In facilities licensed to provide extended congregate
 2166 care, persons under contract to the facility ~~or~~ facility staff,
 2167 ~~or volunteers,~~ who are licensed according to part I of chapter
 2168 464, or those persons exempt under s. 464.022(1), or those
 2169 persons certified as nursing assistants pursuant to part II of
 2170 chapter 464, may also perform all duties within the scope of
 2171 their license or certification, as approved by the facility

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2172 administrator and pursuant to this part.

2173 Section 66. Subsection (3) of section 429.28, Florida
 2174 Statutes, is amended to read:

2175 429.28 Resident bill of rights.—

2176 ~~(3)(a) The agency shall conduct a survey to determine
 2177 general compliance with facility standards and compliance with
 2178 residents' rights as a prerequisite to initial licensure or
 2179 licensure renewal.~~

2180 ~~(b) In order to determine whether the facility is
 2181 adequately protecting residents' rights, the biennial survey
 2182 shall include private informal conversations with a sample of
 2183 residents and consultation with the ombudsman council in the
 2184 planning and service area in which the facility is located to
 2185 discuss residents' experiences within the facility.~~

2186 ~~(c) During any calendar year in which no survey is
 2187 conducted, the agency shall conduct at least one monitoring
 2188 visit of each facility cited in the previous year for a class I
 2189 or class II violation, or more than three uncorrected class III
 2190 violations.~~

2191 ~~(d) The agency may conduct periodic followup inspections
 2192 as necessary to monitor the compliance of facilities with a
 2193 history of any class I, class II, or class III violations that
 2194 threaten the health, safety, or security of residents.~~

2195 ~~(e) The agency may conduct complaint investigations as
 2196 warranted to investigate any allegations of noncompliance with
 2197 requirements required under this part or rules adopted under
 2198 this part.~~

2199 Section 67. Subsection (2) of section 429.35, Florida

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2200 Statutes, is amended to read:

2201 429.35 Maintenance of records; reports.—

2202 (2) Within 60 days after the date of the biennial
 2203 inspection visit required under s. 408.811 or within 30 days
 2204 after the date of any interim visit, the agency shall forward
 2205 the results of the inspection to the local ombudsman council in
 2206 whose planning and service area, as defined in part II of
 2207 chapter 400, the facility is located; to at least one public
 2208 library or, in the absence of a public library, the county seat
 2209 in the county in which the inspected assisted living facility is
 2210 located; and, when appropriate, to the district Adult Services
 2211 and Mental Health Program Offices. This information may be
 2212 provided electronically or through the agency's Internet
 2213 website.

2214 Section 68. Paragraphs (i) and (j) of subsection (1) of
 2215 section 429.41, Florida Statutes, are amended to read:

2216 429.41 Rules establishing standards.—

2217 (1) It is the intent of the Legislature that rules
 2218 published and enforced pursuant to this section shall include
 2219 criteria by which a reasonable and consistent quality of
 2220 resident care and quality of life may be ensured and the results
 2221 of such resident care may be demonstrated. Such rules shall also
 2222 ensure a safe and sanitary environment that is residential and
 2223 noninstitutional in design or nature. It is further intended
 2224 that reasonable efforts be made to accommodate the needs and
 2225 preferences of residents to enhance the quality of life in a
 2226 facility. The agency, in consultation with the department, may
 2227 adopt rules to administer the requirements of part II of chapter

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2228 408. In order to provide safe and sanitary facilities and the
 2229 highest quality of resident care accommodating the needs and
 2230 preferences of residents, the department, in consultation with
 2231 the agency, the Department of Children and Family Services, and
 2232 the Department of Health, shall adopt rules, policies, and
 2233 procedures to administer this part, which must include
 2234 reasonable and fair minimum standards in relation to:

2235 (i) Facilities holding an ~~a limited nursing,~~ extended
 2236 congregate care, or limited mental health license.

2237 (j) The establishment of specific criteria to define
 2238 appropriateness of resident admission and continued residency in
 2239 a facility holding a standard, ~~limited nursing,~~ extended
 2240 congregate care, and limited mental health license.

2241 Section 69. Subsections (1) and (2) of section 429.53,
 2242 Florida Statutes, are amended to read:

2243 429.53 Consultation by the agency.—

2244 (1) ~~The area offices of licensure and certification of the~~
 2245 agency shall provide consultation to the following upon request:

2246 (a) A licensee of a facility.

2247 (b) A person interested in obtaining a license to operate
 2248 a facility under this part.

2249 (2) As used in this section, "consultation" includes:

2250 (a) An explanation of the requirements of this part and
 2251 rules adopted pursuant thereto;

2252 (b) An explanation of the license application and renewal
 2253 procedures;

2254 ~~(c) The provision of a checklist of general local and~~
 2255 ~~state approvals required prior to constructing or developing a~~

2256 ~~facility and a listing of the types of agencies responsible for~~
 2257 ~~such approvals;~~

2258 ~~(d) An explanation of benefits and financial assistance~~
 2259 ~~available to a recipient of supplemental security income~~
 2260 ~~residing in a facility;~~

2261 ~~(c)(e)~~ Any other information which the agency deems
 2262 necessary to promote compliance with the requirements of this
 2263 part; and

2264 ~~(f) A preconstruction review of a facility to ensure~~
 2265 ~~compliance with agency rules and this part.~~

2266 Section 70. Subsections (1) and (2) of section 429.54,
 2267 Florida Statutes, are renumbered as subsections (2) and (3),
 2268 respectively, and a new subsection (1) is added to that section
 2269 to read:

2270 429.54 Collection of information; local subsidy.—

2271 (1) A facility that is licensed under this part must
 2272 report electronically to the agency semiannually, or more
 2273 frequently as determined by rule, data related to the facility,
 2274 including, but not limited to, the total number of residents,
 2275 the number of residents who are receiving limited mental health
 2276 services, the number of residents who are receiving extended
 2277 congregate care services, the number of residents who are
 2278 receiving limited nursing services, funding sources of the
 2279 residents, and professional staffing employed by or under
 2280 contract with the licensee to provide resident services. The
 2281 department, in consultation with the agency, shall adopt rules
 2282 to administer this subsection.

2283 Section 71. Subsections (1) and (5) of section 429.71,
 2284 Florida Statutes, are amended to read:

2285 429.71 Classification of violations ~~deficiencies~~;
 2286 administrative fines.—

2287 (1) In addition to the requirements of part II of chapter
 2288 408 and in addition to any other liability or penalty provided
 2289 by law, the agency may impose an administrative fine on a
 2290 provider according to the following classification:

2291 (a) Class I violations are defined in s. 408.813 ~~those~~
 2292 ~~conditions or practices related to the operation and maintenance~~
 2293 ~~of an adult family-care home or to the care of residents which~~
 2294 ~~the agency determines present an imminent danger to the~~
 2295 ~~residents or guests of the facility or a substantial probability~~
 2296 ~~that death or serious physical or emotional harm would result~~
 2297 ~~therefrom. The condition or practice that constitutes a class I~~
 2298 ~~violation must be abated or eliminated within 24 hours, unless a~~
 2299 ~~fixed period, as determined by the agency, is required for~~
 2300 ~~correction.~~ A class I violation ~~deficiency~~ is subject to an
 2301 administrative fine in an amount not less than \$500 and not
 2302 exceeding \$1,000 for each violation. ~~A fine may be levied~~
 2303 ~~notwithstanding the correction of the deficiency.~~

2304 (b) Class II violations are defined in s. 408.813 ~~those~~
 2305 ~~conditions or practices related to the operation and maintenance~~
 2306 ~~of an adult family-care home or to the care of residents which~~
 2307 ~~the agency determines directly threaten the physical or~~
 2308 ~~emotional health, safety, or security of the residents, other~~
 2309 ~~than class I violations.~~ A class II violation is subject to an
 2310 administrative fine in an amount not less than \$250 and not

2311 exceeding \$500 for each violation. ~~A citation for a class II~~
 2312 ~~violation must specify the time within which the violation is~~
 2313 ~~required to be corrected. If a class II violation is corrected~~
 2314 ~~within the time specified, no civil penalty shall be imposed,~~
 2315 ~~unless it is a repeated offense.~~

2316 (c) Class III violations are defined in s. 408.813 ~~those~~
 2317 ~~conditions or practices related to the operation and maintenance~~
 2318 ~~of an adult family care home or to the care of residents which~~
 2319 ~~the agency determines indirectly or potentially threaten the~~
 2320 ~~physical or emotional health, safety, or security of residents,~~
 2321 ~~other than class I or class II violations.~~ A class III violation
 2322 is subject to an administrative fine in an amount not less than
 2323 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~
 2324 ~~class III violation shall specify the time within which the~~
 2325 ~~violation is required to be corrected.~~ If a class III violation
 2326 is corrected within the time specified, no civil penalty shall
 2327 be imposed, unless it is a repeated violation offense.

2328 (d) Class IV violations are defined in s. 408.813 ~~those~~
 2329 ~~conditions or occurrences related to the operation and~~
 2330 ~~maintenance of an adult family care home, or related to the~~
 2331 ~~required reports, forms, or documents, which do not have the~~
 2332 ~~potential of negatively affecting the residents.~~ A provider that
 2333 ~~does not correct~~ A class IV violation ~~within the time limit~~
 2334 ~~specified by the agency~~ is subject to an administrative fine in
 2335 an amount not less than \$50 and not exceeding \$100 for each
 2336 violation. Any class IV violation that is corrected during the
 2337 time the agency survey is conducted will be identified as an

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2338 agency finding and not as a violation, unless it is a repeat
 2339 violation.

2340 ~~(5) As an alternative to or in conjunction with an~~
 2341 ~~administrative action against a provider, the agency may request~~
 2342 ~~a plan of corrective action that demonstrates a good faith~~
 2343 ~~effort to remedy each violation by a specific date, subject to~~
 2344 ~~the approval of the agency.~~

2345 Section 72. Paragraphs (b) through (e) of subsection (2)
 2346 of section 429.911, Florida Statutes, are redesignated as
 2347 paragraphs (a) through (d), respectively, and present paragraph
 2348 (a) of that subsection is amended to read:

2349 429.911 Denial, suspension, revocation of license;
 2350 emergency action; administrative fines; investigations and
 2351 inspections.—

2352 (2) Each of the following actions by the owner of an adult
 2353 day care center or by its operator or employee is a ground for
 2354 action by the agency against the owner of the center or its
 2355 operator or employee:

2356 ~~(a) An intentional or negligent act materially affecting~~
 2357 ~~the health or safety of center participants.~~

2358 Section 73. Section 429.915, Florida Statutes, is amended
 2359 to read:

2360 429.915 Conditional license.—In addition to the license
 2361 categories available in part II of chapter 408, the agency may
 2362 issue a conditional license to an applicant for license renewal
 2363 or change of ownership if the applicant fails to meet all
 2364 standards and requirements for licensure. A conditional license
 2365 issued under this subsection must be limited to a specific

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2366 | period not exceeding 6 months, as determined by the agency, ~~and~~
 2367 | ~~must be accompanied by an approved plan of correction.~~

2368 | Section 74. Subsection (7) of section 394.4787, Florida
 2369 | Statutes, is amended to read:

2370 | 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
 2371 | and 394.4789.—As used in this section and ss. 394.4786,
 2372 | 394.4788, and 394.4789:

2373 | (7) "Specialty psychiatric hospital" means a hospital
 2374 | licensed by the agency pursuant to s. 395.002 (26) ~~(28)~~ and part
 2375 | II of chapter 408 as a specialty psychiatric hospital.

2376 | Section 75. Paragraph (g) of subsection (2) of section
 2377 | 400.0239, Florida Statutes, is amended to read:

2378 | 400.0239 Quality of Long-Term Care Facility Improvement
 2379 | Trust Fund.—

2380 | (2) Expenditures from the trust fund shall be allowable
 2381 | for direct support of the following:

2382 | (g) Other initiatives authorized by the Centers for
 2383 | Medicare and Medicaid Services for the use of federal civil
 2384 | monetary penalties, ~~including projects recommended through the~~
 2385 | ~~Medicaid "Up or Out" Quality of Care Contract Management Program~~
 2386 | ~~pursuant to s. 400.148.~~

2387 | Section 76. Subsection (43) of section 408.07, Florida
 2388 | Statutes, is amended to read:

2389 | 408.07 Definitions.—As used in this chapter, with the
 2390 | exception of ss. 408.031-408.045, the term:

2391 | (43) "Rural hospital" means an acute care hospital
 2392 | licensed under chapter 395, having 100 or fewer licensed beds
 2393 | and an emergency room, and which is:

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2394 (a) The sole provider within a county with a population
 2395 density of no greater than 100 persons per square mile;
 2396 (b) An acute care hospital, in a county with a population
 2397 density of no greater than 100 persons per square mile, which is
 2398 at least 30 minutes of travel time, on normally traveled roads
 2399 under normal traffic conditions, from another acute care
 2400 hospital within the same county;
 2401 (c) A hospital supported by a tax district or subdistrict
 2402 whose boundaries encompass a population of 100 persons or fewer
 2403 per square mile;
 2404 (d) A hospital with a service area that has a population
 2405 of 100 persons or fewer per square mile. As used in this
 2406 paragraph, the term "service area" means the fewest number of
 2407 zip codes that account for 75 percent of the hospital's
 2408 discharges for the most recent 5-year period, based on
 2409 information available from the hospital inpatient discharge
 2410 database in the Florida Center for Health Information and Policy
 2411 Analysis at the Agency for Health Care Administration; or
 2412 (e) A critical access hospital.
 2413
 2414 Population densities used in this subsection must be based upon
 2415 the most recently completed United States census. A hospital
 2416 that received funds under s. 409.9116 for a quarter beginning no
 2417 later than July 1, 2002, is deemed to have been and shall
 2418 continue to be a rural hospital from that date through June 30,
 2419 2015, if the hospital continues to have 100 or fewer licensed
 2420 beds and an emergency room, ~~or meets the criteria of s.~~
 2421 ~~395.602(2)(c)4.~~ An acute care hospital that has not previously

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2422 | been designated as a rural hospital and that meets the criteria
 2423 | of this subsection shall be granted such designation upon
 2424 | application, including supporting documentation, to the Agency
 2425 | for Health Care Administration.

2426 | Section 77. Paragraphs (b) and (h) of subsection (3) of
 2427 | section 430.80, Florida Statutes, are amended to read:

2428 | 430.80 Implementation of a teaching nursing home pilot
 2429 | project.—

2430 | (3) To be designated as a teaching nursing home, a nursing
 2431 | home licensee must, at a minimum:

2432 | (b) Participate in a nationally recognized accreditation
 2433 | program and hold a valid accreditation, such as the
 2434 | accreditation awarded by The Joint Commission ~~on Accreditation~~
 2435 | ~~of Healthcare Organizations;~~

2436 | (h) Maintain insurance coverage pursuant to s.
 2437 | 400.141(1) (r) ~~(s)~~ or proof of financial responsibility in a
 2438 | minimum amount of \$750,000. Such proof of financial
 2439 | responsibility may include:

2440 | 1. Maintaining an escrow account consisting of cash or
 2441 | assets eligible for deposit in accordance with s. 625.52; or

2442 | 2. Obtaining and maintaining pursuant to chapter 675 an
 2443 | unexpired, irrevocable, nontransferable and nonassignable letter
 2444 | of credit issued by any bank or savings association organized
 2445 | and existing under the laws of this state or any bank or savings
 2446 | association organized under the laws of the United States that
 2447 | has its principal place of business in this state or has a
 2448 | branch office which is authorized to receive deposits in this
 2449 | state. The letter of credit shall be used to satisfy the

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2450 obligation of the facility to the claimant upon presentment of a
 2451 final judgment indicating liability and awarding damages to be
 2452 paid by the facility or upon presentment of a settlement
 2453 agreement signed by all parties to the agreement when such final
 2454 judgment or settlement is a result of a liability claim against
 2455 the facility.

2456 Section 78. Paragraph (a) of subsection (2) of section
 2457 440.13, Florida Statutes, is amended to read:

2458 440.13 Medical services and supplies; penalty for
 2459 violations; limitations.—

2460 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

2461 (a) Subject to the limitations specified elsewhere in this
 2462 chapter, the employer shall furnish to the employee such
 2463 medically necessary remedial treatment, care, and attendance for
 2464 such period as the nature of the injury or the process of
 2465 recovery may require, which is in accordance with established
 2466 practice parameters and protocols of treatment as provided for
 2467 in this chapter, including medicines, medical supplies, durable
 2468 medical equipment, orthoses, prostheses, and other medically
 2469 necessary apparatus. Remedial treatment, care, and attendance,
 2470 including work-hardening programs or pain-management programs
 2471 accredited by the Commission on Accreditation of Rehabilitation
 2472 Facilities or The Joint Commission ~~on the Accreditation of~~
 2473 ~~Health Organizations~~ or pain-management programs affiliated with
 2474 medical schools, shall be considered as covered treatment only
 2475 when such care is given based on a referral by a physician as
 2476 defined in this chapter. Medically necessary treatment, care,
 2477 and attendance does not include chiropractic services in excess

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2478 of 24 treatments or rendered 12 weeks beyond the date of the
 2479 initial chiropractic treatment, whichever comes first, unless
 2480 the carrier authorizes additional treatment or the employee is
 2481 catastrophically injured.

2482
 2483 Failure of the carrier to timely comply with this subsection
 2484 shall be a violation of this chapter and the carrier shall be
 2485 subject to penalties as provided for in s. 440.525.

2486 Section 79. Section 483.294, Florida Statutes, is amended
 2487 to read:

2488 483.294 Inspection of centers.—In accordance with s.
 2489 408.811, the agency shall biennially, ~~at least once annually~~,
 2490 inspect the premises and operations of all centers subject to
 2491 licensure under this part.

2492 Section 80. Subsection (1) of section 627.645, Florida
 2493 Statutes, is amended to read:

2494 627.645 Denial of health insurance claims restricted.—

2495 (1) No claim for payment under a health insurance policy
 2496 or self-insured program of health benefits for treatment, care,
 2497 or services in a licensed hospital which is accredited by The
 2498 Joint Commission ~~on the Accreditation of Hospitals~~, the American
 2499 Osteopathic Association, or the Commission on the Accreditation
 2500 of Rehabilitative Facilities shall be denied because such
 2501 hospital lacks major surgical facilities and is primarily of a
 2502 rehabilitative nature, if such rehabilitation is specifically
 2503 for treatment of physical disability.

2504 Section 81. Paragraph (c) of subsection (2) of section
 2505 627.668, Florida Statutes, is amended to read:

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2506 627.668 Optional coverage for mental and nervous disorders
2507 required; exception.—

2508 (2) Under group policies or contracts, inpatient hospital
2509 benefits, partial hospitalization benefits, and outpatient
2510 benefits consisting of durational limits, dollar amounts,
2511 deductibles, and coinsurance factors shall not be less favorable
2512 than for physical illness generally, except that:

2513 (c) Partial hospitalization benefits shall be provided
2514 under the direction of a licensed physician. For purposes of
2515 this part, the term "partial hospitalization services" is
2516 defined as those services offered by a program accredited by The
2517 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in
2518 compliance with equivalent standards. Alcohol rehabilitation
2519 programs accredited by The Joint Commission ~~on Accreditation of~~
2520 ~~Hospitals~~ or approved by the state and licensed drug abuse
2521 rehabilitation programs shall also be qualified providers under
2522 this section. In any benefit year, if partial hospitalization
2523 services or a combination of inpatient and partial
2524 hospitalization are utilized, the total benefits paid for all
2525 such services shall not exceed the cost of 30 days of inpatient
2526 hospitalization for psychiatric services, including physician
2527 fees, which prevail in the community in which the partial
2528 hospitalization services are rendered. If partial
2529 hospitalization services benefits are provided beyond the limits
2530 set forth in this paragraph, the durational limits, dollar
2531 amounts, and coinsurance factors thereof need not be the same as
2532 those applicable to physical illness generally.

2533 Section 82. Subsection (3) of section 627.669, Florida

2534 Statutes, is amended to read:

2535 627.669 Optional coverage required for substance abuse
2536 impaired persons; exception.—

2537 (3) The benefits provided under this section shall be
2538 applicable only if treatment is provided by, or under the
2539 supervision of, or is prescribed by, a licensed physician or
2540 licensed psychologist and if services are provided in a program
2541 accredited by The Joint Commission ~~on Accreditation of Hospitals~~
2542 or approved by the state.

2543 Section 83. Paragraph (a) of subsection (1) of section
2544 627.736, Florida Statutes, is amended to read:

2545 627.736 Required personal injury protection benefits;
2546 exclusions; priority; claims.—

2547 (1) REQUIRED BENEFITS.—Every insurance policy complying
2548 with the security requirements of s. 627.733 shall provide
2549 personal injury protection to the named insured, relatives
2550 residing in the same household, persons operating the insured
2551 motor vehicle, passengers in such motor vehicle, and other
2552 persons struck by such motor vehicle and suffering bodily injury
2553 while not an occupant of a self-propelled vehicle, subject to
2554 the provisions of subsection (2) and paragraph (4) (e), to a
2555 limit of \$10,000 for loss sustained by any such person as a
2556 result of bodily injury, sickness, disease, or death arising out
2557 of the ownership, maintenance, or use of a motor vehicle as
2558 follows:

2559 (a) Medical benefits.—Eighty percent of all reasonable
2560 expenses for medically necessary medical, surgical, X-ray,
2561 dental, and rehabilitative services, including prosthetic

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2562 devices, and medically necessary ambulance, hospital, and
 2563 nursing services. However, the medical benefits shall provide
 2564 reimbursement only for such services and care that are lawfully
 2565 provided, supervised, ordered, or prescribed by a physician
 2566 licensed under chapter 458 or chapter 459, a dentist licensed
 2567 under chapter 466, or a chiropractic physician licensed under
 2568 chapter 460 or that are provided by any of the following persons
 2569 or entities:

2570 1. A hospital or ambulatory surgical center licensed under
 2571 chapter 395.

2572 2. A person or entity licensed under ss. 401.2101-401.45
 2573 that provides emergency transportation and treatment.

2574 3. An entity wholly owned by one or more physicians
 2575 licensed under chapter 458 or chapter 459, chiropractic
 2576 physicians licensed under chapter 460, or dentists licensed
 2577 under chapter 466 or by such practitioner or practitioners and
 2578 the spouse, parent, child, or sibling of that practitioner or
 2579 those practitioners.

2580 4. An entity wholly owned, directly or indirectly, by a
 2581 hospital or hospitals.

2582 5. A health care clinic licensed under ss. 400.990-400.995
 2583 that is:

2584 a. Accredited by The Joint Commission ~~on Accreditation of~~
 2585 ~~Healthcare Organizations~~, the American Osteopathic Association,
 2586 the Commission on Accreditation of Rehabilitation Facilities, or
 2587 the Accreditation Association for Ambulatory Health Care, Inc.;

2588 or

2589 b. A health care clinic that:

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2590 (I) Has a medical director licensed under chapter 458,
 2591 chapter 459, or chapter 460;

2592 (II) Has been continuously licensed for more than 3 years
 2593 or is a publicly traded corporation that issues securities
 2594 traded on an exchange registered with the United States
 2595 Securities and Exchange Commission as a national securities
 2596 exchange; and

2597 (III) Provides at least four of the following medical
 2598 specialties:

2599 (A) General medicine.

2600 (B) Radiography.

2601 (C) Orthopedic medicine.

2602 (D) Physical medicine.

2603 (E) Physical therapy.

2604 (F) Physical rehabilitation.

2605 (G) Prescribing or dispensing outpatient prescription
 2606 medication.

2607 (H) Laboratory services.

2608

2609 The Financial Services Commission shall adopt by rule the form
 2610 that must be used by an insurer and a health care provider
 2611 specified in subparagraph 3., subparagraph 4., or subparagraph
 2612 5. to document that the health care provider meets the criteria
 2613 of this paragraph, which rule must include a requirement for a
 2614 sworn statement or affidavit.

2615

2616 Only insurers writing motor vehicle liability insurance in this
 2617 state may provide the required benefits of this section, and no

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2618 such insurer shall require the purchase of any other motor
 2619 vehicle coverage other than the purchase of property damage
 2620 liability coverage as required by s. 627.7275 as a condition for
 2621 providing such required benefits. Insurers may not require that
 2622 property damage liability insurance in an amount greater than
 2623 \$10,000 be purchased in conjunction with personal injury
 2624 protection. Such insurers shall make benefits and required
 2625 property damage liability insurance coverage available through
 2626 normal marketing channels. Any insurer writing motor vehicle
 2627 liability insurance in this state who fails to comply with such
 2628 availability requirement as a general business practice shall be
 2629 deemed to have violated part IX of chapter 626, and such
 2630 violation shall constitute an unfair method of competition or an
 2631 unfair or deceptive act or practice involving the business of
 2632 insurance; and any such insurer committing such violation shall
 2633 be subject to the penalties afforded in such part, as well as
 2634 those which may be afforded elsewhere in the insurance code.

2635 Section 84. Subsection (12) of section 641.495, Florida
 2636 Statutes, is amended to read:

2637 641.495 Requirements for issuance and maintenance of
 2638 certificate.—

2639 (12) The provisions of part I of chapter 395 do not apply
 2640 to a health maintenance organization that, on or before January
 2641 1, 1991, provides not more than 10 outpatient holding beds for
 2642 short-term and hospice-type patients in an ambulatory care
 2643 facility for its members, provided that such health maintenance
 2644 organization maintains current accreditation by The Joint
 2645 Commission ~~on Accreditation of Health Care Organizations~~, the

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2646 Accreditation Association for Ambulatory Health Care, or the
 2647 National Committee for Quality Assurance.

2648 Section 85. Subsection (13) of section 651.118, Florida
 2649 Statutes, is amended to read:

2650 651.118 Agency for Health Care Administration;
 2651 certificates of need; sheltered beds; community beds.-

2652 (13) Residents, as defined in this chapter, are not
 2653 considered new admissions for the purpose of s.

2654 400.141(1) (n) ~~(e)~~1.d.

2655 Section 86. Subsection (2) of section 766.1015, Florida
 2656 Statutes, is amended to read:

2657 766.1015 Civil immunity for members of or consultants to
 2658 certain boards, committees, or other entities.-

2659 (2) Such committee, board, group, commission, or other
 2660 entity must be established in accordance with state law or in
 2661 accordance with requirements of The Joint Commission ~~on~~
 2662 ~~Accreditation of Healthcare Organizations~~, established and duly
 2663 constituted by one or more public or licensed private hospitals
 2664 or behavioral health agencies, or established by a governmental
 2665 agency. To be protected by this section, the act, decision,
 2666 omission, or utterance may not be made or done in bad faith or
 2667 with malicious intent.

2668 Section 87. This act shall take effect July 1, 2010.