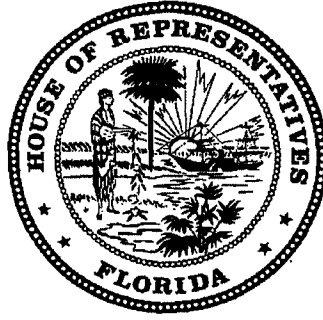


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# **Health Care Appropriations Committee**

## **Meeting Packet**

**March 26, 2010  
8:30 a.m. – 11:00 a.m.  
212 Knott**



## **AGENDA**

Health Care Appropriations Committee

March 26, 2010

8:30 a.m. – 11:00 a.m.

212 Knott

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bills:
  - CS/HB 91 Adult Protective Services by Elder & Family Services Policy Committee and Representative Wood
  - CS/HB 1337 Nursing by State Universities & Private Colleges Policy Committee and Grimsley
  - CS/HB 1143 Reduction and Simplification of Health Care Provider Regulation by Health Care Regulation Policy Committee and Hudson
  - HB 7183 Reorganization of the Department of Health by Health Care Regulation Policy Committee and N. Thompson
- IV. Closing Remarks/Adjournment



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 91

Adult Protective Services

SPONSOR(S): Wood

TIED BILLS:

IDEN./SIM. BILLS: SB 336

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Family Services Policy Committee	12 Y, 0 N, As CS	Guy	Shaw
2) Public Safety & Domestic Security Policy Committee	12 Y, 0 N	Krol	Cunningham
3) Health Care Appropriations Committee		Massengale	Massengale
4) Health & Family Services Policy Council			
5)			

SUMMARY ANALYSIS

Committee Substitute for House Bill 91 amends several provisions in chapter 415, Florida Statutes, relating to adult protective services. The bill deletes terms "disabled adults" and "elderly persons" and replaces with the term "vulnerable adult." The bill also amends the definition of "vulnerable adult" by including the term "sensory."

The bill creates a definition for "activities of daily living" that conforms the phrase to the definition of "activities of daily living," relating to adult family-care homes.

The bill provides that the central abuse hotline must transfer to the appropriate county sheriff's office reports of known or suspected abuse of a vulnerable adult involving a person other than a relative, caregiver, or household member.

The bill specifies that the Department of Children and Family ("the DCF" or "department") may file a petition to determine incapacity in adult protective proceedings. Upon filing the petition, the department is prohibited from being appointed guardian or providing legal counsel to the guardian.

The bill provides the department with access to records of the Department of Highway Safety and Motor Vehicles for use in conducting protective investigations.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Background

Section 415.101, Florida Statutes, relating to the Adult Protective Services Act, provides legislative intent for comprehensive protective services for Florida's elderly and abused adults. The Department of Children and Families ("the DCF" or "the department") has identified several methods to improve these services.

##### *Adult Protective Services Program*<sup>1</sup>

The Adult Protective Services Program, authorized by chapter 415, Florida Statutes, and managed by the DCF, is a system of social services that protects disabled or elderly persons from occurrences of abuse, neglect or exploitation. Upon report of alleged abuse, neglect, or exploitation, an assessment of an individual's need for protective services is initiated.

The program consists of four components:

- The on-site investigation;
- Emergency services if determined necessary;
- Referral to the local law enforcement, if appropriate; and
- Referral to local social service agencies for any identified needs.

##### *Central Abuse Hotline*

When the Florida Abuse Hotline began in the early 1970s, abuse reports were received in 181 state offices throughout Florida.<sup>2</sup> In 1988, the Legislature created the Adult Protective Services Act and centralized the abuse hotline at the DCF, where it currently operates and receives abuse, neglect, or exploitation reports—in writing or through a statewide toll-free telephone number.<sup>3</sup> <sup>4</sup> Reports received by the hotline alleging child abuse, abandonment, or neglect by a person who is not a family member,

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<sup>1</sup> Department of Children and Families, CF Operating Procedure 140-2, see <http://www.dcf.state.fl.us/publications/policies.shtml#adult> (last visited March 4, 2010).

<sup>2</sup> Department of Children and Families, see <http://www.dcf.state.fl.us/dcf/flash/apr07/hotline.shtml> (last visited March 4, 2010).

<sup>3</sup> *Id.*

<sup>4</sup> Section 415.103(1), F.S.

household member, or caregiver<sup>5</sup> must be immediately transferred to the appropriate county Sheriff's office.<sup>6</sup> There is no such requirement for reports of adult abuse, neglect, or exploitation.

The hotline has 160 staff members, including 3 managers, 17 supervisors and 140 counselors.<sup>7</sup> From 2007-2008, Florida's Abuse Hotline received approximately 367,000 calls, which resulted in approximately 230,000 filed reports. Specifically relating to adult abuse, the hotline received 77,641 calls, which resulted in 42,919 filed reports.<sup>8</sup> The hotline also maintains a secure web-based reporting system that allows individuals to report suspicions of adult/child abuse, neglect and abandonment, or neglect and exploitation of vulnerable adults.

The Florida Abuse Hotline accepts reports related to vulnerable adults who are residents of Florida or currently located in Florida, and are:<sup>9</sup>

- Believed to have been neglected or abused by a caregiver in Florida;
- Suffering from the ill effects of neglect and in need of services; or
- Being exploited by any person who stands in a position of trust or confidence, or any person who knows or should know that a vulnerable adult lacks capacity to consent and who obtains or uses, or endeavors to obtain or use their funds, assets or property.

When a report is determined by a hotline counselor to require an immediate onsite protective investigation, the hotline counselor must immediately notify the DCF's designated district staff responsible for protective investigations. A non-emergency report that is received by the hotline counselor is forwarded to the appropriate district staff in sufficient time so that an investigation occurs within 24 hours.<sup>10</sup>

#### *Protective Service Interventions*

When a report is called into the Florida Abuse hotline, it is then referred to the Protective Investigations Unit closest to the victim's location. A protective investigation is initiated that includes observation, interviews with the victim and witnesses, evidence gathering and collateral contacts.<sup>11</sup> Sometimes during an investigation, abused, neglected, or exploited adults are identified, but lack the capacity to consent to protective services. Therefore, the DCF, under reasonable cause, is directed to petition the court for an order authorizing the provision of protective services.<sup>12</sup>

There are also instances when vulnerable adults are identified and lack capacity to consent to emergency protective services. Emergency protective services are warranted when a vulnerable adult is suffering from abuse or neglect that presents a risk of death or serious physical injury. The DCF, under reasonable cause, may petition the court for an emergency protective services order.<sup>13</sup>

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<sup>5</sup> Section 415.102(4), F.S., defines "caregiver" as "a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a vulnerable adult on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. 'Caregiver' includes, but is not limited to, relatives, household members, guardians, neighbors, and employees and volunteers of facilities as defined in subsection (8). For the purpose of departmental investigative jurisdiction, the term 'caregiver' does not include law enforcement officers or employees of municipal or county detention facilities or the Department of Corrections while acting in any official capacity."

<sup>6</sup> Section 39.201(2)(b), F.S.

<sup>7</sup> Department of Children and Families, see <http://www.dcf.state.fl.us/dcflash/apr07/hotline.shtml> (last visited March 4, 2010).

<sup>8</sup> Department of Children and Families, *Florida Abuse Hotline – Call Report Activity Fiscal Year 2008-2009* (on file with the Committee).

<sup>9</sup> Department of Children and Families, *Reporting Abuse of Children and Vulnerable Adults*, see [www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf](http://www.dcf.state.fl.us/abuse/publications/mandatedreporters.pdf) (2007) (last visited March 4, 2010).

<sup>10</sup> Section 415.103(2), F.S.

<sup>11</sup> Department of Children and Families, *Adult Abuse, Neglect, and Exploitation*, see <http://www.dcf.state.fl.us/as/> (last visited March 4, 2010).

<sup>12</sup> Section 415.1051(1), F.S.

<sup>13</sup> Section 415.1051(2), F.S.

Emergency and non-emergency protective service orders are restricted to 60 days. At the conclusion of 60 days, the department must petition the court to determine whether:<sup>14</sup>

- Protective services will be continued with the consent of the vulnerable adult;
- Protective services will be continued for the vulnerable adult who lacks capacity;
- Protective services will be discontinued; or
- A petition for guardianship should be filed pursuant to chapter 744, Florida Statutes, regarding Florida guardianship.

#### *Access to Driver's License Images and Signatures*

The DCF reports that during some adult services investigations, the subject of the investigation denies his or her identity, eluding the investigators. Section 322.142(4), Florida Statutes, authorizes the Department of Highway Safety and Motor Vehicles, pursuant to interagency agreements, to share its database information, including digital images and signatures, in response to:

- Law enforcement agency requests;
- The Department of State to determine voter registration eligibility;
- The Department of Revenue to establish paternity and establish, modify, or enforce support obligations;
- The Department of Financial Services relating to unclaimed property; and
- The Department of Children and Families relating to protective investigations regarding children.<sup>15</sup>

Current law does not allow the DCF to access the database system relating to protective investigations regarding vulnerable adults.

#### **Effects of Bill**

Committee Substitute for House Bill 91 amends several provisions in chapter 415, Florida Statutes, relating to adult protective services. The bill changes several definitions used in this chapter. Specifically, the bill deletes terms "disabled adults" and "elderly persons" provided in section 415.101(2), Florida Statutes, and replaces with the term "vulnerable adult." The bill amends the definition of "vulnerable adult" by adding the term "sensory," and creates a definition for "activities of daily living" that conforms the phrase to the definition of "activities of daily living," relating to adult family-care homes.<sup>16</sup> The effect of these changes provides more consistent use of commonly used terms.

The bill amends section 415.103(2), Florida Statutes, and requires the central abuse hotline to transfer reports of known or suspected abuse of a vulnerable adult, where the alleged responsible party is someone other than the caregiver, household member, or family member, to the appropriate county sheriff's office. This provision aligns abuse of vulnerable adult reporting requirements with those for abuse of children and should ensure increased law enforcement notification.

The bill amends section 415.1051, Florida Statutes, and authorizes the DCF, upon a good faith belief that a vulnerable adult lacks capacity, to file a petition to determine capacity in emergency and nonemergency adult protective proceedings, under section 744.3201, Florida Statutes. A copy of a petition for appointment of guardian or emergency temporary guardian can be filed along with a petition to determine capacity. The bill prohibits the DCF from serving as a guardian or providing legal counsel to the guardian once such petition has been filed. The effect of these changes will allow the DCF to initiate guardianship petitions to protect vulnerable adults and should allow for ongoing protection once the department's involvement has ended. Additionally, the effect of prohibiting the DCF from being named as guardian to the vulnerable adult will avoid conflicts of interest for the department.

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<sup>14</sup> *Id.*

<sup>15</sup> Section 322.142(4), F.S.

<sup>16</sup> Section 429.65(1), F.S.

The bill provides the department with access to records of the Department of Highway Safety and Motor Vehicles for use in conducting protective investigations. Access to this system should assist investigators in the positive identification of victims and responsible persons who are subjects in investigations of abuse, neglect, or exploitation and provide quick access to the location of such persons, including vulnerable adults.

Three sections of statute are amended to correct cross-references to section changes made by the bill.

The bill does not appear to have a fiscal impact on state or local governments.

This bill provides an effective date of July 1, 2010.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 415.101, F.S., relating to the Adult Protective Services Acts; legislative intent.

Section 2. Amends s. 415.102, F.S., relating to definitions.

Section 3. Amends s. 415.103, F.S., relating to the central abuse hotline.

Section 4. Amends s. 415.1051, F.S., relating to protective services interventions when capacity to consent is lacking; nonemergencies; emergencies; orders; limitations.

Section 5. Amends s. 322.142, F.S., relating to color photographic or digital imaged licenses.

Section 6: Amends s. 435.04, F.S., relating to level 2 screening standards.

Section 7. Amends s. 943.0585, F.S., relating to court-ordered expunction of criminal history records.

Section 8. Amends s. 943.059, F.S., relating to court-ordered sealing of criminal history records.

Section 9. Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

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According to the Department of Children and Families, section 4 of the bill, which authorizes the department to file a petition for guardianship, will have no fiscal impact on the department since the petition filing fees will be waived per section 28.345, Florida Statutes.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On January 21, 2009, the Elder and Family Services Policy Committee adopted two amendments to House Bill 91. The first amendment provides of a definition of "activities of daily living" that conforms the phrase to the same definition provided in chapter 429, Florida Statutes, for adult family-care homes. The second amendment is technical and corrects a cross-reference in the bill.

The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.

1                                   A bill to be entitled  
 2           An act relating to adult protective services; amending s.  
 3           415.101, F.S.; revising legislative intent with respect to  
 4           adult protective services; providing for care and  
 5           protection of all vulnerable adults; amending s. 415.102,  
 6           F.S.; defining the term "activities of daily living";  
 7           revising the definition of the term "vulnerable adult";  
 8           conforming a cross-reference; amending s. 415.103, F.S.;  
 9           providing for certain suspected abuse cases to be  
 10          transferred to the local county sheriff's office; amending  
 11          s. 415.1051, F.S.; providing for the Department of  
 12          Children and Family Services to file a petition to  
 13          determine incapacity and guardianship under certain  
 14          circumstances; amending s. 322.142, F.S.; authorizing the  
 15          Department of Highway Safety and Motor Vehicles to provide  
 16          copies of drivers' license files to the Department of  
 17          Children and Family Services to conduct protective  
 18          investigations; amending ss. 435.04, 943.0585, and  
 19          943.059, F.S.; conforming cross-references; providing an  
 20          effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:  
 23

24           Section 1. Subsection (2) of section 415.101, Florida  
 25   Statutes, is amended to read:  
 26           415.101 Adult Protective Services Act; legislative  
 27   intent.—

28 (2) The Legislature recognizes that there are many persons  
 29 in this state who, because of age or disability, are in need of  
 30 protective services. Such services should allow such an  
 31 individual the same rights as other citizens and, at the same  
 32 time, protect the individual from abuse, neglect, and  
 33 exploitation. It is the intent of the Legislature to provide for  
 34 the detection and correction of abuse, neglect, and exploitation  
 35 through social services and criminal investigations and to  
 36 establish a program of protective services for all vulnerable  
 37 ~~disabled~~ adults ~~or elderly persons~~ in need of them. It is  
 38 intended that the mandatory reporting of such cases will cause  
 39 the protective services of the state to be brought to bear in an  
 40 effort to prevent further abuse, neglect, and exploitation of  
 41 vulnerable ~~disabled~~ adults ~~or elderly persons~~. In taking this  
 42 action, the Legislature intends to place the fewest possible  
 43 restrictions on personal liberty and the exercise of  
 44 constitutional rights, consistent with due process and  
 45 protection from abuse, neglect, and exploitation. Further, the  
 46 Legislature intends to encourage the constructive involvement of  
 47 families in the care and protection of vulnerable ~~disabled~~  
 48 adults ~~or elderly persons~~.

49 Section 2. Subsections (2) through (27) of section  
 50 415.102, Florida Statutes, are renumbered as subsections (3)  
 51 through (28), respectively, current subsections (4) and (26) are  
 52 amended, and a new subsection (2) is added to that section, to  
 53 read:

54 415.102 Definitions of terms used in ss. 415.101-415.113.—  
 55 As used in ss. 415.101-415.113, the term:

56           (2) "Activities of daily living" means functions and tasks  
 57 for self-care, including ambulation, bathing, dressing, eating,  
 58 grooming, toileting, and other similar tasks.

59           ~~(5)-(4)~~ "Caregiver" means a person who has been entrusted  
 60 with or has assumed the responsibility for frequent and regular  
 61 care of or services to a vulnerable adult on a temporary or  
 62 permanent basis and who has a commitment, agreement, or  
 63 understanding with that person or that person's guardian that a  
 64 caregiver role exists. "Caregiver" includes, but is not limited  
 65 to, relatives, household members, guardians, neighbors, and  
 66 employees and volunteers of facilities as defined in subsection  
 67 (9) ~~(8)~~. For the purpose of departmental investigative  
 68 jurisdiction, the term "caregiver" does not include law  
 69 enforcement officers or employees of municipal or county  
 70 detention facilities or the Department of Corrections while  
 71 acting in an official capacity.

72           ~~(27)-(26)~~ "Vulnerable adult" means a person 18 years of age  
 73 or older whose ability to perform the normal activities of daily  
 74 living or to provide for his or her own care or protection is  
 75 impaired due to a mental, emotional, sensory, long-term  
 76 physical, or developmental disability or dysfunction  
 77 ~~dysfunctioning~~, or brain damage, or the infirmities of aging.

78           Section 3. Subsection (2) of section 415.103, Florida  
 79 Statutes, is amended to read:

80           415.103 Central abuse hotline.—

81           (2) Upon receiving an oral or written report of known or  
 82 suspected abuse, neglect, or exploitation of a vulnerable adult,  
 83 the central abuse hotline must determine if the report requires

84 an immediate onsite protective investigation. For reports  
 85 requiring an immediate onsite protective investigation, the  
 86 central abuse hotline must immediately notify the department's  
 87 designated protective investigative district staff responsible  
 88 for protective investigations to ensure prompt initiation of an  
 89 onsite investigation. For reports not requiring an immediate  
 90 onsite protective investigation, the central abuse hotline must  
 91 notify the department's designated protective investigative  
 92 district staff responsible for protective investigations in  
 93 sufficient time to allow for an investigation to be commenced  
 94 within 24 hours. At the time of notification of district staff  
 95 with respect to the report, the central abuse hotline must also  
 96 provide any known information on any previous report concerning  
 97 a subject of the present report or any pertinent information  
 98 relative to the present report or any noted earlier reports. If  
 99 the report is of known or suspected abuse of a vulnerable adult  
 100 by someone other than a relative, caregiver, or household  
 101 member, the report shall be immediately transferred to the  
 102 appropriate county sheriff's office.

103 Section 4. Paragraph (e) of subsection (1) and paragraph  
 104 (g) of subsection (2) of section 415.1051, Florida Statutes, are  
 105 amended to read:

106 415.1051 Protective services interventions when capacity  
 107 to consent is lacking; nonemergencies; emergencies; orders;  
 108 limitations.-

109 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.-If the  
 110 department has reasonable cause to believe that a vulnerable  
 111 adult or a vulnerable adult in need of services is being abused,

112 neglected, or exploited and is in need of protective services  
 113 but lacks the capacity to consent to protective services, the  
 114 department shall petition the court for an order authorizing the  
 115 provision of protective services.

116 (e) Continued protective services.—

117 1. No more than 60 days after the date of the order  
 118 authorizing the provision of protective services, the department  
 119 shall petition the court to determine whether:

120 a. Protective services will be continued with the consent  
 121 of the vulnerable adult pursuant to this subsection;

122 b. Protective services will be continued for the  
 123 vulnerable adult who lacks capacity;

124 c. Protective services will be discontinued; or

125 d. A petition for guardianship should be filed pursuant to  
 126 chapter 744.

127 2. If the court determines that a petition for  
 128 guardianship should be filed pursuant to chapter 744, the court,  
 129 for good cause shown, may order continued protective services  
 130 until it makes a determination regarding capacity.

131 3. If the department has a good faith belief that the  
 132 vulnerable adult lacks the capacity to consent to protective  
 133 services, the petition to determine incapacity under s. 744.3201  
 134 may be filed by the department. Once the petition is filed, the  
 135 department may not be appointed guardian and may not provide  
 136 legal counsel for the guardian.

137 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the  
 138 department has reasonable cause to believe that a vulnerable  
 139 adult is suffering from abuse or neglect that presents a risk of

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140 death or serious physical injury to the vulnerable adult and  
 141 that the vulnerable adult lacks the capacity to consent to  
 142 emergency protective services, the department may take action  
 143 under this subsection. If the vulnerable adult has the capacity  
 144 to consent and refuses consent to emergency protective services,  
 145 emergency protective services may not be provided.

146 (g) Continued emergency protective services.—

147 1. Not more than 60 days after the date of the order  
 148 authorizing the provision of emergency protective services, the  
 149 department shall petition the court to determine whether:

150 a. Emergency protective services will be continued with  
 151 the consent of the vulnerable adult;

152 b. Emergency protective services will be continued for the  
 153 vulnerable adult who lacks capacity;

154 c. Emergency protective services will be discontinued; or

155 d. A petition should be filed under chapter 744.

156 2. If it is decided to file a petition under chapter 744,  
 157 for good cause shown, the court may order continued emergency  
 158 protective services until a determination is made by the court.

159 3. If the department has a good faith belief that the  
 160 vulnerable adult lacks the capacity to consent to protective  
 161 services, the petition to determine incapacity under s. 744.3201  
 162 may be filed by the department. Once the petition is filed, the  
 163 department may not be appointed guardian and may not provide  
 164 legal counsel for the guardian.

165 Section 5. Subsection (4) of section 322.142, Florida  
 166 Statutes, is amended to read:

167 322.142 Color photographic or digital imaged licenses.—

168 (4) The department may maintain a film negative or print  
 169 file. The department shall maintain a record of the digital  
 170 image and signature of the licensees, together with other data  
 171 required by the department for identification and retrieval.  
 172 Reproductions from the file or digital record are exempt from  
 173 the provisions of s. 119.07(1) and shall be made and issued only  
 174 for departmental administrative purposes; for the issuance of  
 175 duplicate licenses; in response to law enforcement agency  
 176 requests; to the Department of State pursuant to an interagency  
 177 agreement to facilitate determinations of eligibility of voter  
 178 registration applicants and registered voters in accordance with  
 179 ss. 98.045 and 98.075; to the Department of Revenue pursuant to  
 180 an interagency agreement for use in establishing paternity and  
 181 establishing, modifying, or enforcing support obligations in  
 182 Title IV-D cases; to the Department of Children and Family  
 183 Services pursuant to an interagency agreement to conduct  
 184 protective investigations under part III of chapter 39 and  
 185 chapter 415; or to the Department of Financial Services pursuant  
 186 to an interagency agreement to facilitate the location of owners  
 187 of unclaimed property, the validation of unclaimed property  
 188 claims, and the identification of fraudulent or false claims.

189 Section 6. Paragraph (a) of subsection (4) of section  
 190 435.04, Florida Statutes, is amended to read:

191 435.04 Level 2 screening standards.—

192 (4) Standards must also ensure that the person:

193 (a) For employees or employers licensed or registered  
 194 pursuant to chapter 400 or chapter 429, does not have a  
 195 confirmed report of abuse, neglect, or exploitation as defined



196 in s. 415.102~~(6)~~, which has been uncontested or upheld under s.  
 197 415.103.

198 Section 7. Paragraph (a) of subsection (4) of section  
 199 943.0585, Florida Statutes, is amended to read:

200 943.0585 Court-ordered expunction of criminal history  
 201 records.—The courts of this state have jurisdiction over their  
 202 own procedures, including the maintenance, expunction, and  
 203 correction of judicial records containing criminal history  
 204 information to the extent such procedures are not inconsistent  
 205 with the conditions, responsibilities, and duties established by  
 206 this section. Any court of competent jurisdiction may order a  
 207 criminal justice agency to expunge the criminal history record  
 208 of a minor or an adult who complies with the requirements of  
 209 this section. The court shall not order a criminal justice  
 210 agency to expunge a criminal history record until the person  
 211 seeking to expunge a criminal history record has applied for and  
 212 received a certificate of eligibility for expunction pursuant to  
 213 subsection (2). A criminal history record that relates to a  
 214 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 215 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
 216 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
 217 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
 218 any violation specified as a predicate offense for registration  
 219 as a sexual predator pursuant to s. 775.21, without regard to  
 220 whether that offense alone is sufficient to require such  
 221 registration, or for registration as a sexual offender pursuant  
 222 to s. 943.0435, may not be expunged, without regard to whether  
 223 adjudication was withheld, if the defendant was found guilty of

224 or pled guilty or nolo contendere to the offense, or if the  
 225 defendant, as a minor, was found to have committed, or pled  
 226 guilty or nolo contendere to committing, the offense as a  
 227 delinquent act. The court may only order expunction of a  
 228 criminal history record pertaining to one arrest or one incident  
 229 of alleged criminal activity, except as provided in this  
 230 section. The court may, at its sole discretion, order the  
 231 expunction of a criminal history record pertaining to more than  
 232 one arrest if the additional arrests directly relate to the  
 233 original arrest. If the court intends to order the expunction of  
 234 records pertaining to such additional arrests, such intent must  
 235 be specified in the order. A criminal justice agency may not  
 236 expunge any record pertaining to such additional arrests if the  
 237 order to expunge does not articulate the intention of the court  
 238 to expunge a record pertaining to more than one arrest. This  
 239 section does not prevent the court from ordering the expunction  
 240 of only a portion of a criminal history record pertaining to one  
 241 arrest or one incident of alleged criminal activity.  
 242 Notwithstanding any law to the contrary, a criminal justice  
 243 agency may comply with laws, court orders, and official requests  
 244 of other jurisdictions relating to expunction, correction, or  
 245 confidential handling of criminal history records or information  
 246 derived therefrom. This section does not confer any right to the  
 247 expunction of any criminal history record, and any request for  
 248 expunction of a criminal history record may be denied at the  
 249 sole discretion of the court.

250 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
 251 criminal history record of a minor or an adult which is ordered

252 expunged by a court of competent jurisdiction pursuant to this  
 253 section must be physically destroyed or obliterated by any  
 254 criminal justice agency having custody of such record; except  
 255 that any criminal history record in the custody of the  
 256 department must be retained in all cases. A criminal history  
 257 record ordered expunged that is retained by the department is  
 258 confidential and exempt from the provisions of s. 119.07(1) and  
 259 s. 24(a), Art. I of the State Constitution and not available to  
 260 any person or entity except upon order of a court of competent  
 261 jurisdiction. A criminal justice agency may retain a notation  
 262 indicating compliance with an order to expunge.

263 (a) The person who is the subject of a criminal history  
 264 record that is expunged under this section or under other  
 265 provisions of law, including former s. 893.14, former s. 901.33,  
 266 and former s. 943.058, may lawfully deny or fail to acknowledge  
 267 the arrests covered by the expunged record, except when the  
 268 subject of the record:

- 269 1. Is a candidate for employment with a criminal justice  
 270 agency;
- 271 2. Is a defendant in a criminal prosecution;
- 272 3. Concurrently or subsequently petitions for relief under  
 273 this section or s. 943.059;
- 274 4. Is a candidate for admission to The Florida Bar;
- 275 5. Is seeking to be employed or licensed by or to contract  
 276 with the Department of Children and Family Services, the Agency  
 277 for Health Care Administration, the Agency for Persons with  
 278 Disabilities, or the Department of Juvenile Justice or to be  
 279 employed or used by such contractor or licensee in a sensitive

280 position having direct contact with children, the  
 281 developmentally disabled, the aged, or the elderly as provided  
 282 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
 283 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5)~~(4)~~,  
 284 chapter 916, s. 985.644, chapter 400, or chapter 429;

285 6. Is seeking to be employed or licensed by the Department  
 286 of Education, any district school board, any university  
 287 laboratory school, any charter school, any private or parochial  
 288 school, or any local governmental entity that licenses child  
 289 care facilities; or

290 7. Is seeking authorization from a seaport listed in s.  
 291 311.09 for employment within or access to one or more of such  
 292 seaports pursuant to s. 311.12.

293 Section 8. Paragraph (a) of subsection (4) of section  
 294 943.059, Florida Statutes, is amended to read:

295 943.059 Court-ordered sealing of criminal history  
 296 records.—The courts of this state shall continue to have  
 297 jurisdiction over their own procedures, including the  
 298 maintenance, sealing, and correction of judicial records  
 299 containing criminal history information to the extent such  
 300 procedures are not inconsistent with the conditions,  
 301 responsibilities, and duties established by this section. Any  
 302 court of competent jurisdiction may order a criminal justice  
 303 agency to seal the criminal history record of a minor or an  
 304 adult who complies with the requirements of this section. The  
 305 court shall not order a criminal justice agency to seal a  
 306 criminal history record until the person seeking to seal a  
 307 criminal history record has applied for and received a

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308 certificate of eligibility for sealing pursuant to subsection  
 309 (2). A criminal history record that relates to a violation of s.  
 310 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
 311 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
 312 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
 313 916.1075, a violation enumerated in s. 907.041, or any violation  
 314 specified as a predicate offense for registration as a sexual  
 315 predator pursuant to s. 775.21, without regard to whether that  
 316 offense alone is sufficient to require such registration, or for  
 317 registration as a sexual offender pursuant to s. 943.0435, may  
 318 not be sealed, without regard to whether adjudication was  
 319 withheld, if the defendant was found guilty of or pled guilty or  
 320 nolo contendere to the offense, or if the defendant, as a minor,  
 321 was found to have committed or pled guilty or nolo contendere to  
 322 committing the offense as a delinquent act. The court may only  
 323 order sealing of a criminal history record pertaining to one  
 324 arrest or one incident of alleged criminal activity, except as  
 325 provided in this section. The court may, at its sole discretion,  
 326 order the sealing of a criminal history record pertaining to  
 327 more than one arrest if the additional arrests directly relate  
 328 to the original arrest. If the court intends to order the  
 329 sealing of records pertaining to such additional arrests, such  
 330 intent must be specified in the order. A criminal justice agency  
 331 may not seal any record pertaining to such additional arrests if  
 332 the order to seal does not articulate the intention of the court  
 333 to seal records pertaining to more than one arrest. This section  
 334 does not prevent the court from ordering the sealing of only a  
 335 portion of a criminal history record pertaining to one arrest or

336 one incident of alleged criminal activity. Notwithstanding any  
 337 law to the contrary, a criminal justice agency may comply with  
 338 laws, court orders, and official requests of other jurisdictions  
 339 relating to sealing, correction, or confidential handling of  
 340 criminal history records or information derived therefrom. This  
 341 section does not confer any right to the sealing of any criminal  
 342 history record, and any request for sealing a criminal history  
 343 record may be denied at the sole discretion of the court.

344 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
 345 history record of a minor or an adult which is ordered sealed by  
 346 a court of competent jurisdiction pursuant to this section is  
 347 confidential and exempt from the provisions of s. 119.07(1) and  
 348 s. 24(a), Art. I of the State Constitution and is available only  
 349 to the person who is the subject of the record, to the subject's  
 350 attorney, to criminal justice agencies for their respective  
 351 criminal justice purposes, which include conducting a criminal  
 352 history background check for approval of firearms purchases or  
 353 transfers as authorized by state or federal law, to judges in  
 354 the state courts system for the purpose of assisting them in  
 355 their case-related decisionmaking responsibilities, as set forth  
 356 in s. 943.053(5), or to those entities set forth in  
 357 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
 358 licensing, access authorization, and employment purposes.

359 (a) The subject of a criminal history record sealed under  
 360 this section or under other provisions of law, including former  
 361 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
 362 deny or fail to acknowledge the arrests covered by the sealed  
 363 record, except when the subject of the record:

- 364 1. Is a candidate for employment with a criminal justice  
 365 agency;
- 366 2. Is a defendant in a criminal prosecution;
- 367 3. Concurrently or subsequently petitions for relief under  
 368 this section or s. 943.0585;
- 369 4. Is a candidate for admission to The Florida Bar;
- 370 5. Is seeking to be employed or licensed by or to contract  
 371 with the Department of Children and Family Services, the Agency  
 372 for Health Care Administration, the Agency for Persons with  
 373 Disabilities, or the Department of Juvenile Justice or to be  
 374 employed or used by such contractor or licensee in a sensitive  
 375 position having direct contact with children, the  
 376 developmentally disabled, the aged, or the elderly as provided  
 377 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.  
 378 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(5)+4),  
 379 s. 415.103, chapter 916, s. 985.644, chapter 400, or chapter  
 380 429;
- 381 6. Is seeking to be employed or licensed by the Department  
 382 of Education, any district school board, any university  
 383 laboratory school, any charter school, any private or parochial  
 384 school, or any local governmental entity that licenses child  
 385 care facilities;
- 386 7. Is attempting to purchase a firearm from a licensed  
 387 importer, licensed manufacturer, or licensed dealer and is  
 388 subject to a criminal history check under state or federal law;  
 389 or

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390           8. Is seeking authorization from a Florida seaport  
391 identified in s. 311.09 for employment within or access to one  
392 or more of such seaports pursuant to s. 311.12.


393           Section 9. This act shall take effect July 1, 2010.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1337 Nursing  
**SPONSOR(S):** State Universities & Private Colleges Policy Committee and Grimsley  
**TIED BILLS:** IDEN./SIM. BILLS: SB 2530

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	State Universities & Private Colleges Policy Committee	12 Y, 0 N, As CS	White	Tilton
2)	Health Care Regulation Policy Committee	11 Y, 0 N	Holt	Calamas
3)	Health Care Appropriations Committee		Massengale	Massengale 
4)	Education Policy Council			
5)				

### SUMMARY ANALYSIS

To address the state's lack of nursing education program capacity, the 2009 Legislature took action to expedite and streamline the nursing education program approval and regulatory processes in Florida with the passage of House Bill 1209 (2009). This legislation repealed the Florida Board of Nursing's (BON's) authority to prescribe the nursing education program approval and regulation processes by rule and, instead, set forth these processes in statute.

Committee Substitute for House Bill 1337 builds upon the 2009 legislation by further streamlining these processes. Under the bill, a nursing education program that is accredited by one of the two specialized accrediting agencies that are nationally recognized by the United States Secretary of Education to accredit nursing education programs is no longer subject to BON regulation for as long as the program maintains its accreditation. The BON approval process for non-accredited programs, as adopted in last year's bill, is largely retained, but implementation issues identified by the Office of Program Policy and Government Accountability, Florida Center for Nursing, and stakeholders are addressed. The bill's changes include:

- Specifying that the BON must approve or deny a nursing education program application within 90 days after receipt of a *complete* application.
- Specifying that faculty education requirements for a nursing program may be documented by an official transcript or a written statement from an educational institution verifying that it conferred a degree.
- Specifying that the graduate passage rate on the National Council Licensure Examination (NCLEX), which must be achieved by approved programs, is 10 percentage points, rather than 10 percent below, the national average passage rate.
- Specifying that the requirements for NCLEX graduate passage rates, as adopted in last year's legislation for approved programs, should only be applied prospectively beginning with the 2010 calendar year.
- Specifying that approved programs placed on probation for inadequate NCLEX graduate passage rates shall be removed from probation after attaining the required passage rate for one calendar year.
- Eliminating probation as a penalty for an approved program's failure to submit an annual report and, instead, requiring the program's director to appear before the BON to explain the delay.
- Authorizing nursing program directors to receive information on the NCLEX exam date and pass/fail score for program graduates included in the program's graduate passage rate.

Although the Department of Health requires a one-time expenditure for setting up a website, this should be offset by a reduction in expenditures as a result of having less programs to accredit. Please see "Fiscal Analysis & Economic Impact Statement."

The bill takes effect July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

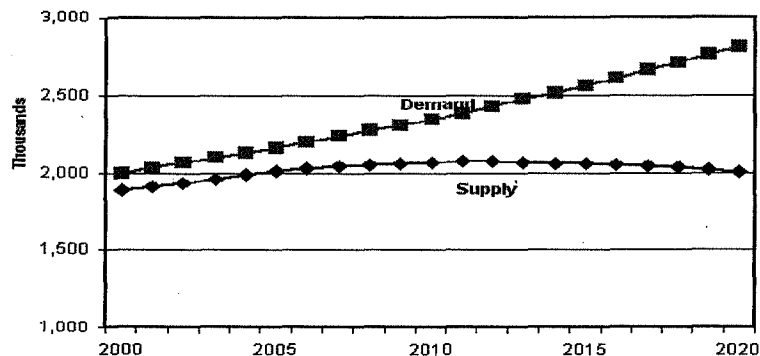
#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **National Nursing Shortage**

In 2007, the National Center for Health Workforce Analysis at Health Resource and Service Administration projected a growing shortage of Registered Nurses (RNs) over the next 15 years, with a 12 percent shortage by 2010 and a 20 percent shortage by 2015.<sup>1</sup>

**National Supply and Demand Projections for FTE RNs, 2000 to 2020**



Since 2007, the economic recession has forced many nurses to return to the workforce and, as a result, the current demand for RNs has decreased somewhat. A national nursing shortage, however, remains on the horizon. According to a study published in the June 2009 edition of *Health Matters*, a peer-reviewed health policy journal, the shortage is projected to grow to 260,000 RNs by 2025. The primary cause is the aging nursing workforce.<sup>2</sup> By 2014, nearly 40 percent of the nation's RN population will be between the ages of 55 to 64 years and expected to retire from active nursing practice.<sup>3</sup>

<sup>1</sup>U.S. Department of Health and Human Services, Bureau of Health Professions, National Center for Health Workforce Analysis, *Nursing Workforce Data Analysis: Methods for Identifying Facilities and Communities with Shortages of Nurses*, Technical Report. (February 2007). Available online at: [http://bhpr.hrsa.gov/healthworkforce/nursingshortage/tech\\_report/default.htm](http://bhpr.hrsa.gov/healthworkforce/nursingshortage/tech_report/default.htm) (last viewed March 6, 2010).

<sup>2</sup>Buerhaus, P., Auerbach, D., & Staiger, D., (2009), *The Recent Surge In Nurse Employment: Causes And Implications*, *Health Matters*, 28, no. 4 (2009): w657-w668. Available online at: <http://content.healthaffairs.org/cgi/content/abstract/hlthaff.28.4.w657> (last viewed March 6, 2010).

<sup>3</sup>See *supra* note 1.

## Florida Nursing Shortage

As of June 30, 2009, there were 62,254 active in-state licensed practical nurses (LPNs), 178,214 active in-state licensed RNs, and 11,829 active in-state licensed advanced registered nurse practitioners.<sup>4</sup>

According to reports prepared by the Florida Center for Nursing (FCN), there is a current shortage of RNs and LPNs in Florida, and this shortage is expected to grow significantly in the long-term. As of June 30, 2009, demand for RNs in Florida exceeded supply by 6,807 RNs and demand for LPNs exceeded supply by 1,417 LPNs.<sup>5</sup> The FCN has projected that by 2020 the shortage of RNs will increase to 52,209 and the shortage of LPNs will increase to 7,018.<sup>6,7</sup>

There is, however, no shortage of potential nurses in Florida. While Florida nursing programs produced 7,671 new RN graduates and 4,047 new LPN graduates in academic year 2008-2009, these programs also turned away 10,876 qualified RN program applicants and 2,755 qualified LPN program applicants in that same year because the programs were at capacity.<sup>8</sup>

To address the lack of nursing education program capacity, the 2009 Legislature took action to expedite and streamline the nursing education program approval and regulatory processes in Florida with the passage of House Bill 1209.<sup>9</sup> As discussed in the section below, this legislation repealed the Florida Board of Nursing's (BON's) broad authority to prescribe the nursing education program approval and regulation processes by rule and, instead, set forth these processes in statute.

## Nursing Education Program Approval and Regulation by the Florida Board of Nursing

*Background:* Part I, chapter 464, F.S., entitled the "Nurse Practice Act," (Act), provides for the regulation of the practice of nursing in Florida by the BON, which is established within the Department of Health (Department). The BON comprises 13 members appointed by the Governor and confirmed by the Senate who serve four year terms. Seven members must be RNs and three members must be LPNs. The remaining three members must be Florida residents who have never been licensed as nurses and who are in no way connected to the practice of nursing or to any health care facility, agency, or insurer.<sup>10</sup> The BON meets six times per year and is staffed with 43 full-time positions.<sup>11</sup>

Under the Act, an "approved program" means a nursing program conducted in a school, college, or university which is approved under section 464.019, Florida Statutes, for the education of nurses.<sup>12</sup> Currently, there are 181 nursing education programs approved to operate in Florida. Of this number, 98 programs offer a LPN certificate, 58 programs offer an associate degree in nursing, and 25 programs offer a bachelor's degree in nursing.<sup>13</sup> The Act requires individuals who seek licensure as a RN or LPN in Florida to, in relevant part, have graduated from an "approved program" or its equivalent, as determined by the BON, and to pass the Department's licensure exam.<sup>14</sup> The exam used is the

<sup>4</sup> Florida Department of Health, Division of Medical Quality Assurance, Annual Report: July 1, 2008-June 30, 2009.

<sup>5</sup> Florida Center for Nursing, *Workforce Demand in Nursing-Intensive Healthcare Settings, 2009 Vacancies and 2011 Growth Projections*, p. 8 (January 2010). Available at: <http://www.flcenterfornursing.org/workforce/researchreports.cfm> (last viewed March 6, 2010).

<sup>6</sup> Florida Center for Nursing, *Forecasting Supply, Demand, and Shortage of RNs and LPNs in Florida, 2007-2020*, p. 5 (July 2008). Available at: <http://www.flcenterfornursing.org/workforce/researchreports.cfm> (last viewed March 6, 2010).

<sup>7</sup> The projections were based on 2007 survey data. In a January 2010, report, the FCN noted that although the nationally economy has changed dramatically since the 2007 survey, the nursing shortage in Florida remains a critical issue. According to the FCN, "The nursing shortage, though perhaps temporarily eased by the increase in recession-related nursing employment, continues to be a looming problem for Florida. Drivers of the nursing shortage remain the same: older nurses who have returned to work will eventually retire, and an aging population will demand more healthcare. Once the recession eases, we will see the nursing shortage re-emerge. The Bureau of Labor Statistics (BLS) projects that demand for RNs will increase more than any other type of worker through 2016, with more than 587,000 new RN positions projected during this time in the United States. Hence, we expect long-term demand for nurses to increase in response to population trends." *Workforce Demand in Nursing-Intensive Healthcare Settings, 2009 Vacancies and 2011 Growth Projections*, *supra* note 5, at 4.

<sup>8</sup> Florida Center for Nursing, *Florida Nursing Education Capacity and Nursing Faculty Supply/Demand 2007-2009 Trends*, pp. 8-9 (January 2010). Available at: <http://www.flcenterfornursing.org/nurseeducation/data.cfm> (last viewed March 6, 2010).

<sup>9</sup> Chapter 2009-158, L.O.F.

<sup>10</sup> Section 464.004, F.S.

<sup>11</sup> Office of Program Policy Analysis & Government Accountability, *Since Implementing Statutory Changes, the State Board of Nursing Has Approved More Nursing Programs; the Legislature Should Address Implementation Issues*, Report No. 10-14 at p. 2 (January 2010). Available at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-14> (last viewed March 6, 2010).

<sup>12</sup> Section 464.003(8), F.S.

<sup>13</sup> See *supra* note 11.

<sup>14</sup> Section 464.008, F.S.

National Council Licensure Examination (NCLEX), developed by the National Council of State Boards of Nursing (NCSBN).

Prior to July 1, 2009, the BON had extensive authority to establish the requirements applicable to nursing education program approval and regulation in Florida under section 464.019, Florida Statutes (2008). This section required the BON to adopt rules necessary to ensure that approved nursing programs graduated nurses capable of competent practice, including rules that addressed: program approval and oversight; site visits; requirements for educational objectives, faculty, curriculum, administrative procedures, and clinical training; and procedures for program probation, suspension, and termination.

During the 2009 Regular Session, the Legislature repealed the BON's rulemaking authority and, instead, prescribed the nursing education program approval and regulatory process in statute.<sup>15</sup> This legislation specifically prohibited the BON from imposing any condition or requirement on an institution submitting a program application, an approved program, or a program on probationary status, except as expressly provided in section 464.019, Florida Statutes. It further stated that the BON has no rulemaking authority to implement the section, except that the BON must adopt a rule that prescribes the format for submitting program applications and summary descriptions of program compliance, and it expressly directed the BON to repeal all rules in existence on July 1, 2009, that were inconsistent with the subsection.<sup>16</sup>

*Existing Nursing Education Programs:* Under the 2009 legislation, Florida nursing education programs in existence on June 30, 2009, were made subject to a "grandfathering clause" set forth in section 464.019(2), Florida Statutes. This clause provides that a program approved by the BON as of June 30, 2009, notwithstanding whether that approval was full or provisional or whether the program was on probation, became an "approved program" on July 1, 2009, except for a program on probation due to inadequate graduate passage rates on the NCLEX. A program on such probation remains on probation until it achieves an average graduate passage rate for its first-time test takers on the NCLEX that is no more than 10 percent below the national average passage rate for first-time, U.S. educated test takers. This average graduate passage rate must be achieved by July 1, 2011, and, if not, the program must be terminated.<sup>17</sup> As of June 30, 2009, six practical nursing programs and one professional associate degree nursing program were on probation for inadequate student performance on the NCLEX.<sup>18</sup>

*New Program Approval:* For an educational institution applying for approval of a prelicensure practical or professional nursing education program on or after July 1, 2009, the 2009 legislation amended section 464.019(1), Florida Statutes, to require each program application to document that:

- At least 50 percent of the faculty and the program director are registered nurses in Florida who have, at a minimum, a bachelor's degree for a *practical* nursing program. For a *professional* nursing program, such faculty and program director must also have a master's degree in nursing or a related field.
- At least 50 percent of the curriculum consists of clinical training for a practical nursing program, professional associate's degree program, and professional diploma nursing program. For a bachelor's degree professional nursing program, at least 40 percent of the curriculum must consist of clinical training.
- No more than 25 percent of the program's clinical training consists of clinical simulation.
- The program has a signed agreement with each entity included in the curriculum plan as clinical training sites and community-based clinical experience sites.
- The program has written policies for direct supervision by faculty or clinical preceptors<sup>19</sup> for students in clinical training consistent with specified standards.
- The curriculum plan documents clinical experience and theoretical instruction in specified subjects.

<sup>15</sup> Ch. 2009-168, L.O.F.

<sup>16</sup> Section 464.019(7), F.S.

<sup>17</sup> Ch. 2009-168, s. 2, L.O.F., codified at s. 464.019(2) and (5)(a), F.S.

<sup>18</sup> Florida Center for Nursing, *Report of Findings and Recommendations – Ch. 2009-168, L.O.F., Florida Board of Nursing Education Program Approval & Oversight*, p. 2 (January 2010). Available at: <http://www.flcenterfornursing.org/nurseeducation/data.cfm> (last viewed March 6, 2010).

<sup>19</sup> The term "clinical preceptor" is defined to mean, "a registered nurse employed by a clinical training facility who serves as a role model and clinical resource person for a specified period to an individual enrolled in an approved program." Section 464.003(10), F.S.

Within 90 days after receipt of a program application, section 464.019(1), Florida Statutes, requires the BON to approve the application if it documents compliance with the standards above. If the program application is incomplete or does not document compliance, the BON is required to do the following:

- For an incomplete application, the BON must notify the educational institution of any errors or omissions within 30 days after receipt and follow the procedures specified in section 120.60, Florida Statutes, of the Administrative Procedure Act (APA). This section provides that an application is deemed complete upon receipt of an application that has corrected each identified error or omission and that the completed application must be approved or denied within 90 days after its receipt.<sup>20</sup>
- For an application that does not document compliance, the BON must, within 90 days after receipt of the application, provide the educational institution with a notice of intent to deny that sets forth written reasons for the denial. The institution may request a hearing on such a notice pursuant to chapter 120, Florida Statutes, the APA.<sup>21</sup>

If the BON does not act on an application within the timeframes specified above, the application is deemed approved and the program becomes an approved program under section 464.019, Florida Statutes.<sup>22</sup>

*BON Regulation of Approved Programs:* In order to continue as an approved program, section 464.019, Florida Statutes, as amended by the 2009 legislation, sets forth two requirements. First, all approved programs, including programs on probation, must submit a report to the BON by November 1 of each year. The annual report must include an affidavit certifying continued compliance with the requirements that must be documented in a new program application and provide a summary description of that compliance. The report must also document for the previous academic year: the number of student applications, qualified applicants, students accepted, and program graduates; the program's graduate passage rate on the NCLEX; the program's retention rates for students tracked from program entry to graduation; and the program's accreditation status, including identification of the accrediting body.<sup>23</sup> If a program fails to timely submit its annual report, the BON must place the program on probation. If the report is not submitted within six months following its due date, the BON must terminate the program.<sup>24</sup>

Second, the BON is required to place an approved program on probation if the program's average graduate passage for first-time test takers on the NCLEX falls 10 percent or more below the national average passage rate for first-time NCLEX test takers educated in the United States, as annually published by the contract testing service of the NCSBN, for two consecutive years.<sup>25</sup> The program must remain on probationary status until it achieves compliance with the required passage rate and must be terminated by the BON if it does not achieve compliance within two calendar years.<sup>26</sup>

A program placed on probation must disclose this status in writing to its students and applicants.<sup>27</sup>

*Data on Nursing Education Programs:* To provide prospective students with greater access to information about nursing programs in Florida, the 2009 legislation requires the BON to have published the following information about Florida nursing programs on its website by December 31, 2009:

- The program application for each program approved on or after July 1, 2009.
- The summary description required to be submitted by each program in its annual report.

<sup>20</sup> Section 120.60(1), F.S.

<sup>21</sup> Section 464.019(1) and (3), F.S.

<sup>22</sup> Section 464.019(1), F.S.

<sup>23</sup> Section 464.019(2)(b) and (c), F.S.

<sup>24</sup> Section 464.019(5)(b), F.S.

<sup>25</sup> Currently, s. 456.014, F.S., provides that all information required by the Department of any applicant for licensure is a public record with the exception of specified information that includes medical information, school transcripts, examination questions, answers, and grades. This information is confidential and exempt from s. 119.07(1), F.S., and may not be discussed with or made accessible to anyone except members of the relevant board, the department, and staff thereof. The Department has interpreted this section of law to mean that the NCLEX pass/fail results of an applicant for RN or LPN licensure may not be disclosed to the nursing education program from which the student graduated. Department of Health Bill Analysis for HB 1337, p. 2, March 4, 2010. Nursing education program stakeholders have expressed concerns that the non-disclosure of such data results in the program being unable to confirm whether the graduate passage rates are accurate.

<sup>26</sup> Section 464.019(5)(a), F.S.

<sup>27</sup> Section 464.019(5)(c), F.S.

- A comprehensive list of nursing programs in the state.
- The accreditation status of each program, including identification of the accrediting body.
- Each program's approval or probationary status.
- Each program's graduate passage rate for the NCLEX.
- The national average passage rate for the NCLEX.
- Each program's student retention rates tracked from program entry to graduation.

The website must allow interactive searches and comparisons of specific nursing programs and must be updated at least quarterly.

*Implementation Monitoring and Study:* The 2009 legislation established a six-year monitoring process to evaluate the effectiveness of the changes made by the legislation in achieving quality nursing programs with a higher production of quality nursing graduates. To this end, the legislation required the Florida Center for Nursing (FCN) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to monitor the administration of the new nursing program approval process during its first year of implementation and to report their findings to the Governor and presiding officers of the Legislature by February 1, 2010.<sup>28</sup> These reports were submitted in January 2010 and are discussed below in the section entitled, "Implementation Monitoring."

The legislation also created section 464.019(9), Florida Statutes, to require the FCN and OPPAGA to jointly study the bill's five-year implementation and to submit a report to the Governor and presiding officers of the Legislature on January 30, 2011, and annually thereafter through January 30, 2015. For this report, the OPPAGA is required to evaluate: the number of nursing education programs and student slots available; the number of applications submitted, qualified applicants, students accepted, and program graduates; program retention rates; graduate passage rates on the NCLEX; and the number of graduates who become employed in Florida as RNs or LPNs. The FCN is required to evaluate the BON's implementation of the program application approval process and program probation and termination processes.<sup>29</sup>

### **Nursing Education Program State Regulation, Licensure, and Programmatic Accreditation**

As discussed above, there are currently 181 nursing education programs approved under section 464.019, Florida Statutes, to operate in Florida. These programs are offered by: state-regulated public school districts, Florida colleges, and state universities; private institutions that must be licensed and regulated by the state Commission for Independent Education (CIE),<sup>30</sup> and private institutions that are not under the CIE pursuant to section 1005.06(1)(c) and (e), Florida Statutes.<sup>31,32</sup>

Some of Florida's nursing education programs are also accredited by specialized accrediting agencies that are nationally recognized by the United States (US) Secretary of Education to accredit nursing programs.<sup>33</sup> Accreditation is a private, nongovernmental review of the quality of educational programs. Approved programs in Florida are not required to be accredited.

The Secretary recognizes two agencies that provide specialized accreditation for prelicensure nursing education programs, the National League for Nursing Accreditation Commission (NLNAC) and the

<sup>28</sup> Section 464.019(8), F.S.

<sup>29</sup> Section 464.019(9), F.S.

<sup>30</sup> Chapter 1005, F.S., establishes the CIE to regulate independent postsecondary educational institutions, which are defined as, "any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government." Section 1005.02(11), F.S.

<sup>31</sup> Section 1005.06(1)(c), F.S., exempts a school from the CIE's licensure requirements if the institution: is under the jurisdiction of the Department of Education, eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program and is a nonprofit independent college or university located and chartered in this state and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. Twenty-eight institutions in Florida are subject to this exemption.

<sup>32</sup> Section 1005.06(1)(e), F.S., exempts a school from the CIE's licensure requirements if the institution: had been exempted prior to 2001; is incorporated in this state; the institution's credits or degrees are accepted for credit by at least three colleges that are accredited by an agency recognized by the USDOE; and the institution does not enroll any students who receive state or federal financial aid. Only two institutions in Florida, Pensacola Christian College and Landmark Baptist College, are subject to this exemption. Landmark Baptist College does not offer a nursing program.

<sup>33</sup> See *supra* note 18 at p. 3.

Commission on Collegiate Nursing Education (CCNE).<sup>34</sup> With regard to prelicensure nursing education programs, the NLNAC accredits certificate LPN programs and diploma, associate degree, and bachelor degree RN programs and the CCNE accredits bachelor degree RN programs.

Both accrediting agencies have extensive standards for the programs they accredit in order to ensure the quality of the education offered. These standards specify requirements that accredited programs must meet in areas that include the following: program administrator and faculty education qualifications; curriculum content and clinical experience requirements, which provide for periodic review of such content and experience to ensure rigor and currency; expectations for the use of best teaching practices; demonstration of sufficient fiscal, physical facility, and academic support services for the program; review of individual and aggregate student outcome data and graduate passage rates on the NCLEX; and review of student, alumni, and employer satisfaction.<sup>35,36</sup>

According to NLNAC, initial and continuing accreditation is granted when the nursing program demonstrates compliance with all NLNAC Accreditation Standards. Initial accreditation is for a period of five years and continuing accreditation is for a period of eight years.<sup>37</sup> The NLNAC requires accredited programs to file annual reports containing specified data that is reviewed to determine whether the program is continuing to comply with accreditation standards. Additionally, site visits are conducted for the initial and continuing accreditation determinations.<sup>38</sup> The NLNAC may place conditions on a program's accreditation if it finds that a program is in non-compliance with one or two of the accrediting standards and may place an accredited program on warning status if it is in non-compliance with three or more standards. In both cases, the NLNAC requires the accredited program within a specified period of time to report on its efforts to attain compliance and the NLNAC conducts a follow-up site visit. If the program fails to achieve compliance with the standards, the NLNAC will deny continuing accreditation. Achievement of compliance for a LPN program must occur within 18 months and for a RN program must occur within two years.<sup>39</sup> A program may appeal the NLNAC's denial of initial or continuing accreditation status within 30 days of receipt of notice of denial. The appeal process must be completed within 90 days.<sup>40</sup>

Similarly, initial and reaffirmed accreditation by the CCNE is granted to programs that demonstrate compliance with CCNE's standards. Initial accreditation may be for a period up to five years. Thereafter, the accreditation may be reaffirmed for a period up to 10 years. The CCNE requires accredited programs to file annual reports containing specified data that are reviewed to determine whether the program is continuing to comply with accreditation standards. Additionally, site visits are conducted for the initial and reaffirmed accreditation determinations.<sup>41</sup> Accreditation will be withdrawn by the CCNE when a program pursuing reaffirmed accreditation fails to demonstrate its ability to meet the accreditation standards or if the program fails to submit reports or payment of fees as requested by the CCNE. A program may challenge an adverse action by the CCNE with regard to its accreditation by filing a notice of appeal within 10 business days of the adverse action. If the program fails to file a notice of appeal within 10 business days, the CCNE's decision becomes final.<sup>42</sup>

Of the 181 nursing education programs approved in Florida, data from the FCN indicates that: eight of the 98 LPN programs (8.2 percent) are accredited by the NLNAC; 31 of the 58 associate degree RN programs (53.4 percent) are accredited by the NLNAC or CCNE; and 22 of the 25 bachelor degree RN programs (88 percent) are accredited by the NLNAC or CCNE.<sup>43</sup>

### **Implementation Monitoring**

<sup>34</sup> United States Department of Education, *Specialized Accrediting Agencies*. Available at:

[http://www.ed.gov/admins/finaid/accred/accreditation\\_pg8.html#health](http://www.ed.gov/admins/finaid/accred/accreditation_pg8.html#health) (last viewed March 6, 2010).

<sup>35</sup> National League for Nursing Accrediting Commission, Inc., *Accreditation Manual*, pp. 76-98, (2008). Available at:

<http://www.nlnac.org/manuals/Manual2008.htm> (last viewed March 7, 2010).

<sup>36</sup> Commission on Collegiate Nursing Education, *Standards for Accreditation of Baccalaureate and Graduate Degree Nursing Programs*, pp. 7-18 (April 2009). Available at: <http://www.aacn.nche.edu/accreditation/PubsBaccGrad.htm> (last viewed March 7, 2010).

<sup>37</sup> See *supra* note 35 at p. 32.

<sup>38</sup> See *supra* note 35 at p. 12, 61-62.

<sup>39</sup> See *supra* note 35 at pp. 32-34.

<sup>40</sup> See *supra* note 35 at pp. 42-44.

<sup>41</sup> See *supra* note 36 at pp. 7-8 & 17.

<sup>42</sup> See *supra* note 36 at pp. 13-14 & 21-24.

<sup>43</sup> See *supra* note 18 at p. 3



As discussed above, the 2009 legislation required the FCN and OPPAGA to monitor the administration of the new nursing program approval process during its first year of implementation and to report their findings by February 1, 2010. Additionally, staff of the Joint Administrative Procedures Committee (JAPC) monitored the BON's implementation of the legislation's requirements relating to rulemaking.

With regard to the new legislation's impact on increasing nursing education program capacity, the OPPAGA indicated in its report that:

New program applications submitted to the board have more than doubled in the six months since Ch. 2009-168, Florida Statutes, [sic] became effective compared to the previous year. As shown by Exhibit 3, since the new law went into effect, the board has considered 25 new applications for nursing programs, compared to 10 new applications considered in all of 2008. The board has approved 20 new nursing programs during this timeframe, compared to 9 new programs approved in 2008. In addition, the board has received seven new applications that will be considered at its February meeting.<sup>44</sup>

The OPPAGA and FCN also identified a number of issues related to implementation. These included:

- *Program Application Timeframe:* The OPPAGA and FCN found that the program application timeframe implemented by the BON is inconsistent with the timeframe established in the Administrative Procedure Act.<sup>45</sup> The BON begins the 90-day time frame for approval or denial of a program application on the day the application is received notwithstanding whether the application is complete or incomplete. Section 464.019(3), Florida Statutes, however, with regard to incomplete applications, directs the BON to notify the educational institution of any errors or omissions within 30 days after receipt of the application and to follow the procedures specified in section 120.60, Florida Statutes, of the Administrative Procedure Act (APA), which specifies that the 90-day time frame for approval or denial of an application does not begin until the application is complete. The OPPAGA stated:

As a result of this practice and the timing of board meetings, [department] staff must quickly review applications and notify programs to appear at the next board meeting, even when applications are incomplete. Since the board meets every other month, a program may only have one opportunity during the 90-day period to have their application go before the board; if all required documents are not yet filed the application will be denied unless the program waives the timeframe. If the applicant is denied, programs must submit a new application and begin the process anew.<sup>46</sup>

The FCN and OPPAGA both recommended that the Legislature clarify the timeframe the BON should follow when it considers applications for nursing programs to ensure that the BON's practice is consistent with section 120.60, Florida Statutes.<sup>47</sup>

- *Program Application:* The OPPAGA found, and the FCN concurred in the finding, that the BON's application for new nursing programs is not yet finalized.<sup>48</sup> The OPPAGA also indicated that the application includes requirements beyond those specified in statute, such as curriculum vitae of faculty members, course descriptions, approval dates by the Department of Education, and nursing program length. The OPPAGA recommended that the BON finalize and publish a program application consistent with statute.<sup>49</sup> This issue, as discussed below, is currently being addressed by the JAPC and will be discussed by the BON at its March 12, 2010 teleconference.
- *Probation:* The OPPAGA found that the BON's method for placing programs on probation is not yet finalized. According to OPPAGA, the BON determined at its October meeting to use graduate

<sup>44</sup> See *supra* note 11 at pp. 4-5.

<sup>45</sup> See *supra* note 11 at p. 5 and note 18 at p. 1.

<sup>46</sup> *Id.*

<sup>47</sup> See *supra* note 11 at p. 10 and note 18 at pp. 2 & 4.

<sup>48</sup> See *supra* note 11 at pp. 6-7 and note 18 at p. 1.

<sup>49</sup> See *supra* note 11 at pp. 6-7.

passage rates beginning in January 2009 for purposes of determining whether a program has had two consecutive years of inadequate passage rates. OPPAGA indicated that stakeholders expressed concern that this decision resulted in utilizing data that predated the July 1, 2009 effective date of the law, i.e., retroactive application of the law.<sup>50</sup>

Additionally, OPPAGA found that the BON has not yet determined how programs will be placed on probation for failure to submit an annual report and affidavit or determined how programs will be removed from probationary status. The OPPAGA stated, "Statutory language states that programs shall remain on probation until they achieve compliance with the examination score requirement or submit their annual report. However, statutes do not specify the number of quarters that programs must maintain compliant scores before being removed from probation and the board has not yet addressed this issue."<sup>51</sup>

The OPPAGA recommended that the Legislature, "delineate the criteria and timeframe the board should use to place nursing education programs on probation and remove programs from probation."<sup>52</sup>

- *Annual report:* The OPPAGA found that the BON's instructions for the 2009 Annual Report and Workforce Survey did not specify which items programs had to complete in order to comply with the statute. According to OPPAGA, the BON worked with the FCN to include the data elements required to be submitted to the BON by approved programs under section 464.019(3)(c), Florida Statutes, in the FCN's annual electronic workforce survey. The instructions for the survey notified programs that they would be placed on probation if they failed to submit completed surveys by November 1, 2009. The survey, however, included items that were not required section 464.019(3)(c), Florida Statutes, such as data on student demographics, changes to programs, and faculty information, which are used by the FCN to complete research reports. The OPPAGA indicated that the BON's survey instructions did not clearly indicate that these data were not statutorily mandated, creating the impression that programs could be placed on probation if they failed to include these additional data elements in their responses. The OPPAGA recommended that the BON clarify future directions for submitting the report.<sup>53</sup>
- *BON Website:* The OPPAGA found, and the FCN concurred with the finding, that the BON's interactive website does not include all elements required by law.<sup>54</sup> OPPAGA indicated that the 2009 legislation required the BON to create an interactive website that enables the public to compare nursing programs using data points such as the program's approval status, retention, and examination scores; however, the website does not provide the accreditation status for all programs or retention rates for any programs. Additionally, the website does not allow users to readily compare all required data elements across programs.<sup>55</sup>

The JAPC also monitored the BON's implementation of the 2009 legislation's rulemaking requirements. Since the bill took effect, JAPC staff notified BON legal counsel in writing of numerous concerns with the lack of rulemaking, but these issues were not addressed by the BON. As a result, JAPC staff presented a report on the BON's inaction at the committee's meeting held February 15, 2010. Two of the issues presented to the JAPC member related to section 464.019(7), Florida Statutes, which directs BON to:

- Prescribe by rule the format for submitting program applications for new nursing programs. JAPC staff indicated that the BON has been using an "Application for New Nursing Program" without adopting it as a rule. JAPC staff also indicated that the application requires information that is not authorized by statute, and imposes a timeframe for granting or denying applications that is inconsistent with the APA.

<sup>50</sup> See *supra* note 11 at pp. 7-8.

<sup>51</sup> *Id.*

<sup>52</sup> See *supra* note 11 at p. 10.

<sup>53</sup> See *supra* note 11 at pp. 8, 10, & 14.

<sup>54</sup> See *supra* note 11 at p. 9 and note 18 at p. 1.

<sup>55</sup> See *supra* note 11 at pp. 9, 14, & 17.

- Prescribe by rule the format for submitting summary descriptions of program compliance for the annual report. JAPC staff indicated that the BON has not adopted this rule. According to JAPC staff, an "Affidavit" on the Board's website includes a section entitled "Summary Description." This affidavit is included in an annual report to be completed by programs, which appears to require information not authorized by statute.<sup>56</sup>

Since the JAPC hearing, the BON has noticed a teleconference meeting for March 12, 2010, which indicates that the BON will discuss the nursing education program application.<sup>57</sup>

### **Effect of Proposed Changes**

The bill builds upon the 2009 legislation's streamlining of the nursing education program regulation process by specifying that a nursing education program that is accredited by one of the two specialized accrediting agencies that are nationally recognized by the US Secretary of Education to accredit nursing education programs is no longer subject to BON regulation for as long as the program maintains its accreditation. The BON approval process for non-accredited programs, as adopted in last year's bill, is retained, but implementation issues identified by the OPPAGA, FCN, and stakeholders are clarified. The following details the bill's proposed changes.

#### **Nurse Practice Act**

*Definition Section:* The bill makes technical amendments to section 464.003, Florida Statutes, which sets forth definitions for the Act, to alphabetize section. It also amends existing definitions for two terms as follows:

- The definition for "approved program" is clarified to mean, "a program for the prelicensure education of practical or professional nurses that is conducted in the state at an educational institution and that is approved under s. 464.019." The definition also provides that, "the term includes a program placed on probationary status" so that the terms "approved program" and "program on probationary status" do not have to be separately and repeatedly stated throughout section 464.019, Florida Statutes.
- The definition for "clinical preceptor" is amended to also authorize a LPN to act as a clinical preceptor. Current law only authorizes RNs to act as clinical preceptors. The bill also amends section 464.019(1)(e), Florida Statutes, to specify that a clinical preceptor who supervises students in a professional nursing program must be a RN and that a clinical preceptor who supervises students in a practical nursing program must be a LPN.

The bill adds definitions for the following four new terms:

- "Accredited program" is defined to mean, "a program for the prelicensure education of professional or practical nurses that is conducted in the United States at an educational institution, whether in this state, another state, or the District of Columbia, and that is accredited by a specialized accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs." The NLNAC and CCNE are the only such accrediting agencies currently recognized by the Secretary.
- "Educational institution" is defined to mean, "a school, college, or university."
- "Graduate passage rate" is defined to mean, "the percentage of a program's graduates who, as first-time test takers, pass the National Council of State Boards of Nursing Licensing Examination during a calendar year, as calculated by the contract testing service of the National Council of State Boards of Nursing."
- "Required passage rate" is defined to mean, "the graduate passage rate required for an approved program pursuant to s. 464.019(6)(a)1., F.S." This subparagraph provides that the required passage rate is 10 percentage points, rather than 10 percent as in current law, below the national average passage rate on the NCLEX for U.S. educated, first-time test takers. It further specifies that

<sup>56</sup> Joint Administrative Procedures Committee, Meeting Packet for February 15, 2010. Available at: [http://www.leg.state.fl.us/cgi-bin/View\\_Page.pl?File=index\\_css.html&Directory=committees/joint/Japc/Tab=committees](http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=index_css.html&Directory=committees/joint/Japc/Tab=committees) (last viewed March 7, 2010).

<sup>57</sup> Florida Administrative Weekly, Board of Nursing Telephone Conference Meeting Notice for March 12, 2010, published February 26, 2010.

the applicable national average passage rate is based on the type of program, i.e., an associate degree, a bachelor's degree, or a diploma professional nursing program or a practical nursing program.

*Reorganization of section. 464.019, Florida Statutes:* The bill amends section 464.019, Florida Statutes to better organize the section by reordering and renumbering the existing subsections (1) through (9) to achieve the following order: (1) Program Applications; (2) Program Approval; (3) Status of Certain Programs; (4) Annual Report; (5) Internet Website; (6) Accountability; (7) Disclosure of Graduate Passage Rate Data; (8) Program Closure; (9) Rulemaking; (10) Applicability; and (11) Implementation Study.

### Accredited Programs

The bill amends section 464.019(10), Florida Statutes, to provide that "accredited programs" conducted in this state are no longer subject to regulation by the BON for as long as the program maintains its accreditation. The only requirements an accredited program must comply with are those requiring a program that closes to notify the BON in writing of its arrangements for storage of permanent records and a program to respond to FCN and OPPAGA data requests.<sup>58</sup> The BON is specifically prohibited in section 464.019(9), Florida Statutes, (formerly s. 464.019(7), F.S.) from imposing any condition or requirement on an accredited program except as expressly authorized in section 464.019, Florida Statutes.

If an accredited program conducted in this state ceases to be accredited, it may apply to the BON to become an approved program.<sup>59</sup>

Because of the bill's recognition of accredited programs, the bill amends section 464.008(1)(c), Florida Statutes, which sets forth the requirements an individual must meet to be eligible for licensure as a RN or LPN. Currently, this law specifies, in relevant part, that an individual must have graduated from an approved program, or its equivalent as determined by the BON. The bill retains these provisions, but adds that graduates of an accredited program on or after July 1, 2009, are also eligible, and further clarifies that persons who graduated from a prelicensure nursing education program before July 1, 2009, remain eligible for licensure if the program's graduates were eligible to sit for the exam at the time they graduated.<sup>60</sup>

### Approved Programs

The bill substantially retains the BON approval process for non-accredited programs as established by the 2009 legislation, but makes changes, as described below, to address implementation issues identified by the OPPAGA, FCN, and stakeholders.

*Program Applications:* The bill amends section 464.019(1), Florida Statutes, to:

- Reflect current practice that requires a program application and fee to be submitted for each prelicensure nursing education program to be offered at a main campus, branch campus, or other instructional site.
- Amend the faculty educational requirements that must be documented in a program application. Current law requires the program director and 50 percent of the faculty to have "a minimum" of a bachelor's degree in nursing; however, some individuals may have a master's or higher degree in nursing, but not a bachelor's degree in nursing. Accordingly, the bill provides that the program

<sup>58</sup> Section 464.019(8) and (11), F.S.

<sup>59</sup> Section 464.019(10), F.S.

<sup>60</sup> Prior to the July 1, 2009, effective date of ch. 2009-158, L.O.F., the BON recognized certain nursing education program graduates of Excelsior College (formerly Regents College) in New York as eligible for Florida RN licensure pursuant to a 1994 settlement agreement between the BON and the college. See *Regents College v. Florida Board of Nursing*, 2<sup>nd</sup> Judicial Circuit in Leon Co., Case No. 94-4314, Stipulation and Agreed Upon Order (1994). Subsequent to the 2009 legislation, the BON indicated that it would no longer automatically recognize these graduates as eligible for licensure; instead, the BON now individually determines whether each graduate is eligible by conducting a review of the individual's professional medical experience and education. Currently, there are almost 1,200 Florida residents enrolled in the college's nursing program. See Letter from Excelsior College dated November 4, 2009. Excelsior's nursing program is accredited by the NLNAC. Thus, under the bill, graduates of the college or any other CCNE or NLNAC accredited program located in the U.S. will be eligible for licensure, if the graduate meets other eligibility requirements specified in current law.

director and 50 percent of the faculty members for a : (a) RN program must have a master's or higher degree in nursing or a bachelor's degree in nursing and a master's or higher degree in a field related to nursing; and (b) LPN program must have a bachelor's or higher degree in nursing.

- The bill adds a provision stating that the educational degree requirements for the program director or faculty may be documented by an official transcript or written statement by the educational institution verifying that it conferred the degree.

The bill also specifies the timeframe for review of a program application. It specifies in section 464.019(2), Florida Statutes (formerly s. 464.019(3), F.S.), that the department upon receiving an application and fee must review the application to determine if it is complete. If it is incomplete, the department must notify the applicant in writing of any errors or omissions within 30 days. The bill further provides that an application is deemed complete upon the: (a) original date of receipt if the department does not notify the applicant of any errors or omissions within the 30-day period; or (b) date the department receives a revised application that corrects each error and omission. As in current law, the BON must approve or deny a completed application within 90 days after receipt.

*Annual Report:* The bill amends section 464.019(4), Florida Statutes (formerly s. 464.019(2)(c), F.S.), to clarify that the annual report consists of an affidavit certifying continued compliance with paragraphs (1)(a) through (g), a summary description of that compliance, and other specified data. The bill amends the data requirements to specify that such data must be submitted to the "extent applicable" in order to recognize that newly approved programs may not yet have data available for submission. It also adds new data requirements. Under the bill, approved programs must also document the: (a) number of accepted applicants who enroll in program and the total number of students enrolled in program; and (b) program's accrediting agency, if it is accredited by an agency other than the NLNAC or CCNE.

In section 464.019(9), Florida Statutes (formerly s. 464.019(7), F.S.), the bill directs the BON to adopt a rule prescribing the format for the annual report. Current law only authorizes the BON to prescribe the format for the summary descriptions of program compliance.

*Internet Website:* The bill adds a requirement in section 464.019(5), Florida Statutes (formerly s. 464.019(4), F.S.) that the BON must publish on its website a list of each accredited program and the program's graduate passage rates for the two most recent calendar years. The accredited programs are not required to provide the BON with this data; rather, the department is required to determine this information through the following sources: (a) the specialized accrediting agencies that are nationally recognized by the United States Secretary of Education to accredit nursing education programs; and (b) the contract testing service of the NCSBN.

The bill also makes technical conforming changes to section 464.019(5)(b) & (c), Florida Statutes (formerly s. 464.019(4)(a)-(h), F.S.), which relates to the data the BON must publish on its website for approved programs. The only substantive changes made by the bill are that: (a) approved program graduate passage rates and national average passage rates on the NCLEX must be published for two, rather than one, calendar years; and (b) the national average passage rate must be published for each individual program type.

*BON Regulation of Approved Programs:* For a program that was on probation on June 30, 2009, because it did not meet the BON's requirement for graduate passage rates, the bill specifies in section 464.019(3), Florida Statutes (formerly s. 464.019(2), F.S.), that such program is an approved program, but that it shall remain on probation until it achieves the required passage rate for either the 2009 or 2010 calendar year. As in current law, the program must be terminated by the BON if it does not timely achieve the required passage rate. This provision will no longer apply to an accredited program as of the bill's July 1, 2010 effective date. See section 464.019(10), Florida Statutes.

For other approved programs, the bill continues, as in current law, to require the BON to monitor the programs' compliance with NCLEX graduate passage rate and annual report requirements. Regarding the requirements for graduate passage rates, the only substantive changes made by the bill in section 464.019(6)(a), Florida Statutes (formerly s. 464.019(5), F.S.), are that:

- The bill specifies that the required passage rate on the NCLEX for an approved program shall be 10 percentage points, rather than 10 percent, below the national average passage rate for the applicable program type.
- The bill specifies that the requirements for graduate passage rates, which should have only been applied prospectively by the BON under the 2009 legislation, apply to graduate passage rates beginning with the 2010 calendar year.
- The bill specifies that a program placed on probation for having had two consecutive calendar years of inadequate graduate passage rates must be removed from probation when the program achieves the required passage rate for one calendar year.

As in current law, the approved program must be terminated by the BON if it does not achieve the required passage rate within two calendar years.

Regarding the annual report requirements, the only substantive change made by the bill to section 464.019(6)(b), Florida Statutes (formerly s. 464.019(5)(b), F.S.), is that probation is eliminated as a penalty for an approved program's failure to timely submit the annual report. Instead, the bill requires the program director to appear before the BON to explain the delay. As in current law, the program must be terminated by the BON if it does not submit the report within six months after its due date.

#### Disclosure of Graduate Passage Rate Data

The bill amends section 456.014, Florida Statutes, to provide that certain information relating to an applicant for licensure may be provided by the Department to a program director of an approved program or accredited program pursuant to section 464.019(7), Florida Statutes. Subsection (7) states that a program director may make a written request to the department for the disclosure of the following information relating to each program graduate included in the program's graduate passage rate: the graduate's name, the date the graduate took the NCLEX, and the determination of whether the graduate passed or failed the NCLEX. The program director must maintain the confidentiality of the information in the same manner as department employees.

#### Conforming Changes and Effective Date

The bill amends sections 464.015 and 464.033, Florida Statutes, to make conforming changes for the bill's recognition of accredited programs. The bill amends sections 458.348, 459.025, 464.012, and 960.28, Florida Statutes, to conform cross-references to changes made by the bill. The bill provides an effective date of July 1, 2010.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 456.014, F.S., relating to public inspection of information required by applicants for licensure by the Department.

**Section 2:** Amends s. 464.003, F.S., relating to definitions for the Nurse Practice Act.

**Section 3:** Amends s. 464.008, F.S., relating to licensure by examination.

**Section 4:** Amends s. 464.015, F.S., relating to titles and abbreviations for nurses.

**Section 5:** Amends s. 464.019, F.S., relating to approval of nursing education programs.

**Section 6:** Amends s. 464.022, F.S., relating to the practice of nursing pending NCLEX results.

**Sections 7-10:** Amending ss. 458.348, 459.025, 464.012, and 960.28, F.S., conforming cross-references to changes made by the bill.

**Section 11:** Providing an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Department and BON should incur a savings as a result of the bill's provisions that no longer require the Department or BON to regulate accredited programs.

#### 2. Expenditures:

The Department indicates it will incur costs of \$78,795 because it will have to modify its existing list of approved schools on its website to accommodate the bill's requirement that it list accredited programs. The DOH was required to establish this website by the 2009 legislation and to provide specified data on all approved programs, including approved programs that are accredited. Accordingly, this bill does not appear to create a fiscal impact, given that these requirements currently exist. Further, as indicated above, the Department should incur a savings a result of the bill's provisions that no longer require the Department or BON to regulate accredited programs.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill provides that the BON shall adopt a rule that prescribes the format for the annual reports required under s. 464.019, F.S.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 10, 2010, the State Universities & Private Colleges Policy Committee adopted four amendments to HB 1337 and reported the bill favorably as a Committee Substitute (CS). These amendments technically clarified: (a) the definition of "accredited program" so that it reflects the terminology used by the federal Department of Education; and (b) that the bill applies to any precicensure nursing program regardless of the credential awarded. This analysis is drafted to the CS.



1                                A bill to be entitled  
2            An act relating to nursing; amending s. 456.014, F.S.;  
3            authorizing the disclosure of certain confidential  
4            information required of nursing license applicants to  
5            certain persons; amending s. 464.003, F.S.; providing and  
6            revising definitions; amending s. 464.008, F.S.; revising  
7            requirements for graduation from certain nursing education  
8            programs for nursing license applicants seeking to take  
9            the licensing examination; amending s. 464.015, F.S.;  
10          revising restrictions on nursing graduates who may use  
11          certain titles and abbreviations; amending s. 464.019,  
12          F.S.; revising requirements for the approval of nursing  
13          education programs by the Board of Nursing, including  
14          application requirements and procedures for the review and  
15          approval or denial of applications; revising requirements  
16          for the approval of nursing education programs meeting  
17          certain requirements before a specified date; providing  
18          for retroactive application; revising requirements for the  
19          submission of annual reports by approved programs;  
20          revising requirements for the information published on the  
21          board's Internet website; revising accountability  
22          requirements for an approved program's graduate passage  
23          rates on a certain licensing examination; revising  
24          procedures for placing programs on, and removing such  
25          programs, from probationary status; requiring termination  
26          of programs under certain circumstances; requiring certain  
27          representatives of programs that fail to submit annual  
28          reports to appear before the board; requiring the

29 Department of Health to disclose certain confidential  
 30 information about a program's graduates to the program  
 31 director under certain circumstances; requiring program  
 32 directors to maintain the confidentiality of such  
 33 information; providing penalties for unlawful disclosure  
 34 of confidential information; revising the board's  
 35 authority to adopt rules; exempting accredited programs  
 36 from specified requirements; conforming provisions;  
 37 deleting obsolete provisions; revising requirements for  
 38 the Florida Center for Nursing's evaluation of the board's  
 39 implementation of certain accountability provisions;  
 40 conforming cross-references; amending s. 464.022, F.S.;  
 41 conforming provisions; amending ss. 458.348, 459.025,  
 42 464.012, and 960.28, F.S.; conforming cross-references;  
 43 providing an effective date.

44

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

46

47 Section 1. Subsection (1) of section 456.014, Florida  
 48 Statutes, is amended to read:

49 456.014 Public inspection of information required from  
 50 applicants; exceptions; examination hearing.-

51 (1) All information required by the department of any  
 52 applicant shall be a public record and shall be open to public  
 53 inspection pursuant to s. 119.07, except financial information,  
 54 medical information, school transcripts, examination questions,  
 55 answers, papers, grades, and grading keys, which are  
 56 confidential and exempt from s. 119.07(1) and shall not be

57 | discussed with or made accessible to anyone except the program  
 58 | director of an approved program or accredited program as  
 59 | provided in s. 464.019(7), members of the board, the department,  
 60 | and staff thereof, who have a bona fide need to know such  
 61 | information. Any information supplied to the department by any  
 62 | other agency which is exempt from the provisions of chapter 119  
 63 | or is confidential shall remain exempt or confidential pursuant  
 64 | to applicable law while in the custody of the department or the  
 65 | agency.

66 | Section 2. Section 464.003, Florida Statutes, is reordered  
 67 | and amended to read:

68 | 464.003 Definitions.—As used in this part, the term:

69 | (1) "Accredited program" means a program for the  
 70 | prelicensure education of professional or practical nurses that  
 71 | is conducted in the United States at an educational institution,  
 72 | whether in this state, another state, or the District of  
 73 | Columbia, and that is accredited by a specialized accrediting  
 74 | agency that is nationally recognized by the United States  
 75 | Secretary of Education to accredit nursing education programs.

76 | (13)~~(1)~~ "Department" means the Department of Health.

77 | (5)~~(2)~~ "Board" means the Board of Nursing.

78 | (20)~~(3)~~~~(a)~~ "Practice of professional nursing" means the  
 79 | performance of those acts requiring substantial specialized  
 80 | knowledge, judgment, and nursing skill based upon applied  
 81 | principles of psychological, biological, physical, and social  
 82 | sciences which shall include, but not be limited to:

83 | (a)~~1~~ The observation, assessment, nursing diagnosis,  
 84 | planning, intervention, and evaluation of care; health teaching

85 and counseling of the ill, injured, or infirm; and the promotion  
 86 of wellness, maintenance of health, and prevention of illness of  
 87 others.

88 (b)2- The administration of medications and treatments as  
 89 prescribed or authorized by a duly licensed practitioner  
 90 authorized by the laws of this state to prescribe such  
 91 medications and treatments.

92 (c)3- The supervision and teaching of other personnel in  
 93 the theory and performance of any of the ~~above~~ acts described in  
 94 this subsection.

95

96 A professional nurse is responsible and accountable for making  
 97 decisions that are based upon the individual's educational  
 98 preparation and experience in nursing.

99 (19)(b)- "Practice of practical nursing" means the  
 100 performance of selected acts, including the administration of  
 101 treatments and medications, in the care of the ill, injured, or  
 102 infirm and the promotion of wellness, maintenance of health, and  
 103 prevention of illness of others under the direction of a  
 104 registered nurse, a licensed physician, a licensed osteopathic  
 105 physician, a licensed podiatric physician, or a licensed  
 106 dentist. A ~~The professional nurse and the practical nurse~~ is  
 107 ~~shall be~~ responsible and accountable for making decisions that  
 108 are based upon the individual's educational preparation and  
 109 experience in nursing.

110 (7)(e)- "Clinical nurse specialist practice" means the  
 111 delivery and management of advanced practice nursing care to  
 112 individuals or groups, including the ability to:

113        (a)~~1-~~ Assess the health status of individuals and families  
 114 using methods appropriate to the population and area of  
 115 practice.

116        (b)~~2-~~ Diagnose human responses to actual or potential  
 117 health problems.

118        (c)~~3-~~ Plan for health promotion, disease prevention, and  
 119 therapeutic intervention in collaboration with the patient or  
 120 client.

121        (d)~~4-~~ Implement therapeutic interventions based on the  
 122 nurse specialist's area of expertise and within the scope of  
 123 advanced nursing practice, including, but not limited to, direct  
 124 nursing care, counseling, teaching, and collaboration with other  
 125 licensed health care providers.

126        (e)~~5-~~ Coordinate health care as necessary and appropriate  
 127 and evaluate with the patient or client the effectiveness of  
 128 care.

129        (2)~~(d)~~ "Advanced or specialized nursing practice" means,  
 130 in addition to the practice of professional nursing, the  
 131 performance of advanced-level nursing acts approved by the board  
 132 which, by virtue of postbasic specialized education, training,  
 133 and experience, are appropriately performed by an advanced  
 134 registered nurse practitioner. Within the context of advanced or  
 135 specialized nursing practice, the advanced registered nurse  
 136 practitioner may perform acts of nursing diagnosis and nursing  
 137 treatment of alterations of the health status. The advanced  
 138 registered nurse practitioner may also perform acts of medical  
 139 diagnosis and treatment, prescription, and operation which are  
 140 identified and approved by a joint committee composed of three

141 members appointed by the Board of Nursing, two of whom must be  
 142 advanced registered nurse practitioners; three members appointed  
 143 by the Board of Medicine, two of whom must have had work  
 144 experience with advanced registered nurse practitioners; and the  
 145 State Surgeon General or the State Surgeon General's designee.  
 146 Each committee member appointed by a board shall be appointed to  
 147 a term of 4 years unless a shorter term is required to establish  
 148 or maintain staggered terms. The Board of Nursing shall adopt  
 149 rules authorizing the performance of any such acts approved by  
 150 the joint committee. Unless otherwise specified by the joint  
 151 committee, such acts must be performed under the general  
 152 supervision of a practitioner licensed under chapter 458,  
 153 chapter 459, or chapter 466 within the framework of standing  
 154 protocols which identify the medical acts to be performed and  
 155 the conditions for their performance. The department may, by  
 156 rule, require that a copy of the protocol be filed with the  
 157 department along with the notice required by s. 458.348.

158 (17)~~(e)~~ "Nursing diagnosis" means the observation and  
 159 evaluation of physical or mental conditions, behaviors, signs  
 160 and symptoms of illness, and reactions to treatment and the  
 161 determination as to whether such conditions, signs, symptoms,  
 162 and reactions represent a deviation from normal.

163 (18)~~(f)~~ "Nursing treatment" means the establishment and  
 164 implementation of a nursing regimen for the care and comfort of  
 165 individuals, the prevention of illness, and the education,  
 166 restoration, and maintenance of health.

167 (22)~~(4)~~ "Registered nurse" means any person licensed in  
 168 this state to practice professional nursing.

169        (16)~~(5)~~ "Licensed practical nurse" means any person  
 170 licensed in this state to practice practical nursing.

171        (6) "Clinical nurse specialist" means any person licensed  
 172 in this state to practice professional nursing and certified in  
 173 clinical nurse specialist practice.

174        (3)~~(7)~~ "Advanced registered nurse practitioner" means any  
 175 person licensed in this state to practice professional nursing  
 176 and certified in advanced or specialized nursing practice,  
 177 including certified registered nurse anesthetists, certified  
 178 nurse midwives, and nurse practitioners.

179        (4)~~(8)~~ "Approved program" means a ~~nursing~~ program for the  
 180 prelicensure education of professional or practical nurses that  
 181 is conducted in the state at an educational institution and that  
 182 is in a school, college, or university which is approved under  
 183 s. 464.019 for the education of nurses. The term includes such a  
 184 program placed on probationary status.

185        (10)~~(9)~~ "Clinical training" means direct nursing care  
 186 experiences with patients or clients which offer the student the  
 187 opportunity to integrate, apply, and refine specific skills and  
 188 abilities based on theoretical concepts and scientific  
 189 principles.

190        (8)~~(10)~~ "Clinical preceptor" means a registered nurse or  
 191 licensed practical nurse who is employed by a clinical training  
 192 facility to serve ~~who serves~~ as a role model and clinical  
 193 resource person for a specified period to students ~~an individual~~  
 194 enrolled in an approved program.

195        (9)~~(11)~~ "Clinical simulation" means a strategy used to  
 196 replicate clinical practice as closely as possible to teach

197 theory, assessment, technology, pharmacology, and skills.

198 ~~(11)(12)~~ "Community-based clinical experience" means  
 199 activities consistent with the curriculum and involving  
 200 individuals, families, and groups with the intent of promoting  
 201 wellness, maintaining health, and preventing illness.

202 ~~(12)(13)~~ "Curriculum" means a planned sequence of course  
 203 offerings and learning experiences that comprise a nursing  
 204 education program.

205 ~~(21)(14)~~ "Probationary status" means the status of an  
 206 approved a nursing education program that is placed on such  
 207 status pursuant ~~subject~~ to s. 464.019(2)(a)2. ~~or (5)(a) or (b).~~

208 (14) "Educational institution" means a school, college, or  
 209 university.

210 (15) "Graduate passage rate" means the percentage of a  
 211 program's graduates who, as first-time test takers, pass the  
 212 National Council of State Boards of Nursing Licensing  
 213 Examination during a calendar year, as calculated by the  
 214 contract testing service of the National Council of State Boards  
 215 of Nursing.

216 (23) "Required passage rate" means the graduate passage  
 217 rate required for an approved program pursuant to s.  
 218 464.019(6)(a)1.

219 Section 3. Subsection (1) of section 464.008, Florida  
 220 Statutes, is amended to read:

221 464.008 Licensure by examination.—

222 (1) Any person desiring to be licensed as a registered  
 223 nurse or licensed practical nurse shall apply to the department  
 224 to take the licensure examination. The department shall examine



225 each applicant who:

226 (a) Has completed the application form and remitted a fee  
 227 set by the board not to exceed \$150 and has remitted an  
 228 examination fee set by the board not to exceed \$75 plus the  
 229 actual per applicant cost to the department for purchase of the  
 230 examination from the National Council of State Boards of Nursing  
 231 or a similar national organization.

232 (b) Has provided sufficient information on or after  
 233 October 1, 1989, which must be submitted by the department for a  
 234 statewide criminal records correspondence check through the  
 235 Department of Law Enforcement.

236 (c) Is in good mental and physical health, is a recipient  
 237 of a high school diploma or the equivalent, and has completed  
 238 the requirements for:

- 239 1. Graduation from an approved program;
- 240 2. Graduation from a prelicensure nursing education  
 241 program that the board determines is, ~~or its~~ equivalent to an  
 242 approved program;
- 243 3. Graduation on or after July 1, 2009, from an accredited  
 244 program; or
- 245 4. Graduation before July 1, 2009, from a prelicensure  
 246 nursing education program whose graduates at that time were  
 247 eligible for examination as determined by the board, for the  
 248 preparation of registered nurses or licensed practical nurses,  
 249 whichever is applicable.

250  
 251 Courses successfully completed in a professional nursing  
 252 education program that ~~which~~ are at least equivalent to a

253 practical nursing education program may be used to satisfy the  
 254 education requirements for licensure as a licensed practical  
 255 nurse.

256 (d) Has the ability to communicate in the English  
 257 language, which may be determined by an examination given by the  
 258 department.

259 Section 4. Subsections (3) and (4) of section 464.015,  
 260 Florida Statutes, are amended to read:

261 464.015 Titles and abbreviations; restrictions; penalty.—

262 (3) Only persons who are graduates of prelicensure nursing  
 263 education approved programs listed in s. 464.008(1)(c) ~~or the~~  
 264 ~~equivalent~~ may use the term "Graduate Nurse" and the  
 265 abbreviation "G.N.," pending the results of the first licensure  
 266 examination for which they are eligible.

267 (4) Only persons who are graduates of prelicensure nursing  
 268 education approved programs listed in s. 464.008(1)(c) ~~or the~~  
 269 ~~equivalent~~ may use the term "Graduate Practical Nurse" and the  
 270 abbreviation "G.P.N.," pending the results of the first  
 271 licensure examination for which they are eligible.

272 Section 5. Section 464.019, Florida Statutes, is reordered  
 273 and amended to read:

274 464.019 Approval of nursing education programs.—

275 (1) PROGRAM APPLICATIONS.—An educational institution that  
 276 wishes to conduct a program in this state for the prelicensure  
 277 education of professional or practical nurses must ~~shall~~ submit  
 278 to the department a program application and a ~~program~~ review fee  
 279 of \$1,000 for each prelicensure nursing education program to be  
 280 offered at the institution's main campus, branch campus, or

281 | ~~other instructional site the department. Within 90 days after~~  
 282 | ~~receipt of a program application and program review fee, the~~  
 283 | ~~board shall approve the program application if it documents~~  
 284 | ~~compliance with the standards in paragraphs (a) - (h). If the~~  
 285 | ~~program application is incomplete or does not document~~  
 286 | ~~compliance, the board shall follow the procedures in subsection~~  
 287 | ~~(3). a program application is deemed approved by the board if~~  
 288 | ~~the board does not act on the application within the timeframes~~  
 289 | ~~specified in subsection (3) or this subsection. Each program~~  
 290 | application must document that:

291 |       (a)1. For a professional nursing education program, the  
 292 | program director and at least 50 percent of the program's  
 293 | faculty members are registered nurses who have, ~~at a minimum,~~ a  
 294 | master's or higher bachelor's degree in nursing or a bachelor's  
 295 | ~~and a master's~~ degree in nursing and a master's or higher degree  
 296 | in a field or a related to nursing field.

297 |       2.~~(b)~~ For a practical nursing education program, the  
 298 | program director and at least 50 percent of the program's  
 299 | faculty members are registered nurses who have, ~~at a minimum,~~ a  
 300 | bachelor's or higher degree in nursing.

301 |  
 302 | The educational degree requirements of this paragraph may be  
 303 | documented by an official transcript or by a written statement  
 304 | from the educational institution verifying that the institution  
 305 | conferred the degree.

306 |       (b)~~(e)~~ The program's nursing major curriculum consists of  
 307 | at least:

308 |       1. Fifty percent clinical training for a practical nursing

309 education program, an associate degree professional nursing  
 310 education program, or a professional diploma nursing education  
 311 program.

312 2. Forty percent clinical training for a bachelor's degree  
 313 professional nursing education program.

314 (c)~~(d)~~ No more than 25 percent of the program's clinical  
 315 training consists of clinical simulation.

316 (d)~~(e)~~ The program has signed agreements with each agency,  
 317 facility, and organization included in the curriculum plan as  
 318 clinical training sites and community-based clinical experience  
 319 sites.

320 (e)~~(f)~~ The program has written policies for faculty which  
 321 include provisions for direct or indirect supervision by program  
 322 faculty or clinical preceptors for students in clinical training  
 323 consistent with the following standards:

324 1. The number of program faculty members equals at least  
 325 one faculty member directly supervising every 12 students unless  
 326 the written agreement between the program and the agency,  
 327 facility, or organization providing clinical training sites  
 328 allows more students, not to exceed 18 students, to be directly  
 329 supervised by one program faculty member.

330 2. For a hospital setting, indirect supervision may occur  
 331 only if there is direct supervision by an assigned clinical  
 332 preceptor, a supervising program faculty member is available by  
 333 telephone, and such arrangement is approved by the clinical  
 334 facility.

335 3. For community-based clinical experiences that involve  
 336 student participation in invasive or complex nursing activities,

337 students must be directly supervised by a program faculty member  
 338 or clinical preceptor and such arrangement must be approved by  
 339 the community-based clinical facility.

340 4. For community-based clinical experiences not subject to  
 341 subparagraph 3., indirect supervision may occur only when a  
 342 supervising program faculty member is available to the student  
 343 by telephone.

344

345 A program's policies established under this paragraph must  
 346 require a clinical preceptor, if supervising students in a  
 347 professional nursing education program, to be a registered nurse  
 348 or, if supervising students in a practical nursing education  
 349 program, to be a registered nurse or licensed practical nurse.

350 (f)~~(g)~~ The professional or practical nursing curriculum  
 351 plan documents clinical experience and theoretical instruction  
 352 in medical, surgical, obstetric, pediatric, and geriatric  
 353 nursing. A professional nursing curriculum plan shall also  
 354 document clinical experience and theoretical instruction in  
 355 psychiatric nursing. Each curriculum plan must document clinical  
 356 training experience in appropriate settings that include, but  
 357 are not limited to, acute care, long-term care, and community  
 358 settings.

359 (g)~~(h)~~ The professional or practical nursing education  
 360 program provides theoretical instruction and clinical  
 361 application in personal, family, and community health concepts;  
 362 nutrition; human growth and development throughout the life  
 363 span; body structure and function; interpersonal relationship  
 364 skills; mental health concepts; pharmacology and administration

365 of medications; and legal aspects of practice. A professional  
 366 nursing education program shall also provide theoretical  
 367 instruction and clinical application in interpersonal  
 368 relationships and leadership skills; professional role and  
 369 function; and health teaching and counseling skills.

370

371 ~~Upon the board's approval of a program application, the program~~  
 372 ~~becomes an approved program under this section.~~

373 (3)(2) STATUS OF CERTAIN PROGRAMS.-

374 (a) A professional or practical nursing education program  
 375 becomes an approved program if that, as of June 30, 2009, the  
 376 program:

377 (a)1. Has full or provisional approval from the board or,  
 378 except as provided in paragraph (b), is on probationary status,  
 379 ~~except as provided in subparagraph 2., becomes an approved~~  
 380 ~~program under this section. In order to retain approved program~~  
 381 ~~status, such program shall submit the report required under~~  
 382 ~~paragraph (c) to the board by November 1, 2009, and annually~~  
 383 ~~thereafter.~~

384 (b)2. Is on probationary status because the program did  
 385 not meet the board's requirement for ~~program~~ graduate passage  
 386 rates. Such program on the National Council of State Boards of  
 387 Nursing Licensing Examination, shall remain on probationary  
 388 status until it the program achieves a graduate passage rate for  
 389 calendar year 2009 or 2010 that equals or exceeds the required  
 390 passage rate for the respective calendar year and compliance  
 391 ~~with the program graduate passage rate requirement in paragraph~~  
 392 ~~(5)(a). A program that is subject to this subparagraph must~~

393 disclose its probationary status in writing to the program's  
 394 students and applicants ~~submit the report required under~~  
 395 ~~paragraph (c) to the board by November 1, 2009, and annually~~  
 396 ~~thereafter and must comply with paragraph (5)(e).~~ If the program  
 397 does not achieve the required passage rate ~~compliance by July 1,~~  
 398 ~~2011,~~ the board shall terminate the program pursuant to chapter  
 399 120 ~~as provided in paragraph (5)(d).~~

400 ~~(b) Each professional or practical nursing program that~~  
 401 ~~has its application approved by the board under subsection (1)~~  
 402 ~~on or after July 1, 2009, shall annually submit the report~~  
 403 ~~required under paragraph (c) to the board by November 1 of each~~  
 404 ~~year following initial approval of its application.~~

405 (4) ANNUAL REPORT.—By November 1 of each year, each  
 406 approved program shall submit to the board an

407 ~~(c) The annual report~~ comprised of ~~required by this~~  
 408 ~~subsection must include an affidavit certifying continued~~  
 409 ~~compliance with paragraphs (1)(a)-(g)~~ subsection (1), must  
 410 ~~provide a summary description of the program's compliance with~~  
 411 ~~paragraphs (1)(a)-(g) with subsection (1), and documentation~~  
 412 ~~must document for the previous academic year~~ that, to the extent  
 413 applicable, sets forth ~~for each professional and practical~~  
 414 ~~nursing program:~~

415 (a)1. ~~The number of student applications received, the~~  
 416 ~~number of qualified applicants, applicants and the number of~~  
 417 ~~students accepted, accepted applicants who enroll in the~~  
 418 ~~program, students enrolled in the program, and-~~

419 ~~2. the number of program graduates.~~

420 ~~3. The program's graduate passage rate on the National~~

421 ~~Council of State Boards of Nursing Licensing Examination.~~

422 (b)4. The program's retention rates for students tracked  
423 from program entry to graduation.

424 (c)5. The program's accreditation status, including  
425 identification of the accrediting agency if such agency is not  
426 an accrediting agency described in s. 464.003(1) body.

427 (2)(3) PROGRAM APPROVAL.—

428 (a) Upon receipt of a ~~If an institution's~~ program  
429 application and review fee, the department shall examine the  
430 application to determine whether it is complete. If a program  
431 application is not complete ~~incomplete~~, the department board  
432 shall notify the educational institution in writing of any  
433 ~~apparent~~ errors or omissions within 30 days after the  
434 department's receipt of the application ~~and follow the~~  
435 ~~procedures in s. 120.60. A program application is deemed~~  
436 complete upon the department's receipt of:

437 1. The initial application, if the department does not  
438 notify the educational institution of any errors or omissions  
439 within the 30-day period; or

440 2. A revised application that corrects each error and  
441 omission of which the department notifies the educational  
442 institution within the 30-day period.

443 (b) Within 90 days after the department's receipt of a  
444 complete program application, the board shall:

445 1. Approve the ~~If an institution's~~ program application if  
446 it documents ~~does not document~~ compliance with paragraphs  
447 (1)(a)-(g); or the standards in subsection (1), within 90 days  
448 ~~after the board's receipt of the program application, the board~~



449 ~~shall~~

450 2. Provide the educational institution with a notice of  
 451 intent to deny the program application if it does not document  
 452 compliance with paragraphs (1)(a)-(g) that sets forth written  
 453 reasons for the denial. The notice must set forth written  
 454 reasons for the board's denial of the application. The board may  
 455 not deny a program application because of an educational  
 456 institution's failure to correct any error or omission of which  
 457 the department does not notify the institution within the 30-day  
 458 notice period under paragraph (a). The educational institution  
 459 may request a hearing on the notice of intent to deny the  
 460 program application pursuant to chapter 120.

461 (c) A program application is deemed approved if the board  
 462 does not act within the 90-day review period provided under  
 463 paragraph (b).

464 (d) Upon the board's approval of a program application,  
 465 the program becomes an approved program.

466 (5)(4) INTERNET WEBSITE.—The board shall publish the  
 467 following information on its Internet website:

468 (a) A list of each accredited program conducted in the  
 469 state and the program's graduate passage rates for the most  
 470 recent 2 calendar years, which the department shall determine  
 471 through the following sources:

472 1. For a program's accreditation status, the specialized  
 473 accrediting agencies that are nationally recognized by the  
 474 United States Secretary of Education to accredit nursing  
 475 education programs.

476 2. For a program's graduate passage rates, the contract

477 | testing service of the National Council of State Boards of  
 478 | Nursing.

479 | (b) The following data for each approved program, which en  
 480 | nursing programs located in the state. The data shall include,  
 481 | to the extent applicable:

482 | 1.(a) All documentation provided by the program in its  
 483 | applicant for each approved nursing program application if  
 484 | submitted on or after July 1, 2009.

485 | 2.(b) The summary description of the each program's  
 486 | compliance as submitted under subsection (4) paragraph (2)(c).

487 | (c) A comprehensive list of each practical and  
 488 | professional nursing program in the state.

489 | 3.(d) The program's accreditation status for each program,  
 490 | including identification of the accrediting agency if such  
 491 | agency is not an accrediting agency described in s. 464.003(1)  
 492 | body.

493 | 4.(e) The Each program's approval or probationary status.

494 | 5.(f) The Each program's graduate passage rates for the  
 495 | most recent 2 calendar years rate on the National Council of  
 496 | State Boards of Nursing Licensing Examination.

497 | (g) The national average for passage rates on the National  
 498 | Council of State Boards of Nursing Licensing Examination.

499 | 6.(h) Each program's retention rates for students tracked  
 500 | from program entry to graduation.

501 | (c) The average passage rates for United States educated  
 502 | first-time test takers on the National Council of State Boards  
 503 | of Nursing Licensing Examination for the most recent 2 calendar  
 504 | years, as calculated by the contract testing service of the

505 National Council of State Boards of Nursing. The average passage  
 506 rates shall be published separately for each type of comparable  
 507 degree program listed in sub-subparagraphs (6)(a)1.a.-d.

508  
 509 The information ~~data~~ required to be published under this  
 510 subsection shall be made available in a manner that allows  
 511 interactive searches and comparisons of individual specific  
 512 ~~nursing education~~ programs selected by the website user. The  
 513 board shall ~~publish the data by December 31, 2009,~~ and update  
 514 the Internet website at least quarterly with the available  
 515 information ~~data.~~

516 (6)(5) ACCOUNTABILITY.-

517 (a)1. An approved program must achieve a graduate passage  
 518 rate that is not lower than 10 percentage points less than the  
 519 average passage rate for graduates of comparable degree programs  
 520 who are United States educated first-time test takers on the  
 521 National Council of State Boards of Nursing Licensing  
 522 Examination during a calendar year, as calculated by the  
 523 contract testing service of the National Council of State Boards  
 524 of Nursing. For purposes of this subparagraph, an approved  
 525 program is comparable to all degree programs of the same program  
 526 type from among the following program types:

527 a. Professional nursing education programs that terminate  
 528 in a bachelor's degree.

529 b. Professional nursing education programs that terminate  
 530 in an associate degree.

531 c. Professional nursing education programs that terminate  
 532 in a diploma.

533 d. Practical nursing education programs.  
 534 2. Beginning with graduate passage rates for calendar year  
 535 2010, if an approved a professional or practical nursing  
 536 program's average graduate passage rates do not equal or exceed  
 537 the required passage rates rate for first-time test takers on  
 538 the National Council of State Boards of Nursing Licensing  
 539 Examination falls 10 percent or more below the national average  
 540 passage rate for first-time test takers educated in the United  
 541 States, as annually published by the contract testing service of  
 542 the National Council of State Boards of Nursing, for 2  
 543 consecutive calendar years, the board shall place the program on  
 544 probationary status pursuant to chapter 120 probation and the  
 545 program director must shall be required to appear before the  
 546 board to present a plan for remediation. The program shall  
 547 remain on probationary status until it achieves a compliance  
 548 with the graduate passage rate that equals or exceeds the  
 549 required passage rate for any one calendar year.  
 550 3. Upon the program's achievement of a graduate passage  
 551 rate that equals or exceeds the required passage rate,  
 552 requirement and shall be terminated by the board, at its next  
 553 regularly scheduled meeting following release of the program's  
 554 graduate passage rate by the National Council of State Boards of  
 555 Nursing, shall remove the program's probationary status.  
 556 However, under paragraph (d) if the program, during the 2  
 557 calendar years following its placement on probationary status,  
 558 does not achieve the required passage rate for any one  
 559 compliance within 2 calendar year, the board shall terminate the  
 560 program pursuant to chapter 120 years.

561 (b) If an approved a program fails to submit the annual  
 562 report required in subsection (4) ~~(2)~~, the board shall notify  
 563 the program director and president or chief executive officer of  
 564 the educational institution in writing within 15 days after the  
 565 due date of the annual report. The program director must appear  
 566 before the board at the board's next regularly scheduled meeting  
 567 to explain the reason for the delay ~~place the program on~~  
 568 ~~probation.~~ The board ~~program~~ shall terminate the program  
 569 pursuant to chapter 120 ~~remain on probationary status until it~~  
 570 ~~submits the annual report and shall be terminated by the board~~  
 571 ~~under paragraph (d)~~ if it does not submit the annual report  
 572 within 6 months after the ~~report's~~ due date.

573 (c) An approved A program ~~placed~~ on probationary status  
 574 shall disclose its probationary status in writing to the  
 575 program's students and applicants.

576 ~~(d) The board shall terminate a program that fails to~~  
 577 ~~comply with subparagraph (2)(a)2., paragraph (a), or paragraph~~  
 578 ~~(b) pursuant to chapter 120.~~

579 (7) DISCLOSURE OF GRADUATE PASSAGE RATE DATA.—

580 (a) For each of an approved program's or accredited  
 581 program's graduates included in the calculation of the program's  
 582 graduate passage rate, the department shall disclose to the  
 583 program director, upon his or her written request, the name,  
 584 examination date, and determination of whether each graduate  
 585 passed or failed the National Council for State Boards of  
 586 Nursing Licensing Examination, to the extent that such  
 587 information is provided to the department by the contract  
 588 testing service of the National Council for State Boards of

589 Nursing. The written request must specify the calendar years for  
 590 which the information is requested.

591 (b) A program director to whom confidential information  
 592 exempt from public disclosure pursuant to s. 456.014 is  
 593 disclosed under this subsection must maintain the  
 594 confidentiality of the information and is subject to the same  
 595 penalties provided in s. 456.082 for department employees who  
 596 unlawfully disclose confidential information.

597 (8)-(6) PROGRAM CLOSURE.—Each approved program and  
 598 accredited a nursing program conducted in the state that closes  
 599 shall notify the board in writing and advise the board of the  
 600 arrangements for storage of permanent records.

601 (9)-(7) RULEMAKING.—The board does not have any rulemaking  
 602 authority to administer this section, except that the board  
 603 shall adopt a rule that prescribes the format for submitting  
 604 program applications under subsection (1) and annual reports  
 605 submitting summary descriptions of program compliance under  
 606 subsection (4) paragraph (2)(e). The board may not impose any  
 607 condition or requirement on an educational institution  
 608 submitting a program application, an approved program, or an  
 609 accredited program, a program on probationary status except as  
 610 expressly provided in this section. The board shall repeal all  
 611 rules, or portions thereof, in existence on July 1, 2009, that  
 612 are inconsistent with this subsection.

613 (10) APPLICABILITY.—Subsections (1)-(4), paragraph (5)(b),  
 614 and subsection (6) do not apply to an accredited program. An  
 615 accredited program on probationary status before July 1, 2010,  
 616 ceases to be subject to the probationary status. If an

617 accredited program ceases to be accredited, the program may  
 618 apply under this section to become an approved program.

619 ~~(8) The Florida Center for Nursing and the Office of~~  
 620 ~~Program Policy Analysis and Government Accountability shall~~  
 621 ~~each:~~

622 ~~(a) Monitor the administration of this section and~~  
 623 ~~evaluate the effectiveness of this section in achieving quality~~  
 624 ~~nursing programs with a higher production of quality nursing~~  
 625 ~~graduates.~~

626 ~~(b) Report its findings and make recommendations, if~~  
 627 ~~warranted, to improve the effectiveness of this section to the~~  
 628 ~~Governor, the President of the Senate, and the Speaker of the~~  
 629 ~~House of Representatives by February 1, 2010.~~

630 (11)(9) IMPLEMENTATION STUDY.—The Florida Center for  
 631 Nursing and the education policy area of the Office of Program  
 632 Policy Analysis and Government Accountability shall study the 5-  
 633 year administration of this section and submit reports to the  
 634 Governor, the President of the Senate, and the Speaker of the  
 635 House of Representatives by January 30, 2011, and annually  
 636 thereafter through January 30, 2015. The annual reports shall  
 637 address the previous academic year; set forth data on the  
 638 measures specified in paragraphs (a) and (b) ~~for each~~  
 639 ~~prelicensure practical and professional nursing program in the~~  
 640 ~~state~~, as such data becomes available; and include an evaluation  
 641 of such data for purposes of determining whether this section is  
 642 increasing the availability of nursing education programs and  
 643 the production of quality nurses. The department and each  
 644 approved program or accredited program shall comply with

645 requests for data from the Florida Center for Nursing and the  
 646 education policy area of the Office of Program Policy Analysis  
 647 and Government Accountability.

648 (a) The education policy area of the Office of Program  
 649 Policy Analysis and Government Accountability shall evaluate  
 650 program-specific data for each approved program and accredited  
 651 program conducted in the state, including, but not limited to:

652 1. The number of ~~nursing education~~ programs and student  
 653 slots available.

654 2. The number of student applications submitted, the  
 655 number of qualified applicants, and the number of students  
 656 accepted.

657 3. The number of program graduates.

658 4. Program retention rates of students tracked from  
 659 program entry to graduation.

660 5. Graduate passage rates on the National Council of State  
 661 Boards of Nursing Licensing Examination.

662 6. The number of graduates who become employed as  
 663 practical or professional nurses in the state.

664 (b) The Florida Center for Nursing shall evaluate the  
 665 board's implementation of the:

666 1. Program application approval process, including, but  
 667 not limited to, the number of program applications submitted  
 668 under subsection (1); the number of program applications  
 669 approved and denied by the board under subsection (2)  
 670 ~~subsections (1) and (3)~~; the number of denials of program  
 671 applications reviewed under chapter 120; and a description of  
 672 the outcomes of those reviews.



673           2. Accountability ~~Probation and termination~~ processes,  
 674 including, but not limited to, the number of programs ~~placed~~ on  
 675 probationary status, the number of approved programs for which  
 676 the program director is required to appear before the board  
 677 under subsection (6), the number of approved programs terminated  
 678 by the board ~~under paragraph (5)(d),~~ the number of terminations  
 679 reviewed under chapter 120, and a description of the outcomes of  
 680 those reviews.

681           Section 6. Subsection (4) of section 464.022, Florida  
 682 Statutes, is amended to read:

683           464.022 Exceptions.—No provision of this part shall be  
 684 construed to prohibit:

685           (4) The practice of nursing by graduates of prelicensure  
 686 nursing education ~~approved~~ programs listed in s. 464.008(1)(c)  
 687 ~~or the equivalent,~~ pending the result of the first licensing  
 688 examination for which they are eligible following graduation,  
 689 provided they practice under direct supervision of a registered  
 690 professional nurse. The board shall by rule define what  
 691 constitutes direct supervision.

692           Section 7. Paragraph (a) of subsection (1) and subsection  
 693 (2) of section 458.348, Florida Statutes, are amended to read:

694           458.348 Formal supervisory relationships, standing orders,  
 695 and established protocols; notice; standards.—

696           (1) NOTICE.—

697           (a) When a physician enters into a formal supervisory  
 698 relationship or standing orders with an emergency medical  
 699 technician or paramedic licensed pursuant to s. 401.27, which  
 700 relationship or orders contemplate the performance of medical

701 acts, or when a physician enters into an established protocol  
 702 with an advanced registered nurse practitioner, which protocol  
 703 contemplates the performance of medical acts identified and  
 704 approved by the joint committee pursuant to s. 464.003 (2) ~~(3)~~ ~~(d)~~  
 705 or acts set forth in s. 464.012(3) and (4), the physician shall  
 706 submit notice to the board. The notice shall contain a statement  
 707 in substantially the following form:

708 I, ... (name and professional license number of  
 709 physician) ..., of ... (address of physician) ... have hereby  
 710 entered into a formal supervisory relationship, standing orders,  
 711 or an established protocol with ... (number of persons) ...  
 712 emergency medical technician(s), ... (number of persons) ...  
 713 paramedic(s), or ... (number of persons) ... advanced registered  
 714 nurse practitioner(s).

715 (2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The  
 716 joint committee created under s. 464.003 (2) ~~(3)~~ ~~(d)~~ shall  
 717 determine minimum standards for the content of established  
 718 protocols pursuant to which an advanced registered nurse  
 719 practitioner may perform medical acts identified and approved by  
 720 the joint committee pursuant to s. 464.003 (2) ~~(3)~~ ~~(d)~~ or acts set  
 721 forth in s. 464.012(3) and (4) and shall determine minimum  
 722 standards for supervision of such acts by the physician, unless  
 723 the joint committee determines that any act set forth in s.  
 724 464.012(3) or (4) is not a medical act. Such standards shall be  
 725 based on risk to the patient and acceptable standards of medical  
 726 care and shall take into account the special problems of  
 727 medically underserved areas. The standards developed by the  
 728 joint committee shall be adopted as rules by the Board of

729 Nursing and the Board of Medicine for purposes of carrying out  
 730 their responsibilities pursuant to part I of chapter 464 and  
 731 this chapter, respectively, but neither board shall have  
 732 disciplinary powers over the licensees of the other board.

733 Section 8. Paragraph (a) of subsection (1) of section  
 734 459.025, Florida Statutes, is amended to read:

735 459.025 Formal supervisory relationships, standing orders,  
 736 and established protocols; notice; standards.-

737 (1) NOTICE.-

738 (a) When an osteopathic physician enters into a formal  
 739 supervisory relationship or standing orders with an emergency  
 740 medical technician or paramedic licensed pursuant to s. 401.27,  
 741 which relationship or orders contemplate the performance of  
 742 medical acts, or when an osteopathic physician enters into an  
 743 established protocol with an advanced registered nurse  
 744 practitioner, which protocol contemplates the performance of  
 745 medical acts identified and approved by the joint committee  
 746 pursuant to s. 464.003(2)~~(3)~~~~(d)~~ or acts set forth in s.  
 747 464.012(3) and (4), the osteopathic physician shall submit  
 748 notice to the board. The notice must contain a statement in  
 749 substantially the following form:

750 I, ...(name and professional license number of osteopathic  
 751 physician)..., of ...(address of osteopathic physician)... have  
 752 hereby entered into a formal supervisory relationship, standing  
 753 orders, or an established protocol with ...(number of  
 754 persons)... emergency medical technician(s), ...(number of  
 755 persons)... paramedic(s), or ...(number of persons)... advanced  
 756 registered nurse practitioner(s).

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757 Section 9. Paragraph (c) of subsection (3) of section  
 758 464.012, Florida Statutes, is amended to read:

759 464.012 Certification of advanced registered nurse  
 760 practitioners; fees.—

761 (3) An advanced registered nurse practitioner shall  
 762 perform those functions authorized in this section within the  
 763 framework of an established protocol that is filed with the  
 764 board upon biennial license renewal and within 30 days after  
 765 entering into a supervisory relationship with a physician or  
 766 changes to the protocol. The board shall review the protocol to  
 767 ensure compliance with applicable regulatory standards for  
 768 protocols. The board shall refer to the department licensees  
 769 submitting protocols that are not compliant with the regulatory  
 770 standards for protocols. A practitioner currently licensed under  
 771 chapter 458, chapter 459, or chapter 466 shall maintain  
 772 supervision for directing the specific course of medical  
 773 treatment. Within the established framework, an advanced  
 774 registered nurse practitioner may:

775 (c) Perform additional functions as may be determined by  
 776 rule in accordance with s. 464.003(2)~~(3)~~~~(d)~~.

777 Section 10. Subsection (2) of section 960.28, Florida  
 778 Statutes, is amended to read:

779 960.28 Payment for victims' initial forensic physical  
 780 examinations.—

781 (2) The Crime Victims' Services Office of the department  
 782 shall pay for medical expenses connected with an initial  
 783 forensic physical examination of a victim of sexual battery as  
 784 defined in chapter 794 or a lewd or lascivious offense as

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785 defined in chapter 800. Such payment shall be made regardless of  
 786 whether the victim is covered by health or disability insurance  
 787 and whether the victim participates in the criminal justice  
 788 system or cooperates with law enforcement. The payment shall be  
 789 made only out of moneys allocated to the Crime Victims' Services  
 790 Office for the purposes of this section, and the payment may not  
 791 exceed \$500 with respect to any violation. The department shall  
 792 develop and maintain separate protocols for the initial forensic  
 793 physical examination of adults and children. Payment under this  
 794 section is limited to medical expenses connected with the  
 795 initial forensic physical examination, and payment may be made  
 796 to a medical provider using an examiner qualified under part I  
 797 of chapter 464, excluding s. 464.003(16)~~(5)~~; chapter 458; or  
 798 chapter 459. Payment made to the medical provider by the  
 799 department shall be considered by the provider as payment in  
 800 full for the initial forensic physical examination associated  
 801 with the collection of evidence. The victim may not be required  
 802 to pay, directly or indirectly, the cost of an initial forensic  
 803 physical examination performed in accordance with this section.

804 Section 11. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED           \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT         \_\_\_ (Y/N)  
WITHDRAWN           \_\_\_ (Y/N)  
OTHER                \_\_\_\_\_

---

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative Grimsley offered the following:

4  
5       **Amendment**

6       Remove line 73 and insert:

7       Columbia, and that is accredited by a specialized nursing  
8       accrediting

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED           \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT         \_\_\_ (Y/N)  
WITHDRAWN         \_\_\_ (Y/N)  
OTHER                \_\_\_\_\_

---

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative Grimsley offered the following:

4  
5       **Amendment**

6       Remove line 290 and insert:

7 application must include the legal name of the educational  
8 institution, the legal name of the nursing education program,  
9 and, if such program is accredited by an accrediting agency  
10 other than an accrediting agency described in s. 464.003(1), the  
11 name of the accrediting agency. The application must also  
12 document that:

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Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT           \_\_\_ (Y/N)  
WITHDRAWN                 \_\_\_ (Y/N)  
OTHER                     \_\_\_\_\_

---

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative Grimsley offered the following:

**Amendment**

Remove line 466 and insert:

4  
5  
6       (5) ~~(4)~~ INTERNET WEBSITE.—By October 1, 2010, the board  
7 shall publish the  
8



Amendment No. 4

COUNCIL/COMMITTEE ACTION

ADOPTED                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT           \_\_\_ (Y/N)  
WITHDRAWN                \_\_\_ (Y/N)  
OTHER                     \_\_\_\_\_

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1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative Grimsley offered the following:  
4

**Amendment (with title amendment)**

6 Remove lines 597-618 and insert:

7 (8) ~~(6)~~ PROGRAM CLOSURE.-

8 (a) An educational institution conducting an approved  
9 program or accredited a nursing program in this state, at least  
10 30 days before voluntarily closing the program, that closes  
11 shall notify the board in writing of the institution's reason  
12 for closing the program, the intended closure date, the  
13 institution's plan to provide for or assist the program's  
14 students in completing their training, and advise the board of  
15 the arrangements for storage of the program's permanent records.

16 (b) An educational institution conducting a nursing  
17 education program that is terminated under subsection (6) or  
18 closed under subparagraph (10) (b) 3.:

19 1. May not accept or enroll new students.

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Amendment No. 4

20        2. Must submit to the board within 30 days after the  
21 program is terminated or closed a written description of how the  
22 institution will assist the program's students in completing  
23 their training and the institution's arrangements for storage of  
24 the program's permanent records.

25        (c) If an educational institution does not comply with  
26 paragraph (a) or paragraph (b), the board shall provide a  
27 written notice explaining the institution's noncompliance to the  
28 following persons and entities:

29            1. The president or chief executive officer of the  
30 educational institution.

31            2. The Board of Governors, if the program is conducted by  
32 a state university.

33            3. The district school board, if the program is conducted  
34 by an educational institution operated by a school district.

35            4. The Commission for Independent Education, if the  
36 program is conducted by an educational institution licensed  
37 under chapter 1005.

38            5. The State Board of Education, if the program is  
39 conducted by an educational institution in the Florida College  
40 System or by an educational institution that is not subject to  
41 subparagraphs 2.-4.

42        ~~(9)-(7)~~ RULEMAKING.—The board does not have any rulemaking  
43 authority to administer this section, except that the board  
44 shall adopt a rule that prescribes the format for submitting  
45 program applications under subsection (1) and annual reports  
46 ~~submitting summary descriptions of program compliance~~ under  
47 subsection (4) paragraph (2)(c). The board may not impose any  
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Amendment No. 4

48 condition or requirement on an educational institution  
49 submitting a program application, an approved program, or an  
50 accredited program, a program on probationary status except as  
51 expressly provided in this section. The board shall repeal all  
52 rules, or portions thereof, in existence on July 1, 2009, that  
53 are inconsistent with this subsection.

54 (10) APPLICABILITY TO ACCREDITED PROGRAMS.—

55 (a) Subsections (1)-(4), paragraph (5)(b), and subsection  
56 (6) do not apply to an accredited program. An accredited program  
57 on probationary status before July 1, 2010, ceases to be subject  
58 to the probationary status.

59 (b) If an accredited program ceases to be accredited, the  
60 educational institution conducting the program:

61 1. Within 10 business days after the program ceases to be  
62 accredited, must provide written notice of the date that the  
63 program ceased to be accredited to the board, the program's  
64 students and applicants, and each entity providing clinical  
65 training sites or community-based clinical experience sites for  
66 the program. The educational institution must continue to  
67 provide the written notice to new students, applicants, and  
68 entities providing clinical training sites or community-based  
69 clinical experience sites for the program until the program  
70 becomes an approved program or is closed under subparagraph 3.

71 2. Within 30 days after the program ceases to be  
72 accredited, must submit an affidavit to the board, signed by the  
73 educational institution's president or chief executive officer,  
74 that certifies the institution's compliance with subparagraph 1.  
75 The board shall notify the persons listed in subparagraph

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Amendment No. 4

76 (8)(c)1. and the applicable entities listed in subparagraphs  
77 (8)(c)2.-5. if an educational institution does not submit the  
78 affidavit required by this subparagraph.

79 3. May apply to become an approved program under this  
80 section. If the educational institution:

81 a. Within 30 days after the program ceases to be  
82 accredited, submits a program application and review fee to the  
83 department under subsection (1) and the affidavit required under  
84 subparagraph 2., the program shall be deemed an approved program  
85 from the date that the program ceased to be accredited until the  
86 date that the board approves or denies the program application.  
87 The program application must be denied by the board pursuant to  
88 chapter 120 if it does not contain the affidavit. If the board  
89 denies the program application under subsection (2) or because  
90 the program application does not contain the affidavit, the  
91 program shall be closed and the educational institution  
92 conducting the program must comply with paragraph (8)(b).

93 b. Does not apply to become an approved program pursuant  
94 to sub-subparagraph a., the program shall be deemed an approved  
95 program from the date that the program ceased to be accredited  
96 until the 31st day after that date. On the 31st day after the  
97 program ceased to be accredited, the program shall be closed and  
98 the educational institution conducting the program must comply  
99 with paragraph (8)(b).

100 -----  
101  
102 **T I T L E A M E N D M E N T**

103 Remove lines 34-36 and insert:

HB 1337 HCA Am 4 (Grimsley)

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 1337 (2010)

Amendment No. 4

104 of confidential information; revising requirements for the  
105 closure of programs; revising the board's authority to adopt  
106 rules; exempting accredited programs from specified  
107 requirements; providing requirements for an accredited program  
108 that ceases to be accredited; conforming provisions;

HB 1337 HCA Am 4 (Grimsley)



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1143                      Reduction and Simplification of Health Care Provider Regulation  
**SPONSOR(S):** Health Care Regulation Policy Committee; Hudson  
**TIED BILLS:**                                      **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee	14 Y, 0 N, As CS	Calamas	Calamas
2)	Health Care Appropriations Committee		Pridgeon	Pridgeon
3)	Health & Family Services Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

This bill amends the Health Care Licensing Procedures Act (Act) and the various authorizing statutes of entities regulated by the Agency for Health Care Administration (AHCA) to reduce, streamline, and clarify regulations for those providers.

The bill eliminates the Limited Nursing Services (LNS) specialty license types for assisted living facilities (ALFs) to allow a licensed nurse to provide limited nursing services in a standard licensed assisted living facility. The bill replaces the requirement to monitor specialty license facilities with a requirement to monitor all ALFs based upon citation of serious violations and allows a fee to be charged for monitoring visits. The bill modifies AHCA consultation duties related to ALFs, and requires the adoption of rules for data submission by ALFs related to the numbers of residents receiving mental health or nursing services, resident funding sources, and staffing.

The bill precludes the collection of Lease Alternative Bond Fund (Fund) payments by certain nursing homes when the Fund exceeds \$25 million based on certain calculations. The bill also expands the ability of nursing homes to provide respite services and provides criteria for the provision of such services.

The bill amends various licensure provisions, including those related to bankruptcy notifications, licensure renewal notices, billing complaints, accrediting organizations, licensure application document submissions, staffing in geriatric outpatient clinics, medical records, property statements, AHCA inspection staff, litigation notices, and health care clinic licensure exemptions.

The bill repeals obsolete or duplicative provisions in licensing and related statutes, including expired reports and regulations and provisions that exist in other sections of law. The bill resolves conflicts among and between provisions in the Act and various authorizing statutes for individual provider types. The bill also makes various revisions to update terminology and conforms current law to prior legislative changes.

The bill appears to have a positive fiscal impact on AHCA. See Fiscal Comments section.

The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

#### **Health Care Licensing Procedures Act (Act)**

The AHCA regulates over 41,000 health care providers under various regulatory programs. Regulated providers include:

- Laboratories authorized to perform testing under the Drug-Free Workplace Act (ss. 112.0455, 440.102, F.S.)
- Birth centers (Ch. 383, F.S.).
- Abortion clinics (Ch. 390, F.S.).
- Crisis stabilization units (Pts. I and IV of Ch. 394, F.S.).
- Short-term residential treatment facilities (Pt. I and IV of Ch. 394, F.S.).
- Residential treatment facilities (Pt. IV of Ch. 394, F.S.).
- Residential treatment centers for children and adolescents (Pt. IV of Ch. 394, F.S.).
- Hospitals (Part I of Ch. 395, F.S.).
- Ambulatory surgical centers (Pt. I of Ch. 395, F.S.).
- Mobile surgical facilities (Pt. I of Ch. 395, F.S.).
- Health care risk managers (Pt. I of Ch. 395, F.S.).
- Nursing homes (Pt. II of Ch. 400, F.S.).
- Assisted living facilities (Pt. I of Ch. 429, F.S.).
- Home health agencies (Pt. III of Ch. 400, F.S.).
- Nurse registries (Pt. III of Ch. 400, F.S.).
- Companion services or homemaker services providers (Pt. III of Ch. 400, F.S.).
- Adult day care centers (Pt. III of Ch. 429, F.S.).
- Hospices (Pt. IV of Ch. 400, F.S.).
- Adult family-care homes (Pt. II of Ch. 429, F.S.).
- Homes for special services (Pt. V of Ch. 400, F.S.).
- Transitional living facilities (Pt. V of Ch. 400, F.S.).
- Prescribed pediatric extended care centers (Pt. VI of Ch. 400, F.S.).
- Home medical equipment providers (Pt. VII of Ch. 400, F.S.).
- Intermediate care facilities for persons with developmental disabilities (Pt. VIII of Ch. 400, F.S.).
- Health care services pools (Pt. IX of Ch. 400, F.S.).
- Health care clinics (Pt. X of Ch. 400, F.S.).



- Clinical laboratories (Pt. I of Ch. 483, F.S.).
- Multiphasic health testing centers (Pt. II of Ch. 483, F.S.).
- Organ, tissue, and eye procurement organizations (Pt. V of Ch. 765, F.S.).

Providers are regulated under individual licensing statutes and the Act in part II of chapter 408, F.S. The Act provides uniform licensing procedures and standards applicable to most AHCA-regulated entities. The Act contains basic licensing standards for 29 provider types in areas such as licensure application requirements, ownership disclosure, staff background screening, inspections, administrative sanctions, license renewal notices, and bankruptcy and eviction notices.

In addition to the Act, each provider type has an authorizing statute which includes unique provisions for licensure beyond the uniform criteria. Pursuant to s. 408.832, F.S., in the case of conflict between the Act and an individual authorizing statute, the Act prevails. There are several references in authorizing statutes that conflict with or duplicate provisions in the Act, including references to the classification of deficiencies, penalties for an intentional or negligent act by a provider, provisional licenses, proof of financial ability to operate, inspection requirements and plans of corrections from providers. Chapter 2009-223, L.O.F., made changes to part II of chapter 408, F.S., which supersede components of the specific licensing statutes.

This bill repeals obsolete or duplicative provisions in licensing and related statutes, including expired reports and regulations and provisions that exist in other sections of law like the Act. The bill also makes changes to the Act to reduce, streamline, or clarify regulations for all providers regulated by AHCA.

The bill changes individual licensing statutes to reflect updates to the uniform standards in the Act. The bill makes corresponding changes to provider licensing statutes to reflect the changes made to the Act to eliminate conflicts and obsolete language.

### **License Renewal Notices**

Section 408.806, F.S., requires AHCA to notify licensees by mail or electronically when it is time to renew their licenses. AHCA mails renewal notices to over 30,000 providers every two years. While the statute does not specify the manner of mailing notices, AHCA sends them by certified mail to verify receipt by the providers. The cost of certified mail is approximately \$55,700 annually. According to AHCA, some certified mail is returned, as providers do not pick it up or the post office is unable to obtain necessary signatures for delivery. AHCA has also encountered situations in which licensees did not timely renew their licenses and claimed that their lack of receipt of a renewal reminder was a reason for that failure.

The bill clarifies that renewal notices are courtesy reminders only and do not excuse the licensees from the requirement to file timely licensure applications. The revised language gives AHCA clear flexibility to use or not use certified mail to send courtesy renewal reminders.

### **Classification and Fines for Violations**

Section 408.813, F.S., includes criteria for the classification of deficiencies for all providers licensed by AHCA. Some authorizing statutes also contain criteria for the classification of deficiencies, some of which do not match the provisions contained in the Act. The provisions in the Act legally supersede conflicting provisions in the authorizing statutes. However, the dual provisions are confusing, and some conflicts still exist. Additionally, authorizing statutes are inconsistent related to fines for unclassified deficiencies such as failure to maintain insurance or exceeding licensed bed capacity.

The bill modifies the classification of licensure violations related to nursing homes, home health agencies, intermediate care facilities for the developmentally disabled, and adult family care homes to refer to the scope and severity in s. 408.813, F.S. Fine amounts for violations are unchanged. For intermediate care facilities for the developmentally disabled, the amount of fines for Class I, II, and III violations are unchanged, but a new Class IV is added for consistency with s. 408.813, F.S., with a fine not to exceed \$500. The addition of the Class IV violation creates a lower category for minor violations by those facilities. This resolves conflicting or confusing differences between the Act and the authorizing statutes, and resolves inconsistencies between these three authorizing statutes.

In addition, the bill establishes uniform sanction authority for unclassified deficiencies of up to \$500 per violation. Examples of unclassified deficiencies include failure to maintain insurance and other administrative requirements, exceeding licensed capacity, or violating a moratorium. Without fine authority, AHCA would be required to initiate revocation action for violations against those providers that do not have general fine authority. These violations may not warrant such a severe sanction.

### **Notice of Bankruptcy and Eviction**

Currently, nursing homes are required to notify AHCA of bankruptcy filing pursuant to s. 400.141(1) (r), F.S. However, nursing homes are not required to notify AHCA of eviction, and there is no statutory requirement for other types of facility providers to notify AHCA if served with an eviction notice or of bankruptcy filing. AHCA reports that it has recently been made aware of several eviction and bankruptcy orders affecting regulated facilities. If notice is not received early in the process, finding alternative resident placement can become difficult and create a hardship for clients.

The bill amends s. 408.806, F.S., to require providers' controlling interests to notify AHCA within 10 days after a court action to initiate bankruptcy, foreclosure, or eviction proceedings. This applies to any such action to which the controlling interest is a petitioner or defendant. According to AHCA, this new requirement would allow the agency to monitor the facility to ensure patient protection and safe transfer, if necessary. If the property upon which a licensed provider operates is encumbered by a mortgage or is leased, the bill requires the licensee to notify the mortgage holder or landlord that the property will provide services that require licensure and instruct the mortgage holder or landlord to notify AHCA if action is initiated against the licensee, such as eviction or foreclosure.

### **Licensure Denial and Revocation**

An action by AHCA to deny or revoke a license is subject to challenge under the Administrative Procedures Act (chapter 120, F.S.) If a licensee challenges the agency action, s. 408.815(2), F.S., allows the license to continue to exist and the provider to continue to operate during the pendency of the case. Once a final order is issued on the denial or revocation, if the original licensure expiration date has passed, there is no valid license and the provider must cease operations immediately. According to AHCA, this can be problematic for residents or clients who must immediately be moved to another facility or find another health care provider.

The bill amends s. 408.815, F.S., to authorize AHCA to extend a license expiration date up to 30 days beyond the final order date in the event of a licensure denial or revocation to allow for the orderly transfer of residents or patients.

### **Billing Complaint Authority**

The Act provides authority to review billing complaints across all programs and gives the impression that AHCA can take licensure action regarding billing practices. Section 408.10(2), F.S., requires AHCA to investigate consumer complaints regarding billing practices and determine if the facility has engaged in billing practices which are unreasonable and unfair to the consumer. However, the Act does not provide specific standards for billing practices which AHCA can use to cite violations and discipline a provider's license. Nor does the Act define what activities would be unreasonable and unfair. Several providers' authorizing statutes do include billing standards, including nursing homes and assisted living facilities. However, other authorizing statutes are silent on billing standards.

For calendar year 2009, AHCA received 693 complaints that alleged billing-related issues. Of those, 269 were for providers that have billing standards in their licensure statutes. The remaining 424 were related to billing issues where no regulatory authority existed for billing matters. When the agency receives a billing complaint regarding one of the providers which does not have statutory billing standards, it is the agency's policy to review the complaint and encourage the parties to work together to resolve the problem. However, the provider is not cited or disciplined due to lack of authority.

The bill repeals AHCA's independent authority related to billing complaints in the Act. However, a review for regulatory compliance will continue to be conducted when a complaint is received for one of the providers over which AHCA has statutory billing authority. This review could possibly result in citations and discipline.

## **License Display**

Section 408.804, F.S., makes it unlawful to provide or offer services that require licensure without first obtaining a license. This section of law also makes licenses valid only for entities and locations for which they are issued. Licensees are required to display licenses in a conspicuous place readily visible to the clients. The Act does not currently address falsification or ill-usage of license documents.

The bill makes it a second degree misdemeanor to knowingly alter, deface, or falsify a license and is punishable by up to 60 days in jail and a fine of up to \$500. The bill makes it an administrative violation for a licensee to display an altered, defaced, or falsified license. Such violations are subject to licensure revocation and a fine of up to \$1,000 per day.

## **Hospital Licensure**

### Accreditation Organizations

Currently, Florida law allows AHCA to consider and use hospital accreditation by certain accrediting organizations for various purposes, including accepting accreditation surveys in lieu of AHCA surveys, requiring accreditation for designation as certain specialty hospitals, and setting standards for quality improvement programs. Section 395.002, F.S., defines "accrediting organizations" as the Joint Commission on Accreditation of Healthcare Organizations, the American Osteopathic Association, the Commission on Accreditation of Rehabilitation Facilities, and the Accreditation Association for Ambulatory Health Care, Inc.

The bill broadens the definition of "accrediting organizations" for hospitals and ambulatory surgery centers to include any nationally recognized accrediting organization whose standards incorporate comparable licensure requirements as determined by AHCA. This gives AHCA and providers greater flexibility to accept new or improving accrediting organizations and reconsider existing organizations based on current statutory and rule-based standards.

### Complaint Investigation Procedures

Complaint investigation procedures for hospitals exist in the hospital authorizing statutes as well as in the Act. Section 395.1046, F.S., provides special procedures for hospital complaints regarding emergency access issues. AHCA may investigate emergency access complaints even if the complaint is withdrawn. When the investigation is complete, AHCA shall prepare an investigative report that makes a probable cause determination. AHCA reports that the federal process for emergency access complaints dictates that these complaints should not be handled any differently from other types of complaints.

The bill repeals s. 395.1046, F.S., which eliminates the special procedures for investigating hospital emergency access complaints and would allow AHCA to employ existing hospital complaint investigation procedures used for all other types of complaints.

## **Nursing Home Licensure**

An application for nursing home licensure must include the following:

- A signed affidavit disclosing financial or ownership interest of a nursing home controlling interest in the last five years in any health or residential facility which has closed, filed bankruptcy, has a receiver appointed or an injunction placed against it, or been denied, suspended, or revoked by a regulatory agency. This information is also required in s. 400.111, F.S.
- A plan for quality assurance and risk management. This plan is also reviewed during onsite inspections by AHCA.
- The total number of beds including those certified for Medicare and Medicaid. This information is also required by s. 408.806(1) (d), F.S.

The bill eliminates routine submission of documents at licensure by amending ss. 400.071, 400.111, and 400.1183, 400.141, F.S., to substitute the requirement for nursing homes to routinely submit certain documents at the time of licensure with the ability for AHCA to request the documents, if needed.

### **Geriatric Outpatient Clinics**

Currently, nursing homes may establish a geriatric outpatient clinic as authorized in s. 400.021, F.S., to provide outpatient health care to persons 60 years of age or older. The clinic can be staffed by a registered nurse or a physician's assistant.

The bill expands the health care professionals that may staff a geriatric outpatient clinic in a nursing home to include licensed practical nurses under the direct supervision of registered nurses or advanced registered nurse practitioners.

### **Records**

Nursing home medical records regulations exist under both state law and federal regulations. Section 400.141(1) (j), F.S., requires licensees to maintain full patient records. Rule 59A-4.118, F.A.C., also requires nursing homes to employ or contract with a person who is eligible for certification as a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association. Nursing homes are required to maintain records of all grievances, and to report to the agency, upon licensure renewal, various data regarding those grievances.

The bill specifies that a facility must maintain medical records in accordance with accepted professional standards and practices. AHCA reports that this modification in language will allow the repeal of rules related to the credentials of medical records personnel. In addition, the bill removes the requirement that nursing homes report grievance information at the time of relicensure. The bill retains the requirement for nursing homes to maintain all grievance records and makes them available for inspection by AHCA.

### **Staffing Ratios**

Nursing homes must comply with staff-to-resident ratios requirements. Under s. 400.141(1) (o), F.S., if a nursing home fails to comply with minimum staffing requirements for two consecutive days, the facility must cease new admissions until the staffing ratio has been achieved for six consecutive days. Failure to self-impose this moratorium on admissions results in a Class II deficiency cited by AHCA. All other citations for a Class II deficiency represent current ongoing non-compliance that AHCA determines has compromised a resident's ability to maintain or reach his or her highest practicable physical, mental, and psychosocial well-being. Use of the Class II deficiency for a failure to cease admissions is an inconsistent use of a "Class II" deficiency in comparison to all other violations. No nursing homes were cited for this violation in 2009.

The bill modifies the penalty for nursing homes that fail to self impose an admissions moratorium for insufficient staffing to a fine of \$1,000 instead of a Class II deficiency.

### **Do Not Resuscitate Orders**

Section 400.142, F.S., requires AHCA to develop rules relating to implementation of Do Not Resuscitate Orders for nursing home residents. According to AHCA, draft rules have been developed but are not final. Criteria for Do Not Resuscitate Orders are found in s. 401.45, F.S.

The bill removes the requirement for AHCA to promulgate rules related to the implementation of Do Not Resuscitate Orders for nursing home residents. The statutory requirements for such orders in s. 401.45, F.S., are clear and do not require rule implementation.

## **Property Statements**

Section 400.162, F.S., requires nursing homes to provide quarterly property statements to residents when they hold property or funds for a resident.

The bill maintains the requirement for a quarterly property statement for funds, but amends the requirement for other types of property. Instead of furnishing quarterly property statements, nursing homes must provide a property statement annually and within 7 calendar days after a request.

## **Lease Alternative Bond Fund (Fund)**

Nursing homes that are leased and choose to participate in the Medicaid program must either post a bond or pay into a Fund annually pursuant to s. 400.179, F.S. Most leased nursing homes choose to pay into the Fund. Of the 674 licensed nursing homes in Florida, 519 are leased and participate in the Medicaid program. Of those, 505 nursing homes pay into the Fund and 14 post a leased surety bond. Chapter 2009-82 provided a reprieve from payments for Medicaid leased nursing homes for one year. The reprieve expires July 1, 2010. The bill specified that all nursing facilities licensees operating a leased facility shall not be required to submit the nonrefundable 1 percent lease bond fee or be required to provide proof of lease bond.

This bill creates an automatic mechanism to provide relief from payments into the Fund when receipts minus payments for nursing homes overpayments exceed \$25 million. This bill protects nursing homes from having to make additional payments into the Fund if the balance has been reduced as a result of transfers pursuant to s. 215.32, F.S., or deposits to the General Revenue Fund pursuant to s. 215.20, F.S. The Fund would be reviewed annually to determine if payments during the next year will be required.

## **Inspections and Surveys**

AHCA employs surveyors to inspect nursing homes. Pursuant to s. 400.275, F.S., newly hired nursing home surveyors must spend two days in a nursing home as part of basic training in a non-regulatory role. Federal regulations prescribe an extensive training process for nursing home inspection staff. Staff must pass the federal Surveyor Minimum Qualifications Test. Federal regulations prohibit an AHCA staff person who formerly worked in a nursing home from inspecting a nursing home within two years of employment with that home; state law requires a five year lapse.

The bill removes the requirement for new AHCA nursing home inspection staff to spend two days in a nursing home as part of basic training and aligns staff requirements with federal regulations. AHCA nursing home staff must still be fully qualified under federal requirements for the Surveyor Minimum Qualifications Test.

## **Litigation Notices**

Sections 400.147 (10) and 400.0233, F.S., require nursing homes to report civil notices of intent to litigate and civil complaints filed with clerks of courts by a resident or representative of a resident. This information has been used to produce the Semi-Annual Report on Nursing Homes required by s. 400.195, F.S. Information is reported in aggregate for all facilities.

The bill eliminates the requirement to report notices of intent to litigate and civil complaints.

## **Respite Care**

Section 400.141(1) (f), F.S., allows nursing homes to provide respite care for people needing short-term or temporary nursing home services. Only nursing homes with standard licensure status with no Class I or Class II deficiencies in the past two years or having Gold Seal status may provide respite services. AHCA is authorized to promulgate rules for the provision of respite services.

The bill amends s. 400.141, F.S., to expand the ability of nursing homes to provide respite services not exceeding 60 days per year and individual stays may not exceed 14 days. The bill allows all licensed nursing

homes to provide respite services without limitations based on prior deficiencies. The bill provides additional criteria for the provision of respite services. For each patient, the nursing home must:

- Have an abbreviated plan of care for each respite patient, covering nutrition, medication, physician orders, nursing assessments and dietary preferences;
- Have a contract that covers the services to be provided;
- Ensure patient release to the proper person; and
- Assume the duties of the patient's primary care giver.

The bill provides that respite patients are exempt from discharge planning requirements, allowed to use his or her personal medication with a physician's order, and covered by the resident rights as delineated in s. 400.022, F.S., except those related to transfer, choice of physician, bed reservation policies, and discharge challenges. The bill requires prospective respite patients to provide certain medical information to the nursing home and entitles the patient to retain his or her personal physician.

### **Hospice Licensure**

Section 408.810(8) F.S., requires any hospice initial or change of ownership applicant show anticipated provider revenue and expenditures, the basis for financing anticipated cash flow requirements and access to contingency financing. Section 400.606(1) (I), F.S., requires that an annual operating budget be submitted, which duplicates the financial information now required in the Act.

The hospice authorizing statutes and federal regulations require that hospices have inpatient beds for pain control, symptom management, and respite care. Inpatient beds may be in a hospital, skilled nursing facility or a freestanding inpatient facility operated by a hospice. Section 408.043, F.S., requires that there be a certificate of need for a hospice freestanding facility "primarily engaged in providing inpatient care and related services." This provision is repeated in the Act.

The bill removes the requirement for hospice licensure applicants to submit a projected annual operating budget. Financial projections are already submitted as part of the proof of financial ability to operate as required in the Act; therefore, this removes duplicative requirements.

The bill amends both the Act and the hospice authorizing statutes related to certificates of need for inpatient hospice facilities. The bill eliminates the modifier "primarily" to provide that any provision of inpatient hospice care, in any facility not already licensed as a health care facility (like a hospital or nursing home), requires a certificate of need. In effect, the bill provides that no exemptions to this requirement exist.

### **Home Medical Equipment Licensure**

Section 400.931(2), F.S., allows a bond be posted as an alternative to submitting proof of financial ability to operate for a home medical equipment provider. Section 408.8065, F.S., requires the submission of financial statements demonstrating the ability to fund start up costs, working capital, and contingency requirements.

The bill deletes the provisions of s. 400.931, F.S., related to the ability to submit a bond as an alternative to submitting proof of financial ability to operate. Due to 2009 legislative changes, financial oversight is now addressed in the Act.

### **Health Care Clinic Licensure**

Licensure for health care clinics includes mobile clinics and portable equipment providers. Exemptions from licensure exist for clinics that are wholly owned, directly or indirectly, by a publicly traded corporation, among other exemptions.

Section 400.991(4), F.S., allows a bond to be posted as an alternative to submitting proof of financial ability to operate for a home medical equipment provider. Section 408.8065, F.S., requires the submission of financial statements demonstrating the ability to fund start up costs, working capital, and contingency requirements.

The bill provides that portable service providers, such as mobile ultrasound providers, are subject to health care clinic licensure even though they do not deliver care at the clinic's location. The bill also expands an existing exemption from health care clinic licensure for clinics that are wholly owned, directly or indirectly, by a publicly traded corporation to include pediatric cardiology or perinatology clinics.

### **Assisted Living Facility Licensure**

Currently, an ALF that wishes to provide certain nursing services must also have a LNS or extended congregate care (ECC) specialty license to provide certain nursing services. These specialty licenses allow facilities to provide a variety of additional services beyond those allowed in a standard licensed ALF.

With a LNS specialty license, a facility may provide nursing assessment; care and application of routine dressings; care of casts, braces and splints; administration and regulation of portable oxygen; catheter, colostomy, and ileostomy care; maintenance and the application of cold or heat treatments; passive range of motion exercises; and ear and eye irrigations.

Facilities with the ECC specialty license may provide additional services, including total help with activities of daily living (bathing, dressing, toileting); dietary management (special diets and nutrition monitoring); administering medication and prescribed treatments; rehabilitative services; and escort to health services. Additionally, licensed nursing staff in an ECC program may provide any nursing service permitted within the scope of their license consistent with residency requirements and the facility's written policies and procedures. A facility is required to pay an additional licensure fee for the LNS and ECC specialty license.

In accordance with current law, LNS facilities must be monitored at least twice a year and ECC facilities must be monitored quarterly. Additional fees required for these programs cover the costs of monitoring visits and the additional oversight during routine inspections and licensure due to the higher acuity of residents and services. As of February 2010, there are a total of 2,853 ALFs with standard licenses with a total of 81,038 beds. Of the 2,853 ALFs in Florida, 995 have a LNS specialty license and 313 have an ECC specialty license. Of those 995 ALFs, 77 have both a LNS and an ECC license.

ALFs are not currently required to submit resident population data to AHCA. However, chapter 2009-223, L.O.F., requires the submission of disaster/emergency information electronically via AHCA's Emergency Status System (ESS) in conjunction with the licensure renewal process. Currently, 42.1 percent (1197) of ALFs are currently enrolled in this system.

Section 429.23, F.S., requires each ALF to submit a monthly report on civil liability claims filed against the facility and provides that the reports are not discoverable on civil or administrative actions. Section 429.35, F.S., requires AHCA to forward the results of biennial licensure surveys to various entities, including a local public library, the local ombudsman council, and the district Adult Services and Mental Health Program Office.

The bill eliminates the LNS specialty license for ALFs and allows a licensed nurse to provide limited nursing services in a standard licensed ALF without additional licensure. The bill increases ALF licensure fees to compensate for the loss of LNS licensure fees and maintain the licensure program. The bill authorizes \$356 for a standard license fee, \$67.50 per private pay bed and \$18,000 for a total fee cap. The bill repeals the requirement to monitor extended congregate care facilities, and replaces it with a requirement to monitor based upon citation of serious violations (Class I or Class II) in any ALF. The bill allows AHCA to charge a fee for monitoring visits.

The bill modifies AHCA's consultation duties and requires AHCA to adopt rules for data submission by ALFs related to numbers of residents receiving mental health or nursing services, resident funding sources, and staffing. The bill requires facilities to electronically submit resident population data to AHCA on a semi-annual basis. Licensees will be required to report ALF resident information not currently required and allows DOEA, in consultation with AHCA, to adopt rules. According to AHCA, this resident information will be useful for health planning and regulatory purposes.

The bill also eliminates the requirement that ALFs report civil liability claims to AHCA and allows AHCA to provide biennial survey results to the public electronically or via the AHCA website.

## **Multi-Phasic Health Testing Centers**

Multi-phasic health testing centers (centers) are facilities which take human specimens for delivery to clinical laboratories for testing and may perform other basic human measurement functions. Centers are licensed and regulated under part II of chapter 483, F.S. Section 483.294, F.S., requires AHCA to inspect centers at least annually. The bill amends the inspection schedule requiring AHCA to inspect centers biennially.

## **Brain and Spinal Cord Injury Trust Fund**

Under current law, specified traffic fines may be used to provide an enhanced Medicaid rate to nursing homes that serve clients with brain and spinal cord injuries. According to AHCA, funds collected from these fines have not been sufficient to support a Medicaid nursing home supplemental rate for the estimated 100 adult ventilator-dependent patients.

The bill redirects the revenue to the Brain and Spinal Cord Injury Trust Fund within the Department of Health, to be used for Medicaid recipients who have sustained a spinal cord injury and who are technologically and respiratory dependent.

## **Pilot Projects**

The Medicaid "Up-or-Out" Quality of Care Contract Management Program authorized in s. 400.148, F.S., was created as a pilot program in 2001. The purpose of the program was to improve care in poor performing nursing homes and assisted living facilities by assigning trained medical personnel to facilities in select counties similar to Medicare models for managing the medical and supportive-care needs of long-term nursing home residents. The pilot was subject to appropriation; however, an appropriation was not allocated. Therefore, the program was never implemented. According to AHCA, the criteria specified to identify poor performing facilities has been replaced by more comprehensive information for consumers to make informed choices for care.

The bill repeals the Medicaid Up-or-Out Pilot Quality of Care Contract Management Program.

## **Reports**

Section 400.195, F.S., required AHCA to provide a semi-annual report on nursing homes from December 2002 through June 2005 as a tool to provide information about litigation in Florida nursing homes. The report included demographic and regulatory information about nursing homes in Florida and aggregate numbers of notices of intent to litigate and civil complaints filed with the clerks of courts against Florida nursing homes. The reporting requirement ended June 2005. The statutory obligation to publish this report has been met and by law expired on June 30, 2005.

Section 409.221(4)(k), F.S., required AHCA, the Department of Elder Affairs (DOEA), and the Agency for Persons with Disabilities (APD) to provide an annual update and to provide recommendation for improvement on the Consumer Directed Care Plus (CDC+) program. In March 2008, the CDC program was approved to be under the 1915(j) self directed option as a Medicaid state plan amendment instead of an 1115 Research and Demonstrative waiver. The 1915(j) state plan amendment requires annual and three (3) year comprehensive reporting to the federal Centers for Medicare and Medicaid Services (CMS). The report to CMS communicates current status of the CDC program, data on CDC enrollment, demographics, consumer satisfaction, and cost effectiveness. This federal report is required by CMS to be available for public review.

The Assisted Living Facility Extended Congregate Care Report mandated in s. 429.07, F.S., is produced by the DOEA. This report requires an annual description of assisted living facilities with an ECC specialty license including the number of beds, resident characteristics, services, availability, deficiencies, admission sources, and recommendations for changes to the ECC license. The requirement to publish this report was created when the ECC licensure type was implemented to monitor effectiveness. ECC facilities must report information to the DOEA for this report. According to AHCA, the need for this report has diminished.



The bill repeals these three reporting requirements.

## Statutory Revisions

The bill updates the name of the Statewide Advocacy Council, formerly known as The Human Rights Advocacy Committee, The Joint Commission, formerly known as the Joint Commission of the Accreditation of Healthcare Organizations, and the Commission on Accreditation on Rehabilitation Facilities, formerly known as CARF-the Rehabilitation Accreditation Commission.

The bill deletes definitions for and references to private review agents and utilization review in s. 395.002, F.S., to conform to the repeal made in chapter 2009-223, L.O.F. The bill repeals unused or unnecessary definitions, including definitions for "department" and "agency".

The bill makes technical corrections and repeals requested by the Division of Statutory Revision, such as repealing obsolete dates, amending cross-references, and updating the reference to an obsolete rule.

### B. SECTION DIRECTORY:

- Section 1:** Amends s. 112.0455, F.S., relating to the Drug-Free Workplace Act.
- Section 2:** Amends s. 154.11, F.S., relating to powers of the board of trustees.
- Section 3:** Amends s. 318.21, F.S., relating to the disposition of civil penalties by county courts.
- Section 4:** Repeals s. 383.325, F.S., relating to inspection reports.
- Section 5:** Amends s. 394.741, F.S., relating to accreditation requirements for providers of behavioral health care services.
- Section 6:** Amends s. 395.002, F.S., relating to accrediting organizations and specialty hospitals.
- Section 7:** Amends s. 395.003, F.S., relating to licensure; denial, suspension, and revocation.
- Section 8:** Amends s. 395.0193, F.S., relating to licensed facilities; peer review; disciplinary powers; agency or partnership with physicians.
- Section 9:** Amends s. 395.1023, F.S., relating to child abuse and neglect cases.
- Section 10:** Amends s. 395.1041, F.S., relating to access to emergency services and care.
- Section 11:** Repeals s. 395.1046, F.S., relating to complaint investigation procedures.
- Section 12:** Amends s. 395.1055, F.S., relating to rules and enforcement.
- Section 13:** Amends s. 395.10972, F.S., relating to the Health Care Risk Manager Advisory Council.
- Section 14:** Amends s. 395.2050, F.S., relating to routine inquiry for organ and tissue donation, certification for procurement activities and death records review.
- Section 15:** Amends s. 395.3036, F.S., relating to confidentiality of records and meetings of corporations that lease public hospitals or other public health care facilities.
- Section 16:** Repeals s. 395.3037, F.S., relating to definitions of "Department" and "Agency".
- Section 17:** Amends s. 395.3038, F.S., relating to state-listed primary stroke centers and comprehensive stroke centers, and the notification of hospitals.
- Section 18:** Amends s. 395.602, F.S., relating to rural hospitals.
- Section 19:** Amends s. 400.021, F.S., relating to geriatric outpatient clinics.
- Section 20:** Amends s. 400.063, F.S., relating to resident protection.
- Section 21:** Amends s. 400.071, F.S., relating to applications for licensure.
- Section 22:** Amends s. 400.0712, F.S., relating to applications for inactive licenses.
- Section 23:** Amends s. 400.111, F.S., relating to disclosure of controlling interest.
- Section 24:** Amends s. 400.1183, F.S., relating to resident grievance procedures.
- Section 25:** Amends s. 400.141, F.S., relating to administration and management of nursing home facilities.
- Section 26:** Amends s. 400.142, F.S., relating to emergency medication kits and orders not to resuscitate.
- Section 27:** Amends s. 400.147, F.S., relating to internal risk management and the quality assurance program.
- Section 28:** Repeals s. 400.148, F.S., relating to the Medicaid "Up-or-Out" quality of care contract management program.
- Section 29:** Amends s. 400.162, F.S., relating to property and personal affairs of residents.

- Section 30:** Amends s. 400.179, F.S., relating to liability for Medicaid underpayments and overpayments.
- Section 31:** Amends s. 400.19, F.S., relating to right of entry and inspection.
- Section 32:** Repeals s. 400.195, F.S., relating to agency reporting requirements.
- Section 33:** Amends s. 400.23, F.S., relating to rules, evaluation and deficiencies and licensure status.
- Section 34:** Amends s. 400.275, F.S., relating to agency duties.
- Section 35:** Amends s. 400.484, F.S., relating to right of inspection, violations and fines.
- Section 36:** Amends s. 400.606, F.S., relating to license application, renewal, conditional license or permits and certificates of need.
- Section 37:** Amends s. 400.607, F.S., relating to denial, suspension and revocation of a license; emergency actions and imposition of administrative fines.
- Section 38:** Amends s. 400.925, F.S., relating to accrediting organizations.
- Section 39:** Amends s. 400.931, F.S., relating to application for licensure.
- Section 40:** Amends s. 400.932, F.S., relating to administrative penalties.
- Section 41:** Amends s. 400.967, F.S., relating to rules and classification of violations.
- Section 42:** Amends s. 400.9905, F.S., relating to clinics and portable health service or equipment providers.
- Section 43:** Amends s. 400.991, F.S., relating to License requirements, background screenings and prohibitions.
- Section 44:** Amends s. 400.9935, F.S., relating to clinic responsibilities.
- Section 45:** Amends s. 408.034, F.S., relating to agency duties and responsibilities.
- Section 46:** Amends s. 408.036, F.S., relating to projects subject to review.
- Section 47:** Amends s. 408.043, F.S., relating to special provisions.
- Section 48:** Amends s. 408.05, F.S., relating to the Florida Center for Health Information and Policy Analysis.
- Section 49:** Amends s. 408.061, F.S., relating to data collection.
- Section 50:** Amends s. 408.10, F.S., relating to consumer complaints.
- Section 51:** Amends s. 408.802, F.S., relating to applicability.
- Section 52:** Amends s. 408.804, F.S., relating to displaying of a license.
- Section 53:** Amends s. 408.806, F.S., relating to the license application process.
- Section 54:** Amends s. 408.810, F.S., relating to minimum licensure requirements.
- Section 55:** Amends s. 408.813, F.S., relating to administrative fines and violations.
- Section 56:** Amends s. 408.815, F.S., relating to license or application denial and revocation.
- Section 57:** Amends s. 409.221, F.S., relating to the consumer-directed care program.
- Section 58:** Amends s. 429.07, F.S., relating to license requirements, fees and inspections.
- Section 59:** Amends s. 429.11, F.S., relating to initial applications for licensure.
- Section 60:** Amends s. 429.12, F.S., relating to the sale or transfer of ownership of a facility.
- Section 61:** Amends s. 429.14, F.S., relating to administrative penalties.
- Section 62:** Amends s. 429.17, F.S., relating to license expiration, renewal and conditional licenses.
- Section 63:** Amends s. 429.19, F.S., relating to violations and the imposition of administrative fines.
- Section 64:** Amends s. 429.23, F.S., relating to the internal risk management and quality assurance program.
- Section 65:** Amends s. 429.255, F.S., relating to the use of personnel and emergency care.
- Section 66:** Amends s. 429.28, F.S., relating to the resident bill of rights.
- Section 67:** Amends s. 429.35, F.S., relating to the maintenance of records.
- Section 68:** Amends s. 429.41, F.S., relating to rules establishing standards.
- Section 69:** Amends s. 429.53, F.S., relating to consultation by the agency.
- Section 70:** Amends s. 429.54, F.S., relating to the collection of information.
- Section 71:** Amends s. 429.71, F.S., relating to the classification of violations.
- Section 72:** Amends s. 429.911, F.S., relating to the denial, suspension, or revocation of a license.
- Section 73:** Amends s. 429.915, F.S., relating to conditional licensure.
- Section 74:** Amends s. 394.4787, F.S., relating to specialty psychiatric hospitals.
- Section 75:** Amends s. 400.0239, F.S., relating to the Quality of Long-Term Care Facility Improvement Trust Fund.
- Section 76:** Amends s. 408.07, F.S., relating to rural hospitals.
- Section 77:** Amends s. 430.80, F.S., relating to the implementation of a teaching nursing home pilot project.

- Section 78:** Amends s. 440.13, F.S., relating to medical services and supplies.
- Section 79:** Amends s. 483.294, F.S., relating to the inspection of centers.
- Section 80:** Amends s. 627.645, F.S., relating to the restriction of denied health insurance claims.
- Section 81:** Amends s. 627.668, F.S., relating to optional coverage for mental and nervous disorders.
- Section 82:** Amends s. 627.669, F.S., relating to optional coverage requirement for substance abuse impaired persons.
- Section 83:** Amends s. 627.736, F.S., relating to required personal injury protection benefits.
- Section 84:** Amends s. 641.495, F.S., relating to requirements for issuance and maintenance of certificate.
- Section 85:** Amends s. 651.118, F.S., relating to the Agency for Health Care Administration
- Section 86:** Amends s. 766.1015, F.S., relating to civil immunity for members of or consultants to certain boards, committees, or other entities.
- Section 87:** Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:  
See Fiscal Comments.
- 2. Expenditures:  
See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:  
None.
- 2. Expenditures:  
None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will save nursing home providers up to \$4.2 million annually by providing relief from lease bond fund requirements if adequate Fund receipts exist.

Assisted living facility provider fees will be increased to offset the elimination of the LNS licensure fee. This will result in a neutral net impact to the industry. (See Fiscal Comments)

### D. FISCAL COMMENTS:

#### **License Renewal Notices**

AHCA estimates that the bill will save approximately \$55,700 in the Health Care Trust Fund annually in administrative costs through the discontinuation of certified mail service to deliver licensure renewal notices.

#### **License Display**

This bill grants AHCA the authority to impose a fine of up to \$1,000 per day when a licensee displays an altered, defaced or falsified license. However, AHCA reports that it does not anticipate that this fine will generate any additional revenues, but instead act as a deterrent.

## **Nursing Home Lease Bond Fund**

The bill will save up to \$1,264,448 (\$486,307 in GR) annually in Medicaid expenditures for nursing home lease bond payments. Nursing home providers include the costs of the lease bond payments in their cost reports as allowable costs, which impacts Medicaid expenditures.

To date, AHCA has expended \$10,466,138<sup>1</sup> from the Fund for nursing home overpayments. The Fund net balance is \$28,845,366<sup>2</sup> as of February 2010. The net balance represents the amount to be used in determining whether nursing home providers pay into the fund.

## **Assisted Living Facility Limited Nursing Specialty License**

This bill increases the biennial license fee for standard ALFs and eliminates the LNS specialty licensure fees. AHCA reports that the adjustment in fees for ALF licensure has a neutral fiscal impact on fee collections.

Based on the number of LNS specialty licenses (995) and beds (25,883) in February 2010, the LNS specialty license is projected to generate approximately \$554,000 in revenues biennially. The revenues are calculated as follows:

$$\begin{aligned} & \$296 \text{ per license plus } \$10 \text{ per bed} = \$553,350 \text{ based on current numbers} \\ & (\$294,520 + \$258,830) = \$553,350 \end{aligned}$$

The additional fee increase in the bill will offset the loss in revenues from the elimination of the specialty license fee. The fee increase is calculated as follows:

$$\begin{aligned} & \$553,350 \text{ divided by } 65,298 \text{ beds} = \$8.47/\text{bed} \\ & (81,038 \text{ total beds less } 15,740 \text{ OSS}) \end{aligned}$$

The proposed fee is calculated as follows:

$$\$59 \text{ per bed} + 8.50 \text{ per bed} = \$67.50 \text{ per bed.}$$

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

AHCA has sufficient rule-making authority to implement the provisions of the bill.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

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<sup>1</sup> E-mail correspondence with the Agency for Health Care Administration staff (March 11, 2010).

<sup>2</sup> Id

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 9, 2010, the Health Regulation Policy Committee adopted seven amendments. The amendments:

- Expand the ability of nursing homes to provide respite services, and provide criteria for the provision of such services;
- Update the name of the Commission on Accreditation on Rehabilitation Facilities (formerly known as CARF-the Rehabilitation Accreditation Commission);
- Removes current provisions related bankruptcy reporting which conflicts with amendments made by the bill;
- Correct a drafting error to avoid conflict with existing laws which dictate fine amounts;
- Reduce the time for an extended license provided by the bill from 60 days to 30 days;
- Restore provisions deleted by the bill which exempt facilities from a fine for submitting a license renewal application after the deadline if the canceled postmark is dated timely.
- Conform a cross-reference.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.

CS/HB 1143

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A bill to be entitled  
An act relating to the reduction and simplification of health care provider regulation; amending s. 112.0455, F.S., relating to the Drug-Free Workplace Act; deleting an obsolete provision; amending s. 318.21, F.S.; revising distribution of funds from civil penalties imposed for traffic infractions by county courts; repealing s. 383.325, F.S., relating to confidentiality of inspection reports of licensed birth center facilities; amending s. 395.002, F.S.; revising and deleting definitions applicable to regulation of hospitals and other licensed facilities; conforming a cross-reference; amending s. 395.003, F.S.; deleting an obsolete provision; conforming a cross-reference; amending s. 395.0193, F.S.; requiring a licensed facility to report certain peer review information and final disciplinary actions to the Division of Medical Quality Assurance of the Department of Health rather than the Division of Health Quality Assurance of the Agency for Health Care Administration; amending s. 395.1023, F.S.; providing for the Department of Children and Family Services rather than the Department of Health to perform certain functions with respect to child protection cases; requiring certain hospitals to notify the Department of Children and Family Services of compliance; amending s. 395.1041, F.S., relating to hospital emergency services and care; deleting obsolete provisions; repealing s. 395.1046, F.S., relating to complaint investigation procedures; amending s. 395.1055,

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

57 facility upon request by the Agency for Health Care  
 58 Administration; amending s. 400.1183, F.S.; revising  
 59 grievance record maintenance and reporting requirements  
 60 for nursing homes; amending s. 400.141, F.S.; providing  
 61 criteria for the provision of respite services by nursing  
 62 homes; requiring a written plan of care; requiring a  
 63 contract for services; requiring resident release to  
 64 caregivers to be designated in writing; providing an  
 65 exemption to the application of discharge planning rules;  
 66 providing for residents' rights; providing for use of  
 67 personal medications; providing terms of respite stay;  
 68 providing for communication of patient information;  
 69 requiring a physician order for care and proof of a  
 70 physical examination; providing for services for respite  
 71 patients and duties of facilities with respect to such  
 72 patients; conforming a cross-reference; requiring  
 73 facilities to maintain clinical records that meet  
 74 specified standards; providing a fine relating to an  
 75 admissions moratorium; deleting requirement for facilities  
 76 to submit certain information related to management  
 77 companies to the agency; deleting a requirement for  
 78 facilities to notify the agency of certain bankruptcy  
 79 filings to conform to changes made by the act; amending s.  
 80 400.142, F.S.; deleting language relating to agency  
 81 adoption of rules; amending 400.147, F.S.; revising  
 82 reporting requirements for licensed nursing home  
 83 facilities relating to adverse incidents; repealing s.  
 84 400.148, F.S., relating to the Medicaid "Up-or-Out"



85 Quality of Care Contract Management Program; amending s.  
 86 400.162, F.S., requiring nursing homes to provide a  
 87 resident property statement annually and upon request;  
 88 amending s. 400.179, F.S.; revising requirements for  
 89 nursing home lease bond alternative fees; deleting an  
 90 obsolete provision; amending s. 400.19, F.S.; revising  
 91 inspection requirements; repealing s. 400.195, F.S.,  
 92 relating to agency reporting requirements; amending s.  
 93 400.23, F.S.; deleting an obsolete provision; clarifying a  
 94 reference; amending s. 400.275, F.S.; revising agency  
 95 duties with regard to training nursing home surveyor  
 96 teams; revising requirements for team members; amending s.  
 97 400.484, F.S.; revising the schedule of home health agency  
 98 inspection violations; amending s. 400.606, F.S.; revising  
 99 the content requirements of the plan accompanying an  
 100 initial or change-of-ownership application for licensure  
 101 of a hospice; revising requirements relating to  
 102 certificates of need for certain hospice facilities;  
 103 amending s. 400.607, F.S.; revising grounds for agency  
 104 action against a hospice; amending s. 400.931, F.S.;  
 105 deleting a requirement that an applicant for a home  
 106 medical equipment provider license submit a surety bond to  
 107 the agency; amending s. 400.932, F.S.; revising grounds  
 108 for the imposition of administrative penalties for certain  
 109 violations by an employee of a home medical equipment  
 110 provider; amending s. 400.967, F.S.; revising the schedule  
 111 of inspection violations for intermediate care facilities  
 112 for the developmentally disabled; providing a penalty for

113 certain violations; amending s. 400.9905, F.S.; revising  
 114 definitions under the Health Care Clinic Act; amending s.  
 115 400.991, F.S.; conforming terminology; revising  
 116 application requirements relating to documentation of  
 117 financial ability to operate a mobile clinic; amending s.  
 118 408.034, F.S.; revising agency authority relating to  
 119 licensing of intermediate care facilities for the  
 120 developmentally disabled; amending s. 408.036, F.S.;  
 121 deleting an exemption from certain certificate-of-need  
 122 review requirements for a hospice or a hospice inpatient  
 123 facility; amending s. 408.043, F.S.; revising requirements  
 124 for certain freestanding inpatient hospice care facilities  
 125 to obtain a certificate of need; amending s. 408.061,  
 126 F.S.; revising health care facility data reporting  
 127 requirements; amending s. 408.10, F.S.; removing agency  
 128 authority to investigate certain consumer complaints;  
 129 amending s. 408.802, F.S.; removing applicability of pt.  
 130 II of ch. 408, F.S., relating to general licensure  
 131 requirements, to private review agents; amending s.  
 132 408.804, F.S.; providing penalties for altering, defacing,  
 133 or falsifying a license certificate issued by the agency  
 134 or displaying such an altered, defaced, or falsified  
 135 certificate; amending s. 408.806, F.S.; revising agency  
 136 responsibilities for notification of licensees of  
 137 impending expiration of a license; requiring payment of a  
 138 late fee for a license application to be considered  
 139 complete under certain circumstances; amending s. 408.810,  
 140 F.S.; revising provisions relating to information required

141 for licensure; requiring proof of submission of notice to  
 142 a mortgagor or landlord regarding provision of services  
 143 requiring licensure; requiring disclosure of information  
 144 by a controlling interest of certain court actions  
 145 relating to financial instability within a specified time  
 146 period; amending s. 408.813, F.S.; authorizing the agency  
 147 to impose fines for unclassified violations of pt. II of  
 148 ch. 408, F.S.; amending s. 408.815, F.S.; authorizing the  
 149 agency to extend a license expiration date under certain  
 150 circumstances; amending s. 409.221, F.S.; deleting a  
 151 reporting requirement relating to the consumer-directed  
 152 care program; amending s. 429.07, F.S.; deleting the  
 153 requirement for an assisted living facility to obtain an  
 154 additional license in order to provide limited nursing  
 155 services; deleting the requirement for the agency to  
 156 conduct quarterly monitoring visits of facilities that  
 157 hold a license to provide extended congregate care  
 158 services; deleting the requirement for the department to  
 159 report annually on the status of and recommendations  
 160 related to extended congregate care; deleting the  
 161 requirement for the agency to conduct monitoring visits at  
 162 least twice a year to facilities providing limited nursing  
 163 services; increasing the licensure fees and the maximum  
 164 fee required for the standard license; increasing the  
 165 licensure fees for the extended congregate care license;  
 166 eliminating the license fee for the limited nursing  
 167 services license; transferring from another provision of  
 168 law the requirement that a biennial survey of an assisted

169 living facility include specific actions to determine  
 170 whether the facility is adequately protecting residents'  
 171 rights; providing that an assisted living facility that  
 172 has a class I or class II violation is subject to  
 173 monitoring visits; requiring a registered nurse to  
 174 participate in certain monitoring visits; amending s.  
 175 429.11, F.S.; revising licensure application requirements  
 176 for assisted living facilities to eliminate provisional  
 177 licenses; amending s. 429.12, F.S.; revising notification  
 178 requirements for the sale or transfer of ownership of an  
 179 assisted living facility; amending s. 429.14, F.S.;;  
 180 removing a ground for the imposition of an administrative  
 181 penalty; clarifying language relating to a facility's  
 182 request for a hearing under certain circumstances;  
 183 authorizing the agency to provide certain information  
 184 relating to the licensure status of assisted living  
 185 facilities electronically or through the agency's Internet  
 186 website; amending s. 429.17, F.S.; deleting provisions  
 187 relating to the limited nursing services license; revising  
 188 agency responsibilities regarding the issuance of  
 189 conditional licenses; amending s. 429.19, F.S.; clarifying  
 190 that a monitoring fee may be assessed in addition to an  
 191 administrative fine; amending s. 429.23, F.S.; deleting  
 192 reporting requirements for assisted living facilities  
 193 relating to liability claims; amending s. 429.255, F.S.;;  
 194 eliminating provisions authorizing the use of volunteers  
 195 to provide certain health-care-related services in  
 196 assisted living facilities; authorizing assisted living

197 facilities to provide limited nursing services; requiring  
 198 an assisted living facility to be responsible for certain  
 199 recordkeeping and staff to be trained to monitor residents  
 200 receiving certain health-care-related services; amending  
 201 s. 429.28, F.S.; deleting a requirement for a biennial  
 202 survey of an assisted living facility, to conform to  
 203 changes made by the act; amending s. 429.35, F.S.;  
 204 authorizing the agency to provide certain information  
 205 relating to the inspections of assisted living facilities  
 206 electronically or through the agency's Internet website;  
 207 amending s. 429.41, F.S., relating to rulemaking;  
 208 conforming provisions to changes made by the act; amending  
 209 s. 429.53, F.S.; revising provisions relating to  
 210 consultation by the agency; revising a definition;  
 211 amending s. 429.54, F.S.; requiring licensed assisted  
 212 living facilities to electronically report certain data  
 213 semiannually to the agency in accordance with rules  
 214 adopted by the department; amending s. 429.71, F.S.;  
 215 revising schedule of inspection violations for adult  
 216 family-care homes; amending s. 429.911, F.S.; deleting a  
 217 ground for agency action against an adult day care center;  
 218 amending s. 429.915, F.S.; revising agency  
 219 responsibilities regarding the issuance of conditional  
 220 licenses; amending s. 483.294, F.S.; revising frequency of  
 221 agency inspections of multiphasic health testing centers;  
 222 amending ss. 394.4787, 400.0239, 408.07, 430.80, and  
 223 651.118, F.S.; conforming terminology and cross-

224 references; revising a reference; providing an effective  
 225 date.

226

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

228

229 Section 1. Present paragraph (e) of subsection (10) and  
 230 paragraph (e) of subsection (14) of section 112.0455, Florida  
 231 Statutes, are amended, and paragraphs (f) through (k) of  
 232 subsection (10) of that section are redesignated as paragraphs  
 233 (e) through (j), respectively, to read:

234 112.0455 Drug-Free Workplace Act.-

235 (10) EMPLOYER PROTECTION.-

236 ~~(e) Nothing in this section shall be construed to operate~~  
 237 ~~retroactively, and nothing in this section shall abrogate the~~  
 238 ~~right of an employer under state law to conduct drug tests prior~~  
 239 ~~to January 1, 1990. A drug test conducted by an employer prior~~  
 240 ~~to January 1, 1990, is not subject to this section.~~

241 (14) DISCIPLINE REMEDIES.-

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

245 1. Rescind the disciplinary action, expunge related  
 246 records from the personnel file of the employee or job applicant  
 247 and reinstate the employee.

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

249 3. Award back pay and benefits.

250 4. Award the prevailing employee or job applicant the  
 251 necessary costs of the appeal, reasonable attorney's fees, and

252 expert witness fees.

253 Section 2. Paragraph (n) of subsection (1) of section  
254 154.11, Florida Statutes, is amended to read:

255 154.11 Powers of board of trustees.—

256 (1) The board of trustees of each public health trust  
257 shall be deemed to exercise a public and essential governmental  
258 function of both the state and the county and in furtherance  
259 thereof it shall, subject to limitation by the governing body of  
260 the county in which such board is located, have all of the  
261 powers necessary or convenient to carry out the operation and  
262 governance of designated health care facilities, including, but  
263 without limiting the generality of, the foregoing:

264 (n) To appoint originally the staff of physicians to  
265 practice in any designated facility owned or operated by the  
266 board and to approve the bylaws and rules to be adopted by the  
267 medical staff of any designated facility owned and operated by  
268 the board, such governing regulations to be in accordance with  
269 the standards of The Joint Commission ~~on the Accreditation of~~  
270 ~~Hospitals~~ which provide, among other things, for the method of  
271 appointing additional staff members and for the removal of staff  
272 members.

273 Section 3. Subsection (15) of section 318.21, Florida  
274 Statutes, is amended to read:

275 318.21 Disposition of civil penalties by county courts.—

276 All civil penalties received by a county court pursuant to the  
277 provisions of this chapter shall be distributed and paid monthly  
278 as follows:

279 (15) Of the additional fine assessed under s. 318.18(3)(e)

280 for a violation of s. 316.1893, 50 percent of the moneys  
 281 received from the fines shall be remitted to the Department of  
 282 Revenue and deposited into the Brain and Spinal Cord Injury  
 283 Trust Fund of Department of Health and shall be appropriated to  
 284 the Department of Health ~~Agency for Health Care Administration~~  
 285 as general revenue to ~~provide an enhanced Medicaid payment to~~  
 286 ~~nursing homes that~~ serve Medicaid recipients with spinal cord  
 287 injuries that are medically complex and who are technologically  
 288 and respiratory dependent ~~with brain and spinal cord injuries.~~  
 289 The remaining 50 percent of the moneys received from the  
 290 enhanced fine imposed under s. 318.18(3)(e) shall be remitted to  
 291 the Department of Revenue and deposited into the Department of  
 292 Health Administrative Trust Fund to provide financial support to  
 293 certified trauma centers in the counties where enhanced penalty  
 294 zones are established to ensure the availability and  
 295 accessibility of trauma services. Funds deposited into the  
 296 Administrative Trust Fund under this subsection shall be  
 297 allocated as follows:  
 298 (a) Fifty percent shall be allocated equally among all  
 299 Level I, Level II, and pediatric trauma centers in recognition  
 300 of readiness costs for maintaining trauma services.  
 301 (b) Fifty percent shall be allocated among Level I, Level  
 302 II, and pediatric trauma centers based on each center's relative  
 303 volume of trauma cases as reported in the Department of Health  
 304 Trauma Registry.  
 305 Section 4. Section 383.325, Florida Statutes, is repealed.  
 306 Section 5. Subsection (2) of section 394.741, Florida  
 307 Statutes, is amended to read:



308 394.741 Accreditation requirements for providers of  
 309 behavioral health care services.—

310 (2) Notwithstanding any provision of law to the contrary,  
 311 accreditation shall be accepted by the agency and department in  
 312 lieu of the agency's and department's facility licensure onsite  
 313 review requirements and shall be accepted as a substitute for  
 314 the department's administrative and program monitoring  
 315 requirements, except as required by subsections (3) and (4),  
 316 for:

317 (a) Any organization from which the department purchases  
 318 behavioral health care services that is accredited by The Joint  
 319 Commission ~~on Accreditation of Healthcare Organizations~~ or the  
 320 Council on Accreditation ~~for Children and Family Services~~, or  
 321 has those services that are being purchased by the department  
 322 accredited by the Commission on Accreditation of Rehabilitation  
 323 Facilities ~~CARF the Rehabilitation Accreditation Commission~~.

324 (b) Any mental health facility licensed by the agency or  
 325 any substance abuse component licensed by the department that is  
 326 accredited by The Joint Commission ~~on Accreditation of~~  
 327 ~~Healthcare Organizations~~, the Commission on Accreditation of  
 328 Rehabilitation Facilities ~~CARF the Rehabilitation Accreditation~~  
 329 ~~Commission~~, or the Council on Accreditation ~~of Children and~~  
 330 ~~Family Services~~.

331 (c) Any network of providers from which the department or  
 332 the agency purchases behavioral health care services accredited  
 333 by The Joint Commission ~~on Accreditation of Healthcare~~  
 334 ~~Organizations~~, the Commission on Accreditation of Rehabilitation  
 335 Facilities ~~CARF the Rehabilitation Accreditation Commission~~, the

336 Council on Accreditation ~~of Children and Family Services~~, or the  
 337 National Committee for Quality Assurance. A provider  
 338 organization, which is part of an accredited network, is  
 339 afforded the same rights under this part.

340 Section 6. Present subsections (15) through (32) of  
 341 section 395.002, Florida Statutes, are renumbered as subsections  
 342 (14) through (28), respectively, and present subsections (1),  
 343 (14), (24), (30), and (31), and paragraph (c) of present  
 344 subsection (28) of that section are amended to read:

345 395.002 Definitions.—As used in this chapter:

346 (1) "Accrediting organizations" means nationally  
 347 recognized or approved accrediting organizations whose standards  
 348 incorporate comparable licensure requirements as determined by  
 349 the agency ~~the Joint Commission on Accreditation of Healthcare~~  
 350 ~~Organizations, the American Osteopathic Association, the~~  
 351 ~~Commission on Accreditation of Rehabilitation Facilities, and~~  
 352 ~~the Accreditation Association for Ambulatory Health Care, Inc.~~

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

357 ~~(24) "Private review agent" means any person or entity~~  
 358 ~~which performs utilization review services for third-party~~  
 359 ~~payors on a contractual basis for outpatient or inpatient~~  
 360 ~~services. However, the term shall not include full-time~~  
 361 ~~employees, personnel, or staff of health insurers, health~~  
 362 ~~maintenance organizations, or hospitals, or wholly owned~~  
 363 ~~subsidiaries thereof or affiliates under common ownership, when~~

364 ~~performing utilization review for their respective hospitals,~~  
 365 ~~health maintenance organizations, or insureds of the same~~  
 366 ~~insurance group. For this purpose, health insurers, health~~  
 367 ~~maintenance organizations, and hospitals, or wholly owned~~  
 368 ~~subsidiaries thereof or affiliates under common ownership,~~  
 369 ~~include such entities engaged as administrators of self-~~  
 370 ~~insurance as defined in s. 624.031.~~

371 (26)~~(28)~~ "Specialty hospital" means any facility which  
 372 meets the provisions of subsection (12), and which regularly  
 373 makes available either:

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

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

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

383 Section 7. Paragraph (c) of subsection (1) and paragraph  
 384 (b) of subsection (2) of section 395.003, Florida Statutes, are  
 385 amended to read:

386 395.003 Licensure; denial, suspension, and revocation.—

387 (1)

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

391 (2)

392 (b) The agency shall, at the request of a licensee that is  
 393 a teaching hospital as defined in s. 408.07(45), issue a single  
 394 license to a licensee for facilities that have been previously  
 395 licensed as separate premises, provided such separately licensed  
 396 facilities, taken together, constitute the same premises as  
 397 defined in s. 395.002(22)~~(23)~~. Such license for the single  
 398 premises shall include all of the beds, services, and programs  
 399 that were previously included on the licenses for the separate  
 400 premises. The granting of a single license under this paragraph  
 401 shall not in any manner reduce the number of beds, services, or  
 402 programs operated by the licensee.

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

405 395.0193 Licensed facilities; peer review; disciplinary  
 406 powers; agency or partnership with physicians.-

407 (2) Each licensed facility, as a condition of licensure,  
 408 shall provide for peer review of physicians who deliver health  
 409 care services at the facility. Each licensed facility shall  
 410 develop written, binding procedures by which such peer review  
 411 shall be conducted. Such procedures shall include:

412 (e) Recording of agendas and minutes which do not contain  
 413 confidential material, for review by the Division of Medical  
 414 Quality Assurance of the department ~~Health Quality Assurance of~~  
 415 ~~the agency~~.

416 (4) Pursuant to ss. 458.337 and 459.016, any disciplinary  
 417 actions taken under subsection (3) shall be reported in writing  
 418 to the Division of Medical Quality Assurance of the department  
 419 ~~Health Quality Assurance of the agency~~ within 30 working days

420 after its initial occurrence, regardless of the pendency of  
 421 appeals to the governing board of the hospital. The notification  
 422 shall identify the disciplined practitioner, the action taken,  
 423 and the reason for such action. All final disciplinary actions  
 424 taken under subsection (3), if different from those which were  
 425 reported to the department agency within 30 days after the  
 426 initial occurrence, shall be reported within 10 working days to  
 427 the Division of Medical Quality Assurance of the department  
 428 ~~Health Quality Assurance of the agency~~ in writing and shall  
 429 specify the disciplinary action taken and the specific grounds  
 430 therefor. The division shall review each report and determine  
 431 whether it potentially involved conduct by the licensee that is  
 432 subject to disciplinary action, in which case s. 456.073 shall  
 433 apply. The reports are not subject to inspection under s.  
 434 119.07(1) even if the division's investigation results in a  
 435 finding of probable cause.

436 Section 9. Section 395.1023, Florida Statutes, is amended  
 437 to read:

438 395.1023 Child abuse and neglect cases; duties.—Each  
 439 licensed facility shall adopt a protocol that, at a minimum,  
 440 requires the facility to:

441 (1) Incorporate a facility policy that every staff member  
 442 has an affirmative duty to report, pursuant to chapter 39, any  
 443 actual or suspected case of child abuse, abandonment, or  
 444 neglect; and

445 (2) In any case involving suspected child abuse,  
 446 abandonment, or neglect, designate, at the request of the  
 447 Department of Children and Family Services, a staff physician to

448 act as a liaison between the hospital and the Department of  
 449 Children and Family Services office which is investigating the  
 450 suspected abuse, abandonment, or neglect, and the child  
 451 protection team, as defined in s. 39.01, when the case is  
 452 referred to such a team.

453

454 Each general hospital and appropriate specialty hospital shall  
 455 comply with the provisions of this section and shall notify the  
 456 agency and the Department of Children and Family Services of its  
 457 compliance by sending a copy of its policy to the agency and the  
 458 Department of Children and Family Services as required by rule.  
 459 The failure by a general hospital or appropriate specialty  
 460 hospital to comply shall be punished by a fine not exceeding  
 461 \$1,000, to be fixed, imposed, and collected by the agency. Each  
 462 day in violation is considered a separate offense.

463 Section 10. Subsection (2) and paragraph (d) of subsection  
 464 (3) of section 395.1041, Florida Statutes, are amended to read:

465 395.1041 Access to emergency services and care.—

466 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.—The agency  
 467 shall establish and maintain an inventory of hospitals with  
 468 emergency services. The inventory shall list all services within  
 469 the service capability of the hospital, and such services shall  
 470 appear on the face of the hospital license. Each hospital having  
 471 emergency services shall notify the agency of its service  
 472 capability in the manner and form prescribed by the agency. The  
 473 agency shall use the inventory to assist emergency medical  
 474 services providers and others in locating appropriate emergency  
 475 medical care. The inventory shall also be made available to the

476 general public. ~~On or before August 1, 1992, the agency shall~~  
 477 ~~request that each hospital identify the services which are~~  
 478 ~~within its service capability. On or before November 1, 1992,~~  
 479 ~~the agency shall notify each hospital of the service capability~~  
 480 ~~to be included in the inventory. The hospital has 15 days from~~  
 481 ~~the date of receipt to respond to the notice. By December 1,~~  
 482 ~~1992, the agency shall publish a final inventory.~~ Each hospital  
 483 shall reaffirm its service capability when its license is  
 484 renewed and shall notify the agency of the addition of a new  
 485 service or the termination of a service prior to a change in its  
 486 service capability.

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

489 (d)1. Every hospital shall ensure the provision of  
 490 services within the service capability of the hospital, at all  
 491 times, either directly or indirectly through an arrangement with  
 492 another hospital, through an arrangement with one or more  
 493 physicians, or as otherwise made through prior arrangements. A  
 494 hospital may enter into an agreement with another hospital for  
 495 purposes of meeting its service capability requirement, and  
 496 appropriate compensation or other reasonable conditions may be  
 497 negotiated for these backup services.

498 2. If any arrangement requires the provision of emergency  
 499 medical transportation, such arrangement must be made in  
 500 consultation with the applicable provider and may not require  
 501 the emergency medical service provider to provide transportation  
 502 that is outside the routine service area of that provider or in  
 503 a manner that impairs the ability of the emergency medical

504 service provider to timely respond to prehospital emergency  
 505 calls.

506 3. A hospital shall not be required to ensure service  
 507 capability at all times as required in subparagraph 1. if, prior  
 508 to the receiving of any patient needing such service capability,  
 509 such hospital has demonstrated to the agency that it lacks the  
 510 ability to ensure such capability and it has exhausted all  
 511 reasonable efforts to ensure such capability through backup  
 512 arrangements. In reviewing a hospital's demonstration of lack of  
 513 ability to ensure service capability, the agency shall consider  
 514 factors relevant to the particular case, including the  
 515 following:

516 a. Number and proximity of hospitals with the same service  
 517 capability.

518 b. Number, type, credentials, and privileges of  
 519 specialists.

520 c. Frequency of procedures.

521 d. Size of hospital.

522 4. The agency shall publish ~~proposed~~ rules implementing a  
 523 reasonable exemption procedure ~~by November 1, 1992. Subparagraph~~  
 524 ~~1. shall become effective upon the effective date of said rules~~  
 525 ~~or January 31, 1993, whichever is earlier. For a period not to~~  
 526 ~~exceed 1 year from the effective date of subparagraph 1., a~~  
 527 ~~hospital requesting an exemption shall be deemed to be exempt~~  
 528 ~~from offering the service until the agency initially acts to~~  
 529 ~~deny or grant the original request. The agency has 45 days from~~  
 530 the date of receipt of the request to approve or deny the  
 531 request. ~~After the first year from the effective date of~~



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

535 Section 11. Section 395.1046, Florida Statutes, is  
 536 repealed.

537 Section 12. Paragraph (e) of subsection (1) of section  
 538 395.1055, Florida Statutes, is amended to read:

539 395.1055 Rules and enforcement.—

540 (1) The agency shall adopt rules pursuant to ss.  
 541 120.536(1) and 120.54 to implement the provisions of this part,  
 542 which shall include reasonable and fair minimum standards for  
 543 ensuring that:

544 (e) Licensed facility beds conform to minimum space,  
 545 equipment, and furnishings standards as specified by the agency,  
 546 the Florida Building Code, and the Florida Fire Prevention Code  
 547 department.

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

550 395.10972 Health Care Risk Manager Advisory Council.—The  
 551 Secretary of Health Care Administration may appoint a seven-  
 552 member advisory council to advise the agency on matters  
 553 pertaining to health care risk managers. The members of the  
 554 council shall serve at the pleasure of the secretary. The  
 555 council shall designate a chair. The council shall meet at the  
 556 call of the secretary or at those times as may be required by  
 557 rule of the agency. The members of the advisory council shall  
 558 receive no compensation for their services, but shall be  
 559 reimbursed for travel expenses as provided in s. 112.061. The

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560 council shall consist of individuals representing the following  
561 areas:

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

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

568 395.2050 Routine inquiry for organ and tissue donation;  
569 certification for procurement activities; death records review.-

570 (3) Each organ procurement organization designated by the  
571 federal Centers for Medicare and Medicaid Services ~~Health Care~~  
572 ~~Financing Administration~~ and licensed by the state shall conduct  
573 an annual death records review in the organ procurement  
574 organization's affiliated donor hospitals. The organ procurement  
575 organization shall enlist the services of every Florida licensed  
576 tissue bank and eye bank affiliated with or providing service to  
577 the donor hospital and operating in the same service area to  
578 participate in the death records review.

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

581 395.3036 Confidentiality of records and meetings of  
582 corporations that lease public hospitals or other public health  
583 care facilities.-The records of a private corporation that  
584 leases a public hospital or other public health care facility  
585 are confidential and exempt from the provisions of s. 119.07(1)  
586 and s. 24(a), Art. I of the State Constitution, and the meetings  
587 of the governing board of a private corporation are exempt from

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588 s. 286.011 and s. 24(b), Art. I of the State Constitution when  
 589 the public lessor complies with the public finance  
 590 accountability provisions of s. 155.40(5) with respect to the  
 591 transfer of any public funds to the private lessee and when the  
 592 private lessee meets at least three of the five following  
 593 criteria:

594 (2) The public lessor and the private lessee do not  
 595 commingle any of their funds in any account maintained by either  
 596 of them, other than the payment of the rent and administrative  
 597 fees or the transfer of funds pursuant to s. 155.40(2)  
 598 ~~subsection (2)~~.

599 Section 16. Section 395.3037, Florida Statutes, is  
 600 repealed.

601 Section 17. Subsections (1), (4), and (5) of section  
 602 395.3038, Florida Statutes, are amended to read:

603 395.3038 State-listed primary stroke centers and  
 604 comprehensive stroke centers; notification of hospitals.—

605 (1) The agency shall make available on its website and to  
 606 the department a list of the name and address of each hospital  
 607 that meets the criteria for a primary stroke center and the name  
 608 and address of each hospital that meets the criteria for a  
 609 comprehensive stroke center. The list of primary and  
 610 comprehensive stroke centers shall include only those hospitals  
 611 that attest in an affidavit submitted to the agency that the  
 612 hospital meets the named criteria, or those hospitals that  
 613 attest in an affidavit submitted to the agency that the hospital  
 614 is certified as a primary or a comprehensive stroke center by

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615 The Joint Commission ~~on Accreditation of Healthcare~~  
 616 ~~Organizations.~~

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

621 (5) The agency shall adopt by rule criteria for a  
 622 comprehensive stroke center. However, if The Joint Commission ~~on~~  
 623 ~~Accreditation of Healthcare Organizations~~ establishes criteria  
 624 for a comprehensive stroke center, the agency shall establish  
 625 criteria for a comprehensive stroke center which are  
 626 substantially similar to those criteria established by The Joint  
 627 Commission ~~on Accreditation of Healthcare Organizations.~~

628 Section 18. Paragraph (e) of subsection (2) of section  
 629 395.602, Florida Statutes, is amended to read:

630 395.602 Rural hospitals.—

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

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

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

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

642 3. A hospital supported by a tax district or subdistrict  
 643 whose boundaries encompass a population of 100 persons or fewer  
 644 per square mile;

645 ~~4. A hospital in a constitutional charter county with a~~  
 646 ~~population of over 1 million persons that has imposed a local~~  
 647 ~~option health service tax pursuant to law and in an area that~~  
 648 ~~was directly impacted by a catastrophic event on August 24,~~  
 649 ~~1992, for which the Governor of Florida declared a state of~~  
 650 ~~emergency pursuant to chapter 125, and has 120 beds or less that~~  
 651 ~~serves an agricultural community with an emergency room~~  
 652 ~~utilization of no less than 20,000 visits and a Medicaid~~  
 653 ~~inpatient utilization rate greater than 15 percent;~~

654 4.5. A hospital with a service area that has a population  
 655 of 100 persons or fewer per square mile. As used in this  
 656 subparagraph, the term "service area" means the fewest number of  
 657 zip codes that account for 75 percent of the hospital's  
 658 discharges for the most recent 5-year period, based on  
 659 information available from the hospital inpatient discharge  
 660 database in the Florida Center for Health Information and Policy  
 661 Analysis at the Agency for Health Care Administration; or

662 ~~5.6.~~ A hospital designated as a critical access hospital,  
 663 as defined in s. 408.07(15).

664  
 665 Population densities used in this paragraph must be based upon  
 666 the most recently completed United States census. A hospital  
 667 that received funds under s. 409.9116 for a quarter beginning no  
 668 later than July 1, 2002, is deemed to have been and shall  
 669 continue to be a rural hospital from that date through June 30,

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670 2015, if the hospital continues to have 100 or fewer licensed  
 671 beds and an emergency room, ~~or meets the criteria of~~  
 672 ~~subparagraph 4~~. An acute care hospital that has not previously  
 673 been designated as a rural hospital and that meets the criteria  
 674 of this paragraph shall be granted such designation upon  
 675 application, including supporting documentation to the Agency  
 676 for Health Care Administration.

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

679 400.021 Definitions.—When used in this part, unless the  
 680 context otherwise requires, the term:

681 (8) "Geriatric outpatient clinic" means a site for  
 682 providing outpatient health care to persons 60 years of age or  
 683 older, which is staffed by a registered nurse or a physician  
 684 assistant, or a licensed practical nurse under the direct  
 685 supervision of a registered nurse, advanced registered nurse  
 686 practitioner, or physician assistant.

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

689 400.063 Resident protection.—

690 (2) The agency is authorized to establish for each  
 691 facility, subject to intervention by the agency, a separate bank  
 692 account for the deposit to the credit of the agency of any  
 693 moneys received from the Health Care Trust Fund or any other  
 694 moneys received for the maintenance and care of residents in the  
 695 facility, and the agency is authorized to disburse moneys from  
 696 such account to pay obligations incurred for the purposes of  
 697 this section. The agency is authorized to requisition moneys

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698 from the Health Care Trust Fund in advance of an actual need for  
 699 cash on the basis of an estimate by the agency of moneys to be  
 700 spent under the authority of this section. Any bank account  
 701 established under this section need not be approved in advance  
 702 of its creation as required by s. 17.58, but shall be secured by  
 703 depository insurance equal to or greater than the balance of  
 704 such account or by the pledge of collateral security ~~in~~  
 705 ~~conformance with criteria established in s. 18.11.~~ The agency  
 706 shall notify the Chief Financial Officer of any such account so  
 707 established and shall make a quarterly accounting to the Chief  
 708 Financial Officer for all moneys deposited in such account.

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

711 400.071 Application for license.—

712 (1) In addition to the requirements of part II of chapter  
 713 408, the application for a license shall be under oath and must  
 714 contain the following:

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

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

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

728 ~~(c) The total number of beds and the total number of~~  
 729 ~~Medicare and Medicaid certified beds.~~

730 (b)~~(d)~~ Information relating to the applicant and employees  
 731 which the agency requires by rule. The applicant must  
 732 demonstrate that sufficient numbers of qualified staff, by  
 733 training or experience, will be employed to properly care for  
 734 the type and number of residents who will reside in the  
 735 facility.

736 (c)~~(e)~~ Copies of any civil verdict or judgment involving  
 737 the applicant rendered within the 10 years preceding the  
 738 application, relating to medical negligence, violation of  
 739 residents' rights, or wrongful death. As a condition of  
 740 licensure, the licensee agrees to provide to the agency copies  
 741 of any new verdict or judgment involving the applicant, relating  
 742 to such matters, within 30 days after filing with the clerk of  
 743 the court. The information required in this paragraph shall be  
 744 maintained in the facility's licensure file and in an agency  
 745 database which is available as a public record.

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

749 Section 22. Section 400.0712, Florida Statutes, is amended  
 750 to read:

751 400.0712 Application for inactive license.-

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



754 ~~of its beds. Any request by a licensee that a nursing home or~~  
 755 ~~portion of a nursing home become inactive must be submitted to~~  
 756 ~~the agency in the approved format. The facility may not initiate~~  
 757 ~~any suspension of services, notify residents, or initiate~~  
 758 ~~inactivity before receiving approval from the agency; and a~~  
 759 ~~licensee that violates this provision may not be issued an~~  
 760 ~~inactive license.~~

761 (1)(2) In addition to the powers granted under part II of  
 762 chapter 408, the agency may issue an inactive license to a  
 763 nursing home that chooses to use an unoccupied contiguous  
 764 portion of the facility for an alternative use to meet the needs  
 765 of elderly persons through the use of less restrictive, less  
 766 institutional services.

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

771 (b) A request to extend the inactive license must be  
 772 submitted to the agency in the approved format and approved by  
 773 the agency in writing.

774 (c) Nursing homes that receive an inactive license to  
 775 provide alternative services shall not receive preference for  
 776 participation in the Assisted Living for the Elderly Medicaid  
 777 waiver.

778 (2)(3) The agency shall adopt rules pursuant to ss.  
 779 120.536(1) and 120.54 necessary to implement this section.

780 Section 23. Section 400.111, Florida Statutes, is amended  
 781 to read:

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782           400.111 Disclosure of controlling interest.—In addition to  
 783 the requirements of part II of chapter 408, when requested by  
 784 the agency, the licensee shall submit a signed affidavit  
 785 disclosing any financial or ownership interest that a  
 786 controlling interest has held within the last 5 years in any  
 787 entity licensed by the state or any other state to provide  
 788 health or residential care which entity has closed voluntarily  
 789 or involuntarily; has filed for bankruptcy; has had a receiver  
 790 appointed; has had a license denied, suspended, or revoked; or  
 791 has had an injunction issued against it which was initiated by a  
 792 regulatory agency. The affidavit must disclose the reason such  
 793 entity was closed, whether voluntarily or involuntarily.

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

796           400.1183 Resident grievance procedures.—

797           (2) Each facility shall maintain records of all grievances  
 798 for agency inspection ~~and shall report to the agency at the time~~  
 799 ~~of relicensure the total number of grievances handled during the~~  
 800 ~~prior licensure period, a categorization of the cases underlying~~  
 801 ~~the grievances, and the final disposition of the grievances.~~

802           Section 25. Paragraphs (o) through (w) of subsection (1)  
 803 of section 400.141, Florida Statutes, are redesignated as  
 804 paragraphs (n) through (u), respectively, and present paragraphs  
 805 (f), (g), (j), (n), (o), and (r) of that subsection are amended,  
 806 to read:

807           400.141 Administration and management of nursing home  
 808 facilities.—

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

811 (f) Be allowed and encouraged by the agency to provide  
 812 other needed services under certain conditions. If the facility  
 813 has a standard licensure status, ~~and has had no class I or class~~  
 814 ~~II deficiencies during the past 2 years~~ or has been awarded a  
 815 Gold Seal under the program established in s. 400.235, it may ~~be~~  
 816 ~~encouraged by the agency to provide services, including, but not~~  
 817 limited to, respite and adult day services, which enable  
 818 individuals to move in and out of the facility. A facility is  
 819 not subject to any additional licensure requirements for  
 820 providing these services.

821 1. Respite care may be offered to persons in need of  
 822 short-term or temporary nursing home services. For each person  
 823 admitted under the respite care program, the facility licensee  
 824 must:

825 a. Have a written abbreviated plan of care that, at a  
 826 minimum, includes nutritional requirements, medication orders,  
 827 physician orders, nursing assessments, and dietary preferences.  
 828 The nursing or physician assessments may take the place of all  
 829 other assessments required for full-time residents.

830 b. Have a contract that, at a minimum, specifies the  
 831 services to be provided to the respite resident, including  
 832 charges for services, activities, equipment, emergency medical  
 833 services, and the administration of medications. If multiple  
 834 respite admissions for a single person are anticipated, the  
 835 original contract is valid for 1 year after the date of  
 836 execution.

- 837 c. Ensure that each resident is released to his or her  
 838 caregiver or an individual designated in writing by the  
 839 caregiver.
- 840 2. A person admitted under the respite care program is:
- 841 a. Exempt from requirements in rule related to discharge  
 842 planning.
- 843 b. Covered by the resident's rights set forth in s.  
 844 400.022(1)(a)-(o) and (r)-(t). Funds or property of the resident  
 845 shall not be considered trust funds subject to the requirements  
 846 of s. 400.022(1)(h) until the resident has been in the facility  
 847 for more than 14 consecutive days.
- 848 c. Allowed to use his or her personal medications for the  
 849 respite stay if permitted by facility policy. The facility must  
 850 obtain a physician's orders for the medications. The caregiver  
 851 may provide information regarding the medications as part of the  
 852 nursing assessment, which must agree with the physician's  
 853 orders. Medications shall be released with the resident upon  
 854 discharge in accordance with current orders.
- 855 3. A person receiving respite care is entitled to a total  
 856 of 60 days in the facility within a contract year or a calendar  
 857 year if the contract is for less than 12 months. However, each  
 858 single stay may not exceed 14 days. If a stay exceeds 14  
 859 consecutive days, the facility must comply with all assessment  
 860 and care planning requirements applicable to nursing home  
 861 residents.
- 862 4. A person receiving respite care must reside in a  
 863 licensed nursing home bed.
- 864 5. A prospective respite resident must provide medical

865 information from a physician, a physician assistant, or a nurse  
 866 practitioner and other information from the primary caregiver as  
 867 may be required by the facility prior to or at the time of  
 868 admission to receive respite care. The medical information must  
 869 include a physician's order for respite care and proof of a  
 870 physical examination by a licensed physician, physician  
 871 assistant, or nurse practitioner. The physician's order and  
 872 physical examination may be used to provide intermittent respite  
 873 care for up to 12 months after the date the order is written.

874 6. The facility must assume the duties of the primary  
 875 caregiver. To ensure continuity of care and services, the  
 876 resident is entitled to retain his or her personal physician and  
 877 must have access to medically necessary services such as  
 878 physical therapy, occupational therapy, or speech therapy, as  
 879 needed. The facility must arrange for transportation to these  
 880 services if necessary. Respite care must be provided in  
 881 ~~accordance with this part and rules adopted by the agency.~~  
 882 ~~However, the agency shall, by rule, adopt modified requirements~~  
 883 ~~for resident assessment, resident care plans, resident~~  
 884 ~~contracts, physician orders, and other provisions, as~~  
 885 ~~appropriate, for short term or temporary nursing home services.~~

886 7. The agency shall allow for shared programming and staff  
 887 in a facility which meets minimum standards and offers services  
 888 pursuant to this paragraph, but, if the facility is cited for  
 889 deficiencies in patient care, may require additional staff and  
 890 programs appropriate to the needs of service recipients. A  
 891 person who receives respite care may not be counted as a  
 892 resident of the facility for purposes of the facility's licensed

893 capacity unless that person receives 24-hour respite care. A  
 894 person receiving either respite care for 24 hours or longer or  
 895 adult day services must be included when calculating minimum  
 896 staffing for the facility. Any costs and revenues generated by a  
 897 nursing home facility from nonresidential programs or services  
 898 shall be excluded from the calculations of Medicaid per diems  
 899 for nursing home institutional care reimbursement.

900 (g) If the facility has a standard license or is a Gold  
 901 Seal facility, exceeds the minimum required hours of licensed  
 902 nursing and certified nursing assistant direct care per resident  
 903 per day, and is part of a continuing care facility licensed  
 904 under chapter 651 or a retirement community that offers other  
 905 services pursuant to part III of this chapter or part I or part  
 906 III of chapter 429 on a single campus, be allowed to share  
 907 programming and staff. At the time of inspection and in the  
 908 semiannual report required pursuant to paragraph (n) ~~(o)~~, a  
 909 continuing care facility or retirement community that uses this  
 910 option must demonstrate through staffing records that minimum  
 911 staffing requirements for the facility were met. Licensed nurses  
 912 and certified nursing assistants who work in the nursing home  
 913 facility may be used to provide services elsewhere on campus if  
 914 the facility exceeds the minimum number of direct care hours  
 915 required per resident per day and the total number of residents  
 916 receiving direct care services from a licensed nurse or a  
 917 certified nursing assistant does not cause the facility to  
 918 violate the staffing ratios required under s. 400.23(3)(a).  
 919 Compliance with the minimum staffing ratios shall be based on  
 920 total number of residents receiving direct care services,

921 regardless of where they reside on campus. If the facility  
 922 receives a conditional license, it may not share staff until the  
 923 conditional license status ends. This paragraph does not  
 924 restrict the agency's authority under federal or state law to  
 925 require additional staff if a facility is cited for deficiencies  
 926 in care which are caused by an insufficient number of certified  
 927 nursing assistants or licensed nurses. The agency may adopt  
 928 rules for the documentation necessary to determine compliance  
 929 with this provision.

930 (j) Keep full records of resident admissions and  
 931 discharges; medical and general health status, including medical  
 932 records, personal and social history, and identity and address  
 933 of next of kin or other persons who may have responsibility for  
 934 the affairs of the residents; and individual resident care plans  
 935 including, but not limited to, prescribed services, service  
 936 frequency and duration, and service goals. The records shall be  
 937 open to inspection by the agency. The facility must maintain  
 938 clinical records on each resident in accordance with accepted  
 939 professional standards and practices that are complete,  
 940 accurately documented, readily accessible, and systematically  
 941 organized.

942 ~~(n) Submit to the agency the information specified in s.~~  
 943 ~~400.071(1)(b) for a management company within 30 days after the~~  
 944 ~~effective date of the management agreement.~~

945 (n)~~(e)~~1. Submit semiannually to the agency, or more  
 946 frequently if requested by the agency, information regarding  
 947 facility staff-to-resident ratios, staff turnover, and staff  
 948 stability, including information regarding certified nursing

949 assistants, licensed nurses, the director of nursing, and the  
 950 facility administrator. For purposes of this reporting:

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

955 b. Staff turnover must be reported for the most recent 12-  
 956 month period ending on the last workday of the most recent  
 957 calendar quarter prior to the date the information is submitted.  
 958 The turnover rate must be computed quarterly, with the annual  
 959 rate being the cumulative sum of the quarterly rates. The  
 960 turnover rate is the total number of terminations or separations  
 961 experienced during the quarter, excluding any employee  
 962 terminated during a probationary period of 3 months or less,  
 963 divided by the total number of staff employed at the end of the  
 964 period for which the rate is computed, and expressed as a  
 965 percentage.

966 c. The formula for determining staff stability is the  
 967 total number of employees that have been employed for more than  
 968 12 months, divided by the total number of employees employed at  
 969 the end of the most recent calendar quarter, and expressed as a  
 970 percentage.

971 d. A nursing facility that has failed to comply with state  
 972 minimum-staffing requirements for 2 consecutive days is  
 973 prohibited from accepting new admissions until the facility has  
 974 achieved the minimum-staffing requirements for a period of 6  
 975 consecutive days. For the purposes of this sub-subparagraph, any  
 976 person who was a resident of the facility and was absent from



977 the facility for the purpose of receiving medical care at a  
 978 separate location or was on a leave of absence is not considered  
 979 a new admission. Failure to impose such an admissions moratorium  
 980 is subject to a \$1,000 fine ~~constitutes a class II deficiency.~~

981 e. A nursing facility which does not have a conditional  
 982 license may be cited for failure to comply with the standards in  
 983 s. 400.23(3)(a)1.a. only if it has failed to meet those  
 984 standards on 2 consecutive days or if it has failed to meet at  
 985 least 97 percent of those standards on any one day.

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

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

991 ~~(r) Report to the agency any filing for bankruptcy~~  
 992 ~~protection by the facility or its parent corporation,~~  
 993 ~~divestiture or spin-off of its assets, or corporate~~  
 994 ~~reorganization within 30 days after the completion of such~~  
 995 ~~activity.~~

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

998 400.142 Emergency medication kits; orders not to  
 999 resuscitate.—

1000 (3) Facility staff may withhold or withdraw  
 1001 cardiopulmonary resuscitation if presented with an order not to  
 1002 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~  
 1003 ~~adopt rules providing for the implementation of such orders.~~  
 1004 Facility staff and facilities shall not be subject to criminal

1005 prosecution or civil liability, nor be considered to have  
 1006 engaged in negligent or unprofessional conduct, for withholding  
 1007 or withdrawing cardiopulmonary resuscitation pursuant to such an  
 1008 order and rules adopted by the agency. The absence of an order  
 1009 not to resuscitate executed pursuant to s. 401.45 does not  
 1010 preclude a physician from withholding or withdrawing  
 1011 cardiopulmonary resuscitation as otherwise permitted by law.

1012 Section 27. Subsections (11) through (15) of section  
 1013 400.147, Florida Statutes, are renumbered as subsections (10)  
 1014 through (14), respectively, and present subsection (10) is  
 1015 amended to read:

1016 400.147 Internal risk management and quality assurance  
 1017 program.-

1018 ~~(10) By the 10th of each month, each facility subject to~~  
 1019 ~~this section shall report any notice received pursuant to s.~~  
 1020 ~~400.0233(2) and each initial complaint that was filed with the~~  
 1021 ~~clerk of the court and served on the facility during the~~  
 1022 ~~previous month by a resident or a resident's family member,~~  
 1023 ~~guardian, conservator, or personal legal representative. The~~  
 1024 ~~report must include the name of the resident, the resident's~~  
 1025 ~~date of birth and social security number, the Medicaid~~  
 1026 ~~identification number for Medicaid-eligible persons, the date or~~  
 1027 ~~dates of the incident leading to the claim or dates of~~  
 1028 ~~residency, if applicable, and the type of injury or violation of~~  
 1029 ~~rights alleged to have occurred. Each facility shall also submit~~  
 1030 ~~a copy of the notices received pursuant to s. 400.0233(2) and~~  
 1031 ~~complaints filed with the clerk of the court. This report is~~  
 1032 ~~confidential as provided by law and is not discoverable or~~

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1033 ~~admissible in any civil or administrative action, except in such~~  
 1034 ~~actions brought by the agency to enforce the provisions of this~~  
 1035 ~~part.~~

1036 Section 28. Section 400.148, Florida Statutes, is  
 1037 repealed.

1038 Section 29. Paragraph (f) of subsection (5) of section  
 1039 400.162, Florida Statutes, is amended to read:

1040 400.162 Property and personal affairs of residents.—

1041 (5)

1042 (f) At least every 3 months, the licensee shall furnish  
 1043 the resident and the guardian, trustee, or conservator, if any,  
 1044 for the resident a complete and verified statement of all funds  
 1045 ~~and other property~~ to which this subsection applies, detailing  
 1046 the amounts ~~and items~~ received, together with their sources and  
 1047 disposition. For resident property, the licensee shall furnish  
 1048 such a statement annually and within 7 calendar days after a  
 1049 request for a statement. In any event, the licensee shall  
 1050 furnish such statements ~~a statement~~ annually and upon the  
 1051 discharge or transfer of a resident. Any governmental agency or  
 1052 private charitable agency contributing funds or other property  
 1053 on account of a resident also shall be entitled to receive such  
 1054 statements ~~statement~~ annually and upon discharge or transfer and  
 1055 such other report as it may require pursuant to law.

1056 Section 30. Paragraphs (d) and (e) of subsection (2) of  
 1057 section 400.179, Florida Statutes, are amended to read:

1058 400.179 Liability for Medicaid underpayments and  
 1059 overpayments.—

1060 (2) Because any transfer of a nursing facility may expose

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1061 the fact that Medicaid may have underpaid or overpaid the  
 1062 transferor, and because in most instances, any such underpayment  
 1063 or overpayment can only be determined following a formal field  
 1064 audit, the liabilities for any such underpayments or  
 1065 overpayments shall be as follows:

1066 (d) Where the transfer involves a facility that has been  
 1067 leased by the transferor:

1068 1. The transferee shall, as a condition to being issued a  
 1069 license by the agency, acquire, maintain, and provide proof to  
 1070 the agency of a bond with a term of 30 months, renewable  
 1071 annually, in an amount not less than the total of 3 months'  
 1072 Medicaid payments to the facility computed on the basis of the  
 1073 preceding 12-month average Medicaid payments to the facility.

1074 2. A leasehold licensee may meet the requirements of  
 1075 subparagraph 1. by payment of a nonrefundable fee, paid at  
 1076 initial licensure, paid at the time of any subsequent change of  
 1077 ownership, and paid annually thereafter, in the amount of 1  
 1078 percent of the total of 3 months' Medicaid payments to the  
 1079 facility computed on the basis of the preceding 12-month average  
 1080 Medicaid payments to the facility. If a preceding 12-month  
 1081 average is not available, projected Medicaid payments may be  
 1082 used. The fee shall be deposited into the Grants and Donations  
 1083 Trust Fund and shall be accounted for separately as a Medicaid  
 1084 nursing home overpayment account. These fees shall be used at  
 1085 the sole discretion of the agency to repay nursing home Medicaid  
 1086 overpayments. Payment of this fee shall not release the licensee  
 1087 from any liability for any Medicaid overpayments, nor shall  
 1088 payment bar the agency from seeking to recoup overpayments from

1089 the licensee and any other liable party. As a condition of  
 1090 exercising this lease bond alternative, licensees paying this  
 1091 fee must maintain an existing lease bond through the end of the  
 1092 30-month term period of that bond. The agency is herein granted  
 1093 specific authority to promulgate all rules pertaining to the  
 1094 administration and management of this account, including  
 1095 withdrawals from the account, subject to federal review and  
 1096 approval. This provision shall take effect upon becoming law and  
 1097 shall apply to any leasehold license application. The financial  
 1098 viability of the Medicaid nursing home overpayment account shall  
 1099 be determined by the agency through annual review of the account  
 1100 balance and the amount of total outstanding, unpaid Medicaid  
 1101 overpayments owing from leasehold licensees to the agency as  
 1102 determined by final agency audits. By March 31 of each year, the  
 1103 agency shall assess the cumulative fees collected under this  
 1104 subparagraph, minus any amounts used to repay nursing home  
 1105 Medicaid overpayments. If the net cumulative collections, minus  
 1106 amounts utilized to repay nursing home Medicaid overpayments,  
 1107 exceed \$25 million, the provisions of this paragraph shall not  
 1108 apply for the subsequent fiscal year.

1109 3. The leasehold licensee may meet the bond requirement  
 1110 through other arrangements acceptable to the agency. The agency  
 1111 is herein granted specific authority to promulgate rules  
 1112 pertaining to lease bond arrangements.

1113 4. All existing nursing facility licensees, operating the  
 1114 facility as a leasehold, shall acquire, maintain, and provide  
 1115 proof to the agency of the 30-month bond required in  
 1116 subparagraph 1., above, on and after July 1, 1993, for each

1117 license renewal.

1118           5. It shall be the responsibility of all nursing facility  
1119 operators, operating the facility as a leasehold, to renew the  
1120 30-month bond and to provide proof of such renewal to the agency  
1121 annually.

1122           6. Any failure of the nursing facility operator to  
1123 acquire, maintain, renew annually, or provide proof to the  
1124 agency shall be grounds for the agency to deny, revoke, and  
1125 suspend the facility license to operate such facility and to  
1126 take any further action, including, but not limited to,  
1127 enjoining the facility, asserting a moratorium pursuant to part  
1128 II of chapter 408, or applying for a receiver, deemed necessary  
1129 to ensure compliance with this section and to safeguard and  
1130 protect the health, safety, and welfare of the facility's  
1131 residents. A lease agreement required as a condition of bond  
1132 financing or refinancing under s. 154.213 by a health facilities  
1133 authority or required under s. 159.30 by a county or  
1134 municipality is not a leasehold for purposes of this paragraph  
1135 and is not subject to the bond requirement of this paragraph.

1136           ~~(e) For the 2009-2010 fiscal year only, the provisions of~~  
1137 ~~paragraph (d) shall not apply. This paragraph expires July 1,~~  
1138 ~~2010.~~

1139           Section 31. Subsection (3) of section 400.19, Florida  
1140 Statutes, is amended to read:

1141           400.19 Right of entry and inspection.—

1142           (3) The agency shall every 15 months conduct at least one  
1143 unannounced inspection to determine compliance by the licensee  
1144 with statutes, and with rules promulgated under the provisions

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1145 of those statutes, governing minimum standards of construction,  
 1146 quality and adequacy of care, and rights of residents. The  
 1147 survey shall be conducted every 6 months for the next 2-year  
 1148 period if the facility has been cited for a class I deficiency,  
 1149 has been cited for two or more class II deficiencies arising  
 1150 from separate surveys or investigations within a 60-day period,  
 1151 or has had three or more substantiated complaints within a 6-  
 1152 month period, each resulting in at least one class I or class II  
 1153 deficiency. In addition to any other fees or fines in this part,  
 1154 the agency shall assess a fine for each facility that is subject  
 1155 to the 6-month survey cycle. The fine for the 2-year period  
 1156 shall be \$6,000, one-half to be paid at the completion of each  
 1157 survey. The agency may adjust this fine by the change in the  
 1158 Consumer Price Index, based on the 12 months immediately  
 1159 preceding the increase, to cover the cost of the additional  
 1160 surveys. The agency shall verify through subsequent inspection  
 1161 that any deficiency identified during inspection is corrected.  
 1162 However, the agency may verify the correction of a class III or  
 1163 class IV deficiency ~~unrelated to resident rights or resident~~  
 1164 ~~care~~ without reinspecting the facility if adequate written  
 1165 documentation has been received from the facility, which  
 1166 provides assurance that the deficiency has been corrected. The  
 1167 giving or causing to be given of advance notice of such  
 1168 unannounced inspections by an employee of the agency to any  
 1169 unauthorized person shall constitute cause for suspension of not  
 1170 fewer than 5 working days according to the provisions of chapter  
 1171 110.

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1172 Section 32. Section 400.195, Florida Statutes, is  
 1173 repealed.

1174 Section 33. Subsection (5) of section 400.23, Florida  
 1175 Statutes, is amended to read:

1176 400.23 Rules; evaluation and deficiencies; licensure  
 1177 status.—

1178 (5) The agency, in collaboration with the Division of  
 1179 Children's Medical Services Network of the Department of Health,  
 1180 ~~must, no later than December 31, 1993,~~ adopt rules for minimum  
 1181 standards of care for persons under 21 years of age who reside  
 1182 in nursing home facilities. The rules must include a methodology  
 1183 for reviewing a nursing home facility under ss. 408.031-408.045  
 1184 which serves only persons under 21 years of age. A facility may  
 1185 be exempt from these standards for specific persons between 18  
 1186 and 21 years of age, if the person's physician agrees that  
 1187 minimum standards of care based on age are not necessary.

1188 Section 34. Subsection (1) of section 400.275, Florida  
 1189 Statutes, is amended to read:

1190 400.275 Agency duties.—

1191 ~~(1) The agency shall ensure that each newly hired nursing~~  
 1192 ~~home surveyor, as a part of basic training, is assigned full-~~  
 1193 ~~time to a licensed nursing home for at least 2 days within a 7-~~  
 1194 ~~day period to observe facility operations outside of the survey~~  
 1195 ~~process before the surveyor begins survey responsibilities. Such~~  
 1196 ~~observations may not be the sole basis of a deficiency citation~~  
 1197 ~~against the facility. The agency may not assign an individual to~~  
 1198 be a member of a survey team for purposes of a survey,  
 1199 evaluation, or consultation visit at a nursing home facility in



1200 which the surveyor was an employee within the preceding 2 ~~5~~  
 1201 years.

1202 Section 35. Subsection (2) of section 400.484, Florida  
 1203 Statutes, is amended to read:

1204 400.484 Right of inspection; violations ~~deficiencies~~;  
 1205 fines.—

1206 (2) The agency shall impose fines for various classes of  
 1207 violations ~~deficiencies~~ in accordance with the following  
 1208 schedule:

1209 (a) Class I violations are defined in s. 408.813. ~~A class~~  
 1210 ~~I deficiency is any act, omission, or practice that results in a~~  
 1211 ~~patient's death, disablement, or permanent injury, or places a~~  
 1212 ~~patient at imminent risk of death, disablement, or permanent~~  
 1213 ~~injury.~~ Upon finding a class I violation ~~deficiency~~, the agency  
 1214 shall impose an administrative fine in the amount of \$15,000 for  
 1215 each occurrence and each day that the violation ~~deficiency~~  
 1216 exists.

1217 (b) Class II violations are defined in s. 408.813. ~~A class~~  
 1218 ~~II deficiency is any act, omission, or practice that has a~~  
 1219 ~~direct adverse effect on the health, safety, or security of a~~  
 1220 ~~patient.~~ Upon finding a class II violation ~~deficiency~~, the  
 1221 agency shall impose an administrative fine in the amount of  
 1222 \$5,000 for each occurrence and each day that the violation  
 1223 ~~deficiency~~ exists.

1224 (c) Class III violations are defined in s. 408.813. ~~A~~  
 1225 ~~class III deficiency is any act, omission, or practice that has~~  
 1226 ~~an indirect, adverse effect on the health, safety, or security~~  
 1227 ~~of a patient.~~ Upon finding an uncorrected or repeated class III

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1228 ~~violation deficiency~~, the agency shall impose an administrative  
 1229 fine not to exceed \$1,000 for each occurrence and each day that  
 1230 the uncorrected or repeated violation ~~deficiency~~ exists.

1231 (d) Class IV violations are defined in s. 408.813. ~~A class~~  
 1232 ~~IV deficiency is any act, omission, or practice related to~~  
 1233 ~~required reports, forms, or documents which does not have the~~  
 1234 ~~potential of negatively affecting patients. These violations are~~  
 1235 ~~of a type that the agency determines do not threaten the health,~~  
 1236 ~~safety, or security of patients.~~ Upon finding an uncorrected or  
 1237 repeated class IV violation ~~deficiency~~, the agency shall impose  
 1238 an administrative fine not to exceed \$500 for each occurrence  
 1239 and each day that the uncorrected or repeated violation  
 1240 ~~deficiency~~ exists.

1241 Section 36. Paragraph (i) of subsection (1) and subsection  
 1242 (4) of section 400.606, Florida Statutes, are amended to read:

1243 400.606 License; application; renewal; conditional license  
 1244 or permit; certificate of need.—

1245 (1) In addition to the requirements of part II of chapter  
 1246 408, the initial application and change of ownership application  
 1247 must be accompanied by a plan for the delivery of home,  
 1248 residential, and homelike inpatient hospice services to  
 1249 terminally ill persons and their families. Such plan must  
 1250 contain, but need not be limited to:

1251 ~~(i) The projected annual operating cost of the hospice.~~

1252  
 1253 If the applicant is an existing licensed health care provider,  
 1254 the application must be accompanied by a copy of the most recent

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1255 profit-loss statement and, if applicable, the most recent  
 1256 licensure inspection report.

1257 (4) A freestanding hospice facility that is ~~primarily~~  
 1258 engaged in providing inpatient and related services and that is  
 1259 not otherwise licensed as a health care facility shall be  
 1260 required to obtain a certificate of need. However, a  
 1261 freestanding hospice facility with six or fewer beds shall not  
 1262 be required to comply with institutional standards such as, but  
 1263 not limited to, standards requiring sprinkler systems, emergency  
 1264 electrical systems, or special lavatory devices.

1265 Section 37. Subsection (2) of section 400.607, Florida  
 1266 Statutes, is amended to read:

1267 400.607 Denial, suspension, revocation of license;  
 1268 emergency actions; imposition of administrative fine; grounds.-

1269 (2) A violation of this part, part II of chapter 408, or  
 1270 applicable rules ~~Any of the following actions~~ by a licensed  
 1271 hospice or any of its employees shall be grounds for  
 1272 administrative action by the agency against a hospice. ~~+~~

1273 ~~(a) A violation of the provisions of this part, part II of~~  
 1274 ~~chapter 408, or applicable rules.~~

1275 ~~(b) An intentional or negligent act materially affecting~~  
 1276 ~~the health or safety of a patient.~~

1277 Section 38. Subsection (1) of section 400.925, Florida  
 1278 Statutes, is amended to read:

1279 400.925 Definitions.-As used in this part, the term:

1280 (1) "Accrediting organizations" means The Joint Commission  
 1281 ~~on Accreditation of Healthcare Organizations~~ or other national

1282 accreditation agencies whose standards for accreditation are  
 1283 comparable to those required by this part for licensure.

1284 Section 39. Subsections (3) through (6) of section  
 1285 400.931, Florida Statutes, are renumbered as subsections (2)  
 1286 through (5), respectively, and present subsection (2) of that  
 1287 section is amended to read:

1288 400.931 Application for license; ~~fee; provisional license;~~  
 1289 ~~temporary permit.~~-

1290 ~~(2) As an alternative to submitting proof of financial~~  
 1291 ~~ability to operate as required in s. 408.810(8), the applicant~~  
 1292 ~~may submit a \$50,000 surety bond to the agency.~~

1293 Section 40. Subsection (2) of section 400.932, Florida  
 1294 Statutes, is amended to read:

1295 400.932 Administrative penalties.-

1296 (2) A violation of this part, part II of chapter 408, or  
 1297 applicable rules ~~Any of the following actions~~ by an employee of  
 1298 a home medical equipment provider shall be ~~are~~ grounds for  
 1299 administrative action or penalties by the agency. +

1300 ~~(a) Violation of this part, part II of chapter 408, or~~  
 1301 ~~applicable rules.~~

1302 ~~(b) An intentional, reckless, or negligent act that~~  
 1303 ~~materially affects the health or safety of a patient.~~

1304 Section 41. Subsection (3) of section 400.967, Florida  
 1305 Statutes, is amended to read:

1306 400.967 Rules and classification of violations  
 1307 ~~deficiencies.~~-

1308 (3) The agency shall adopt rules to provide that, when the  
 1309 criteria established under this part and part II of chapter 408

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1310 are not met, such violations ~~deficiencies~~ shall be classified  
 1311 according to the nature of the violation ~~deficiency~~. The agency  
 1312 shall indicate the classification on the face of the notice of  
 1313 deficiencies as follows:

1314 (a) Class I violations ~~deficiencies~~ are defined in s.  
 1315 408.813 ~~those which the agency determines present an imminent~~  
 1316 ~~danger to the residents or guests of the facility or a~~  
 1317 ~~substantial probability that death or serious physical harm~~  
 1318 ~~would result therefrom. The condition or practice constituting a~~  
 1319 ~~class I violation must be abated or eliminated immediately,~~  
 1320 ~~unless a fixed period of time, as determined by the agency, is~~  
 1321 ~~required for correction.~~ A class I violation ~~deficiency~~ is  
 1322 subject to a civil penalty in an amount not less than \$5,000 and  
 1323 not exceeding \$10,000 for each violation ~~deficiency~~. A fine may  
 1324 be levied notwithstanding the correction of the violation  
 1325 ~~deficiency~~.

1326 (b) Class II violations ~~deficiencies~~ are defined in s.  
 1327 408.813 ~~those which the agency determines have a direct or~~  
 1328 ~~immediate relationship to the health, safety, or security of the~~  
 1329 ~~facility residents, other than class I deficiencies.~~ A class II  
 1330 violation ~~deficiency~~ is subject to a civil penalty in an amount  
 1331 not less than \$1,000 and not exceeding \$5,000 for each violation  
 1332 ~~deficiency~~. A citation for a class II violation ~~deficiency~~ shall  
 1333 specify the time within which the violation ~~deficiency~~ must be  
 1334 corrected. If a class II violation ~~deficiency~~ is corrected  
 1335 within the time specified, no civil penalty shall be imposed,  
 1336 unless it is a repeated offense.

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1337 (c) Class III violations ~~deficiencies~~ are defined in s.  
 1338 408.813 ~~those which the agency determines to have an indirect or~~  
 1339 ~~potential relationship to the health, safety, or security of the~~  
 1340 ~~facility residents, other than class I or class II deficiencies.~~  
 1341 A class III violation ~~deficiency~~ is subject to a civil penalty  
 1342 of not less than \$500 and not exceeding \$1,000 for each  
 1343 deficiency. A citation for a class III violation ~~deficiency~~  
 1344 shall specify the time within which the violation ~~deficiency~~  
 1345 must be corrected. If a class III violation ~~deficiency~~ is  
 1346 corrected within the time specified, no civil penalty shall be  
 1347 imposed, unless it is a repeated offense.

1348 (d) Class IV violations are defined in s. 408.813. Upon  
 1349 finding an uncorrected or repeated class IV violation, the  
 1350 agency shall impose an administrative fine not to exceed \$500  
 1351 for each occurrence and each day that the uncorrected or  
 1352 repeated violation exists.

1353 Section 42. Subsections (4) and (7) of section 400.9905,  
 1354 Florida Statutes, are amended to read:

1355 400.9905 Definitions.—

1356 (4) "Clinic" means an entity at which health care services  
 1357 are provided to individuals and which tenders charges for  
 1358 reimbursement for such services, including a mobile clinic and a  
 1359 portable health service or equipment provider. For purposes of  
 1360 this part, the term does not include and the licensure  
 1361 requirements of this part do not apply to:

1362 (a) Entities licensed or registered by the state under  
 1363 chapter 395; or entities licensed or registered by the state and  
 1364 providing only health care services within the scope of services

1365 authorized under their respective licenses granted under ss.  
 1366 383.30-383.335, chapter 390, chapter 394, chapter 397, this  
 1367 chapter except part X, chapter 429, chapter 463, chapter 465,  
 1368 chapter 466, chapter 478, part I of chapter 483, chapter 484, or  
 1369 chapter 651; end-stage renal disease providers authorized under  
 1370 42 C.F.R. part 405, subpart U; or providers certified under 42  
 1371 C.F.R. part 485, subpart B or subpart H; or any entity that  
 1372 provides neonatal or pediatric hospital-based health care  
 1373 services or other health care services by licensed practitioners  
 1374 solely within a hospital licensed under chapter 395.

1375 (b) Entities that own, directly or indirectly, entities  
 1376 licensed or registered by the state pursuant to chapter 395; or  
 1377 entities that own, directly or indirectly, entities licensed or  
 1378 registered by the state and providing only health care services  
 1379 within the scope of services authorized pursuant to their  
 1380 respective licenses granted under ss. 383.30-383.335, chapter  
 1381 390, chapter 394, chapter 397, this chapter except part X,  
 1382 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
 1383 part I of chapter 483, chapter 484, chapter 651; end-stage renal  
 1384 disease providers authorized under 42 C.F.R. part 405, subpart  
 1385 U; or providers certified under 42 C.F.R. part 485, subpart B or  
 1386 subpart H; or any entity that provides neonatal or pediatric  
 1387 hospital-based health care services by licensed practitioners  
 1388 solely within a hospital licensed under chapter 395.

1389 (c) Entities that are owned, directly or indirectly, by an  
 1390 entity licensed or registered by the state pursuant to chapter  
 1391 395; or entities that are owned, directly or indirectly, by an  
 1392 entity licensed or registered by the state and providing only

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1393 health care services within the scope of services authorized  
 1394 pursuant to their respective licenses granted under ss. 383.30-  
 1395 383.335, chapter 390, chapter 394, chapter 397, this chapter  
 1396 except part X, chapter 429, chapter 463, chapter 465, chapter  
 1397 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
 1398 651; end-stage renal disease providers authorized under 42  
 1399 C.F.R. part 405, subpart U; or providers certified under 42  
 1400 C.F.R. part 485, subpart B or subpart H; or any entity that  
 1401 provides neonatal or pediatric hospital-based health care  
 1402 services by licensed practitioners solely within a hospital  
 1403 under chapter 395.

1404 (d) Entities that are under common ownership, directly or  
 1405 indirectly, with an entity licensed or registered by the state  
 1406 pursuant to chapter 395; or entities that are under common  
 1407 ownership, directly or indirectly, with an entity licensed or  
 1408 registered by the state and providing only health care services  
 1409 within the scope of services authorized pursuant to their  
 1410 respective licenses granted under ss. 383.30-383.335, chapter  
 1411 390, chapter 394, chapter 397, this chapter except part X,  
 1412 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,  
 1413 part I of chapter 483, chapter 484, or chapter 651; end-stage  
 1414 renal disease providers authorized under 42 C.F.R. part 405,  
 1415 subpart U; or providers certified under 42 C.F.R. part 485,  
 1416 subpart B or subpart H; or any entity that provides neonatal or  
 1417 pediatric hospital-based health care services by licensed  
 1418 practitioners solely within a hospital licensed under chapter  
 1419 395.

1420 (e) An entity that is exempt from federal taxation under



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1421 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
 1422 under 26 U.S.C. s. 409 that has a board of trustees not less  
 1423 than two-thirds of which are Florida-licensed health care  
 1424 practitioners and provides only physical therapy services under  
 1425 physician orders, any community college or university clinic,  
 1426 and any entity owned or operated by the federal or state  
 1427 government, including agencies, subdivisions, or municipalities  
 1428 thereof.

1429 (f) A sole proprietorship, group practice, partnership, or  
 1430 corporation that provides health care services by physicians  
 1431 covered by s. 627.419, that is directly supervised by one or  
 1432 more of such physicians, and that is wholly owned by one or more  
 1433 of those physicians or by a physician and the spouse, parent,  
 1434 child, or sibling of that physician.

1435 (g) A sole proprietorship, group practice, partnership, or  
 1436 corporation that provides health care services by licensed  
 1437 health care practitioners under chapter 457, chapter 458,  
 1438 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
 1439 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
 1440 chapter 490, chapter 491, or part I, part III, part X, part  
 1441 XIII, or part XIV of chapter 468, or s. 464.012, which are  
 1442 wholly owned by one or more licensed health care practitioners,  
 1443 or the licensed health care practitioners set forth in this  
 1444 paragraph and the spouse, parent, child, or sibling of a  
 1445 licensed health care practitioner, so long as one of the owners  
 1446 who is a licensed health care practitioner is supervising the  
 1447 business activities and is legally responsible for the entity's  
 1448 compliance with all federal and state laws. However, a health

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1449 care practitioner may not supervise services beyond the scope of  
 1450 the practitioner's license, except that, for the purposes of  
 1451 this part, a clinic owned by a licensee in s. 456.053(3)(b) that  
 1452 provides only services authorized pursuant to s. 456.053(3)(b)  
 1453 may be supervised by a licensee specified in s. 456.053(3)(b).

1454 (h) Clinical facilities affiliated with an accredited  
 1455 medical school at which training is provided for medical  
 1456 students, residents, or fellows.

1457 (i) Entities that provide only oncology or radiation  
 1458 therapy services by physicians licensed under chapter 458 or  
 1459 chapter 459 or entities that provide oncology or radiation  
 1460 therapy services by physicians licensed under chapter 458 or  
 1461 chapter 459 which are owned by a corporation whose shares are  
 1462 publicly traded on a recognized stock exchange.

1463 (j) Clinical facilities affiliated with a college of  
 1464 chiropractic accredited by the Council on Chiropractic Education  
 1465 at which training is provided for chiropractic students.

1466 (k) Entities that provide licensed practitioners to staff  
 1467 emergency departments or to deliver anesthesia services in  
 1468 facilities licensed under chapter 395 and that derive at least  
 1469 90 percent of their gross annual revenues from the provision of  
 1470 such services. Entities claiming an exemption from licensure  
 1471 under this paragraph must provide documentation demonstrating  
 1472 compliance.

1473 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or  
 1474 perinatology clinical facilities that are a publicly traded  
 1475 corporation or that are wholly owned, directly or indirectly, by  
 1476 a publicly traded corporation. As used in this paragraph, a

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1477 publicly traded corporation is a corporation that issues  
 1478 securities traded on an exchange registered with the United  
 1479 States Securities and Exchange Commission as a national  
 1480 securities exchange.

1481 (7) "Portable health service or equipment provider" means  
 1482 an entity that contracts with or employs persons to provide  
 1483 portable health care services or equipment to multiple locations  
 1484 ~~performing treatment or diagnostic testing of individuals~~, that  
 1485 bills third-party payors for those services, and that otherwise  
 1486 meets the definition of a clinic in subsection (4).

1487 Section 43. Paragraph (b) of subsection (1) and paragraph  
 1488 (c) of subsection (4) of section 400.991, Florida Statutes, are  
 1489 amended to read:

1490 400.991 License requirements; background screenings;  
 1491 prohibitions.—

1492 (1)

1493 (b) Each mobile clinic must obtain a separate health care  
 1494 clinic license and must provide to the agency, at least  
 1495 quarterly, its projected street location to enable the agency to  
 1496 locate and inspect such clinic. A portable health service or  
 1497 equipment provider must obtain a health care clinic license for  
 1498 a single administrative office and is not required to submit  
 1499 quarterly projected street locations.

1500 (4) In addition to the requirements of part II of chapter  
 1501 408, the applicant must file with the application satisfactory  
 1502 proof that the clinic is in compliance with this part and  
 1503 applicable rules, including:

1504 (c) Proof of financial ability to operate as required  
 1505 under ss. s. 408.810(8) and 408.8065. ~~As an alternative to~~  
 1506 ~~submitting proof of financial ability to operate as required~~  
 1507 ~~under s. 408.810(8), the applicant may file a surety bond of at~~  
 1508 ~~least \$500,000 which guarantees that the clinic will act in full~~  
 1509 ~~conformity with all legal requirements for operating a clinic,~~  
 1510 ~~payable to the agency. The agency may adopt rules to specify~~  
 1511 ~~related requirements for such surety bond.~~

1512 Section 44. Paragraph (g) of subsection (1) and paragraph  
 1513 (a) of subsection (7) of section 400.9935, Florida Statutes, are  
 1514 amended to read:

1515 400.9935 Clinic responsibilities.-

1516 (1) Each clinic shall appoint a medical director or clinic  
 1517 director who shall agree in writing to accept legal  
 1518 responsibility for the following activities on behalf of the  
 1519 clinic. The medical director or the clinic director shall:

1520 (g) Conduct systematic reviews of clinic billings to  
 1521 ensure that the billings are not fraudulent or unlawful. Upon  
 1522 discovery of an unlawful charge, the medical director or clinic  
 1523 director shall take immediate corrective action. If the clinic  
 1524 performs only the technical component of magnetic resonance  
 1525 imaging, static radiographs, computed tomography, or positron  
 1526 emission tomography, and provides the professional  
 1527 interpretation of such services, in a fixed facility that is  
 1528 accredited by The Joint Commission ~~on Accreditation of~~  
 1529 ~~Healthcare Organizations~~ or the Accreditation Association for  
 1530 Ambulatory Health Care, and the American College of Radiology;  
 1531 and if, in the preceding quarter, the percentage of scans

1532 performed by that clinic which was billed to all personal injury  
 1533 protection insurance carriers was less than 15 percent, the  
 1534 chief financial officer of the clinic may, in a written  
 1535 acknowledgment provided to the agency, assume the responsibility  
 1536 for the conduct of the systematic reviews of clinic billings to  
 1537 ensure that the billings are not fraudulent or unlawful.

1538 (7) (a) Each clinic engaged in magnetic resonance imaging  
 1539 services must be accredited by The Joint Commission ~~on~~  
 1540 ~~Accreditation of Healthcare Organizations~~, the American College  
 1541 of Radiology, or the Accreditation Association for Ambulatory  
 1542 Health Care, within 1 year after licensure. A clinic that is  
 1543 accredited by the American College of Radiology or is within the  
 1544 original 1-year period after licensure and replaces its core  
 1545 magnetic resonance imaging equipment shall be given 1 year after  
 1546 the date on which the equipment is replaced to attain  
 1547 accreditation. However, a clinic may request a single, 6-month  
 1548 extension if it provides evidence to the agency establishing  
 1549 that, for good cause shown, such clinic cannot be accredited  
 1550 within 1 year after licensure, and that such accreditation will  
 1551 be completed within the 6-month extension. After obtaining  
 1552 accreditation as required by this subsection, each such clinic  
 1553 must maintain accreditation as a condition of renewal of its  
 1554 license. A clinic that files a change of ownership application  
 1555 must comply with the original accreditation timeframe  
 1556 requirements of the transferor. The agency shall deny a change  
 1557 of ownership application if the clinic is not in compliance with  
 1558 the accreditation requirements. When a clinic adds, replaces, or  
 1559 modifies magnetic resonance imaging equipment and the

1560 accreditation agency requires new accreditation, the clinic must  
 1561 be accredited within 1 year after the date of the addition,  
 1562 replacement, or modification but may request a single, 6-month  
 1563 extension if the clinic provides evidence of good cause to the  
 1564 agency.

1565 Section 45. Subsection (2) of section 408.034, Florida  
 1566 Statutes, is amended to read:

1567 408.034 Duties and responsibilities of agency; rules.—

1568 (2) In the exercise of its authority to issue licenses to  
 1569 health care facilities and health service providers, as provided  
 1570 under chapters 393 and 395 and parts II, and IV, and VIII of  
 1571 chapter 400, the agency may not issue a license to any health  
 1572 care facility or health service provider that fails to receive a  
 1573 certificate of need or an exemption for the licensed facility or  
 1574 service.

1575 Section 46. Paragraph (d) of subsection (1) of section  
 1576 408.036, Florida Statutes, is amended to read:

1577 408.036 Projects subject to review; exemptions.—

1578 (1) APPLICABILITY.—Unless exempt under subsection (3), all  
 1579 health-care-related projects, as described in paragraphs (a)-  
 1580 (g), are subject to review and must file an application for a  
 1581 certificate of need with the agency. The agency is exclusively  
 1582 responsible for determining whether a health-care-related  
 1583 project is subject to review under ss. 408.031-408.045.

1584 (d) The establishment of a hospice or hospice inpatient  
 1585 facility, ~~except as provided in s. 408.043.~~

1586 Section 47. Subsection (2) of section 408.043, Florida  
 1587 Statutes, is amended to read:

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1588 408.043 Special provisions.—

1589 (2) HOSPICES.—When an application is made for a  
 1590 certificate of need to establish or to expand a hospice, the  
 1591 need for such hospice shall be determined on the basis of the  
 1592 need for and availability of hospice services in the community.  
 1593 The formula on which the certificate of need is based shall  
 1594 discourage regional monopolies and promote competition. The  
 1595 inpatient hospice care component of a hospice which is a  
 1596 freestanding facility, or a part of a facility, ~~which is~~  
 1597 ~~primarily engaged in providing inpatient care and related~~  
 1598 ~~services~~ and is not licensed as a health care facility shall  
 1599 also be required to obtain a certificate of need. Provision of  
 1600 hospice care by any current provider of health care is a  
 1601 significant change in service and therefore requires a  
 1602 certificate of need for such services.

1603 Section 48. Paragraph (k) of subsection (3) of section  
 1604 408.05, Florida Statutes, is amended to read:

1605 408.05 Florida Center for Health Information and Policy  
 1606 Analysis.—

1607 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to  
 1608 produce comparable and uniform health information and statistics  
 1609 for the development of policy recommendations, the agency shall  
 1610 perform the following functions:

1611 (k) Develop, in conjunction with the State Consumer Health  
 1612 Information and Policy Advisory Council, and implement a long-  
 1613 range plan for making available health care quality measures and  
 1614 financial data that will allow consumers to compare health care  
 1615 services. The health care quality measures and financial data

1616 the agency must make available shall include, but is not limited  
 1617 to, pharmaceuticals, physicians, health care facilities, and  
 1618 health plans and managed care entities. The agency shall submit  
 1619 the initial plan to the Governor, the President of the Senate,  
 1620 and the Speaker of the House of Representatives by January 1,  
 1621 2006, and shall update the plan and report on the status of its  
 1622 implementation annually thereafter. The agency shall also make  
 1623 the plan and status report available to the public on its  
 1624 Internet website. As part of the plan, the agency shall identify  
 1625 the process and timeframes for implementation, any barriers to  
 1626 implementation, and recommendations of changes in the law that  
 1627 may be enacted by the Legislature to eliminate the barriers. As  
 1628 preliminary elements of the plan, the agency shall:

1629 1. Make available patient-safety indicators, inpatient  
 1630 quality indicators, and performance outcome and patient charge  
 1631 data collected from health care facilities pursuant to s.  
 1632 408.061(1)(a) and (2). The terms "patient-safety indicators" and  
 1633 "inpatient quality indicators" shall be as defined by the  
 1634 Centers for Medicare and Medicaid Services, the National Quality  
 1635 Forum, ~~The Joint Commission on Accreditation of Healthcare~~  
 1636 ~~Organizations~~, the Agency for Healthcare Research and Quality,  
 1637 the Centers for Disease Control and Prevention, or a similar  
 1638 national entity that establishes standards to measure the  
 1639 performance of health care providers, or by other states. The  
 1640 agency shall determine which conditions, procedures, health care  
 1641 quality measures, and patient charge data to disclose based upon  
 1642 input from the council. When determining which conditions and  
 1643 procedures are to be disclosed, the council and the agency shall



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1644 consider variation in costs, variation in outcomes, and  
 1645 magnitude of variations and other relevant information. When  
 1646 determining which health care quality measures to disclose, the  
 1647 agency:

1648 a. Shall consider such factors as volume of cases; average  
 1649 patient charges; average length of stay; complication rates;  
 1650 mortality rates; and infection rates, among others, which shall  
 1651 be adjusted for case mix and severity, if applicable.

1652 b. May consider such additional measures that are adopted  
 1653 by the Centers for Medicare and Medicaid Studies, National  
 1654 Quality Forum, The Joint Commission ~~on Accreditation of~~  
 1655 ~~Healthcare Organizations~~, the Agency for Healthcare Research and  
 1656 Quality, Centers for Disease Control and Prevention, or a  
 1657 similar national entity that establishes standards to measure  
 1658 the performance of health care providers, or by other states.

1659  
 1660 When determining which patient charge data to disclose, the  
 1661 agency shall include such measures as the average of  
 1662 undiscounted charges on frequently performed procedures and  
 1663 preventive diagnostic procedures, the range of procedure charges  
 1664 from highest to lowest, average net revenue per adjusted patient  
 1665 day, average cost per adjusted patient day, and average cost per  
 1666 admission, among others.

1667 2. Make available performance measures, benefit design,  
 1668 and premium cost data from health plans licensed pursuant to  
 1669 chapter 627 or chapter 641. The agency shall determine which  
 1670 health care quality measures and member and subscriber cost data  
 1671 to disclose, based upon input from the council. When determining

1672 | which data to disclose, the agency shall consider information  
 1673 | that may be required by either individual or group purchasers to  
 1674 | assess the value of the product, which may include membership  
 1675 | satisfaction, quality of care, current enrollment or membership,  
 1676 | coverage areas, accreditation status, premium costs, plan costs,  
 1677 | premium increases, range of benefits, copayments and  
 1678 | deductibles, accuracy and speed of claims payment, credentials  
 1679 | of physicians, number of providers, names of network providers,  
 1680 | and hospitals in the network. Health plans shall make available  
 1681 | to the agency any such data or information that is not currently  
 1682 | reported to the agency or the office.

1683 |         3. Determine the method and format for public disclosure  
 1684 | of data reported pursuant to this paragraph. The agency shall  
 1685 | make its determination based upon input from the State Consumer  
 1686 | Health Information and Policy Advisory Council. At a minimum,  
 1687 | the data shall be made available on the agency's Internet  
 1688 | website in a manner that allows consumers to conduct an  
 1689 | interactive search that allows them to view and compare the  
 1690 | information for specific providers. The website must include  
 1691 | such additional information as is determined necessary to ensure  
 1692 | that the website enhances informed decisionmaking among  
 1693 | consumers and health care purchasers, which shall include, at a  
 1694 | minimum, appropriate guidance on how to use the data and an  
 1695 | explanation of why the data may vary from provider to provider.  
 1696 | The data specified in subparagraph 1. shall be released no later  
 1697 | than January 1, 2006, for the reporting of infection rates, and  
 1698 | no later than October 1, 2005, for mortality rates and  
 1699 | complication rates. The data specified in subparagraph 2. shall

1700 | be released no later than October 1, 2006.

1701 |         4. Publish on its website undiscounted charges for no  
 1702 | fewer than 150 of the most commonly performed adult and  
 1703 | pediatric procedures, including outpatient, inpatient,  
 1704 | diagnostic, and preventative procedures.

1705 |         Section 49. Paragraph (a) of subsection (1) of section  
 1706 | 408.061, Florida Statutes, is amended to read:

1707 |         408.061 Data collection; uniform systems of financial  
 1708 | reporting; information relating to physician charges;  
 1709 | confidential information; immunity.-

1710 |         (1) The agency shall require the submission by health care  
 1711 | facilities, health care providers, and health insurers of data  
 1712 | necessary to carry out the agency's duties. Specifications for  
 1713 | data to be collected under this section shall be developed by  
 1714 | the agency with the assistance of technical advisory panels  
 1715 | including representatives of affected entities, consumers,  
 1716 | purchasers, and such other interested parties as may be  
 1717 | determined by the agency.

1718 |         (a) Data submitted by health care facilities, including  
 1719 | the facilities as defined in chapter 395, shall include, but are  
 1720 | not limited to: case-mix data, patient admission and discharge  
 1721 | data, hospital emergency department data which shall include the  
 1722 | number of patients treated in the emergency department of a  
 1723 | licensed hospital reported by patient acuity level, data on  
 1724 | hospital-acquired infections as specified by rule, data on  
 1725 | complications as specified by rule, data on readmissions as  
 1726 | specified by rule, with patient and provider-specific  
 1727 | identifiers included, actual charge data by diagnostic groups,

1728 financial data, accounting data, operating expenses, expenses  
 1729 incurred for rendering services to patients who cannot or do not  
 1730 pay, interest charges, depreciation expenses based on the  
 1731 expected useful life of the property and equipment involved, and  
 1732 demographic data. The agency shall adopt nationally recognized  
 1733 risk adjustment methodologies or software consistent with the  
 1734 standards of the Agency for Healthcare Research and Quality and  
 1735 as selected by the agency for all data submitted as required by  
 1736 this section. Data may be obtained from documents such as, but  
 1737 not limited to: leases, contracts, debt instruments, itemized  
 1738 patient bills, medical record abstracts, and related diagnostic  
 1739 information. Reported data elements shall be reported  
 1740 electronically and ~~in accordance with rule 59E-7.012, Florida~~  
 1741 ~~Administrative Code. Data submitted shall be~~ certified by the  
 1742 chief executive officer or an appropriate and duly authorized  
 1743 representative or employee of the licensed facility that the  
 1744 information submitted is true and accurate.

1745 Section 50. Section 408.10, Florida Statutes, is amended  
 1746 to read:

1747 408.10 Consumer complaints.—The agency shall+

1748 ~~(1)~~ publish and make available to the public a toll-free  
 1749 telephone number for the purpose of handling consumer complaints  
 1750 and shall serve as a liaison between consumer entities and other  
 1751 private entities and governmental entities for the disposition  
 1752 of problems identified by consumers of health care.

1753 ~~(2) Be empowered to investigate consumer complaints~~  
 1754 ~~relating to problems with health care facilities' billing~~  
 1755 ~~practices and issue reports to be made public in any cases where~~

1756 ~~the agency determines the health care facility has engaged in~~  
 1757 ~~billing practices which are unreasonable and unfair to the~~  
 1758 ~~consumer.~~

1759 Section 51. Subsections (12) through (30) of section  
 1760 408.802, Florida Statutes, are renumbered as subsections (11)  
 1761 through (29), respectively, and present subsection (11) of that  
 1762 section is amended to read:

1763 408.802 Applicability.—The provisions of this part apply  
 1764 to the provision of services that require licensure as defined  
 1765 in this part and to the following entities licensed, registered,  
 1766 or certified by the agency, as described in chapters 112, 383,  
 1767 390, 394, 395, 400, 429, 440, 483, and 765:

1768 ~~(11) Private review agents, as provided under part I of~~  
 1769 ~~chapter 395.~~

1770 Section 52. Subsection (3) is added to section 408.804,  
 1771 Florida Statutes, to read:

1772 408.804 License required; display.—

1773 (3) Any person who knowingly alters, defaces, or falsifies  
 1774 a license certificate issued by the agency, or causes or  
 1775 procures any person to commit such an offense, commits a  
 1776 misdemeanor of the second degree, punishable as provided in s.  
 1777 775.082 or s 775.083. Any licensee or provider who displays an  
 1778 altered, defaced, or falsified license certificate is subject to  
 1779 the penalties set forth in s. 408.815 and an administrative fine  
 1780 of \$1,000 for each day of illegal display.

1781 Section 53. Paragraph (d) of subsection (2) of section  
 1782 408.806, Florida Statutes, is amended, present subsections (3)  
 1783 through (8) are renumbered as subsections (4) through (9),

1784 respectively, and a new subsection (3) is added to that section,  
 1785 to read:

1786 408.806 License application process.—

1787 (2)

1788 ~~(d) The agency shall notify the licensee by mail or~~  
 1789 ~~electronically at least 90 days before the expiration of a~~  
 1790 ~~license that a renewal license is necessary to continue~~  
 1791 ~~operation.~~ The licensee's failure to timely file ~~submit~~ a  
 1792 renewal application and license application fee with the agency  
 1793 shall result in a \$50 per day late fee charged to the licensee  
 1794 by the agency; however, the aggregate amount of the late fee may  
 1795 not exceed 50 percent of the licensure fee or \$500, whichever is  
 1796 less. The agency shall provide a courtesy notice to the licensee  
 1797 by United States mail, electronically, or by any other manner at  
 1798 its address of record or mailing address, if provided, at least  
 1799 90 days prior to the expiration of a license informing the  
 1800 licensee of the expiration of the license. If the agency does  
 1801 not provide the courtesy notice or the licensee does not receive  
 1802 the courtesy notice, the licensee continues to be legally  
 1803 obligated to timely file the renewal application and license  
 1804 application fee with the agency and is not excused from the  
 1805 payment of a late fee. If an application is received after the  
 1806 required filing date and exhibits a hand-canceled postmark  
 1807 obtained from a United States post office dated on or before the  
 1808 required filing date, no fine will be levied.

1809 (3) Payment of the late fee is required to consider any  
 1810 late application complete, and failure to pay the late fee is  
 1811 considered an omission from the application.

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1812 Section 54. Subsections (6) and (9) of section 408.810,  
 1813 Florida Statutes, are amended to read:

1814 408.810 Minimum licensure requirements.—In addition to the  
 1815 licensure requirements specified in this part, authorizing  
 1816 statutes, and applicable rules, each applicant and licensee must  
 1817 comply with the requirements of this section in order to obtain  
 1818 and maintain a license.

1819 (6) (a) An applicant must provide the agency with proof of  
 1820 the applicant's legal right to occupy the property before a  
 1821 license may be issued. Proof may include, but need not be  
 1822 limited to, copies of warranty deeds, lease or rental  
 1823 agreements, contracts for deeds, quitclaim deeds, or other such  
 1824 documentation.

1825 (b) In the event the property is encumbered by a mortgage  
 1826 or is leased, an applicant must provide the agency with proof  
 1827 that the mortgagor or landlord has been provided written notice  
 1828 of the applicant's intent as mortgagee or tenant to provide  
 1829 services that require licensure and instruct the mortgagor or  
 1830 landlord to serve the agency by certified mail with copies of  
 1831 any foreclosure or eviction actions initiated by the mortgagor  
 1832 or landlord against the applicant.

1833 (9) A controlling interest may not withhold from the  
 1834 agency any evidence of financial instability, including, but not  
 1835 limited to, checks returned due to insufficient funds,  
 1836 delinquent accounts, nonpayment of withholding taxes, unpaid  
 1837 utility expenses, nonpayment for essential services, or adverse  
 1838 court action concerning the financial viability of the provider  
 1839 or any other provider licensed under this part that is under the

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1840 control of the controlling interest. A controlling interest  
 1841 shall notify the agency within 10 days after a court action to  
 1842 initiate bankruptcy, foreclosure, or eviction proceedings  
 1843 concerning the provider, in which the controlling interest is a  
 1844 petitioner or defendant. Any person who violates this subsection  
 1845 commits a misdemeanor of the second degree, punishable as  
 1846 provided in s. 775.082 or s. 775.083. Each day of continuing  
 1847 violation is a separate offense.

1848 Section 55. Subsection (3) is added to section 408.813,  
 1849 Florida Statutes, to read:

1850 408.813 Administrative fines; violations.—As a penalty for  
 1851 any violation of this part, authorizing statutes, or applicable  
 1852 rules, the agency may impose an administrative fine.

1853 (3) The agency may impose an administrative fine for a  
 1854 violation that does not qualify as a class I, class II, class  
 1855 III, or class IV violation. Unless otherwise specified by law,  
 1856 the amount of the fine shall not exceed \$500 for each violation.

1857 Unclassified violations may include:

- 1858 (a) Violating any term or condition of a license.
- 1859 (b) Violating any provision of this part, authorizing  
 1860 statutes, or applicable rules.
- 1861 (c) Exceeding licensed capacity.
- 1862 (d) Providing services beyond the scope of the license.
- 1863 (e) Violating a moratorium imposed pursuant to s. 408.814.

1864 Section 56. Subsection (5) is added to section 408.815,  
 1865 Florida Statutes, to read:

1866 408.815 License or application denial; revocation.—



1867        (5) In order to ensure the health, safety, and welfare of  
 1868 clients when a license has been denied, revoked, or is set to  
 1869 terminate, the agency may extend the license expiration date for  
 1870 a period of up to 30 days for the sole purpose of allowing the  
 1871 safe and orderly discharge of clients. The agency may impose  
 1872 conditions on the extension, including, but not limited to,  
 1873 prohibiting or limiting admissions, expedited discharge  
 1874 planning, required status reports, and mandatory monitoring by  
 1875 the agency or third parties. In imposing these conditions, the  
 1876 agency shall take into consideration the nature and number of  
 1877 clients, the availability and location of acceptable alternative  
 1878 placements, and the ability of the licensee to continue  
 1879 providing care to the clients. The agency may terminate the  
 1880 extension or modify the conditions at any time. This authority  
 1881 is in addition to any other authority granted to the agency  
 1882 under chapter 120, this part, and authorizing statutes but  
 1883 creates no right or entitlement to an extension of a license  
 1884 expiration date.

1885        Section 57. Paragraph (k) of subsection (4) of section  
 1886 409.221, Florida Statutes, is amended to read:

1887        409.221 Consumer-directed care program.—

1888        (4) CONSUMER-DIRECTED CARE.—

1889        ~~(k) Reviews and reports. The agency and the Departments of~~  
 1890 ~~Elderly Affairs, Health, and Children and Family Services and~~  
 1891 ~~the Agency for Persons with Disabilities shall each, on an~~  
 1892 ~~ongoing basis, review and assess the implementation of the~~  
 1893 ~~consumer directed care program. By January 15 of each year, the~~  
 1894 ~~agency shall submit a written report to the Legislature that~~

1895 ~~includes each department's review of the program and contains~~  
 1896 ~~recommendations for improvements to the program.~~

1897 Section 58. Subsections (3) and (4) of section 429.07,  
 1898 Florida Statutes, are amended, and subsections (6) and (7) are  
 1899 added to that section, to read:

1900 429.07 License required; fee; inspections.-

1901 (3) In addition to the requirements of s. 408.806, each  
 1902 license granted by the agency must state the type of care for  
 1903 which the license is granted. Licenses shall be issued for one  
 1904 or more of the following categories of care: standard, extended  
 1905 congregate care, ~~limited nursing services~~, or limited mental  
 1906 health.

1907 (a) A standard license shall be issued to a facility  
 1908 ~~facilities~~ providing one or more of the personal services  
 1909 identified in s. 429.02. Such licensee facilities may also  
 1910 employ or contract with a person ~~licensed under part I of~~  
 1911 ~~chapter 464 to administer medications and perform other tasks as~~  
 1912 specified in s. 429.255.

1913 (b) An extended congregate care license shall be issued to  
 1914 a licensee facilities providing, directly or through contract,  
 1915 services beyond those authorized in paragraph (a), including  
 1916 acts performed pursuant to part I of chapter 464 by persons  
 1917 licensed thereunder, and supportive services defined by rule to  
 1918 persons who otherwise would be disqualified from continued  
 1919 residence in a facility licensed under this part.

1920 1. In order for extended congregate care services to be  
 1921 provided in a facility licensed under this part, the agency must  
 1922 first determine that all requirements established in law and

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1923 rule are met and must specifically designate, on the ~~facility's~~  
 1924 license, that such services may be provided and whether the  
 1925 designation applies to all or part of a facility. Such  
 1926 designation may be made at the time of initial licensure or  
 1927 relicensure, or upon request in writing by a licensee under this  
 1928 part and part II of chapter 408. Notification of approval or  
 1929 denial of such request shall be made in accordance with part II  
 1930 of chapter 408. An existing licensee ~~facilities~~ qualifying to  
 1931 provide extended congregate care services must have maintained a  
 1932 standard license and ~~may not have~~ been subject to administrative  
 1933 sanctions during the previous 2 years, or since initial  
 1934 licensure if ~~the facility has been~~ licensed for less than 2  
 1935 years, for any of the following reasons:

- 1936 a. A class I or class II violation;
- 1937 b. Three or more repeat or recurring class III violations  
 1938 of identical or similar resident care standards as specified in  
 1939 rule from which a pattern of noncompliance is found by the  
 1940 agency;
- 1941 c. Three or more class III violations that were not  
 1942 corrected in accordance with the corrective action plan approved  
 1943 by the agency;
- 1944 d. Violation of resident care standards resulting in a  
 1945 requirement to employ the services of a consultant pharmacist or  
 1946 consultant dietitian;
- 1947 e. Denial, suspension, or revocation of a license for  
 1948 another facility under this part in which the applicant for an  
 1949 extended congregate care license has at least 25 percent  
 1950 ownership interest; or

1951 f. Imposition of a moratorium pursuant to this part or  
 1952 part II of chapter 408 or initiation of injunctive proceedings.  
 1953 2. A licensee ~~Facilities~~ that is ~~are~~ licensed to provide  
 1954 extended congregate care services shall maintain a written  
 1955 progress report for ~~on~~ each person who receives such services,  
 1956 and the ~~which~~ report must describe ~~describes~~ the type, amount,  
 1957 duration, scope, and outcome of services that are rendered and  
 1958 the general status of the resident's health. ~~A registered nurse,~~  
 1959 ~~or appropriate designee, representing the agency shall visit~~  
 1960 ~~such facilities at least quarterly to monitor residents who are~~  
 1961 ~~receiving extended congregate care services and to determine if~~  
 1962 ~~the facility is in compliance with this part, part II of chapter~~  
 1963 ~~408, and rules that relate to extended congregate care. One of~~  
 1964 ~~these visits may be in conjunction with the regular survey. The~~  
 1965 ~~monitoring visits may be provided through contractual~~  
 1966 ~~arrangements with appropriate community agencies. A registered~~  
 1967 ~~nurse shall serve as part of the team that inspects such~~  
 1968 ~~facility. The agency may waive one of the required yearly~~  
 1969 ~~monitoring visits for a facility that has been licensed for at~~  
 1970 ~~least 24 months to provide extended congregate care services,~~  
 1971 ~~if, during the inspection, the registered nurse determines that~~  
 1972 ~~extended congregate care services are being provided~~  
 1973 ~~appropriately, and if the facility has no class I or class II~~  
 1974 ~~violations and no uncorrected class III violations. Before such~~  
 1975 ~~decision is made, the agency shall consult with the long-term~~  
 1976 ~~care ombudsman council for the area in which the facility is~~  
 1977 ~~located to determine if any complaints have been made and~~  
 1978 ~~substantiated about the quality of services or care. The agency~~

1979 ~~may not waive one of the required yearly monitoring visits if~~  
 1980 ~~complaints have been made and substantiated.~~

1981 3. Licensees ~~Facilities~~ that are licensed to provide  
 1982 extended congregate care services shall:

1983 a. Demonstrate the capability to meet unanticipated  
 1984 resident service needs.

1985 b. Offer a physical environment that promotes a homelike  
 1986 setting, provides for resident privacy, promotes resident  
 1987 independence, and allows sufficient congregate space as defined  
 1988 by rule.

1989 c. Have sufficient staff available, taking into account  
 1990 the physical plant and firesafety features of the building, to  
 1991 assist with the evacuation of residents in an emergency, as  
 1992 necessary.

1993 d. Adopt and follow policies and procedures that maximize  
 1994 resident independence, dignity, choice, and decisionmaking to  
 1995 permit residents to age in place to the extent possible, so that  
 1996 moves due to changes in functional status are minimized or  
 1997 avoided.

1998 e. Allow residents or, if applicable, a resident's  
 1999 representative, designee, surrogate, guardian, or attorney in  
 2000 fact to make a variety of personal choices, participate in  
 2001 developing service plans, and share responsibility in  
 2002 decisionmaking.

2003 f. Implement the concept of managed risk.

2004 g. Provide, either directly or through contract, the  
 2005 services of a person licensed pursuant to part I of chapter 464.

2006 h. In addition to the training mandated in s. 429.52,

2007 provide specialized training as defined by rule for facility  
 2008 staff.

2009 4. Licensees ~~Facilities~~ licensed to provide extended  
 2010 congregate care services are exempt from the criteria for  
 2011 continued residency as set forth in rules adopted under s.  
 2012 429.41. Licensees ~~Facilities~~ ~~so licensed~~ shall adopt their own  
 2013 requirements within guidelines for continued residency set forth  
 2014 by rule. However, such licensees ~~facilities~~ may not serve  
 2015 residents who require 24-hour nursing supervision. Licensees  
 2016 ~~Facilities~~ licensed to provide extended congregate care services  
 2017 shall provide each resident with a written copy of facility  
 2018 policies governing admission and retention.

2019 5. The primary purpose of extended congregate care  
 2020 services is to allow residents, as they become more impaired,  
 2021 the option of remaining in a familiar setting from which they  
 2022 would otherwise be disqualified for continued residency. A  
 2023 facility licensed to provide extended congregate care services  
 2024 may also admit an individual who exceeds the admission criteria  
 2025 for a facility with a standard license, if the individual is  
 2026 determined appropriate for admission to the extended congregate  
 2027 care facility.

2028 6. Before admission of an individual to a facility  
 2029 licensed to provide extended congregate care services, the  
 2030 individual must undergo a medical examination as provided in s.  
 2031 429.26(4) and the facility must develop a preliminary service  
 2032 plan for the individual.

2033 7. When a licensee ~~facility~~ can no longer provide or  
 2034 arrange for services in accordance with the resident's service

2035 plan and needs and the licensee's ~~facility's~~ policy, the  
 2036 licensee ~~facility~~ shall make arrangements for relocating the  
 2037 person in accordance with s. 429.28(1)(k).

2038 8. Failure to provide extended congregate care services  
 2039 may result in denial of extended congregate care license  
 2040 renewal.

2041 ~~9. No later than January 1 of each year, the department,~~  
 2042 ~~in consultation with the agency, shall prepare and submit to the~~  
 2043 ~~Governor, the President of the Senate, the Speaker of the House~~  
 2044 ~~of Representatives, and the chairs of appropriate legislative~~  
 2045 ~~committees, a report on the status of, and recommendations~~  
 2046 ~~related to, extended congregate care services. The status report~~  
 2047 ~~must include, but need not be limited to, the following~~  
 2048 ~~information:~~

2049 ~~a. A description of the facilities licensed to provide~~  
 2050 ~~such services, including total number of beds licensed under~~  
 2051 ~~this part.~~

2052 ~~b. The number and characteristics of residents receiving~~  
 2053 ~~such services.~~

2054 ~~c. The types of services rendered that could not be~~  
 2055 ~~provided through a standard license.~~

2056 ~~d. An analysis of deficiencies cited during licensure~~  
 2057 ~~inspections.~~

2058 ~~e. The number of residents who required extended~~  
 2059 ~~congregate care services at admission and the source of~~  
 2060 ~~admission.~~

2061 ~~f. Recommendations for statutory or regulatory changes.~~

2062 ~~g. The availability of extended congregate care to state~~

2063 ~~clients residing in facilities licensed under this part and in~~  
 2064 ~~need of additional services, and recommendations for~~  
 2065 ~~appropriations to subsidize extended congregate care services~~  
 2066 ~~for such persons.~~

2067 ~~h. Such other information as the department considers~~  
 2068 ~~appropriate.~~

2069 ~~(c) A limited nursing services license shall be issued to~~  
 2070 ~~a facility that provides services beyond those authorized in~~  
 2071 ~~paragraph (a) and as specified in this paragraph.~~

2072 ~~1. In order for limited nursing services to be provided in~~  
 2073 ~~a facility licensed under this part, the agency must first~~  
 2074 ~~determine that all requirements established in law and rule are~~  
 2075 ~~met and must specifically designate, on the facility's license,~~  
 2076 ~~that such services may be provided. Such designation may be made~~  
 2077 ~~at the time of initial licensure or relicensure, or upon request~~  
 2078 ~~in writing by a licensee under this part and part II of chapter~~  
 2079 ~~408. Notification of approval or denial of such request shall be~~  
 2080 ~~made in accordance with part II of chapter 408. Existing~~  
 2081 ~~facilities qualifying to provide limited nursing services shall~~  
 2082 ~~have maintained a standard license and may not have been subject~~  
 2083 ~~to administrative sanctions that affect the health, safety, and~~  
 2084 ~~welfare of residents for the previous 2 years or since initial~~  
 2085 ~~licensure if the facility has been licensed for less than 2~~  
 2086 ~~years.~~

2087 ~~2. Facilities that are licensed to provide limited nursing~~  
 2088 ~~services shall maintain a written progress report on each person~~  
 2089 ~~who receives such nursing services, which report describes the~~  
 2090 ~~type, amount, duration, scope, and outcome of services that are~~



2091 ~~rendered and the general status of the resident's health. A~~  
 2092 ~~registered nurse representing the agency shall visit such~~  
 2093 ~~facilities at least twice a year to monitor residents who are~~  
 2094 ~~receiving limited nursing services and to determine if the~~  
 2095 ~~facility is in compliance with applicable provisions of this~~  
 2096 ~~part, part II of chapter 408, and related rules. The monitoring~~  
 2097 ~~visits may be provided through contractual arrangements with~~  
 2098 ~~appropriate community agencies. A registered nurse shall also~~  
 2099 ~~serve as part of the team that inspects such facility.~~

2100 ~~3. A person who receives limited nursing services under~~  
 2101 ~~this part must meet the admission criteria established by the~~  
 2102 ~~agency for assisted living facilities. When a resident no longer~~  
 2103 ~~meets the admission criteria for a facility licensed under this~~  
 2104 ~~part, arrangements for relocating the person shall be made in~~  
 2105 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~  
 2106 ~~to provide extended congregate care services.~~

2107 (4) In accordance with s. 408.805, an applicant or  
 2108 licensee shall pay a fee for each license application submitted  
 2109 under this part, part II of chapter 408, and applicable rules.  
 2110 The amount of the fee shall be established by rule.

2111 (a) The biennial license fee required of a facility is  
 2112 \$356 ~~\$300~~ per license, with an additional fee of \$67.50 ~~\$50~~ per  
 2113 resident based on the total licensed resident capacity of the  
 2114 facility, except that no additional fee will be assessed for  
 2115 beds designated for recipients of optional state supplementation  
 2116 payments provided for in s. 409.212. The total fee may not  
 2117 exceed \$18,000 ~~\$10,000~~.

2118 (b) In addition to the total fee assessed under paragraph

2119 (a), the agency shall require facilities that are licensed to  
 2120 provide extended congregate care services under this part to pay  
 2121 an additional fee per licensed facility. The amount of the  
 2122 biennial fee shall be \$501 ~~\$400~~ per license, with an additional  
 2123 fee of \$10 per resident based on the total licensed resident  
 2124 capacity of the facility.

2125 ~~(e) In addition to the total fee assessed under paragraph~~  
 2126 ~~(a), the agency shall require facilities that are licensed to~~  
 2127 ~~provide limited nursing services under this part to pay an~~  
 2128 ~~additional fee per licensed facility. The amount of the biennial~~  
 2129 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~  
 2130 ~~resident based on the total licensed resident capacity of the~~  
 2131 ~~facility.~~

2132 (6) In order to determine whether the facility is  
 2133 adequately protecting residents' rights as provided in s.  
 2134 429.28, the biennial survey shall include private informal  
 2135 conversations with a sample of residents and consultation with  
 2136 the ombudsman council in the planning and service area in which  
 2137 the facility is located to discuss residents' experiences within  
 2138 the facility.

2139 (7) An assisted living facility that has been cited within  
 2140 the previous 24-month period for a class I or class II  
 2141 violation, regardless of the status of any enforcement or  
 2142 disciplinary action, is subject to periodic unannounced  
 2143 monitoring to determine if the facility is in compliance with  
 2144 this part, part II of chapter 408, and applicable rules.  
 2145 Monitoring may occur through a desk review or an onsite  
 2146 assessment. If the class I or class II violation relates to

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2147 providing or failing to provide nursing care, a registered nurse  
 2148 must participate in at least two onsite monitoring visits within  
 2149 a 12-month period.

2150 Section 59. Subsection (7) of section 429.11, Florida  
 2151 Statutes, is renumbered as subsection (6), and present  
 2152 subsection (6) of that section is amended to read:

2153 429.11 Initial application for license; ~~provisional~~  
 2154 ~~license.~~

2155 ~~(6) In addition to the license categories available in s.~~  
 2156 ~~408.808, a provisional license may be issued to an applicant~~  
 2157 ~~making initial application for licensure or making application~~  
 2158 ~~for a change of ownership. A provisional license shall be~~  
 2159 ~~limited in duration to a specific period of time not to exceed 6~~  
 2160 ~~months, as determined by the agency.~~

2161 Section 60. Section 429.12, Florida Statutes; is amended  
 2162 to read:

2163 429.12 Sale or transfer of ownership of a facility.—It is  
 2164 the intent of the Legislature to protect the rights of the  
 2165 residents of an assisted living facility when the facility is  
 2166 sold or the ownership thereof is transferred. Therefore, in  
 2167 addition to the requirements of part II of chapter 408, whenever  
 2168 a facility is sold or the ownership thereof is transferred,  
 2169 including leasing+.

2170 ~~(1)~~ The transferee shall notify the residents, in writing,  
 2171 of the change of ownership within 7 days after receipt of the  
 2172 new license.

2173 ~~(2) The transferor of a facility the license of which is~~  
 2174 ~~denied pending an administrative hearing shall, as a part of the~~

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2175 ~~written change of ownership contract, advise the transferee that~~  
 2176 ~~a plan of correction must be submitted by the transferee and~~  
 2177 ~~approved by the agency at least 7 days before the change of~~  
 2178 ~~ownership and that failure to correct the condition which~~  
 2179 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~  
 2180 ~~denial of licensure is grounds for denial of the transferee's~~  
 2181 ~~license.~~

2182 Section 61. Paragraphs (b) through (l) of subsection (1)  
 2183 of section 429.14, Florida Statutes, are redesignated as  
 2184 paragraphs (a) through (k), respectively, and present paragraph  
 2185 (a) of subsection (1) and subsections (5) and (6) of that  
 2186 section are amended to read:

2187 429.14 Administrative penalties.—

2188 (1) In addition to the requirements of part II of chapter  
 2189 408, the agency may deny, revoke, and suspend any license issued  
 2190 under this part and impose an administrative fine in the manner  
 2191 provided in chapter 120 against a licensee of an assisted living  
 2192 facility for a violation of any provision of this part, part II  
 2193 of chapter 408, or applicable rules, or for any of the following  
 2194 actions by a licensee of an assisted living facility, for the  
 2195 actions of any person subject to level 2 background screening  
 2196 under s. 408.809, or for the actions of any facility employee:

2197 ~~(a) An intentional or negligent act seriously affecting~~  
 2198 ~~the health, safety, or welfare of a resident of the facility.~~

2199 (5) An action taken by the agency to suspend, deny, or  
 2200 revoke a facility's license under this part or part II of  
 2201 chapter 408, in which the agency claims that the facility owner  
 2202 or an employee of the facility has threatened the health,

2203 safety, or welfare of a resident of the facility shall be heard  
 2204 by the Division of Administrative Hearings of the Department of  
 2205 Management Services within 120 days after receipt of the  
 2206 facility's request for a hearing, unless that time limitation is  
 2207 waived by both parties. The administrative law judge must render  
 2208 a decision within 30 days after receipt of a proposed  
 2209 recommended order.

2210 (6) The agency shall provide to the Division of Hotels and  
 2211 Restaurants of the Department of Business and Professional  
 2212 Regulation, on a monthly basis, a list of those assisted living  
 2213 facilities that have had their licenses denied, suspended, or  
 2214 revoked or that are involved in an appellate proceeding pursuant  
 2215 to s. 120.60 related to the denial, suspension, or revocation of  
 2216 a license. This information may be provided electronically or  
 2217 through the agency's Internet website.

2218 Section 62. Subsections (1), (4), and (5) of section  
 2219 429.17, Florida Statutes, are amended to read:

2220 429.17 Expiration of license; renewal; conditional  
 2221 license.—

2222 (1) ~~Limited nursing,~~ Extended congregate care, and limited  
 2223 mental health licenses shall expire at the same time as the  
 2224 facility's standard license, regardless of when issued.

2225 (4) In addition to the license categories available in s.  
 2226 408.808, a conditional license may be issued to an applicant for  
 2227 license renewal if the applicant fails to meet all standards and  
 2228 requirements for licensure. A conditional license issued under  
 2229 this subsection shall be limited in duration to a specific  
 2230 period of time not to exceed 6 months, as determined by the

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2231 agency, ~~and shall be accompanied by an agency-approved plan of~~  
 2232 ~~correction.~~

2233 (5) When an extended congregate care ~~or limited nursing~~  
 2234 ~~license~~ is requested during a facility's biennial license  
 2235 period, the fee shall be prorated in order to permit the  
 2236 additional license to expire at the end of the biennial license  
 2237 period. The fee shall be calculated as of the date the  
 2238 additional license application is received by the agency.

2239 Section 63. Subsection (7) of section 429.19, Florida  
 2240 Statutes, is amended to read:

2241 429.19 Violations; imposition of administrative fines;  
 2242 grounds.-

2243 (7) In addition to any administrative fines imposed, the  
 2244 agency may assess a survey or monitoring fee, equal to the  
 2245 lesser of one half of the facility's biennial license and bed  
 2246 fee or \$500, to cover the cost of conducting initial complaint  
 2247 investigations that result in the finding of a violation that  
 2248 was the subject of the complaint or to monitor the health,  
 2249 safety, or security of residents under s. 429.07(7) monitoring  
 2250 ~~visits conducted under s. 429.28(3)(c) to verify the correction~~  
 2251 ~~of the violations.~~

2252 Section 64. Subsections (6) through (10) of section  
 2253 429.23, Florida Statutes, are renumbered as subsections (5)  
 2254 through (9), respectively, and present subsection (5) of that  
 2255 section is amended to read:

2256 429.23 Internal risk management and quality assurance  
 2257 program; adverse incidents and reporting requirements.-

2258 ~~(5) Each facility shall report monthly to the agency any~~

2259 ~~liability claim filed against it. The report must include the~~  
 2260 ~~name of the resident, the dates of the incident leading to the~~  
 2261 ~~claim, if applicable, and the type of injury or violation of~~  
 2262 ~~rights alleged to have occurred. This report is not discoverable~~  
 2263 ~~in any civil or administrative action, except in such actions~~  
 2264 ~~brought by the agency to enforce the provisions of this part.~~

2265 Section 65. Paragraph (a) of subsection (1) and subsection  
 2266 (2) of section 429.255, Florida Statutes, are amended to read:

2267 429.255 Use of personnel; emergency care.-

2268 (1)(a) Persons under contract to the facility or, facility  
 2269 ~~staff, or volunteers,~~ who are licensed according to part I of  
 2270 chapter 464, or those persons exempt under s. 464.022(1), and  
 2271 others as defined by rule, may administer medications to  
 2272 residents, take residents' vital signs, manage individual weekly  
 2273 pill organizers for residents who self-administer medication,  
 2274 give prepackaged enemas ordered by a physician, observe  
 2275 residents, document observations on the appropriate resident's  
 2276 record, report observations to the resident's physician, and  
 2277 contract or allow residents or a resident's representative,  
 2278 designee, surrogate, guardian, or attorney in fact to contract  
 2279 with a third party, provided residents meet the criteria for  
 2280 appropriate placement as defined in s. 429.26. Persons under  
 2281 contract to the facility or facility staff who are licensed  
 2282 according to part I of chapter 464 may provide limited nursing  
 2283 services. Nursing assistants certified pursuant to part II of  
 2284 chapter 464 may take residents' vital signs as directed by a  
 2285 licensed nurse or physician. The facility is responsible for  
 2286 maintaining documentation of services provided under this

2287 paragraph as required by rule and ensuring that staff are  
 2288 adequately trained to monitor residents receiving these  
 2289 services.

2290 (2) In facilities licensed to provide extended congregate  
 2291 care, persons under contract to the facility or, facility staff,  
 2292 ~~or volunteers,~~ who are licensed according to part I of chapter  
 2293 464, or those persons exempt under s. 464.022(1), or those  
 2294 persons certified as nursing assistants pursuant to part II of  
 2295 chapter 464, may also perform all duties within the scope of  
 2296 their license or certification, as approved by the facility  
 2297 administrator and pursuant to this part.

2298 Section 66. Subsection (3) of section 429.28, Florida  
 2299 Statutes, is amended to read:

2300 429.28 Resident bill of rights.—

2301 ~~(3)(a) The agency shall conduct a survey to determine~~  
 2302 ~~general compliance with facility standards and compliance with~~  
 2303 ~~residents' rights as a prerequisite to initial licensure or~~  
 2304 ~~licensure renewal.~~

2305 ~~(b) In order to determine whether the facility is~~  
 2306 ~~adequately protecting residents' rights, the biennial survey~~  
 2307 ~~shall include private informal conversations with a sample of~~  
 2308 ~~residents and consultation with the ombudsman council in the~~  
 2309 ~~planning and service area in which the facility is located to~~  
 2310 ~~discuss residents' experiences within the facility.~~

2311 ~~(c) During any calendar year in which no survey is~~  
 2312 ~~conducted, the agency shall conduct at least one monitoring~~  
 2313 ~~visit of each facility cited in the previous year for a class I~~  
 2314 ~~or class II violation, or more than three uncorrected class III~~



2315 ~~violations.~~

2316 ~~(d) The agency may conduct periodic followup inspections~~  
 2317 ~~as necessary to monitor the compliance of facilities with a~~  
 2318 ~~history of any class I, class II, or class III violations that~~  
 2319 ~~threaten the health, safety, or security of residents.~~

2320 ~~(e) The agency may conduct complaint investigations as~~  
 2321 ~~warranted to investigate any allegations of noncompliance with~~  
 2322 ~~requirements required under this part or rules adopted under~~  
 2323 ~~this part.~~

2324 Section 67. Subsection (2) of section 429.35, Florida  
 2325 Statutes, is amended to read:

2326 429.35 Maintenance of records; reports.-

2327 (2) Within 60 days after the date of the biennial  
 2328 inspection visit required under s. 408.811 or within 30 days  
 2329 after the date of any interim visit, the agency shall forward  
 2330 the results of the inspection to the local ombudsman council in  
 2331 whose planning and service area, as defined in part II of  
 2332 chapter 400, the facility is located; to at least one public  
 2333 library or, in the absence of a public library, the county seat  
 2334 in the county in which the inspected assisted living facility is  
 2335 located; and, when appropriate, to the district Adult Services  
 2336 and Mental Health Program Offices. This information may be  
 2337 provided electronically or through the agency's Internet  
 2338 website.

2339 Section 68. Paragraphs (i) and (j) of subsection (1) of  
 2340 section 429.41, Florida Statutes, are amended to read:

2341 429.41 Rules establishing standards.-

2342 (1) It is the intent of the Legislature that rules

2343 published and enforced pursuant to this section shall include  
 2344 criteria by which a reasonable and consistent quality of  
 2345 resident care and quality of life may be ensured and the results  
 2346 of such resident care may be demonstrated. Such rules shall also  
 2347 ensure a safe and sanitary environment that is residential and  
 2348 noninstitutional in design or nature. It is further intended  
 2349 that reasonable efforts be made to accommodate the needs and  
 2350 preferences of residents to enhance the quality of life in a  
 2351 facility. The agency, in consultation with the department, may  
 2352 adopt rules to administer the requirements of part II of chapter  
 2353 408. In order to provide safe and sanitary facilities and the  
 2354 highest quality of resident care accommodating the needs and  
 2355 preferences of residents, the department, in consultation with  
 2356 the agency, the Department of Children and Family Services, and  
 2357 the Department of Health, shall adopt rules, policies, and  
 2358 procedures to administer this part, which must include  
 2359 reasonable and fair minimum standards in relation to:

2360 (i) Facilities holding an ~~a limited nursing,~~ extended  
 2361 congregate care~~,~~ or limited mental health license.

2362 (j) The establishment of specific criteria to define  
 2363 appropriateness of resident admission and continued residency in  
 2364 a facility holding a standard, ~~limited nursing,~~ extended  
 2365 congregate care, and limited mental health license.

2366 Section 69. Subsections (1) and (2) of section 429.53,  
 2367 Florida Statutes, are amended to read:

2368 429.53 Consultation by the agency.—

2369 (1) ~~The area offices of licensure and certification of the~~  
 2370 agency shall provide consultation to the following upon request:

2371 (a) A licensee of a facility.

2372 (b) A person interested in obtaining a license to operate  
 2373 a facility under this part.

2374 (2) As used in this section, "consultation" includes:

2375 (a) An explanation of the requirements of this part and  
 2376 rules adopted pursuant thereto;

2377 (b) An explanation of the license application and renewal  
 2378 procedures;

2379 ~~(c) The provision of a checklist of general local and  
 2380 state approvals required prior to constructing or developing a  
 2381 facility and a listing of the types of agencies responsible for  
 2382 such approvals;~~

2383 ~~(d) An explanation of benefits and financial assistance  
 2384 available to a recipient of supplemental security income  
 2385 residing in a facility;~~

2386 (c)(e) Any other information which the agency deems  
 2387 necessary to promote compliance with the requirements of this  
 2388 part; and

2389 ~~(f) A preconstruction review of a facility to ensure  
 2390 compliance with agency rules and this part.~~

2391 Section 70. Subsections (1) and (2) of section 429.54,  
 2392 Florida Statutes, are renumbered as subsections (2) and (3),  
 2393 respectively, and a new subsection (1) is added to that section  
 2394 to read:

2395 429.54 Collection of information; local subsidy.—

2396 (1) A facility that is licensed under this part must  
 2397 report electronically to the agency semiannually, or more  
 2398 frequently as determined by rule, data related to the facility,

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2399 including, but not limited to, the total number of residents,  
 2400 the number of residents who are receiving limited mental health  
 2401 services, the number of residents who are receiving extended  
 2402 congregate care services, the number of residents who are  
 2403 receiving limited nursing services, funding sources of the  
 2404 residents, and professional staffing employed by or under  
 2405 contract with the licensee to provide resident services. The  
 2406 department, in consultation with the agency, shall adopt rules  
 2407 to administer this subsection.

2408 Section 71. Subsections (1) and (5) of section 429.71,  
 2409 Florida Statutes, are amended to read:

2410 429.71 Classification of violations ~~deficiencies;~~  
 2411 administrative fines.-

2412 (1) In addition to the requirements of part II of chapter  
 2413 408 and in addition to any other liability or penalty provided  
 2414 by law, the agency may impose an administrative fine on a  
 2415 provider according to the following classification:

2416 (a) Class I violations are defined in s. 408.813 ~~these~~  
 2417 ~~conditions or practices related to the operation and maintenance~~  
 2418 ~~of an adult family care home or to the care of residents which~~  
 2419 ~~the agency determines present an imminent danger to the~~  
 2420 ~~residents or guests of the facility or a substantial probability~~  
 2421 ~~that death or serious physical or emotional harm would result~~  
 2422 ~~therefrom. The condition or practice that constitutes a class I~~  
 2423 ~~violation must be abated or eliminated within 24 hours, unless a~~  
 2424 ~~fixed period, as determined by the agency, is required for~~  
 2425 ~~correction.~~ A class I violation ~~deficiency~~ is subject to an  
 2426 administrative fine in an amount not less than \$500 and not

2427 exceeding \$1,000 for each violation. A ~~fine may be levied~~  
 2428 ~~notwithstanding the correction of the deficiency.~~

2429 (b) Class II violations are defined in s. 408.813 ~~those~~  
 2430 ~~conditions or practices related to the operation and maintenance~~  
 2431 ~~of an adult family care home or to the care of residents which~~  
 2432 ~~the agency determines directly threaten the physical or~~  
 2433 ~~emotional health, safety, or security of the residents, other~~  
 2434 ~~than class I violations.~~ A class II violation is subject to an  
 2435 administrative fine in an amount not less than \$250 and not  
 2436 exceeding \$500 for each violation. ~~A citation for a class II~~  
 2437 ~~violation must specify the time within which the violation is~~  
 2438 ~~required to be corrected. If a class II violation is corrected~~  
 2439 ~~within the time specified, no civil penalty shall be imposed,~~  
 2440 ~~unless it is a repeated offense.~~

2441 (c) Class III violations are defined in s. 408.813 ~~those~~  
 2442 ~~conditions or practices related to the operation and maintenance~~  
 2443 ~~of an adult family care home or to the care of residents which~~  
 2444 ~~the agency determines indirectly or potentially threaten the~~  
 2445 ~~physical or emotional health, safety, or security of residents,~~  
 2446 ~~other than class I or class II violations.~~ A class III violation  
 2447 is subject to an administrative fine in an amount not less than  
 2448 \$100 and not exceeding \$250 for each violation. ~~A citation for a~~  
 2449 ~~class III violation shall specify the time within which the~~  
 2450 ~~violation is required to be corrected.~~ If a class III violation  
 2451 is corrected within the time specified, no civil penalty shall  
 2452 be imposed, unless it is a repeated violation ~~offense.~~

2453 (d) Class IV violations are defined in s. 408.813 ~~those~~  
 2454 ~~conditions or occurrences related to the operation and~~

2455 ~~maintenance of an adult family care home, or related to the~~  
 2456 ~~required reports, forms, or documents, which do not have the~~  
 2457 ~~potential of negatively affecting the residents. A provider that~~  
 2458 ~~does not correct~~ A class IV violation ~~within the time limit~~  
 2459 ~~specified by the agency~~ is subject to an administrative fine in  
 2460 an amount not less than \$50 and not exceeding \$100 for each  
 2461 violation. Any class IV violation that is corrected during the  
 2462 time the agency survey is conducted will be identified as an  
 2463 agency finding and not as a violation, unless it is a repeat  
 2464 violation.

2465 ~~(5) As an alternative to or in conjunction with an~~  
 2466 ~~administrative action against a provider, the agency may request~~  
 2467 ~~a plan of corrective action that demonstrates a good faith~~  
 2468 ~~effort to remedy each violation by a specific date, subject to~~  
 2469 ~~the approval of the agency.~~

2470 Section 72. Paragraphs (b) through (e) of subsection (2)  
 2471 of section 429.911, Florida Statutes, are redesignated as  
 2472 paragraphs (a) through (d), respectively, and present paragraph  
 2473 (a) of that subsection is amended to read:

2474 429.911 Denial, suspension, revocation of license;  
 2475 emergency action; administrative fines; investigations and  
 2476 inspections.—

2477 (2) Each of the following actions by the owner of an adult  
 2478 day care center or by its operator or employee is a ground for  
 2479 action by the agency against the owner of the center or its  
 2480 operator or employee:

2481 ~~(a) An intentional or negligent act materially affecting~~  
 2482 ~~the health or safety of center participants.~~

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2483 Section 73. Section 429.915, Florida Statutes, is amended  
 2484 to read:

2485 429.915 Conditional license.—In addition to the license  
 2486 categories available in part II of chapter 408, the agency may  
 2487 issue a conditional license to an applicant for license renewal  
 2488 or change of ownership if the applicant fails to meet all  
 2489 standards and requirements for licensure. A conditional license  
 2490 issued under this subsection must be limited to a specific  
 2491 period not exceeding 6 months, as determined by the agency, ~~and~~  
 2492 ~~must be accompanied by an approved plan of correction.~~

2493 Section 74. Subsection (7) of section 394.4787, Florida  
 2494 Statutes, is amended to read:

2495 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,  
 2496 and 394.4789.—As used in this section and ss. 394.4786,  
 2497 394.4788, and 394.4789:

2498 (7) "Specialty psychiatric hospital" means a hospital  
 2499 licensed by the agency pursuant to s. 395.002 (26) ~~(28)~~ and part  
 2500 II of chapter 408 as a specialty psychiatric hospital.

2501 Section 75. Paragraph (g) of subsection (2) of section  
 2502 400.0239, Florida Statutes, is amended to read:

2503 400.0239 Quality of Long-Term Care Facility Improvement  
 2504 Trust Fund.—

2505 (2) Expenditures from the trust fund shall be allowable  
 2506 for direct support of the following:

2507 (g) Other initiatives authorized by the Centers for  
 2508 Medicare and Medicaid Services for the use of federal civil  
 2509 monetary penalties, ~~including projects recommended through the~~  
 2510 ~~Medicaid "Up or Out" Quality of Care Contract Management Program~~

2511 ~~pursuant to s. 400.148.~~

2512 Section 76. Subsection (43) of section 408.07, Florida  
 2513 Statutes, is amended to read:

2514 408.07 Definitions.—As used in this chapter, with the  
 2515 exception of ss. 408.031-408.045, the term:

2516 (43) "Rural hospital" means an acute care hospital  
 2517 licensed under chapter 395, having 100 or fewer licensed beds  
 2518 and an emergency room, and which is:

2519 (a) The sole provider within a county with a population  
 2520 density of no greater than 100 persons per square mile;

2521 (b) An acute care hospital, in a county with a population  
 2522 density of no greater than 100 persons per square mile, which is  
 2523 at least 30 minutes of travel time, on normally traveled roads  
 2524 under normal traffic conditions, from another acute care  
 2525 hospital within the same county;

2526 (c) A hospital supported by a tax district or subdistrict  
 2527 whose boundaries encompass a population of 100 persons or fewer  
 2528 per square mile;

2529 (d) A hospital with a service area that has a population  
 2530 of 100 persons or fewer per square mile. As used in this  
 2531 paragraph, the term "service area" means the fewest number of  
 2532 zip codes that account for 75 percent of the hospital's  
 2533 discharges for the most recent 5-year period, based on  
 2534 information available from the hospital inpatient discharge  
 2535 database in the Florida Center for Health Information and Policy  
 2536 Analysis at the Agency for Health Care Administration; or

2537 (e) A critical access hospital.

2538



2539 Population densities used in this subsection must be based upon  
 2540 the most recently completed United States census. A hospital  
 2541 that received funds under s. 409.9116 for a quarter beginning no  
 2542 later than July 1, 2002, is deemed to have been and shall  
 2543 continue to be a rural hospital from that date through June 30,  
 2544 2015, if the hospital continues to have 100 or fewer licensed  
 2545 beds and an emergency room, ~~or meets the criteria of s.~~  
 2546 ~~395.602(2)(e)~~ 4. An acute care hospital that has not previously  
 2547 been designated as a rural hospital and that meets the criteria  
 2548 of this subsection shall be granted such designation upon  
 2549 application, including supporting documentation, to the Agency  
 2550 for Health Care Administration.

2551 Section 77. Paragraphs (b) and (h) of subsection (3) of  
 2552 section 430.80, Florida Statutes, are amended to read:

2553 430.80 Implementation of a teaching nursing home pilot  
 2554 project.—

2555 (3) To be designated as a teaching nursing home, a nursing  
 2556 home licensee must, at a minimum:

2557 (b) Participate in a nationally recognized accreditation  
 2558 program and hold a valid accreditation, such as the  
 2559 accreditation awarded by The Joint Commission ~~on Accreditation~~  
 2560 ~~of Healthcare Organizations;~~

2561 (h) Maintain insurance coverage pursuant to s.  
 2562 400.141(1) (q) ~~(s)~~ or proof of financial responsibility in a  
 2563 minimum amount of \$750,000. Such proof of financial  
 2564 responsibility may include:

2565 1. Maintaining an escrow account consisting of cash or  
 2566 assets eligible for deposit in accordance with s. 625.52; or

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2567           2. Obtaining and maintaining pursuant to chapter 675 an  
 2568 unexpired, irrevocable, nontransferable and nonassignable letter  
 2569 of credit issued by any bank or savings association organized  
 2570 and existing under the laws of this state or any bank or savings  
 2571 association organized under the laws of the United States that  
 2572 has its principal place of business in this state or has a  
 2573 branch office which is authorized to receive deposits in this  
 2574 state. The letter of credit shall be used to satisfy the  
 2575 obligation of the facility to the claimant upon presentment of a  
 2576 final judgment indicating liability and awarding damages to be  
 2577 paid by the facility or upon presentment of a settlement  
 2578 agreement signed by all parties to the agreement when such final  
 2579 judgment or settlement is a result of a liability claim against  
 2580 the facility.

2581           Section 78. Paragraph (a) of subsection (2) of section  
 2582 440.13, Florida Statutes, is amended to read:

2583           440.13 Medical services and supplies; penalty for  
 2584 violations; limitations.-

2585           (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.-

2586           (a) Subject to the limitations specified elsewhere in this  
 2587 chapter, the employer shall furnish to the employee such  
 2588 medically necessary remedial treatment, care, and attendance for  
 2589 such period as the nature of the injury or the process of  
 2590 recovery may require, which is in accordance with established  
 2591 practice parameters and protocols of treatment as provided for  
 2592 in this chapter, including medicines, medical supplies, durable  
 2593 medical equipment, orthoses, prostheses, and other medically  
 2594 necessary apparatus. Remedial treatment, care, and attendance,

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2595 including work-hardening programs or pain-management programs  
 2596 accredited by the Commission on Accreditation of Rehabilitation  
 2597 Facilities or The Joint Commission ~~on the Accreditation of~~  
 2598 ~~Health Organizations~~ or pain-management programs affiliated with  
 2599 medical schools, shall be considered as covered treatment only  
 2600 when such care is given based on a referral by a physician as  
 2601 defined in this chapter. Medically necessary treatment, care,  
 2602 and attendance does not include chiropractic services in excess  
 2603 of 24 treatments or rendered 12 weeks beyond the date of the  
 2604 initial chiropractic treatment, whichever comes first, unless  
 2605 the carrier authorizes additional treatment or the employee is  
 2606 catastrophically injured.

2607  
 2608 Failure of the carrier to timely comply with this subsection  
 2609 shall be a violation of this chapter and the carrier shall be  
 2610 subject to penalties as provided for in s. 440.525.

2611 Section 79. Section 483.294, Florida Statutes, is amended  
 2612 to read:

2613 483.294 Inspection of centers.—In accordance with s.  
 2614 408.811, the agency shall biennially, ~~at least once annually~~,  
 2615 inspect the premises and operations of all centers subject to  
 2616 licensure under this part.

2617 Section 80. Subsection (1) of section 627.645, Florida  
 2618 Statutes, is amended to read:

2619 627.645 Denial of health insurance claims restricted.—

2620 (1) No claim for payment under a health insurance policy  
 2621 or self-insured program of health benefits for treatment, care,  
 2622 or services in a licensed hospital which is accredited by The

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2623 Joint Commission ~~on the Accreditation of Hospitals~~, the American  
 2624 Osteopathic Association, or the Commission on the Accreditation  
 2625 of Rehabilitative Facilities shall be denied because such  
 2626 hospital lacks major surgical facilities and is primarily of a  
 2627 rehabilitative nature, if such rehabilitation is specifically  
 2628 for treatment of physical disability.

2629 Section 81. Paragraph (c) of subsection (2) of section  
 2630 627.668, Florida Statutes, is amended to read:

2631 627.668 Optional coverage for mental and nervous disorders  
 2632 required; exception.—

2633 (2) Under group policies or contracts, inpatient hospital  
 2634 benefits, partial hospitalization benefits, and outpatient  
 2635 benefits consisting of durational limits, dollar amounts,  
 2636 deductibles, and coinsurance factors shall not be less favorable  
 2637 than for physical illness generally, except that:

2638 (c) Partial hospitalization benefits shall be provided  
 2639 under the direction of a licensed physician. For purposes of  
 2640 this part, the term "partial hospitalization services" is  
 2641 defined as those services offered by a program accredited by The  
 2642 Joint Commission ~~on Accreditation of Hospitals (JCAH)~~ or in  
 2643 compliance with equivalent standards. Alcohol rehabilitation  
 2644 programs accredited by The Joint Commission ~~on Accreditation of~~  
 2645 ~~Hospitals~~ or approved by the state and licensed drug abuse  
 2646 rehabilitation programs shall also be qualified providers under  
 2647 this section. In any benefit year, if partial hospitalization  
 2648 services or a combination of inpatient and partial  
 2649 hospitalization are utilized, the total benefits paid for all  
 2650 such services shall not exceed the cost of 30 days of inpatient

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2651 hospitalization for psychiatric services, including physician  
 2652 fees, which prevail in the community in which the partial  
 2653 hospitalization services are rendered. If partial  
 2654 hospitalization services benefits are provided beyond the limits  
 2655 set forth in this paragraph, the durational limits, dollar  
 2656 amounts, and coinsurance factors thereof need not be the same as  
 2657 those applicable to physical illness generally.

2658 Section 82. Subsection (3) of section 627.669, Florida  
 2659 Statutes, is amended to read:

2660 627.669 Optional coverage required for substance abuse  
 2661 impaired persons; exception.—

2662 (3) The benefits provided under this section shall be  
 2663 applicable only if treatment is provided by, or under the  
 2664 supervision of, or is prescribed by, a licensed physician or  
 2665 licensed psychologist and if services are provided in a program  
 2666 accredited by The Joint Commission ~~on Accreditation of Hospitals~~  
 2667 or approved by the state.

2668 Section 83. Paragraph (a) of subsection (1) of section  
 2669 627.736, Florida Statutes, is amended to read:

2670 627.736 Required personal injury protection benefits;  
 2671 exclusions; priority; claims.—

2672 (1) REQUIRED BENEFITS.—Every insurance policy complying  
 2673 with the security requirements of s. 627.733 shall provide  
 2674 personal injury protection to the named insured, relatives  
 2675 residing in the same household, persons operating the insured  
 2676 motor vehicle, passengers in such motor vehicle, and other  
 2677 persons struck by such motor vehicle and suffering bodily injury  
 2678 while not an occupant of a self-propelled vehicle, subject to

2679 | the provisions of subsection (2) and paragraph (4)(e), to a  
 2680 | limit of \$10,000 for loss sustained by any such person as a  
 2681 | result of bodily injury, sickness, disease, or death arising out  
 2682 | of the ownership, maintenance, or use of a motor vehicle as  
 2683 | follows:

2684 |       (a) Medical benefits.—Eighty percent of all reasonable  
 2685 | expenses for medically necessary medical, surgical, X-ray,  
 2686 | dental, and rehabilitative services, including prosthetic  
 2687 | devices, and medically necessary ambulance, hospital, and  
 2688 | nursing services. However, the medical benefits shall provide  
 2689 | reimbursement only for such services and care that are lawfully  
 2690 | provided, supervised, ordered, or prescribed by a physician  
 2691 | licensed under chapter 458 or chapter 459, a dentist licensed  
 2692 | under chapter 466, or a chiropractic physician licensed under  
 2693 | chapter 460 or that are provided by any of the following persons  
 2694 | or entities:

2695 |       1. A hospital or ambulatory surgical center licensed under  
 2696 | chapter 395.

2697 |       2. A person or entity licensed under ss. 401.2101-401.45  
 2698 | that provides emergency transportation and treatment.

2699 |       3. An entity wholly owned by one or more physicians  
 2700 | licensed under chapter 458 or chapter 459, chiropractic  
 2701 | physicians licensed under chapter 460, or dentists licensed  
 2702 | under chapter 466 or by such practitioner or practitioners and  
 2703 | the spouse, parent, child, or sibling of that practitioner or  
 2704 | those practitioners.

2705 |       4. An entity wholly owned, directly or indirectly, by a  
 2706 | hospital or hospitals.

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2707 5. A health care clinic licensed under ss. 400.990-400.995  
 2708 that is:

2709 a. Accredited by The Joint Commission ~~on Accreditation of~~  
 2710 ~~Healthcare Organizations~~, the American Osteopathic Association,  
 2711 the Commission on Accreditation of Rehabilitation Facilities, or  
 2712 the Accreditation Association for Ambulatory Health Care, Inc.;

2713 or  
 2714 b. A health care clinic that:

2715 (I) Has a medical director licensed under chapter 458,  
 2716 chapter 459, or chapter 460;

2717 (II) Has been continuously licensed for more than 3 years  
 2718 or is a publicly traded corporation that issues securities  
 2719 traded on an exchange registered with the United States  
 2720 Securities and Exchange Commission as a national securities  
 2721 exchange; and

2722 (III) Provides at least four of the following medical  
 2723 specialties:

2724 (A) General medicine.

2725 (B) Radiography.

2726 (C) Orthopedic medicine.

2727 (D) Physical medicine.

2728 (E) Physical therapy.

2729 (F) Physical rehabilitation.

2730 (G) Prescribing or dispensing outpatient prescription  
 2731 medication.

2732 (H) Laboratory services.

2733

2734 The Financial Services Commission shall adopt by rule the form

2735 that must be used by an insurer and a health care provider  
 2736 specified in subparagraph 3., subparagraph 4., or subparagraph  
 2737 5. to document that the health care provider meets the criteria  
 2738 of this paragraph, which rule must include a requirement for a  
 2739 sworn statement or affidavit.

2740

2741 Only insurers writing motor vehicle liability insurance in this  
 2742 state may provide the required benefits of this section, and no  
 2743 such insurer shall require the purchase of any other motor  
 2744 vehicle coverage other than the purchase of property damage  
 2745 liability coverage as required by s. 627.7275 as a condition for  
 2746 providing such required benefits. Insurers may not require that  
 2747 property damage liability insurance in an amount greater than  
 2748 \$10,000 be purchased in conjunction with personal injury  
 2749 protection. Such insurers shall make benefits and required  
 2750 property damage liability insurance coverage available through  
 2751 normal marketing channels. Any insurer writing motor vehicle  
 2752 liability insurance in this state who fails to comply with such  
 2753 availability requirement as a general business practice shall be  
 2754 deemed to have violated part IX of chapter 626, and such  
 2755 violation shall constitute an unfair method of competition or an  
 2756 unfair or deceptive act or practice involving the business of  
 2757 insurance; and any such insurer committing such violation shall  
 2758 be subject to the penalties afforded in such part, as well as  
 2759 those which may be afforded elsewhere in the insurance code.

2760 Section 84. Subsection (12) of section 641.495, Florida  
 2761 Statutes, is amended to read:

2762 641.495 Requirements for issuance and maintenance of



2763 certificate.—

2764 (12) The provisions of part I of chapter 395 do not apply  
 2765 to a health maintenance organization that, on or before January  
 2766 1, 1991, provides not more than 10 outpatient holding beds for  
 2767 short-term and hospice-type patients in an ambulatory care  
 2768 facility for its members, provided that such health maintenance  
 2769 organization maintains current accreditation by The Joint  
 2770 Commission ~~on Accreditation of Health Care Organizations~~, the  
 2771 Accreditation Association for Ambulatory Health Care, or the  
 2772 National Committee for Quality Assurance.

2773 Section 85. Subsection (13) of section 651.118, Florida  
 2774 Statutes, is amended to read:

2775 651.118 Agency for Health Care Administration;  
 2776 certificates of need; sheltered beds; community beds.—

2777 (13) Residents, as defined in this chapter, are not  
 2778 considered new admissions for the purpose of s.

2779 400.141(1) (n) ~~(e)~~ 1.d.

2780 Section 86. Subsection (2) of section 766.1015, Florida  
 2781 Statutes, is amended to read:

2782 766.1015 Civil immunity for members of or consultants to  
 2783 certain boards, committees, or other entities.—

2784 (2) Such committee, board, group, commission, or other  
 2785 entity must be established in accordance with state law or in  
 2786 accordance with requirements of The Joint Commission ~~on~~  
 2787 ~~Accreditation of Healthcare Organizations~~, established and duly  
 2788 constituted by one or more public or licensed private hospitals  
 2789 or behavioral health agencies, or established by a governmental  
 2790 agency. To be protected by this section, the act, decision,

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2791 | omission, or utterance may not be made or done in bad faith or  
2792 | with malicious intent.

2793 |       Section 87. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative(s) Hudson offered the following:

4

5

**Amendment**

6

Remove line 686 and insert:

7

practitioner, or physician.

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative(s) Hudson offered the following:

4  
5 **Amendment (with directory and title amendments)**

6 Between lines 1480 and 1481, insert:

7 (m) Entities that are owned by a corporation that has \$250  
8 million or more in total annual sales of health care services  
9 provided by licensed health care practitioners where one or more  
10 of the owners is a health care practitioner who is licensed in  
11 this state and who is responsible for supervising the business  
12 activities of the entity and is legally responsible for the  
13 entity's compliance with state law for purposes of this act.

14  
15  
16 -----  
17 **D I R E C T O R Y A M E N D M E N T**

18 Remove lines 1353-1354 and insert:

Amendment No. 2

19 Section 42. Paragraph (m) is added to subsection (4) and  
20 subsections (4) and (7) of section 400.9905, 1228 Florida  
21 Statutes, are amended to read:

22

23

24

-----

25

**T I T L E A M E N D M E N T**

26

Remove line 114 and insert:

27

definitions under the Health Care Clinic Act; providing

28

exemptions; amending s.

Amendment No. 3

COUNCIL/COMMITTEE ACTION

ADOPTED                                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED                   \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION               \_\_\_ (Y/N)  
FAILED TO ADOPT                       \_\_\_ (Y/N)  
WITHDRAWN                              \_\_\_ (Y/N)  
OTHER                                    \_\_\_\_\_

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative(s) Hudson offered the following:  
4

5                   **Amendment (with title amendment)**

6                   Between lines 304 and 305, insert:

7 Paragraph (e) of subsection (2) of section 381.0072, Florida  
8 Statutes, is created to read:

9                   (e) The department shall inspect food service  
10 establishments in nursing homes licensed under part II of  
11 chapter 400 two times per year. The department may make  
12 additional inspections only in response to complaints. The  
13 department shall coordinate inspections with the Agency for  
14 Health Care Administration, such that the department's  
15 inspection is at least 60 days after a recertification visit by  
16 the Agency for Health Care Administration.  
17  
18  
19

-----

Amendment No. 3

20

**T I T L E   A M E N D M E N T**

21

Remove line 7 and insert:

22

traffic infractions by county courts; amending s. 381.0092,

23

F.S.; limiting Department of Health food service inspections in

24

nursing homes; requiring coordination with the Agency for Health

25

Care Administration; repealing s.

Amendment No. 4

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative(s) Hudson offered the following:  
4

5 **Amendment (with title amendment)**

6 Between lines 2759 and 2760, insert:

7 Section 633.081, Florida Statutes, is amended to read:

8 633.081 Inspection of buildings and equipment; orders;  
9 firesafety inspection training requirements; certification;  
10 disciplinary action.—The State Fire Marshal and her or his  
11 agents shall, at any reasonable hour, when the department has  
12 reasonable cause to believe that a violation of this chapter or  
13 s. 509.215, or a rule promulgated thereunder, or a minimum  
14 firesafety code adopted by a local authority, may exist, inspect  
15 any and all buildings and structures which are subject to the  
16 requirements of this chapter or s. 509.215 and rules promulgated  
17 thereunder. The authority to inspect shall extend to all  
18 equipment, vehicles, and chemicals which are located within the  
19 premises of any such building or structure. The State Fire



Amendment No. 4

20 Marshal and her or his agents shall inspect nursing homes  
21 licensed under part II of chapter 400 only once every calendar  
22 year and upon receiving a complaint forming the basis of  
23 reasonable cause to believe that a violation of this chapter or  
24 s. 509.215, or a rule promulgated thereunder, or a minimum  
25 firesafety code adopted by a local authority, may exist, and  
26 upon identifying such a violation in the course of conducting  
27 orientation or training activities within a nursing home.  
28  
29

30 -----

31 **T I T L E A M E N D M E N T**

32 Between lines 221 and 222, insert:

33 amending s. 633.081, F.S.; limiting nursing home fire marshal  
34 inspections to once a year; providing for additional inspections  
35 based on complaints; providing for additional inspections based  
36 on violations identified in the course of orientation or  
37 training activities;

Amendment No. 5

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative(s) Hudson offered the following:

4  
5 **Amendment**

6 Remove line 1105 and insert:

7 Medicaid overpayments and amounts transferred to contribute to  
8 the General Revenue Fund pursuant to s. 215.20, Florida  
9 Statutes. If the net cumulative collections, minus

Amendment No. 6

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative(s) Hudson offered the following:

4  
5 **Amendment (with title amendment)**

6 Between lines 2616 and 2617, insert:

7 Sub-subparagraph d. of subparagraph 4. of paragraph (a) of  
8 subsection (1) of section 499.003, Florida Statutes, is removed  
9 and subsequent sub-subparagraphs renumbered to read:

10 499.003. Definitions of terms used in this part.--As used  
11 in this part, the term:

12 (53) "Wholesale distribution" means distribution of  
13 prescription drugs to persons other than a consumer or patient,  
14 but does not include:

15 (a) Any of the following activities, which is not a  
16 violation of s. 499.005(21) if such activity is conducted in  
17 accordance with s. 499.01(2)(g):

18 1. The purchase or other acquisition by a hospital or  
19 other health care entity that is a member of a group purchasing

Amendment No. 6

20 organization of a prescription drug for its own use from the  
21 group purchasing organization or from other hospitals or health  
22 care entities that are members of that organization.

23 2. The sale, purchase, or trade of a prescription drug or  
24 an offer to sell, purchase, or trade a prescription drug by a  
25 charitable organization described in s. 501(c)(3) of the  
26 Internal Revenue Code of 1986, as amended and revised, to a  
27 nonprofit affiliate of the organization to the extent otherwise  
28 permitted by law.

29 3. The sale, purchase, or trade of a prescription drug or  
30 an offer to sell, purchase, or trade a prescription drug among  
31 hospitals or other health care entities that are under common  
32 control. For purposes of this subparagraph, "common control"  
33 means the power to direct or cause the direction of the  
34 management and policies of a person or an organization, whether  
35 by ownership of stock, by voting rights, by contract, or  
36 otherwise.

37 4. The sale, purchase, trade, or other transfer of a  
38 prescription drug from or for any federal, state, or local  
39 government agency or any entity eligible to purchase  
40 prescription drugs at public health services prices pursuant to  
41 Pub. L. No. 102-585, s. 602 to a contract provider or its  
42 subcontractor for eligible patients of the agency or entity  
43 under the following conditions:

44 a. The agency or entity must obtain written authorization  
45 for the sale, purchase, trade, or other transfer of a  
46 prescription drug under this subparagraph from the State Surgeon  
47 General or his or her designee.

Amendment No. 6

48 b. The contract provider or subcontractor must be  
49 authorized by law to administer or dispense prescription drugs.

50 c. In the case of a subcontractor, the agency or entity  
51 must be a party to and execute the subcontract.

52 ~~d. A contract provider or subcontractor must maintain~~  
53 ~~separate and apart from other prescription drug inventory any~~  
54 ~~prescription drugs of the agency or entity in its possession.~~

55 de. The contract provider and subcontractor must maintain  
56 and produce immediately for inspection all records of movement  
57 or transfer of all the prescription drugs belonging to the  
58 agency or entity, including, but not limited to, the records of  
59 receipt and disposition of prescription drugs. Each contractor  
60 and subcontractor dispensing or administering these drugs must  
61 maintain and produce records documenting the dispensing or  
62 administration. Records that are required to be maintained  
63 include, but are not limited to, a perpetual inventory itemizing  
64 drugs received and drugs dispensed by prescription number or  
65 administered by patient identifier, which must be submitted to  
66 the agency or entity quarterly.

67 ef. The contract provider or subcontractor may administer  
68 or dispense the prescription drugs only to the eligible patients  
69 of the agency or entity or must return the prescription drugs  
70 for or to the agency or entity. The contract provider or  
71 subcontractor must require proof from each person seeking to  
72 fill a prescription or obtain treatment that the person is an  
73 eligible patient of the agency or entity and must, at a minimum,  
74 maintain a copy of this proof as part of the records of the  
75 contractor or subcontractor required under sub-subparagraph e.

Amendment No. 6

76 fg. In addition to the departmental inspection authority  
77 set forth in s. 499.051, the establishment of the contract  
78 provider and subcontractor and all records pertaining to  
79 prescription drugs subject to this subparagraph shall be subject  
80 to inspection by the agency or entity. All records relating to  
81 prescription drugs of a manufacturer under this subparagraph  
82 shall be subject to audit by the manufacturer of those drugs,  
83 without identifying individual patient information.  
84  
85

86 -----

87 **T I T L E A M E N D M E N T**

88 Between lines 221 and 222, insert:  
89 amending s. 499.003, F.S.; removing requirement for certain  
90 prescription drug purchasers to maintain a separate inventory of  
91 certain prescription drugs;

Amendment No. 7

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative(s) Hudson offered the following:  
4

5 **Amendment (with title amendment)**

6 Between lines 2792 and 2793, insert:

7 (4) "Health care provider" means any hospital, ambulatory  
8 surgical center, or mobile surgical facility as defined and  
9 licensed under chapter 395; a birth center licensed under  
10 chapter 383; any person licensed under chapter 458, chapter 459,  
11 chapter 460, chapter 461, chapter 462, chapter 463, part I of  
12 chapter 464, chapter 466, chapter 467, part XIV of chapter 468,  
13 or chapter 486; a clinical lab licensed under chapter 483; a  
14 health maintenance organization certificated under part I of  
15 chapter 641; a blood bank; a plasma center; an industrial  
16 clinic; a renal dialysis facility; or a professional association  
17 partnership, corporation, joint venture, or other association  
18 for professional activity by health care providers.  
19

Amendment No. 7

20

21

22

-----  
**T I T L E   A M E N D M E N T**

23

Between lines 221 and 222, insert:

24

amending s. 766.202, F.S.; adding persons licensed under pt. XIV

25

of ch. 468, F.S., to the definition of "health care provider";



Amendment No. 8

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative(s) Hudson offered the following:

4  
5 **Amendment**

6 Remove lines 2396-2407 and insert:

7 (1) A facility that is licensed under this part must  
8 report electronically to the agency semiannually data related to  
9 the facility, including, but not limited to, the total number of  
10 residents, the number of residents who are receiving limited  
11 mental health services, the number of residents who are  
12 receiving extended congregate care services, the number of  
13 residents who are receiving limited nursing services, and  
14 professional staffing employed by or under contract with the  
15 licensee to provide resident services. The department, in  
16 consultation with the agency, shall adopt rules to administer  
17 this subsection.





## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Department of Health**

Prior to 1991, most of Florida's health and human services programs were administered by a single state agency, the Department of Health and Rehabilitative Services (DHRS). From 1991 through 1997, the Legislature subdivided the programmatic functions of DHRS, now the Department of Children and Families, and created four new agencies to achieve more effective program management.

By 1997, the Department of Children and Families, and the four new agencies – the Department of Elder Affairs, the Agency for Health Care Administration, the Department of Juvenile Justice, and the Department of Health<sup>1</sup> - were responsible for administering a vast majority of Florida's health and human services programs.

The Department of Health (DOH) is established pursuant to s. 20.43, F.S. Since being established in 1996, DOH's mission has persistently grown and diversified. Currently, DOH's statutory mission is comprised of the following<sup>2</sup>:

- Prevent the occurrence and progression of communicable and noncommunicable diseases and disabilities.
- Maintain a constant surveillance of disease occurrence and accumulate health statistics in order to establish disease trends and design health programs.
- Conduct special studies of the causes of diseases and formulate preventive strategies.
- Promote the maintenance and improvement of the environment as it affects public health.
- Promote the maintenance and improvement of health in the residents of the state.
- Provide leadership, in cooperation with the public and private sectors, to establish statewide and community public health delivery systems.
- Provide health care and early intervention services to infants, toddlers, children, adolescents, and high-risk perinatal patients who are at risk for disabling conditions or have chronic illnesses.
- Provide services to abused and neglected children through child protection teams and sexual abuse treatment programs.

<sup>1</sup> Created by s. 8, Ch. 96-403, Laws of Florida.

<sup>2</sup> s. 20.43(1), F.S.

- Develop working associations with all agencies and organizations involved and interested in health and health care delivery.
- Analyze trends in the evolution of health systems, and identify and promote the use of innovative, cost-effective health delivery systems.
- Serve as the statewide repository of all aggregate data accumulated by state agencies related to health care; analyze that data and issue periodic reports and policy statements, as appropriate; require that all aggregated data be kept in a manner that promotes easy utilization by the public, state agencies, and all other interested parties; provide technical assistance as required; and work cooperatively with the state's higher education programs to promote further study and analysis of health care systems and health care outcomes.
- Include in the department's strategic plan developed under s. 186.021, F.S., an assessment of current health programs, systems, and costs; projections of future problems and opportunities; and recommended changes that are needed in the health care system to improve the public health.
- Regulate health practitioners, to the extent authorized by the Legislature, as necessary for the preservation of the health, safety, and welfare of the public.

Generally, the State Surgeon General has statutory authority to: be the leading voice on wellness and disease prevention efforts through specified means; advocate on health lifestyles; develop public health policy; and build collaborative partnerships with other entities to promote health literacy.<sup>3</sup>

DOH has 11 statutory divisions: Administration, Environmental Health, Disease Control, Family Health Services, Children's Medical Services Network, Emergency Medical Operations, Medical Quality Assurance, Children's Medical Services Prevention and Intervention, Information Technology, Health Access and Tobacco, and Disability Determinations<sup>4</sup> DOH operates numerous programs, provides administrative support for 29 statutory health care boards and commissions, contracts with an unknown number of vendors, oversees 67 county health departments, and performs a variety of regulatory functions.

DOH is authorized to use state and federal funds to protect and improve the public health by administering health education campaigns; providing health promotional items such as shirts, hats, sports items, and calendars; planning and conducting promotional campaigns to recruit health professionals to work for DOH or participants for DOH programs; or providing incentives to encourage health lifestyles and disease prevention behaviors.<sup>5</sup>

When DOH was created in 1996, it received a total appropriation of \$1.4 billion, including \$384 million of general revenue, and had approximately 14,000 FTEs.<sup>6</sup> In Fiscal Year 2009-2010, DOH received more than \$470 million in general revenue and is authorized to spend a total of \$2.9 billion. Today, more than 17,000 persons are employed by DOH.<sup>7</sup>

### **Office of Women's Health Strategy**

In 2004, the Legislature passed CS/SB 2448, creating the Women's Health Strategy (the "Strategy").<sup>8</sup> The Strategy is administered by a Women's Health Officer and is intended to focus on the unique health care needs of women.

The Officer of Women's Health Strategy is tasked with<sup>9</sup>:

- Ensuring state policies and programs are responsive to sex and gender differences and women's health needs;

<sup>3</sup> S.20.43(2), F.S.

<sup>4</sup> s. 20.43(3), F.S.

<sup>5</sup> s. 20.43(7), F.S.

<sup>6</sup> This figure includes County Health Department staff.

<sup>7</sup> Including County Health Department staff.

<sup>8</sup> s. 381.04015, F.S. (Ch. 2004-350, Laws of Florida).

<sup>9</sup> s. 381.04015(4), F.S.

- Organizing an interagency Committee for Women's Health with DOH, the Agency for Health Care Administration, the Department of Education, the Department of Elderly Affairs, the Department of Corrections, the Office of Insurance Regulation and the Department of Juvenile Justice in order to integrate women's health into current state programs;
- Collecting and reviewing health data and trends to assess the health status of women;
- Reviewing the state's insurance code as it relates to women's health issues;
- Working with medical school curriculum committees to integrate women's health issues into course requirements and promote clinical practice guidelines;
- Organizing statewide Women's Health Month activities;
- Coordinating a Governor's statewide conference on women's health;
- Promoting research, treatment, and collaboration on women's health issues at universities and medical centers in the state;
- Promoting employer incentives for wellness programs targeting women's health programs.
- Serving as the primary state resource for women's health information;
- Developing a statewide women's health plan emphasizing collaborative approaches to meeting the health needs of women;
- Promoting clinical practice guidelines specific to women;
- Serving as the state's liaison with other states and federal agencies and programs to develop best practices in women's health; and
- Developing a statewide, web-based clearinghouse on women's health issues and resources.
- Promoting public awareness campaigns and education on the health needs of women.

The Women's Health Officer provides an annual report to the Governor and presiding officers of the Legislature that includes recommended policy changes for implementing the Strategy.<sup>10</sup> According to the National Conference on State Legislatures, at least 18 states have created either offices or commissions dedicated to women's health, while three states – Florida, Illinois and Maine have designated a women's health officer or coordinator.<sup>11</sup>

### Food Safety Programs

Three state departments operate food safety programs in Florida: the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, and DOH. The three agencies carry out similar regulatory activities, but have varying statutory authority, regulate separate sectors of the food service industry, and are funded at different levels due to statutory fee caps.<sup>12</sup> Each agency issues food establishment licenses or permits, conducts food safety inspections and enforces regulations through fines and other disciplinary actions.<sup>13</sup>

Each agency has authority over specific types of food establishments. In general, DOH licenses facilities that serve high-risk populations such as hospitals, nursing homes, group care facilities, child care facilities, detention centers, and schools.<sup>14</sup> The Department of Business and Professional Regulation licenses restaurants, clubs, theaters, truck stops and gas stations.<sup>15</sup> The Department of Agriculture and Consumer Services regulates grocery stores and supermarkets, food packaging and processing plants.<sup>16</sup> While these agencies do not perform duplicate inspections, a single establishment with multiple food operations could be licensed or have food permits from multiple departments.<sup>17</sup>

<sup>10</sup> s. 381.04015(2)(p), F.S.

<sup>11</sup> "Laws and Initiatives on Women's Health," National Conference of State Legislatures (Updated February 2010); located at <http://www.ncsl.org/default.aspx?tabid=14377> (last viewed on March 17, 2010).

<sup>12</sup> Office of Program Policy Analysis & Government Accountability, State Food Safety Programs Should Improve Performance and Financial Self-Sufficiency, Report No. 08-67 (December 2008).

<sup>13</sup> Office of Program Policy Analysis & Government Accountability, State Food Safety Programs Should Improve Performance and Financial Self-Sufficiency, Report No. 08-67 (December 2008).

<sup>14</sup> Section 381.0072, F.S.

<sup>15</sup> Section 509, F.S.

<sup>16</sup> Section 500, F.S.

<sup>17</sup> Office of Program Policy Analysis & Government Accountability, State Food Safety Programs Should Improve Performance and Financial Self-Sufficiency, Report No. 08-67 (December 2008).

Of the food establishments regulated by DOH, several hold licenses issued by other departments, such as the Agency for Health Care Administration (AHCA) or the Department of Children and Family Services (DCF), which include some food service regulations and inspections. For example, nursing homes licensed and regulated by AHCA have a federal food safety requirement, which requires a complete kitchen inspection by a surveyor who has been trained, passed the Surveyor Minimum Qualifications Test and is qualified to conduct a Quality Indicator Survey Process.<sup>18</sup> AHCA also uses hospital surveyors to inspect sanitary conditions in hospitals under the Condition of Infection Control using the FDA Food Code.

DCF licenses or certifies and inspects child care facilities, as well as family day care and large family day care homes. DOH also inspects child care facilities.<sup>19</sup> On December 30, 2009, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued a memorandum which highlighted the overlap in agency regulatory functions for child care facilities and determined that both DOH and DCF inspect 66 percent of the licensed child care establishments (DCF alone inspects the remaining 34 percent) for a variety of environmental health issues.<sup>20</sup> With regard to food service inspections, the two agencies consider the following:

Department of Children and Families <sup>21</sup>	Department of Health <sup>22</sup>
<ul style="list-style-type: none"> <li>• Cleanliness/sanitary conditions</li> <li>• Handwashing</li> <li>• Drinking water</li> <li>• Types of meals provided – Nutrition &amp; Menu</li> <li>• Proper refrigeration</li> <li>• Proper use of single service items (forks and spoons)</li> </ul>	<ul style="list-style-type: none"> <li>• Source/wholesomeness of food</li> <li>• Food storage</li> <li>• Equipment/Preparation</li> <li>• Sanitizing</li> <li>• Handwash sink</li> <li>• Hot and cold water</li> <li>• Temperatures</li> <li>• Other</li> </ul>

DCF also certifies and regulates Florida’s 42 certified domestic violence centers. Most centers have kitchen areas which are equipped with basic supplies and tools residents may use to prepare their own meals; however, they do not provide meals for the residents. Only one center provides meals to residents.<sup>23</sup>

## Emergency Management

The Florida Department of Emergency Management has designated DOH the lead agency for Emergency Support Function – 8 (ESF-8), which concerns medical and health issues. ESF-8, through DOH and at least 12 other support agencies such as AHCA, DCF and the American Red Cross, oversees medical and health-related preparedness, recovery, mitigation, and response efforts in the event of a major natural or man-made disaster. ESF-8 agencies coordinate and manage overall public health response, triage, treatment and transportation of victims of a disaster, including transporting people out of a potentially affected area prior to an event. These agencies provide immediate support to hospitals and nursing homes, provide emergency behavioral health services and crisis counseling for victims, and assist in reestablishing health and medical systems post-event.<sup>24</sup>

## Statewide Injury Prevention Program

In 2004, the Legislature tasked DOH with establishing an injury prevention program (the “program”) to provide for statewide coordination and expansion of injury-prevention activities.<sup>25</sup> Pursuant to the

<sup>18</sup> Email correspondence with AHCA staff on file with the Health Care Regulation Policy Committee (March 16, 2010).

<sup>19</sup> The report also analyzed the overlap in regulation between DCF and the Agency for Workforce Innovation, which also inspects child care facilities.

<sup>20</sup> Child Care Services Placement Options for Legislative Consideration, OPPAGA Research Memorandum (December 30, 2009)

<sup>21</sup> DCF Child Care Facility Standards Classification Summary, CF-FSP Form 5316 (October 2007).

<sup>22</sup> DOH County Health Department Child Care Facility Inspection Report.

<sup>23</sup> Department of Children and Family Services Staff Analysis and Economic Impact for House Bill 295 (November 5, 2009).

<sup>24</sup> Florida Field Operations Guide, Chapter 16; located at

<http://www.floridadisaster.org/FOG/Final%202005Chapter%2016%20111205.pdf> (last visited on March 19, 2010).

<sup>25</sup> s. 401.243, F.S. (created in CS/HB 2448; Ch. 2004-350, Laws of Florida).

program, DOH is required to collect data, provide surveillance, provide education, and promote interventions related to injury prevention, including<sup>26</sup>:

- Provide communities, county health departments, and other state agencies with expertise and guidance in injury prevention;
- Seek, receive, and expend funds received from grants, donations, or contributions from public or private sources for program purposes; and
- Develop, and revise as necessary, a comprehensive state plan for injury prevention.

The program collaborates with other state agencies regarding injury prevention issues and administers the following:

- Florida Bicycle Helmet Promotion Program
- Florida Special Needs Occupant Protection Program
- Drowning Prevention Awareness Campaign
- Public Information, Education and Relations for EMS Program; and
- Safe Kids Florida

### **Children's Early Investment Program**

In 1989, the Legislature created the Children's Early Investment Program (program).<sup>27</sup> The program targeted young children who are at risk of developmental dysfunction or delay and their families. The services provided were to enhance family independence and provide social and educational resources needed for healthy child development. According to DOH, the Children's Early Investment Act was created as a pilot initiative that was executed through a contract with The Ounce of Prevention Fund of Florida.<sup>28</sup> The pilot initiative and all funding ceased over ten years ago.<sup>29</sup>

### **Effect of the Bill**

HB 7183 amends s. 20.43, F.S., to modify the current responsibilities of DOH and reduce its responsibilities - through combining some functions and deleting others - from 13 responsibilities to the following seven:

- Identifying, diagnosing, investigating and conducting surveillance of communicable diseases in the state;
- Implementing interventions that prevent or limit the impact and spread of disease in the state;
- Maintaining and coordinating preparedness and response for public health emergencies in the state;
- Regulating environmental activities that have a direct impact on public health in the state;
- Administering and providing health and related services for targeted populations in the state;
- Collecting, managing, and analyzing vital statistics data in the state; and
- Regulating health practitioners, to the extent authorized by the Legislature, as necessary for the preservation of the health, safety, and welfare of the public

The bill requires DOH to submit a proposal to the President of the Senate, Speaker of the Florida House of Representatives, and the appropriate substantive legislative committees by November 1, 2010 for a new department structure based upon the seven revised responsibilities. The proposal must include reductions in the number of departmental bureaus and divisions and a limit on the number of executive positions pursuant to the new responsibilities assigned to DOH. DOH must identify existing functions and activities that are inconsistent with its responsibilities and provide a job description of all bureau chief or division director positions proposed for retention.

---

<sup>26</sup> s. 401.243, F.S.

<sup>27</sup> Section 411.232, F.S.

<sup>28</sup> Email correspondence with Department of Health staff on file with the Health Care Regulation Policy Committee (March 9, 2010)

<sup>29</sup> *Id.*



The bill amends the State Surgeon General's statutory authority to provide that the State Surgeon General must manage the department in carrying out its delegated responsibilities.

The bill sunsets all 11 departmental divisions on July 1, 2011 unless reviewed and reenacted by the Legislature. Additionally, the bill modifies DOH authority to establish service areas to carry out the duties of the County Health Departments. Currently, DOH is limited to establishing 15 service areas which are statutorily required to have the same boundaries as the DCF service districts established in s. 20.19, F.S., and, to the extent practicable, the boundaries of the jobs and education regional boards. The bill removes the 15-area limit and does not specify the boundaries for such service areas.

The bill removes a provision that authorizes division directors to appoint ad hoc advisory committees. Additionally, the bill removes subsection (7) of s. 20.43, F.S., which provides DOH with the authority to use state and federal funds to protect and improve the public health through: providing incentives for encouraging healthy lifestyles, disease prevention behaviors, and patient compliance with medical treatments; planning and conducting health campaigns to protect and improve health, including purchasing promotional items and advertising for certain health-related behaviors; and planning and conducting promotional campaigns to recruit health professionals and participants in departmental programs.

The bill deletes a subsection allowing DOH to hold copyrights, trademarks, and service marks, and enforce its rights with respect to those interests. Beginning in fiscal year 2010-2011, the bill precludes DOH from initiating or commencing new programs, including federally funded or grant-supported programs or making changes in existing programs without express legislative authority. This does not prohibit DOH from continuing grants initiated or commenced prior to July 1, 2010.

Additionally, the bill repeals s. 381.001, F.S., which provides legislative intent language related to DOH's public health mission. The bill also amends s. 381.011, F.S., relating to the duties and powers of DOH. Generally, the duties are amended to comply with the revised departmental responsibilities. In this section, the bill also expands upon DOH's role in managing and coordinating emergency preparedness and disaster response functions by providing that DOH:

- Investigate and control the spread of disease
- Coordinate the availability and staffing of special needs shelters
- Support patient evacuation
- Assure the safety of food and drugs
- Provide critical incident stress debriefing
- Provide surveillance and control of radiological, chemical, biological, and other environmental hazards

The bill requires that the DOH strategic long-term plan relate to its delegated responsibilities. The bill clarifies that DOH can continue to issue health alerts and advisories, after conducting a workshop in non-emergency situations, but removes a provision authorizing DOH to disseminate information to the public about general prevention, control and cure of diseases, illnesses, and hazards to human health. Furthermore, the bill removes from the list of duties, authorization for DOH to cooperate with other entities for "the improvement and preservation of public health" and to maintain a statewide injury prevention program. DOH's authority to cooperate with other entities is either specified in statutory programs delegated to DOH to administer or implied by general operation of a state agency. The bill prohibits DOH from writing rules to inspect buildings or facilities it is not authorized to inspect by law.

The bill amends s. 381.006, F.S., relating to DOH's environmental health program. For purposes of this program, s. 381.006(16), F.S. defines group care facilities to include:

[a] public or private school, housing, building or buildings, section of a building, or distinct part of a building or other place, whether operated for profit or not, which undertakes, through its ownership or management, to provide one or more personal services, care, protection, and supervision to persons who require such services and who are not related to the owner or administrator.

The bill amends this definition to specifically reference the following facilities: public or private schools; assisted living facilities; adult family-care homes; adult day care centers; short term residential treatment centers; residential treatment facilities; home for special services transitional living facilities; crisis stabilization units; hospices; prescribed pediatric extended care centers; intermediate care facilities for persons with developmental disabilities (ICF/DDs); or boarding schools. The bill limits DOH's rulemaking authority to these entities, except that the Department of Education shall develop rules related to public and private schools in consultation with DOH.

The bill also amends s. 381.0072, F.S. relating to food service protection. The bill amends the definition of "food service establishment." Currently, food service establishments are defined, in part, as:

[a]ny facility, as described in this paragraph, where food is prepared and intended for individual portions service, and includes the site at which individual portions are provided. The term includes any such facility regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food

The bill amends the definition of "food service establishment" to the following specific entities: detention facilities, public or private schools, migrant labor camps, assisted living facilities, adult family-care homes, adult day care centers, short term residential treatment centers, residential treatment facilities, crisis stabilization units, hospices, prescribed pediatric care centers, ICF/DDs, boarding schools, civic or fraternal organizations, bars and lounges, and vending machines dispensing potentially hazardous foods at facilities these facilities. The bill authorizes DOH to advise Agency for Health Care Administration (AHCA), Department of Business and Professional Regulation (DBPR), Department of Agriculture and Consumer Services, and Department of Children and Families (DCF) concerning procedures related to the storage, preparation, serving and display of food at any building, structure or facility not expressly included in this section that may be inspected, licensed or regulated by those agencies. Additionally, the bill exempts civic organizations and facilities not regulated by DOH under this section from the requirement to have a certified food manager.

The bill amends s. 381.0101, F.S., relating to environmental health professionals. Current law authorizes DOH to determine which programs are essential for providing basic environmental and sanitary protection to the public. The bill limits this authority to programs the department is expressly authorized in statute to administer, which are the food protection at food service establishments and onsite sewage treatment and disposal system evaluations.

In order to conform with the amended definition of food service establishments, the bill amends s. 509.013, F.S., to provide that any facility licensed or certified by AHCA or DCF or other similar place regulated under s. 381.0072, F.S., are exempt from the definitions of "public lodging establishments" and "public food service establishment" for purposes of inspections conducted by DBPR. This will ensure that hospitals, nursing homes, group homes, child care facilities, and domestic violence centers will not fall under the purview of DBPR for food service inspections because they are no longer included in the definition of "food service establishments" under s. 381.0072, F.S.

Finally, the bill repeals s. 381.04015, F.S., relating to the Office and Officer of Women's Health Strategy; s. 401.243, F.S. relating to the statewide injury prevention program. The bill also repeals ss. 411.23-232, F.S., relating to the now defunct Children's Early Investment Act, and amends ss. 411.401 and 411.224, F.S., by deleting cross references to the Children's Early Investment Act to conform.

## B. SECTION DIRECTORY:

- Section 1.** Amends s. 20.43, F.S., relating to the Department of Health.
- Section 2.** Amends s. 381.0011, F.S., relating to duties and powers of the Department of Health.
- Section 3.** Amends s. 381.006, F.S., relating to environmental health.
- Section 4.** Amends s. 381.0072, F.S., relating to food service protection
- Section 5.** Amends s. 381.0101, F.S. relating to environmental health professionals.

- Section 6.** Repeals ss. 381.001, 381.04015, 401.243, 411.23, 411.231, and 411.232, F.S., relating to legislative intent; public health system; Women's Health Strategy, legislative intent; duties of Officer of Women's Health Strategy; other state agency duties; injury prevention; short title; legislative intent; purpose; and relating to Children's Early Investment Program, respectively.
- Section 7.** Amends s. 411.01, F.S., relating to school readiness programs; early learning coalitions.
- Section 8.** Amends s. 411.224, F.S., relating to family support planning process.
- Section 9.** Amends s. 509.013, F.S., relating to definitions
- Section 10.** Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the number of inspections at certain facilities in the state, which will reduce duplicative regulatory burdens on private facilities.

### D. FISCAL COMMENTS:

The bill has an indeterminate fiscal impact. DOH included the following in its bill analysis<sup>30</sup>:

A fiscal not has not been conducted due to the short timeframe for analysis. A fiscal estimate will be more meaningful after the DOH and Legislature make final decisions relating to the reauthorization of Divisions, functions, and role.

The bill provides that these decisions will not be made until the 2011 Legislative Session; however, the bill has an immediate impact on food service inspections currently conducted by DOH. There is a cost to County Health Departments to perform annual or quarterly facility inspections, for which they may receive a fee depending on how fees may be shared among multiple inspecting entities. The bill reduces the number of facilities that County Health Departments will inspect and reduces the fees that come from them. It is possible that the bill will reduce costs and result in a positive fiscal impact.

DOH indicated in its analysis that AHCA will now be responsible for regulating certain facilities such as hospitals and nursing homes; however AHCA already regulates both facility types. Nursing homes licensed and regulated by AHCA have a federal food safety requirement, which requires a complete kitchen inspection by a surveyor who has been trained, passed the Surveyor Minimum Qualifications Test and is qualified to conduct a Quality Indicator Survey Process.<sup>31</sup> AHCA also uses hospital

<sup>30</sup> Department of Health Bill Analysis, Economic Statement and Fiscal Note for PCB-HCR-10-03 (March 19, 2010).

<sup>31</sup> Email correspondence with AHCA staff on file with the Health Care Regulation Policy Committee (March 16, 2010).

surveyors to inspect sanitary conditions in hospitals under the Condition of Infection Control using the FDA Food Code.

DOH also has indicated the bill could affect the Department of Education because it will take a "greater role in school health regulation." It is unclear to which bill provision this relates.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill modifies DOH's existing rulemaking authority. DOH has sufficient rulemaking authority to implement the provisions of the bill.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**



29 program"; repealing s. 381.001, F.S., relating to  
 30 legislative intent with respect to the state's public  
 31 health system; repealing s. 381.04015, F.S., relating to  
 32 the Women's Health Strategy; repealing s. 401.243, F.S.,  
 33 relating to the department's injury prevention program;  
 34 repealing s. 411.23, 411.231, and 411.232, F.S., relating  
 35 to the Children's Early Investment Act; amending ss.  
 36 411.01 and 411.224, F.S.; conforming cross-references;  
 37 amending s. 509.013, F.S.; revising the definitions of the  
 38 terms "public lodging establishment" and "public food  
 39 service establishment"; providing an effective date.  
 40

41 Be It Enacted by the Legislature of the State of Florida:  
 42

43 Section 1. Section 20.43, Florida Statutes, is amended to  
 44 read:

45 20.43 Department of Health.—There is created a Department  
 46 of Health.

47 (1) (a) ~~The purpose of the~~ Department of Health is  
 48 responsible for to promote and protect the health of all  
 49 ~~residents and visitors in the state through organized state and~~  
 50 ~~community efforts, including cooperative agreements with~~  
 51 ~~counties. The department shall:~~

52 1. (a) Identifying, diagnosing, investigating, and  
 53 conducting surveillance of communicable diseases in the state  
 54 ~~Prevent to the fullest extent possible, the occurrence and~~  
 55 ~~progression of communicable and noncommunicable diseases and~~  
 56 ~~disabilities.~~

57 2.(b) Implementing interventions that prevent or limit the  
 58 impact and spread of disease in the state ~~Maintain a constant~~  
 59 ~~surveillance of disease occurrence and accumulate health~~  
 60 ~~statistics necessary to establish disease trends and to design~~  
 61 ~~health programs.~~

62 3.(e) Maintaining and coordinating preparedness for and  
 63 responses to public health emergencies in the state ~~Conduct~~  
 64 ~~special studies of the causes of diseases and formulate~~  
 65 ~~preventive strategies.~~

66 4.(d) Regulating environmental activities that have a  
 67 direct impact on public health in the state ~~Promote the~~  
 68 ~~maintenance and improvement of the environment as it affects~~  
 69 ~~public health.~~

70 5.(e) Administering and providing health and related  
 71 services for targeted populations in the state ~~Promote the~~  
 72 ~~maintenance and improvement of health in the residents of the~~  
 73 ~~state.~~

74 6.(f) Collecting, managing, and analyzing vital statistics  
 75 data in the state ~~Provide leadership, in cooperation with the~~  
 76 ~~public and private sectors, in establishing statewide and~~  
 77 ~~community public health delivery systems.~~

78 ~~(g) Provide health care and early intervention services to~~  
 79 ~~infants, toddlers, children, adolescents, and high-risk~~  
 80 ~~perinatal patients who are at risk for disabling conditions or~~  
 81 ~~have chronic illnesses.~~

82 ~~(h) Provide services to abused and neglected children~~  
 83 ~~through child protection teams and sexual abuse treatment~~  
 84 ~~programs.~~

85 ~~(i) Develop working associations with all agencies and~~  
 86 ~~organizations involved and interested in health and health care~~  
 87 ~~delivery.~~

88 ~~(j) Analyze trends in the evolution of health systems, and~~  
 89 ~~identify and promote the use of innovative, cost-effective~~  
 90 ~~health delivery systems.~~

91 ~~(k) Serve as the statewide repository of all aggregate~~  
 92 ~~data accumulated by state agencies related to health care;~~  
 93 ~~analyze that data and issue periodic reports and policy~~  
 94 ~~statements, as appropriate; require that all aggregated data be~~  
 95 ~~kept in a manner that promotes easy utilization by the public,~~  
 96 ~~state agencies, and all other interested parties; provide~~  
 97 ~~technical assistance as required; and work cooperatively with~~  
 98 ~~the state's higher education programs to promote further study~~  
 99 ~~and analysis of health care systems and health care outcomes.~~

100 ~~(l) Include in the department's strategic plan developed~~  
 101 ~~under s. 186.021 an assessment of current health programs,~~  
 102 ~~systems, and costs; projections of future problems and~~  
 103 ~~opportunities; and recommended changes that are needed in the~~  
 104 ~~health care system to improve the public health.~~

105 7.(m) Regulating Regulate health practitioners, to the  
 106 extent authorized by the Legislature, as necessary for the  
 107 preservation of the health, safety, and welfare of the public.

108 (b) By November 1, 2010, the department shall submit a  
 109 proposal to the President of the Senate, the Speaker of the  
 110 House of Representatives, and the appropriate substantive  
 111 legislative committees for a new department structure based upon  
 112 the responsibilities delegated under paragraph (a). The proposal



113 shall include reductions in the number of departmental bureaus  
 114 and divisions and limits on the number of executive positions in  
 115 a manner that enables the department to fulfill the  
 116 responsibilities delegated under paragraph (a). The department  
 117 shall identify existing functions and activities that are  
 118 inconsistent with the responsibilities delegated under paragraph  
 119 (a) and shall provide a job description for each bureau chief  
 120 and division director position proposed for retention.

121 (2)~~(a)~~ The head of the Department of Health is the State  
 122 Surgeon General and State Health Officer. The State Surgeon  
 123 General must be a physician licensed under chapter 458 or  
 124 chapter 459 who has advanced training or extensive experience in  
 125 public health administration. The State Surgeon General is  
 126 appointed by the Governor subject to confirmation by the Senate.  
 127 The State Surgeon General serves at the pleasure of the  
 128 Governor. The State Surgeon General shall manage the department  
 129 as it carries out the responsibilities delegated under paragraph  
 130 ~~(1) (a) serve as the leading voice on wellness and disease~~  
 131 ~~prevention efforts, including the promotion of healthful~~  
 132 ~~lifestyles, immunization practices, health literacy, and the~~  
 133 ~~assessment and promotion of the physician and health care~~  
 134 ~~workforce in order to meet the health care needs of the state.~~  
 135 ~~The State Surgeon General shall focus on advocating healthy~~  
 136 ~~lifestyles, developing public health policy, and building~~  
 137 ~~collaborative partnerships with schools, businesses, health care~~  
 138 ~~practitioners, community-based organizations, and public and~~  
 139 ~~private institutions in order to promote health literacy and~~  
 140 ~~optimum quality of life for all Floridians.~~

141 ~~(b) The Officer of Women's Health Strategy is established~~  
 142 ~~within the Department of Health and shall report directly to the~~  
 143 ~~State Surgeon General.~~

144 (3) The following divisions of the Department of Health  
 145 are established:

146 (a) Division of Administration. This paragraph expires  
 147 July 1, 2011, unless reviewed and reenacted by the Legislature  
 148 before that date.

149 (b) Division of Environmental Health. This paragraph  
 150 expires July 1, 2011, unless reviewed and reenacted by the  
 151 Legislature before that date.

152 (c) Division of Disease Control. This paragraph expires  
 153 July 1, 2011, unless reviewed and reenacted by the Legislature  
 154 before that date.

155 (d) Division of Family Health Services. This paragraph  
 156 expires July 1, 2011, unless reviewed and reenacted by the  
 157 Legislature before that date.

158 (e) Division of Children's Medical Services Network. This  
 159 paragraph expires July 1, 2011, unless reviewed and reenacted by  
 160 the Legislature before that date.

161 (f) Division of Emergency Medical Operations. This  
 162 paragraph expires July 1, 2011, unless reviewed and reenacted by  
 163 the Legislature before that date.

164 (g) Division of Medical Quality Assurance, which is  
 165 responsible for the following boards and professions established  
 166 within the division:

- 167 1. The Board of Acupuncture, created under chapter 457.
- 168 2. The Board of Medicine, created under chapter 458.

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- 169           3. The Board of Osteopathic Medicine, created under  
 170 chapter 459.
- 171           4. The Board of Chiropractic Medicine, created under  
 172 chapter 460.
- 173           5. The Board of Podiatric Medicine, created under chapter  
 174 461.
- 175           6. Naturopathy, as provided under chapter 462.
- 176           7. The Board of Optometry, created under chapter 463.
- 177           8. The Board of Nursing, created under part I of chapter  
 178 464.
- 179           9. Nursing assistants, as provided under part II of  
 180 chapter 464.
- 181           10. The Board of Pharmacy, created under chapter 465.
- 182           11. The Board of Dentistry, created under chapter 466.
- 183           12. Midwifery, as provided under chapter 467.
- 184           13. The Board of Speech-Language Pathology and Audiology,  
 185 created under part I of chapter 468.
- 186           14. The Board of Nursing Home Administrators, created  
 187 under part II of chapter 468.
- 188           15. The Board of Occupational Therapy, created under part  
 189 III of chapter 468.
- 190           16. Respiratory therapy, as provided under part V of  
 191 chapter 468.
- 192           17. Dietetics and nutrition practice, as provided under  
 193 part X of chapter 468.
- 194           18. The Board of Athletic Training, created under part  
 195 XIII of chapter 468.
- 196           19. The Board of Orthotists and Prosthetists, created

197 under part XIV of chapter 468.

198 20. Electrolysis, as provided under chapter 478.

199 21. The Board of Massage Therapy, created under chapter  
200 480.

201 22. The Board of Clinical Laboratory Personnel, created  
202 under part III of chapter 483.

203 23. Medical physicists, as provided under part IV of  
204 chapter 483.

205 24. The Board of Opticianry, created under part I of  
206 chapter 484.

207 25. The Board of Hearing Aid Specialists, created under  
208 part II of chapter 484.

209 26. The Board of Physical Therapy Practice, created under  
210 chapter 486.

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

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

213 29. The Board of Clinical Social Work, Marriage and Family  
214 Therapy, and Mental Health Counseling, created under chapter  
215 491.

216

217 This paragraph expires July 1, 2011, unless reviewed and  
218 reenacted by the Legislature before that date.

219 (h) Division of Children's Medical Services Prevention and  
220 Intervention. This paragraph expires July 1, 2011, unless  
221 reviewed and reenacted by the Legislature before that date.

222 (i) Division of Information Technology. This paragraph  
223 expires July 1, 2011, unless reviewed and reenacted by the  
224 Legislature before that date.

225 (j) Division of Health Access and Tobacco. This paragraph  
 226 expires July 1, 2011, unless reviewed and reenacted by the  
 227 Legislature before that date.

228 (k) Division of Disability Determinations. This paragraph  
 229 expires July 1, 2011, unless reviewed and reenacted by the  
 230 Legislature before that date.

231 (4) (a) The members of each board within the department  
 232 shall be appointed by the Governor, subject to confirmation by  
 233 the Senate. Consumer members on the board shall be appointed  
 234 pursuant to paragraph (b). Members shall be appointed for 4-year  
 235 terms, and such terms shall expire on October 31. However, a  
 236 term of less than 4 years may be used to ensure that:

237 1. No more than two members' terms expire during the same  
 238 calendar year for boards consisting of seven or eight members.

239 2. No more than 3 members' terms expire during the same  
 240 calendar year for boards consisting of 9 to 12 members.

241 3. No more than 5 members' terms expire during the same  
 242 calendar year for boards consisting of 13 or more members.

243  
 244 A member whose term has expired shall continue to serve on the  
 245 board until such time as a replacement is appointed. A vacancy  
 246 on the board shall be filled for the unexpired portion of the  
 247 term in the same manner as the original appointment. No member  
 248 may serve for more than the remaining portion of a previous  
 249 member's unexpired term, plus two consecutive 4-year terms of  
 250 the member's own appointment thereafter.

251 (b) Each board with five or more members shall have at  
 252 least two consumer members who are not, and have never been,

253 members or practitioners of the profession regulated by such  
 254 board or of any closely related profession. Each board with  
 255 fewer than five members shall have at least one consumer member  
 256 who is not, and has never been, a member or practitioner of the  
 257 profession regulated by such board or of any closely related  
 258 profession.

259 (c) Notwithstanding any other provision of law, the  
 260 department is authorized to establish uniform application forms  
 261 and certificates of licensure for use by the boards within the  
 262 department. Nothing in this paragraph authorizes the department  
 263 to vary any substantive requirements, duties, or eligibilities  
 264 for licensure or certification as provided by law.

265 (5) The department shall ~~plan and~~ administer authorized  
 266 ~~its~~ public health programs through its county health departments  
 267 and may, for administrative purposes and efficient service  
 268 delivery, establish multicounty ~~up to 15~~ service areas ~~to carry~~  
 269 ~~out such duties as may be prescribed by the State Surgeon~~  
 270 ~~General. The boundaries of the service areas shall be the same~~  
 271 ~~as, or combinations of, the service districts of the Department~~  
 272 ~~of Children and Family Services established in s. 20.19 and, to~~  
 273 ~~the extent practicable, shall take into consideration the~~  
 274 ~~boundaries of the jobs and education regional boards.~~

275 (6) The State Surgeon General may ~~and division directors~~  
 276 ~~are authorized to~~ appoint ad hoc advisory committees as  
 277 necessary to address issues relating to the responsibilities  
 278 delegated to the department under paragraph (1)(a). The issue or  
 279 problem that the ad hoc committee shall address, and the  
 280 timeframe within which the committee is to complete its work,

281 shall be specified at the time the committee is appointed. Ad  
 282 hoc advisory committees shall include representatives of groups  
 283 or entities affected by the issue or problem that the committee  
 284 is asked to examine. Members of ad hoc advisory committees shall  
 285 receive no compensation, but may, within existing departmental  
 286 resources, receive reimbursement for travel expenses as provided  
 287 in s. 112.061.

288 ~~(7) To protect and improve the public health, the~~  
 289 ~~department may use state or federal funds to:~~

290 ~~(a) Provide incentives, including, but not limited to, the~~  
 291 ~~promotional items listed in paragraph (b), food and including~~  
 292 ~~food coupons, and payment for travel expenses, for encouraging~~  
 293 ~~healthy lifestyle and disease prevention behaviors and patient~~  
 294 ~~compliance with medical treatment, such as tuberculosis therapy~~  
 295 ~~and smoking cessation programs. Such incentives shall be~~  
 296 ~~intended to cause individuals to take action to improve their~~  
 297 ~~health. Any incentive for food, food coupons, or travel expenses~~  
 298 ~~may not exceed the limitations in s. 112.061.~~

299 ~~(b) Plan and conduct health education campaigns for the~~  
 300 ~~purpose of protecting or improving public health. The department~~  
 301 ~~may purchase promotional items, such as, but not limited to, t-~~  
 302 ~~shirts, hats, sports items such as water bottles and sweat~~  
 303 ~~bands, calendars, nutritional charts, baby bibs, growth charts,~~  
 304 ~~and other items printed with health promotion messages, and~~  
 305 ~~advertising, such as space on billboards or in publications or~~  
 306 ~~radio or television time, for health information and promotional~~  
 307 ~~messages that recognize that the following behaviors, among~~  
 308 ~~others, are detrimental to public health: unprotected sexual~~

309 ~~intercourse, other than with one's spouse; cigarette and cigar~~  
 310 ~~smoking, use of smokeless tobacco products, and exposure to~~  
 311 ~~environmental tobacco smoke; alcohol consumption or other~~  
 312 ~~substance abuse during pregnancy; alcohol abuse or other~~  
 313 ~~substance abuse; lack of exercise and poor diet and nutrition~~  
 314 ~~habits; and failure to recognize and address a genetic tendency~~  
 315 ~~to suffer from sickle cell anemia, diabetes, high blood~~  
 316 ~~pressure, cardiovascular disease, or cancer. For purposes of~~  
 317 ~~activities under this paragraph, the Department of Health may~~  
 318 ~~establish requirements for local matching funds or in-kind~~  
 319 ~~contributions to create and distribute advertisements, in either~~  
 320 ~~print or electronic format, which are concerned with each of the~~  
 321 ~~targeted behaviors, establish an independent evaluation and~~  
 322 ~~feedback system for the public health communication campaign,~~  
 323 ~~and monitor and evaluate the efforts to determine which of the~~  
 324 ~~techniques and methodologies are most effective.~~

325 ~~(c) Plan and conduct promotional campaigns to recruit~~  
 326 ~~health professionals to be employed by the department or to~~  
 327 ~~recruit participants in departmental programs for health~~  
 328 ~~practitioners, such as scholarship, loan repayment, or volunteer~~  
 329 ~~programs. To this effect the department may purchase promotional~~  
 330 ~~items and advertising.~~

331 ~~(8) The department may hold copyrights, trademarks, and~~  
 332 ~~service marks and enforce its rights with respect thereto,~~  
 333 ~~except such authority does not extend to any public records~~  
 334 ~~relating to the department's responsibilities for health care~~  
 335 ~~practitioners regulated under part II of chapter 455.~~

336 (7)(9) There is established within the Department of



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337 Health the Office of Minority Health.

338 (8) Beginning in fiscal year 2010-2011, the department  
 339 shall initiate or commence new programs, including any new  
 340 federally funded or grant-supported initiative, or make changes  
 341 in current programs only when the Legislature expressly  
 342 authorizes the department to do so.

343 Section 2. Section 381.0011, Florida Statutes, is amended  
 344 to read:

345 381.0011 Duties and powers of the Department of Health.—It  
 346 is the duty of the Department of Health to:

347 (1) Assess the public health status and needs of the state  
 348 pursuant to the responsibilities delegated to the department  
 349 under s. 20.43 through statewide data collection and other  
 350 appropriate means, with special attention to future needs that  
 351 may result from population growth, technological advancements,  
 352 new societal priorities, or other changes.

353 (2) Manage and coordinate emergency preparedness and  
 354 disaster response functions to: investigate and control the  
 355 spread of disease; coordinate the availability and staffing of  
 356 special needs shelters; support patient evacuation; ensure the  
 357 safety of food and drugs; provide critical incident stress  
 358 debriefing; and provide surveillance and control of  
 359 radiological, chemical, biological, and other environmental  
 360 hazards ~~Formulate general policies affecting the public health~~  
 361 ~~of the state.~~

362 (3) Include in the department's strategic plan developed  
 363 under s. 186.021 a summary of all aspects of the public health  
 364 related to the responsibilities delegated to the department

365 ~~under s. 20.43(1) mission and health status objectives to direct~~  
 366 ~~the use of public health resources with an emphasis on~~  
 367 ~~prevention.~~

368 (4) Administer and enforce laws and rules relating to  
 369 sanitation, control of communicable diseases, and illnesses and  
 370 hazards to health among humans and from animals to humans, ~~and~~  
 371 ~~the general health of the people of the state.~~

372 (5) Cooperate with and accept assistance from federal,  
 373 state, and local officials for the prevention and suppression of  
 374 communicable and other diseases, illnesses, injuries, and  
 375 hazards to human health and cooperate with the Federal  
 376 Government in enforcing public health laws and regulations.

377 (6) Declare, enforce, modify, and abolish quarantine of  
 378 persons, animals, and premises as the circumstances indicate for  
 379 controlling communicable diseases or providing protection from  
 380 unsafe conditions that pose a threat to public health, except as  
 381 provided in ss. 384.28 and 392.545-392.60.

382 (a) The department shall adopt rules to specify the  
 383 conditions and procedures for imposing and releasing a  
 384 quarantine. The rules must include provisions related to:

- 385 1. The closure of premises.
- 386 2. The movement of persons or animals exposed to or  
 387 infected with a communicable disease.
- 388 3. The tests or treatment, including vaccination, for  
 389 communicable disease required prior to employment or admission  
 390 to the premises or to comply with a quarantine.
- 391 4. Testing or destruction of animals with or suspected of  
 392 having a disease transmissible to humans.

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393           5. Access by the department to quarantined premises.  
 394           6. The disinfection of quarantined animals, persons, or  
 395 premises.  
 396           7. Methods of quarantine.  
 397           (b) Any health regulation that restricts travel or trade  
 398 within the state may not be adopted or enforced in this state  
 399 except by authority of the department.  
 400           (7) Identify, diagnose, investigate, and conduct  
 401 surveillance of communicable diseases in the state and promote  
 402 and implement interventions that prevent or limit the impact and  
 403 spread of disease in the state ~~Provide for a thorough~~  
 404 ~~investigation and study of the incidence, causes, modes of~~  
 405 ~~propagation and transmission, and means of prevention, control,~~  
 406 ~~and cure of diseases, illnesses, and hazards to human health.~~  
 407           (8) Issue, as necessary and in its discretion, health  
 408 alerts or advisories ~~Provide for the dissemination of~~  
 409 ~~information to the public relative to the prevention, control,~~  
 410 ~~and cure of diseases, illnesses, and hazards to human health.~~  
 411 ~~The department shall conduct a workshop before issuing any~~  
 412 ~~health alert or advisory~~ relating to food-borne illness or  
 413 communicable disease in public lodging or food service  
 414 establishments in order to inform persons, trade associations,  
 415 and businesses of the risk to public health and to seek the  
 416 input of affected persons, trade associations, and businesses on  
 417 the best methods of informing and protecting the public. The  
 418 department shall conduct a workshop before issuing any such  
 419 alert or advisory, except in an emergency, in which case the  
 420 workshop must be held within 14 days after the issuance of the

421 emergency alert or advisory.

422 (9) Act as registrar of vital statistics.

423 ~~(10) Cooperate with and assist federal health officials in~~  
 424 ~~enforcing public health laws and regulations.~~

425 ~~(11) Cooperate with other departments, local officials,~~  
 426 ~~and private boards and organizations for the improvement and~~  
 427 ~~preservation of the public health.~~

428 ~~(12) Maintain a statewide injury prevention program.~~

429 ~~(10)-(13)~~ Adopt rules pursuant to ss. 120.536(1) and 120.54  
 430 to implement the provisions of law conferring duties upon it.  
 431 This subsection does not authorize the department to require a  
 432 permit or license or to inspect a building or facility, unless  
 433 such requirement is specifically provided by law.

434 ~~(11)-(14)~~ Perform any other duties expressly assigned to  
 435 the department ~~prescribed~~ by law.

436 Section 3. Subsection (16) of section 381.006, Florida  
 437 Statutes, is amended to read:

438 381.006 Environmental health.—The department shall conduct  
 439 an environmental health program as part of fulfilling the  
 440 state's public health mission. The purpose of this program is to  
 441 detect and prevent disease caused by natural and manmade factors  
 442 in the environment. The environmental health program shall  
 443 include, but not be limited to:

444 (16) A group-care-facilities function. The term, where a  
 445 "group care facility" means any public or private school,  
 446 assisted living facility, adult family-care home, adult day care  
 447 center, short-term residential treatment center, residential  
 448 treatment facility, home for special services, transitional

449 living facility, crisis stabilization unit, hospice, prescribed  
 450 pediatric extended care center, intermediate care facility for  
 451 persons with developmental disabilities, or boarding school  
 452 ~~housing, building or buildings, section of a building, or~~  
 453 ~~distinct part of a building or other place, whether operated for~~  
 454 ~~profit or not, which undertakes, through its ownership or~~  
 455 ~~management, to provide one or more personal services, care,~~  
 456 ~~protection, and supervision to persons who require such services~~  
 457 ~~and who are not related to the owner or administrator. The~~  
 458 department may adopt rules necessary to protect the health and  
 459 safety of residents, staff, and patrons of group care  
 460 facilities, as defined in this paragraph. Rules related to  
 461 public and private schools shall be developed by such as child  
 462 ~~care facilities, family day care homes, assisted living~~  
 463 ~~facilities, adult day care centers, adult family care homes,~~  
 464 ~~hospices, residential treatment facilities, crisis stabilization~~  
 465 ~~units, pediatric extended care centers, intermediate care~~  
 466 ~~facilities for the developmentally disabled, group care homes,~~  
 467 ~~and, jointly with the Department of Education in consultation~~  
 468 with the department, private and public schools. These Rules may  
 469 include definitions of terms; provisions relating to operation  
 470 and maintenance of facilities, buildings, grounds, equipment,  
 471 furnishings, and occupant-space requirements; lighting; heating,  
 472 cooling, and ventilation; food service; water supply and  
 473 plumbing; sewage; sanitary facilities; insect and rodent  
 474 control; garbage; safety; personnel health, hygiene, and work  
 475 practices; and other matters the department finds are  
 476 appropriate or necessary to protect the safety and health of the

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477 residents, staff, students, faculty, or patrons. The department  
 478 may not adopt rules that conflict with rules adopted by the  
 479 licensing or certifying agency. The department may enter and  
 480 inspect at reasonable hours to determine compliance with  
 481 applicable statutes or rules. In addition to any sanctions that  
 482 the department may impose for violations of rules adopted under  
 483 this section, the department shall also report such violations  
 484 to any agency responsible for licensing or certifying the group  
 485 care facility. The licensing or certifying agency may also  
 486 impose any sanction based solely on the findings of the  
 487 department.

488  
 489 The department may adopt rules to carry out the provisions of  
 490 this section.

491 Section 4. Subsections (1), (2), (3), and (6) of section  
 492 381.0072, Florida Statutes, are amended to read:

493 381.0072 Food service protection.—It shall be the duty of  
 494 the Department of Health to adopt and enforce sanitation rules  
 495 consistent with law to ensure the protection of the public from  
 496 food-borne illness. These rules shall provide the standards and  
 497 requirements for the storage, preparation, serving, or display  
 498 of food in food service establishments as defined in this  
 499 section and which are not permitted or licensed under chapter  
 500 500 or chapter 509.

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

502 (a) "Department" means the Department of Health or its  
 503 representative county health department.

504 (b) "Food service establishment" means detention

505 facilities, public or private schools, migrant labor camps,  
 506 assisted living facilities, adult family-care homes, adult day  
 507 care centers, short-term residential treatment centers,  
 508 residential treatment facilities, homes for special services,  
 509 transitional living facilities, crisis stabilization units,  
 510 hospices, prescribed pediatric extended care centers,  
 511 intermediate care facilities for persons with developmental  
 512 disabilities, boarding schools, civic or fraternal  
 513 organizations, bars and lounges, vending machines that dispense  
 514 potentially hazardous foods at facilities expressly named in  
 515 this paragraph, and facilities used as temporary food events or  
 516 mobile food units at any facility expressly named ~~any facility,~~  
 517 ~~as described~~ in this paragraph, where food is prepared and  
 518 intended for individual portion service, including and includes  
 519 the site at which individual portions are provided, ~~The term~~  
 520 ~~includes any such facility~~ regardless of whether consumption is  
 521 on or off the premises and regardless of whether there is a  
 522 charge for the food. ~~The term includes detention facilities,~~  
 523 ~~child care facilities, schools, institutions, civic or fraternal~~  
 524 ~~organizations, bars and lounges and facilities used at temporary~~  
 525 ~~food events, mobile food units, and vending machines at any~~  
 526 ~~facility regulated under this section.~~ The term does not include  
 527 any entity not expressly named in this paragraph ~~private homes~~  
 528 ~~where food is prepared or served for individual family~~  
 529 ~~consumption; nor does the term include churches, synagogues, or~~  
 530 ~~other not-for-profit religious organizations as long as these~~  
 531 ~~organizations serve only their members and guests and do not~~  
 532 ~~advertise food or drink for public consumption, or any facility~~

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533 ~~or establishment permitted or licensed under chapter 500 or~~  
 534 ~~chapter 509; nor does the term include any theater, if the~~  
 535 ~~primary use is as a theater and if patron service is limited to~~  
 536 ~~food items customarily served to the admittees of theaters; nor~~  
 537 ~~does the term include a research and development test kitchen~~  
 538 ~~limited to the use of employees and which is not open to the~~  
 539 ~~general public.~~

540 (c) "Operator" means the owner, operator, keeper,  
 541 proprietor, lessee, manager, assistant manager, agent, or  
 542 employee of a food service establishment.

543 (2) DUTIES.—

544 (a) The department may advise and consult with the Agency  
 545 for Health Care Administration, the Department of Business and  
 546 Professional Regulation, the Department of Agriculture and  
 547 Consumer Services, and the Department of Children and Family  
 548 Services concerning procedures related to the storage,  
 549 preparation, serving, or display of food at any building,  
 550 structure, or facility not expressly included in this section  
 551 that is inspected, licensed, or regulated by those agencies.

552 ~~(b)(a)~~ The department shall adopt rules, including  
 553 definitions of terms which are consistent with law prescribing  
 554 minimum sanitation standards and manager certification  
 555 requirements as prescribed in s. 509.039, and which shall be  
 556 enforced in food service establishments as defined in this  
 557 section. The sanitation standards must address the construction,  
 558 operation, and maintenance of the establishment; lighting,  
 559 ventilation, laundry rooms, lockers, use and storage of toxic  
 560 materials and cleaning compounds, and first-aid supplies; plan



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561 review; design, construction, installation, location,  
 562 maintenance, sanitation, and storage of food equipment and  
 563 utensils; employee training, health, hygiene, and work  
 564 practices; food supplies, preparation, storage, transportation,  
 565 and service, including access to the areas where food is stored  
 566 or prepared; and sanitary facilities and controls, including  
 567 water supply and sewage disposal; plumbing and toilet  
 568 facilities; garbage and refuse collection, storage, and  
 569 disposal; and vermin control. Public and private schools, if the  
 570 food service is operated by school employees, ~~hospitals~~  
 571 ~~licensed under chapter 395; nursing homes licensed under part II~~  
 572 ~~of chapter 400; child care facilities as defined in s. 402.301;~~  
 573 ~~residential facilities collocated with a nursing home or~~  
 574 ~~hospital, if all food is prepared in a central kitchen that~~  
 575 ~~complies with nursing or hospital regulations; and bars and~~  
 576 ~~lounges, civic organizations, and any other facility that is not~~  
 577 ~~regulated under this section as defined by department rule,~~ are  
 578 exempt from the rules developed for manager certification. The  
 579 department shall administer a comprehensive inspection,  
 580 monitoring, and sampling program to ensure such standards are  
 581 maintained. With respect to food service establishments  
 582 permitted or licensed under chapter 500 or chapter 509, the  
 583 department shall assist the Division of Hotels and Restaurants  
 584 of the Department of Business and Professional Regulation and  
 585 the Department of Agriculture and Consumer Services with  
 586 rulemaking by providing technical information.

587 (c) ~~(b)~~ The department shall carry out all provisions of  
 588 this chapter and all other applicable laws and rules relating to

589 the inspection or regulation of food service establishments as  
 590 defined in this section, for the purpose of safeguarding the  
 591 public's health, safety, and welfare.

592 (d)~~(e)~~ The department shall inspect each food service  
 593 establishment as often as necessary to ensure compliance with  
 594 applicable laws and rules. The department shall have the right  
 595 of entry and access to these food service establishments at any  
 596 reasonable time. In inspecting food service establishments as  
 597 provided under this section, the department shall provide each  
 598 inspected establishment with the food recovery brochure  
 599 developed under s. 570.0725.

600 (e)~~(d)~~ The department or other appropriate regulatory  
 601 entity may inspect theaters exempted in subsection (1) to ensure  
 602 compliance with applicable laws and rules pertaining to minimum  
 603 sanitation standards. A fee for inspection shall be prescribed  
 604 by rule, but the aggregate amount charged per year per theater  
 605 establishment shall not exceed \$300, regardless of the entity  
 606 providing the inspection.

607 (3) LICENSES REQUIRED.—

608 (a) Licenses; annual renewals.—Each food service  
 609 establishment regulated under this section shall obtain a  
 610 license from the department annually. Food service establishment  
 611 licenses shall expire annually and are not transferable from one  
 612 place or individual to another. However, those facilities  
 613 licensed by the department's Office of Licensure and  
 614 Certification, the Child Care Services Program Office, or the  
 615 Agency for Persons with Disabilities are exempt from this  
 616 subsection. It shall be a misdemeanor of the second degree,

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617 | punishable as provided in s. 381.0061, s. 775.082, or s.  
 618 | 775.083, for such an establishment to operate without this  
 619 | license. The department may refuse a license, or a renewal  
 620 | thereof, to any establishment that is not constructed or  
 621 | maintained in accordance with law and with the rules of the  
 622 | department. Annual application for renewal is not required.

623 |       (b) Application for license.—Each person who plans to open  
 624 | a food service establishment regulated under this section and  
 625 | not regulated under chapter 500 or chapter 509 shall apply for  
 626 | and receive a license prior to the commencement of operation.

627 |       (6) IMMINENT DANGERS; STOP-SALE ORDERS.—

628 |       (a) In the course of epidemiological investigations or for  
 629 | those establishments regulated by the department under this  
 630 | chapter, the department, to protect the public from food that is  
 631 | unwholesome or otherwise unfit for human consumption, may  
 632 | examine, sample, seize, and stop the sale or use of food to  
 633 | determine its condition. The department may stop the sale and  
 634 | supervise the proper destruction of food when the State Health  
 635 | Officer or his or her designee determines that such food  
 636 | represents a threat to the public health.

637 |       (b) The department may determine that a food service  
 638 | establishment regulated under this section is an imminent danger  
 639 | to the public health and require its immediate closure when such  
 640 | establishment fails to comply with applicable sanitary and  
 641 | safety standards and, because of such failure, presents an  
 642 | imminent threat to the public's health, safety, and welfare. The  
 643 | department may accept inspection results from state and local  
 644 | building and firesafety officials and other regulatory agencies

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645 as justification for such actions. Any facility so deemed and  
 646 closed shall remain closed until allowed by the department or by  
 647 judicial order to reopen.

648 Section 5. Paragraph (g) of subsection (2) of section  
 649 381.0101, Florida Statutes, is amended to read:

650 (2) DEFINITIONS.—As used in this section:

651 (g) "Primary environmental health program" means those  
 652 programs ~~determined by the department~~ is expressly authorized by  
 653 law to administer ~~to be essential~~ for providing basic  
 654 environmental and sanitary protection to the public. ~~At a~~  
 655 ~~minimum,~~ These programs shall include food protection program  
 656 work at food service establishments as defined in s. 381.0072  
 657 and onsite sewage treatment and disposal system evaluations.

658 Section 6. Sections 381.001, 381.04015, 401.243, 411.23,  
 659 411.231, and 411.232, Florida Statutes, are repealed.

660 Section 7. Paragraph (d) of subsection (5) of section  
 661 411.01, Florida Statutes, is amended to read:

662 411.01 School readiness programs; early learning  
 663 coalitions.—

664 (5) CREATION OF EARLY LEARNING COALITIONS.—

665 (d) Implementation.—

666 1. An early learning coalition may not implement the  
 667 school readiness program until the coalition is authorized  
 668 through approval of the coalition's school readiness plan by the  
 669 Agency for Workforce Innovation.

670 2. Each early learning coalition shall develop a plan for  
 671 implementing the school readiness program to meet the  
 672 requirements of this section and the performance standards and

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673 outcome measures adopted by the Agency for Workforce Innovation.  
674 The plan must demonstrate how the program will ensure that each  
675 3-year-old and 4-year-old child in a publicly funded school  
676 readiness program receives scheduled activities and instruction  
677 designed to enhance the age-appropriate progress of the children  
678 in attaining the performance standards adopted by the Agency for  
679 Workforce Innovation under subparagraph (4)(d)8. Before  
680 implementing the school readiness program, the early learning  
681 coalition must submit the plan to the Agency for Workforce  
682 Innovation for approval. The Agency for Workforce Innovation may  
683 approve the plan, reject the plan, or approve the plan with  
684 conditions. The Agency for Workforce Innovation shall review  
685 school readiness plans at least annually.

686 3. If the Agency for Workforce Innovation determines  
687 during the annual review of school readiness plans, or through  
688 monitoring and performance evaluations conducted under paragraph  
689 (4)(1), that an early learning coalition has not substantially  
690 implemented its plan, has not substantially met the performance  
691 standards and outcome measures adopted by the agency, or has not  
692 effectively administered the school readiness program or  
693 Voluntary Prekindergarten Education Program, the Agency for  
694 Workforce Innovation may dissolve the coalition and temporarily  
695 contract with a qualified entity to continue school readiness  
696 and prekindergarten services in the coalition's county or  
697 multicounty region until the coalition is reestablished through  
698 resubmission of a school readiness plan and approval by the  
699 agency.

700 4. The Agency for Workforce Innovation shall adopt

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701 criteria for the approval of school readiness plans. The  
 702 criteria must be consistent with the performance standards and  
 703 outcome measures adopted by the agency and must require each  
 704 approved plan to include the following minimum standards and  
 705 provisions:

706 a. A sliding fee scale establishing a copayment for  
 707 parents based upon their ability to pay, which is the same for  
 708 all program providers, to be implemented and reflected in each  
 709 program's budget.

710 b. A choice of settings and locations in licensed,  
 711 registered, religious-exempt, or school-based programs to be  
 712 provided to parents.

713 c. Instructional staff who have completed the training  
 714 course as required in s. 402.305(2)(d)1., as well as staff who  
 715 have additional training or credentials as required by the  
 716 Agency for Workforce Innovation. The plan must provide a method  
 717 for assuring the qualifications of all personnel in all program  
 718 settings.

719 d. Specific eligibility priorities for children within the  
 720 early learning coalition's county or multicounty region in  
 721 accordance with subsection (6).

722 e. Performance standards and outcome measures adopted by  
 723 the Agency for Workforce Innovation.

724 f. Payment rates adopted by the early learning coalition  
 725 and approved by the Agency for Workforce Innovation. Payment  
 726 rates may not have the effect of limiting parental choice or  
 727 creating standards or levels of services that have not been  
 728 authorized by the Legislature.

729 g. Systems support services, including a central agency,  
 730 child care resource and referral, eligibility determinations,  
 731 training of providers, and parent support and involvement.

732 h. Direct enhancement services to families and children.  
 733 System support and direct enhancement services shall be in  
 734 addition to payments for the placement of children in school  
 735 readiness programs.

736 i. The business organization of the early learning  
 737 coalition, which must include the coalition's articles of  
 738 incorporation and bylaws if the coalition is organized as a  
 739 corporation. If the coalition is not organized as a corporation  
 740 or other business entity, the plan must include the contract  
 741 with a fiscal agent. An early learning coalition may contract  
 742 with other coalitions to achieve efficiency in multicounty  
 743 services, and these contracts may be part of the coalition's  
 744 school readiness plan.

745 j. Strategies to meet the needs of unique populations,  
 746 such as migrant workers.

747

748 As part of the school readiness plan, the early learning  
 749 coalition may request the Governor to apply for a waiver to  
 750 allow the coalition to administer the Head Start Program to  
 751 accomplish the purposes of the school readiness program. If a  
 752 school readiness plan demonstrates that specific statutory goals  
 753 can be achieved more effectively by using procedures that  
 754 require modification of existing rules, policies, or procedures,  
 755 a request for a waiver to the Agency for Workforce Innovation  
 756 may be submitted as part of the plan. Upon review, the Agency

757 for Workforce Innovation may grant the proposed modification.

758 5. Persons with an early childhood teaching certificate  
 759 may provide support and supervision to other staff in the school  
 760 readiness program.

761 6. An early learning coalition may not implement its  
 762 school readiness plan until it submits the plan to and receives  
 763 approval from the Agency for Workforce Innovation. Once the plan  
 764 is approved, the plan and the services provided under the plan  
 765 shall be controlled by the early learning coalition. The plan  
 766 shall be reviewed and revised as necessary, but at least  
 767 biennially. An early learning coalition may not implement the  
 768 revisions until the coalition submits the revised plan to and  
 769 receives approval from the Agency for Workforce Innovation. If  
 770 the Agency for Workforce Innovation rejects a revised plan, the  
 771 coalition must continue to operate under its prior approved  
 772 plan.

773 7. Sections 125.901(2)(a)3. and 411.221, ~~and 411.232~~ do  
 774 not apply to an early learning coalition with an approved school  
 775 readiness plan. To facilitate innovative practices and to allow  
 776 the regional establishment of school readiness programs, an  
 777 early learning coalition may apply to the Governor and Cabinet  
 778 for a waiver of, and the Governor and Cabinet may waive, any of  
 779 the provisions of ss. 411.223, ~~411.232~~, and 1003.54, if the  
 780 waiver is necessary for implementation of the coalition's school  
 781 readiness plan.

782 8. Two or more counties may join for purposes of planning  
 783 and implementing a school readiness program.

784 9. An early learning coalition may, subject to approval by



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785 the Agency for Workforce Innovation as part of the coalition's  
 786 school readiness plan, receive subsidized child care funds for  
 787 all children eligible for any federal subsidized child care  
 788 program.

789 10. An early learning coalition may enter into multiparty  
 790 contracts with multicounty service providers in order to meet  
 791 the needs of unique populations such as migrant workers.

792 Section 8. Paragraphs (f) and (g) of subsection (2) of  
 793 section 411.224, Florida Statutes, are redesignated as  
 794 paragraphs (e) and (f), respectively, and present paragraph (e)  
 795 of that subsection is amended to read:

796 411.224 Family support planning process.—The Legislature  
 797 establishes a family support planning process to be used by the  
 798 Department of Children and Family Services as the service  
 799 planning process for targeted individuals, children, and  
 800 families under its purview.

801 (2) To the extent possible within existing resources, the  
 802 following populations must be included in the family support  
 803 planning process:

804 ~~(e) Participants who are served by the Children's Early~~  
 805 ~~Investment Program established in s. 411.232.~~

806 Section 9. Subsections (4) and (5) of section 509.013,  
 807 Florida Statutes, are amended to read:

808 509.013 Definitions.—As used in this chapter, the term:

809 (4)(a) "Public lodging establishment" includes a transient  
 810 public lodging establishment as defined in subparagraph 1. and a  
 811 nontransient public lodging establishment as defined in  
 812 subparagraph 2.

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813 1. "Transient public lodging establishment" means any  
 814 unit, group of units, dwelling, building, or group of buildings  
 815 within a single complex of buildings which is rented to guests  
 816 more than three times in a calendar year for periods of less  
 817 than 30 days or 1 calendar month, whichever is less, or which is  
 818 advertised or held out to the public as a place regularly rented  
 819 to guests.

820 2. "Nontransient public lodging establishment" means any  
 821 unit, group of units, dwelling, building, or group of buildings  
 822 within a single complex of buildings which is rented to guests  
 823 for periods of at least 30 days or 1 calendar month, whichever  
 824 is less, or which is advertised or held out to the public as a  
 825 place regularly rented to guests for periods of at least 30 days  
 826 or 1 calendar month.

827  
 828 License classifications of public lodging establishments, and  
 829 the definitions therefor, are set out in s. 509.242. For the  
 830 purpose of licensure, the term does not include condominium  
 831 common elements as defined in s. 718.103.

832 (b) The following are excluded from the definitions in  
 833 paragraph (a):

834 1. Any dormitory or other living or sleeping facility  
 835 maintained by a public or private school, college, or university  
 836 for the use of students, faculty, or visitors;

837 2. Any facility certified or licensed and regulated by the  
 838 Agency for Health Care Administration or the Department of  
 839 Children and Family Services ~~hospital, nursing home, sanitarium,~~  
 840 ~~assisted living facility,~~ or other similar place regulated under

841 | s. 381.0072;

842 |       3. Any place renting four rental units or less, unless the  
843 | rental units are advertised or held out to the public to be  
844 | places that are regularly rented to transients;

845 |       4. Any unit or group of units in a condominium,  
846 | cooperative, or timeshare plan and any individually or  
847 | collectively owned one-family, two-family, three-family, or  
848 | four-family dwelling house or dwelling unit that is rented for  
849 | periods of at least 30 days or 1 calendar month, whichever is  
850 | less, and that is not advertised or held out to the public as a  
851 | place regularly rented for periods of less than 1 calendar  
852 | month, provided that no more than four rental units within a  
853 | single complex of buildings are available for rent;

854 |       5. Any migrant labor camp or residential migrant housing  
855 | permitted by the Department of Health; under ss. 381.008-  
856 | 381.00895; and

857 |       6. Any establishment inspected by the Department of Health  
858 | and regulated by chapter 513.

859 |       (5) (a) "Public food service establishment" means any  
860 | building, vehicle, place, or structure, or any room or division  
861 | in a building, vehicle, place, or structure where food is  
862 | prepared, served, or sold for immediate consumption on or in the  
863 | vicinity of the premises; called for or taken out by customers;  
864 | or prepared prior to being delivered to another location for  
865 | consumption.

866 |       (b) The following are excluded from the definition in  
867 | paragraph (a):

868 |       1. Any place maintained and operated by a public or

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869 private school, college, or university:  
 870       a. For the use of students and faculty; or  
 871       b. Temporarily to serve such events as fairs, carnivals,  
 872 and athletic contests.  
 873       2. Any eating place maintained and operated by a church or  
 874 a religious, nonprofit fraternal, or nonprofit civic  
 875 organization:  
 876       a. For the use of members and associates; or  
 877       b. Temporarily to serve such events as fairs, carnivals,  
 878 or athletic contests.  
 879       3. Any eating place located on an airplane, train, bus, or  
 880 watercraft which is a common carrier.  
 881       4. Any eating place maintained by a facility certified or  
 882 licensed and regulated by the Agency for Health Care  
 883 Administration or the Department of Children and Family Services  
 884 ~~hospital, nursing home, sanitarium, assisted living facility,~~  
 885 ~~adult day care center,~~ or other similar place that is regulated  
 886 under s. 381.0072.  
 887       5. Any place of business issued a permit or inspected by  
 888 the Department of Agriculture and Consumer Services under s.  
 889 500.12.  
 890       6. Any place of business where the food available for  
 891 consumption is limited to ice, beverages with or without  
 892 garnishment, popcorn, or prepackaged items sold without  
 893 additions or preparation.  
 894       7. Any theater, if the primary use is as a theater and if  
 895 patron service is limited to food items customarily served to  
 896 the admittees of theaters.

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897 |           8. Any vending machine that dispenses any food or  
898 | beverages other than potentially hazardous foods, as defined by  
899 | division rule.

900 |           9. Any vending machine that dispenses potentially  
901 | hazardous food and which is located in a facility regulated  
902 | under s. 381.0072.

903 |           10. Any research and development test kitchen limited to  
904 | the use of employees and which is not open to the general  
905 | public.

906 |           Section 10. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT           \_\_\_ (Y/N)  
WITHDRAWN                \_\_\_ (Y/N)  
OTHER                     \_\_\_\_\_

---

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative(s) Hudson offered the following:  
4

5       **Amendment (with title amendment)**

6       Remove everything after the enacting clause and insert:

7       Section 1. Section 20.43, Florida Statutes, is amended to  
8 read:

9       20.43 Department of Health.—There is created a Department  
10 of Health.

11       (1) (a) The ~~purpose of the~~ Department of Health is  
12 responsible for to promote and protect the health of all  
13 residents and visitors in the state through organized state and  
14 community efforts, including cooperative agreements with  
15 counties. The department shall:

16       1. (a) Identifying, diagnosing, investigating, and  
17 conducting surveillance of communicable diseases in the state

18 ~~Prevent to the fullest extent possible, the occurrence and~~

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19 ~~progression of communicable and noncommunicable diseases and~~  
20 ~~disabilities.~~

21 2.(b) Implementing interventions that prevent or limit the  
22 impact or spread of disease in the state ~~Maintain a constant~~  
23 ~~surveillance of disease occurrence and accumulate health~~  
24 ~~statistics necessary to establish disease trends and to design~~  
25 ~~health programs.~~

26 3.(e) Maintaining and coordinating preparedness for and  
27 responses to public health emergencies in the state ~~Conduct~~  
28 ~~special studies of the causes of diseases and formulate~~  
29 ~~preventive strategies.~~

30 4.(d) Regulating environmental activities that have a  
31 direct impact on public health in the state ~~Promote the~~  
32 ~~maintenance and improvement of the environment as it affects~~  
33 ~~public health.~~

34 5.(e) Administering and providing health and related  
35 services for targeted populations in the state ~~Promote the~~  
36 ~~maintenance and improvement of health in the residents of the~~  
37 ~~state.~~

38 6.(f) Collecting, managing, and analyzing vital statistics  
39 data in the state ~~Provide leadership, in cooperation with the~~  
40 ~~public and private sectors, in establishing statewide and~~  
41 ~~community public health delivery systems.~~

42 ~~(g) Provide health care and early intervention services to~~  
43 ~~infants, toddlers, children, adolescents, and high-risk~~  
44 ~~perinatal patients who are at risk for disabling conditions or~~  
45 ~~have chronic illnesses.~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7183 (2010)

Amendment No. 1

46 ~~(h) Provide services to abused and neglected children~~  
47 ~~through child protection teams and sexual abuse treatment~~  
48 ~~programs.~~

49 ~~(i) Develop working associations with all agencies and~~  
50 ~~organizations involved and interested in health and health care~~  
51 ~~delivery.~~

52 ~~(j) Analyze trends in the evolution of health systems, and~~  
53 ~~identify and promote the use of innovative, cost-effective~~  
54 ~~health delivery systems.~~

55 ~~(k) Serve as the statewide repository of all aggregate~~  
56 ~~data accumulated by state agencies related to health care;~~  
57 ~~analyze that data and issue periodic reports and policy~~  
58 ~~statements, as appropriate; require that all aggregated data be~~  
59 ~~kept in a manner that promotes easy utilization by the public,~~  
60 ~~state agencies, and all other interested parties; provide~~  
61 ~~technical assistance as required; and work cooperatively with~~  
62 ~~the state's higher education programs to promote further study~~  
63 ~~and analysis of health care systems and health care outcomes.~~

64 ~~(l) Include in the department's strategic plan developed~~  
65 ~~under s. 186.021 an assessment of current health programs,~~  
66 ~~systems, and costs; projections of future problems and~~  
67 ~~opportunities; and recommended changes that are needed in the~~  
68 ~~health care system to improve the public health.~~

69 7.(m) Regulating Regulate health practitioners, to the  
70 extent authorized by the Legislature, as necessary for the  
71 preservation of the health, safety, and welfare of the public.  
72 This paragraph expires on July 1, 2011.



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73        (b) By November 1, 2010, the department shall submit a  
74 proposal to the President of the Senate, the Speaker of the  
75 House of Representatives, and the appropriate substantive  
76 legislative committees for a new department structure based upon  
77 the responsibilities delegated under paragraph (a). The proposal  
78 shall include reductions in the number of departmental bureaus  
79 and divisions and limits on the number of executive positions in  
80 a manner that enables the department to fulfill the  
81 responsibilities delegated under paragraph (a). The department  
82 shall identify existing functions and activities that are  
83 inconsistent with the responsibilities delegated under paragraph  
84 (a) and shall provide a job description for each bureau chief  
85 and division director position proposed for retention.

86        (2)~~(a)~~ The head of the Department of Health is the State  
87 Surgeon General and State Health Officer. The State Surgeon  
88 General must be a physician licensed under chapter 458 or  
89 chapter 459 who has advanced training or extensive experience in  
90 public health administration. The State Surgeon General is  
91 appointed by the Governor subject to confirmation by the Senate.  
92 The State Surgeon General serves at the pleasure of the  
93 Governor. The State Surgeon General shall manage the department  
94 as it carries out the responsibilities delegated under paragraph  
95 ~~(1) (a) serve as the leading voice on wellness and disease~~  
96 ~~prevention efforts, including the promotion of healthful~~  
97 ~~lifestyles, immunization practices, health literacy, and the~~  
98 ~~assessment and promotion of the physician and health care~~  
99 ~~workforce in order to meet the health care needs of the state.~~  
100 ~~The State Surgeon General shall focus on advocating healthy~~

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101 ~~lifestyles, developing public health policy, and building~~  
102 ~~collaborative partnerships with schools, businesses, health care~~  
103 ~~practitioners, community-based organizations, and public and~~  
104 ~~private institutions in order to promote health literacy and~~  
105 ~~optimum quality of life for all Floridians.~~

106 ~~(b) The Officer of Women's Health Strategy is established~~  
107 ~~within the Department of Health and shall report directly to the~~  
108 ~~State Surgeon General.~~

109 (3) The following divisions of the Department of Health  
110 are established:

111 (a) Division of Administration. This paragraph expires  
112 July 1, 2011, unless reviewed and reenacted by the Legislature  
113 before that date.

114 (b) Division of Environmental Health. This paragraph  
115 expires July 1, 2011, unless reviewed and reenacted by the  
116 Legislature before that date.

117 (c) Division of Disease Control. This paragraph expires  
118 July 1, 2011, unless reviewed and reenacted by the Legislature  
119 before that date.

120 (d) Division of Family Health Services. This paragraph  
121 expires July 1, 2011, unless reviewed and reenacted by the  
122 Legislature before that date.

123 (e) Division of Children's Medical Services Network. This  
124 paragraph expires July 1, 2011, unless reviewed and reenacted by  
125 the Legislature before that date.

126 (f) Division of Emergency Medical Operations. This  
127 paragraph expires July 1, 2011, unless reviewed and reenacted by  
128 the Legislature before that date.

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129 (g) Division of Medical Quality Assurance, which is  
130 responsible for the following boards and professions established  
131 within the division:

- 132 1. The Board of Acupuncture, created under chapter 457.
- 133 2. The Board of Medicine, created under chapter 458.
- 134 3. The Board of Osteopathic Medicine, created under  
135 chapter 459.
- 136 4. The Board of Chiropractic Medicine, created under  
137 chapter 460.
- 138 5. The Board of Podiatric Medicine, created under chapter  
139 461.
- 140 6. Naturopathy, as provided under chapter 462.
- 141 7. The Board of Optometry, created under chapter 463.
- 142 8. The Board of Nursing, created under part I of chapter  
143 464.
- 144 9. Nursing assistants, as provided under part II of  
145 chapter 464.
- 146 10. The Board of Pharmacy, created under chapter 465.
- 147 11. The Board of Dentistry, created under chapter 466.
- 148 12. Midwifery, as provided under chapter 467.
- 149 13. The Board of Speech-Language Pathology and Audiology,  
150 created under part I of chapter 468.
- 151 14. The Board of Nursing Home Administrators, created  
152 under part II of chapter 468.
- 153 15. The Board of Occupational Therapy, created under part  
154 III of chapter 468.
- 155 16. Respiratory therapy, as provided under part V of  
156 chapter 468.

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157 17. Dietetics and nutrition practice, as provided under  
158 part X of chapter 468.

159 18. The Board of Athletic Training, created under part  
160 XIII of chapter 468.

161 19. The Board of Orthotists and Prosthetists, created  
162 under part XIV of chapter 468.

163 20. Electrolysis, as provided under chapter 478.

164 21. The Board of Massage Therapy, created under chapter  
165 480.

166 22. The Board of Clinical Laboratory Personnel, created  
167 under part III of chapter 483.

168 23. Medical physicists, as provided under part IV of  
169 chapter 483.

170 24. The Board of Opticianry, created under part I of  
171 chapter 484.

172 25. The Board of Hearing Aid Specialists, created under  
173 part II of chapter 484.

174 26. The Board of Physical Therapy Practice, created under  
175 chapter 486.

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

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

178 29. The Board of Clinical Social Work, Marriage and Family  
179 Therapy, and Mental Health Counseling, created under chapter  
180 491.

181

182 This paragraph expires July 1, 2011.

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183 (h) Division of Children's Medical Services Prevention and  
184 Intervention. This paragraph expires July 1, 2011, unless  
185 reviewed and reenacted by the Legislature before that date.

186 (i) Division of Information Technology. This paragraph  
187 expires July 1, 2011, unless reviewed and reenacted by the  
188 Legislature before that date.

189 (j) Division of Health Access and Tobacco. This paragraph  
190 expires July 1, 2011, unless reviewed and reenacted by the  
191 Legislature before that date.

192 (k) Division of Disability Determinations. This paragraph  
193 expires July 1, 2011, unless reviewed and reenacted by the  
194 Legislature before that date.

195 (4) (a) The members of each board within the department  
196 shall be appointed by the Governor, subject to confirmation by  
197 the Senate. Consumer members on the board shall be appointed  
198 pursuant to paragraph (b). Members shall be appointed for 4-year  
199 terms, and such terms shall expire on October 31. However, a  
200 term of less than 4 years may be used to ensure that:

201 1. No more than two members' terms expire during the same  
202 calendar year for boards consisting of seven or eight members.

203 2. No more than 3 members' terms expire during the same  
204 calendar year for boards consisting of 9 to 12 members.

205 3. No more than 5 members' terms expire during the same  
206 calendar year for boards consisting of 13 or more members.

207  
208 A member whose term has expired shall continue to serve on the  
209 board until such time as a replacement is appointed. A vacancy  
210 on the board shall be filled for the unexpired portion of the

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211 term in the same manner as the original appointment. No member  
212 may serve for more than the remaining portion of a previous  
213 member's unexpired term, plus two consecutive 4-year terms of  
214 the member's own appointment thereafter.

215 (b) Each board with five or more members shall have at  
216 least two consumer members who are not, and have never been,  
217 members or practitioners of the profession regulated by such  
218 board or of any closely related profession. Each board with  
219 fewer than five members shall have at least one consumer member  
220 who is not, and has never been, a member or practitioner of the  
221 profession regulated by such board or of any closely related  
222 profession.

223 (c) Notwithstanding any other provision of law, the  
224 department is authorized to establish uniform application forms  
225 and certificates of licensure for use by the boards within the  
226 department. Nothing in this paragraph authorizes the department  
227 to vary any substantive requirements, duties, or eligibilities  
228 for licensure or certification as provided by law.

229 (5) The department shall ~~plan and administer~~ authorized  
230 ~~its~~ public health programs through its county health departments  
231 and may, for administrative purposes and efficient service  
232 delivery, establish multicounty ~~up to 15~~ service areas ~~to carry~~  
233 ~~out such duties as may be prescribed by the State Surgeon~~  
234 ~~General. The boundaries of the service areas shall be the same~~  
235 ~~as, or combinations of, the service districts of the Department~~  
236 ~~of Children and Family Services established in s. 20.19 and, to~~  
237 ~~the extent practicable, shall take into consideration the~~  
238 ~~boundaries of the jobs and education regional boards.~~

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239           (6) The State Surgeon General may ~~and division directors~~  
240 ~~are authorized to~~ appoint ad hoc advisory committees as  
241 necessary to address issues relating to the responsibilities  
242 delegated to the department under paragraph (1)(a). The issue or  
243 problem that the ad hoc committee shall address, and the  
244 timeframe within which the committee is to complete its work,  
245 shall be specified at the time the committee is appointed. Ad  
246 hoc advisory committees shall include representatives of groups  
247 or entities affected by the issue or problem that the committee  
248 is asked to examine. Members of ad hoc advisory committees shall  
249 receive no compensation, but may, within existing departmental  
250 resources, receive reimbursement for travel expenses as provided  
251 in s. 112.061.

252           ~~(7) To protect and improve the public health, the~~  
253 ~~department may use state or federal funds to:~~

254           ~~(a) Provide incentives, including, but not limited to, the~~  
255 ~~promotional items listed in paragraph (b), food and including~~  
256 ~~food coupons, and payment for travel expenses, for encouraging~~  
257 ~~healthy lifestyle and disease prevention behaviors and patient~~  
258 ~~compliance with medical treatment, such as tuberculosis therapy~~  
259 ~~and smoking cessation programs. Such incentives shall be~~  
260 ~~intended to cause individuals to take action to improve their~~  
261 ~~health. Any incentive for food, food coupons, or travel expenses~~  
262 ~~may not exceed the limitations in s. 112.061.~~

263           ~~(b) Plan and conduct health education campaigns for the~~  
264 ~~purpose of protecting or improving public health. The department~~  
265 ~~may purchase promotional items, such as, but not limited to, t-~~  
266 ~~shirts, hats, sports items such as water bottles and sweat~~

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267 ~~bands, calendars, nutritional charts, baby bibs, growth charts,~~  
268 ~~and other items printed with health promotion messages, and~~  
269 ~~advertising, such as space on billboards or in publications or~~  
270 ~~radio or television time, for health information and promotional~~  
271 ~~messages that recognize that the following behaviors, among~~  
272 ~~others, are detrimental to public health: unprotected sexual~~  
273 ~~intercourse, other than with one's spouse; cigarette and cigar~~  
274 ~~smoking, use of smokeless tobacco products, and exposure to~~  
275 ~~environmental tobacco smoke; alcohol consumption or other~~  
276 ~~substance abuse during pregnancy; alcohol abuse or other~~  
277 ~~substance abuse; lack of exercise and poor diet and nutrition~~  
278 ~~habits; and failure to recognize and address a genetic tendency~~  
279 ~~to suffer from sickle-cell anemia, diabetes, high blood~~  
280 ~~pressure, cardiovascular disease, or cancer. For purposes of~~  
281 ~~activities under this paragraph, the Department of Health may~~  
282 ~~establish requirements for local matching funds or in-kind~~  
283 ~~contributions to create and distribute advertisements, in either~~  
284 ~~print or electronic format, which are concerned with each of the~~  
285 ~~targeted behaviors, establish an independent evaluation and~~  
286 ~~feedback system for the public health communication campaign,~~  
287 ~~and monitor and evaluate the efforts to determine which of the~~  
288 ~~techniques and methodologies are most effective.~~

289 ~~(c) Plan and conduct promotional campaigns to recruit~~  
290 ~~health professionals to be employed by the department or to~~  
291 ~~recruit participants in departmental programs for health~~  
292 ~~practitioners, such as scholarship, loan repayment, or volunteer~~  
293 ~~programs. To this effect the department may purchase promotional~~  
294 ~~items and advertising.~~



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295 ~~(8) The department may hold copyrights, trademarks, and~~  
296 ~~service marks and enforce its rights with respect thereto,~~  
297 ~~except such authority does not extend to any public records~~  
298 ~~relating to the department's responsibilities for health care~~  
299 ~~practitioners regulated under part II of chapter 455.~~

300 (7)(9) There is established within the Department of  
301 Health the Office of Minority Health.

302 (8)(a) Beginning in fiscal year 2010-2011, the department  
303 shall initiate or commence new programs, including any new  
304 federally funded or grant-supported initiative, or make changes  
305 in current programs only when the Legislature expressly  
306 authorizes the department to do so.

307 (b) Beginning in fiscal year 2010-2011, prior to applying  
308 for any continuation federal or private grants, the department  
309 shall request express approval of the Legislative Budget  
310 Commission. The request for approval shall provide detailed  
311 information about the purpose of the grant, the prior use of the  
312 grant, the need for continuation, the intended use of the  
313 continuation funds, and the number of full-time permanent or  
314 temporary employees that participate in administering the  
315 program funded by the grant. This subparagraph is subject to  
316 the notice, review and objection procedures set forth in s.  
317 216.177.

318 Section 2. Section 381.0011, Florida Statutes, is amended  
319 to read:

320 381.0011 Duties and powers of the Department of Health.—It  
321 is the duty of the Department of Health to:

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322 (1) Assess the public health status and needs of the state  
323 pursuant to the responsibilities delegated to the department  
324 under s. 20.43 through statewide data collection and other  
325 appropriate means, with special attention to future needs that  
326 may result from population growth, technological advancements,  
327 new societal priorities, or other changes.

328 (2) Manage and coordinate emergency preparedness and  
329 disaster response functions to: investigate and control the  
330 spread of disease; coordinate the availability and staffing of  
331 special needs shelters; support patient evacuation; ensure the  
332 safety of food and drugs; provide critical incident stress  
333 debriefing; and provide surveillance and control of  
334 radiological, chemical, biological, and other environmental  
335 hazards ~~Formulate general policies affecting the public health~~  
336 ~~of the state.~~

337 (3) Include in the department's strategic plan developed  
338 under s. 186.021 a summary of all aspects of the public health  
339 related to the responsibilities delegated to the department  
340 under s. 20.43(1) mission and health status objectives to direct  
341 the use of public health resources with an emphasis on  
342 prevention.

343 (4) Administer and enforce laws and rules relating to  
344 sanitation, control of communicable diseases, and illnesses and  
345 hazards to health among humans and from animals to humans, ~~and~~  
346 ~~the general health of the people of the state.~~

347 (5) Cooperate with and accept assistance from federal,  
348 state, and local officials for the prevention and suppression of  
349 communicable and other diseases, illnesses, injuries, and

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350 hazards to human health and cooperate with the Federal  
351 Government in enforcing public health laws and regulations.

352 (6) Declare, enforce, modify, and abolish quarantine of  
353 persons, animals, and premises as the circumstances indicate for  
354 controlling communicable diseases or providing protection from  
355 unsafe conditions that pose a threat to public health, except as  
356 provided in ss. 384.28 and 392.545-392.60.

357 (a) The department shall adopt rules to specify the  
358 conditions and procedures for imposing and releasing a  
359 quarantine. The rules must include provisions related to:

360 1. The closure of premises.

361 2. The movement of persons or animals exposed to or  
362 infected with a communicable disease.

363 3. The tests or treatment, including vaccination, for  
364 communicable disease required prior to employment or admission  
365 to the premises or to comply with a quarantine.

366 4. Testing or destruction of animals with or suspected of  
367 having a disease transmissible to humans.

368 5. Access by the department to quarantined premises.

369 6. The disinfection of quarantined animals, persons, or  
370 premises.

371 7. Methods of quarantine.

372 (b) Any health regulation that restricts travel or trade  
373 within the state may not be adopted or enforced in this state  
374 except by authority of the department.

375 (7) Identify, diagnose, investigate, and conduct  
376 surveillance of communicable diseases in the state and promote  
377 and implement interventions that prevent or limit the impact and

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378 spread of disease in the state ~~Provide for a thorough~~  
379 ~~investigation and study of the incidence, causes, modes of~~  
380 ~~propagation and transmission, and means of prevention, control,~~  
381 ~~and cure of diseases, illnesses, and hazards to human health.~~

382 (8) Issue, as necessary and in its discretion, health  
383 alerts or advisories ~~Provide for the dissemination of~~  
384 ~~information to the public relative to the prevention, control,~~  
385 ~~and cure of diseases, illnesses, and hazards to human health.~~  
386 ~~The department shall conduct a workshop before issuing any~~  
387 ~~health alert or advisory~~ relating to food-borne illness or  
388 communicable disease in public lodging or food service  
389 establishments in order to inform persons, trade associations,  
390 and businesses of the risk to public health and to seek the  
391 input of affected persons, trade associations, and businesses on  
392 the best methods of informing and protecting the public. The  
393 department shall conduct a workshop before issuing any such  
394 alert or advisory, except in an emergency, in which case the  
395 workshop must be held within 14 days after the issuance of the  
396 emergency alert or advisory.

397 (9) Act as registrar of vital statistics.

398 ~~(10) Cooperate with and assist federal health officials in~~  
399 ~~enforcing public health laws and regulations.~~

400 ~~(11) Cooperate with other departments, local officials,~~  
401 ~~and private boards and organizations for the improvement and~~  
402 ~~preservation of the public health.~~

403 ~~(12) Maintain a statewide injury prevention program.~~

404 ~~(10)~~~~(13)~~ Adopt rules pursuant to ss. 120.536(1) and 120.54  
405 to implement the provisions of law conferring duties upon it.

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406 This subsection does not authorize the department to require a  
407 permit or license or to inspect a building or facility, unless  
408 such requirement is specifically provided by law.

409 ~~(11)-(14)~~ Perform any other duties expressly assigned to  
410 the department ~~prescribed~~ by law.

411 Section 3. Subsection (16) of section 381.006, Florida  
412 Statutes, is amended to read:

413 381.006 Environmental health.—The department shall conduct  
414 an environmental health program as part of fulfilling the  
415 state's public health mission. The purpose of this program is to  
416 detect and prevent disease caused by natural and manmade factors  
417 in the environment. The environmental health program shall  
418 include, but not be limited to:

419 (16) A group-care-facilities function. ~~The term, where a~~  
420 "group care facility" means any public or private school,  
421 assisted living facility, adult family-care home, adult day care  
422 center, short-term residential treatment center, residential  
423 treatment facility, home for special services, transitional  
424 living facility, crisis stabilization unit, hospice, prescribed  
425 pediatric extended care center, intermediate care facility for  
426 persons with developmental disabilities, or boarding school  
427 ~~housing, building or buildings, section of a building, or~~  
428 ~~distinct part of a building or other place, whether operated for~~  
429 ~~profit or not, which undertakes, through its ownership or~~  
430 ~~management, to provide one or more personal services, care,~~  
431 ~~protection, and supervision to persons who require such services~~  
432 ~~and who are not related to the owner or administrator. The~~  
433 department may adopt rules necessary to protect the health and

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434 safety of residents, staff, and patrons of group care  
435 facilities, as defined in this paragraph. Rules related to  
436 public and private schools shall be developed by ~~such as child~~  
437 ~~care facilities, family day care homes, assisted living~~  
438 ~~facilities, adult day care centers, adult family care homes,~~  
439 ~~hospices, residential treatment facilities, crisis stabilization~~  
440 ~~units, pediatric extended care centers, intermediate care~~  
441 ~~facilities for the developmentally disabled, group care homes,~~  
442 ~~and, jointly with the Department of Education~~ in consultation  
443 with the department, ~~private and public schools.~~ These Rules may  
444 include definitions of terms; provisions relating to operation  
445 and maintenance of facilities, buildings, grounds, equipment,  
446 furnishings, and occupant-space requirements; lighting; heating,  
447 cooling, and ventilation; food service; water supply and  
448 plumbing; sewage; sanitary facilities; insect and rodent  
449 control; garbage; safety; personnel health, hygiene, and work  
450 practices; and other matters the department finds are  
451 appropriate or necessary to protect the safety and health of the  
452 residents, staff, students, faculty, or patrons. The department  
453 may not adopt rules that conflict with rules adopted by the  
454 licensing or certifying agency. The department may enter and  
455 inspect at reasonable hours to determine compliance with  
456 applicable statutes or rules. In addition to any sanctions that  
457 the department may impose for violations of rules adopted under  
458 this section, the department shall also report such violations  
459 to any agency responsible for licensing or certifying the group  
460 care facility. The licensing or certifying agency may also

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461 impose any sanction based solely on the findings of the  
462 department.

463

464 The department may adopt rules to carry out the provisions of  
465 this section.

466 Section 4. Subsections (1), (2), (3), and (6) of section  
467 381.0072, Florida Statutes, are amended to read:

468 381.0072 Food service protection.—It shall be the duty of  
469 the Department of Health to adopt and enforce sanitation rules  
470 consistent with law to ensure the protection of the public from  
471 food-borne illness. These rules shall provide the standards and  
472 requirements for the storage, preparation, serving, or display  
473 of food in food service establishments as defined in this  
474 section and which are not permitted or licensed under chapter  
475 500 or chapter 509.

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

477 (a) "Department" means the Department of Health or its  
478 representative county health department.

479 (b) "Food service establishment" means detention  
480 facilities, public or private schools, migrant labor camps,  
481 assisted living facilities, adult family-care homes, adult day  
482 care centers, short-term residential treatment centers,  
483 residential treatment facilities, homes for special services,  
484 transitional living facilities, crisis stabilization units,  
485 hospices, prescribed pediatric extended care centers,  
486 intermediate care facilities for persons with developmental  
487 disabilities, boarding schools, civic or fraternal  
488 organizations, bars and lounges, vending machines that dispense

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489 potentially hazardous foods at facilities expressly named in  
490 this paragraph, and facilities used as temporary food events or  
491 mobile food units at any facility expressly named ~~any facility,~~  
492 ~~as described~~ in this paragraph, where food is prepared and  
493 intended for individual portion service, including ~~and includes~~  
494 the site at which individual portions are provided, ~~. The term~~  
495 ~~includes any such facility~~ regardless of whether consumption is  
496 on or off the premises and regardless of whether there is a  
497 charge for the food. ~~The term includes detention facilities,~~  
498 ~~child care facilities, schools, institutions, civic or fraternal~~  
499 ~~organizations, bars and lounges and facilities used at temporary~~  
500 ~~food events, mobile food units, and vending machines at any~~  
501 ~~facility regulated under this section.~~ The term does not include  
502 any entity not expressly named in this paragraph ~~private homes~~  
503 ~~where food is prepared or served for individual family~~  
504 ~~consumption; nor does the term include churches, synagogues, or~~  
505 ~~other not-for-profit religious organizations as long as these~~  
506 ~~organizations serve only their members and guests and do not~~  
507 ~~advertise food or drink for public consumption, or any facility~~  
508 ~~or establishment permitted or licensed under chapter 500 or~~  
509 ~~chapter 509; nor does the term include any theater, if the~~  
510 ~~primary use is as a theater and if patron service is limited to~~  
511 ~~food items customarily served to the admittees of theaters; nor~~  
512 ~~does the term include a research and development test kitchen~~  
513 ~~limited to the use of employees and which is not open to the~~  
514 ~~general public.~~



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515 (c) "Operator" means the owner, operator, keeper,  
516 proprietor, lessee, manager, assistant manager, agent, or  
517 employee of a food service establishment.

518 (2) DUTIES.—

519 (a) The department may advise and consult with the Agency  
520 for Health Care Administration, the Department of Business and  
521 Professional Regulation, the Department of Agriculture and  
522 Consumer Services, and the Department of Children and Family  
523 Services concerning procedures related to the storage,  
524 preparation, serving, or display of food at any building,  
525 structure, or facility not expressly included in this section  
526 that is inspected, licensed, or regulated by those agencies.

527 ~~(b)(a)~~ The department shall adopt rules, including  
528 definitions of terms which are consistent with law prescribing  
529 minimum sanitation standards and manager certification  
530 requirements as prescribed in s. 509.039, and which shall be  
531 enforced in food service establishments as defined in this  
532 section. The sanitation standards must address the construction,  
533 operation, and maintenance of the establishment; lighting,  
534 ventilation, laundry rooms, lockers, use and storage of toxic  
535 materials and cleaning compounds, and first-aid supplies; plan  
536 review; design, construction, installation, location,  
537 maintenance, sanitation, and storage of food equipment and  
538 utensils; employee training, health, hygiene, and work  
539 practices; food supplies, preparation, storage, transportation,  
540 and service, including access to the areas where food is stored  
541 or prepared; and sanitary facilities and controls, including  
542 water supply and sewage disposal; plumbing and toilet

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543 facilities; garbage and refuse collection, storage, and  
544 disposal; and vermin control. Public and private schools, if the  
545 food service is operated by school employees, ~~hospitals~~  
546 ~~licensed under chapter 395; nursing homes licensed under part II~~  
547 ~~of chapter 400; child care facilities as defined in s. 402.301;~~  
548 ~~residential facilities collocated with a nursing home or~~  
549 ~~hospital, if all food is prepared in a central kitchen that~~  
550 ~~complies with nursing or hospital regulations; and bars and~~  
551 lounges, civic organizations, and any other facility that is not  
552 regulated under this section as defined by department rule, are  
553 exempt from the rules developed for manager certification. The  
554 department shall administer a comprehensive inspection,  
555 monitoring, and sampling program to ensure such standards are  
556 maintained. With respect to food service establishments  
557 permitted or licensed under chapter 500 or chapter 509, the  
558 department shall assist the Division of Hotels and Restaurants  
559 of the Department of Business and Professional Regulation and  
560 the Department of Agriculture and Consumer Services with  
561 rulemaking by providing technical information.

562 ~~(c)~~ (c) The department shall carry out all provisions of  
563 this chapter and all other applicable laws and rules relating to  
564 the inspection or regulation of food service establishments as  
565 defined in this section, for the purpose of safeguarding the  
566 public's health, safety, and welfare.

567 ~~(d)~~ (d) The department shall inspect each food service  
568 establishment as often as necessary to ensure compliance with  
569 applicable laws and rules. The department shall have the right  
570 of entry and access to these food service establishments at any

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571 reasonable time. In inspecting food service establishments as  
572 provided under this section, the department shall provide each  
573 inspected establishment with the food recovery brochure  
574 developed under s. 570.0725.

575 ~~(e)(d)~~ The department or other appropriate regulatory  
576 entity may inspect theaters exempted in subsection (1) to ensure  
577 compliance with applicable laws and rules pertaining to minimum  
578 sanitation standards. A fee for inspection shall be prescribed  
579 by rule, but the aggregate amount charged per year per theater  
580 establishment shall not exceed \$300, regardless of the entity  
581 providing the inspection.

582 (3) LICENSES REQUIRED.—

583 (a) Licenses; annual renewals.—Each food service  
584 establishment regulated under this section shall obtain a  
585 license from the department annually. Food service establishment  
586 licenses shall expire annually and are not transferable from one  
587 place or individual to another. However, those facilities  
588 licensed by the department's Office of Licensure and  
589 Certification, the Child Care Services Program Office, or the  
590 Agency for Persons with Disabilities are exempt from this  
591 subsection. It shall be a misdemeanor of the second degree,  
592 punishable as provided in s. 381.0061, s. 775.082, or s.  
593 775.083, for such an establishment to operate without this  
594 license. The department may refuse a license, or a renewal  
595 thereof, to any establishment that is not constructed or  
596 maintained in accordance with law and with the rules of the  
597 department. Annual application for renewal is not required.

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598 (b) Application for license.—Each person who plans to open  
599 a food service establishment regulated under this section and  
600 not regulated under chapter 500 or chapter 509 shall apply for  
601 and receive a license prior to the commencement of operation.

602 (6) IMMINENT DANGERS; STOP-SALE ORDERS.—

603 (a) In the course of epidemiological investigations or for  
604 those establishments regulated by the department under this  
605 chapter, the department, to protect the public from food that is  
606 unwholesome or otherwise unfit for human consumption, may  
607 examine, sample, seize, and stop the sale or use of food to  
608 determine its condition. The department may stop the sale and  
609 supervise the proper destruction of food when the State Health  
610 Officer or his or her designee determines that such food  
611 represents a threat to the public health.

612 (b) The department may determine that a food service  
613 establishment regulated under this section is an imminent danger  
614 to the public health and require its immediate closure when such  
615 establishment fails to comply with applicable sanitary and  
616 safety standards and, because of such failure, presents an  
617 imminent threat to the public's health, safety, and welfare. The  
618 department may accept inspection results from state and local  
619 building and firesafety officials and other regulatory agencies  
620 as justification for such actions. Any facility so deemed and  
621 closed shall remain closed until allowed by the department or by  
622 judicial order to reopen.

623 Section 5. Paragraph (g) of subsection (2) of section  
624 381.0101, Florida Statutes, is amended to read:

625 (2) DEFINITIONS.—As used in this section:

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626 (g) "Primary environmental health program" means those  
627 programs ~~determined by the department~~ is expressly authorized by  
628 law to administer ~~to be essential~~ for providing basic  
629 environmental and sanitary protection to the public. ~~At a~~  
630 ~~minimum,~~ These programs shall include food protection program  
631 work at food service establishments as defined in s. 381.0072  
632 and onsite sewage treatment and disposal system evaluations.

633 Section 6. Sections 381.001, 381.04015, 381.0403, 401.243,  
634 411.23, 411.231, and 411.232, Florida Statutes, are repealed.

635 Section 7. Section 381.4018, Florida Statutes, is amended  
636 to read:

637 381.4018 Physician workforce assessment and development.—

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

639 (a) "Consortium" or "consortia" means a combination of  
640 statutory teaching hospitals, statutory rural hospitals, other  
641 hospitals, accredited medical schools, clinics operated by the  
642 Department of Health, clinics operated by the Department of  
643 Veterans' Affairs, area health education centers, community  
644 health centers, federally qualified health centers, prison  
645 clinics, local community clinics, or other programs. At least  
646 one member of the consortium shall be a sponsoring institution  
647 accredited or currently seeking accreditation by the  
648 Accreditation Council for Graduate Medical Education or the  
649 American Osteopathic Association.

650 (b) "Council" means the Physician Workforce Advisory  
651 Council.

652 (c) "Department" means the Department of Health.

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653        (d) "Graduate medical education program" means a program  
654 accredited by the Accreditation Council for Graduate Medical  
655 Education or the American Osteopathic Association.

656        (e) "Primary care specialty" means emergency medicine,  
657 family practice, internal medicine, pediatrics, psychiatry,  
658 obstetrics and gynecology, and combined internal medicine and  
659 other specialties as determined by the Physician Workforce  
660 Advisory Council or the Department of Health.

661        (2)-(1) LEGISLATIVE INTENT.— The Legislature recognizes  
662 that physician workforce planning is an essential component of  
663 ensuring that there is an adequate and appropriate supply of  
664 well-trained physicians to meet this state's future health care  
665 service needs as the general population and elderly population  
666 of the state increase. The Legislature finds that items to  
667 consider relative to assessing the physician workforce may  
668 include physician practice status; specialty mix; geographic  
669 distribution; demographic information, including, but not  
670 limited to, age, gender, race, and cultural considerations; and  
671 needs of current or projected medically underserved areas in the  
672 state. Long-term strategic planning is essential as the period  
673 from the time a medical student enters medical school to  
674 completion of graduate medical education may range from 7 to 10  
675 years or longer. The Legislature recognizes that strategies to  
676 provide for a well-trained supply of physicians must include  
677 ensuring the availability and capacity of quality ~~graduate~~  
678 medical schools and graduate medical education programs in this  
679 state, as well as using new or existing state and federal  
680 programs providing incentives for physicians to practice in

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681 needed specialties and in underserved areas in a manner that  
682 addresses projected needs for physician manpower.

683 ~~(3)~~<sup>(2)</sup> PURPOSE.—The Department of Health shall serve as a  
684 coordinating and strategic planning body to actively assess the  
685 state's current and future physician workforce needs and work  
686 with multiple stakeholders to develop strategies and  
687 alternatives to address current and projected physician  
688 workforce needs.

689 ~~(4)~~<sup>(3)</sup> GENERAL FUNCTIONS.—The department shall maximize  
690 the use of existing programs under the jurisdiction of the  
691 department and other state agencies and coordinate governmental  
692 and nongovernmental stakeholders and resources in order to  
693 develop a state strategic plan and assess the implementation of  
694 such strategic plan. In developing the state strategic plan, the  
695 department shall:

696 (a) Monitor, evaluate, and report on the supply and  
697 distribution of physicians licensed under chapter 458 or chapter  
698 459. The department shall maintain a database to serve as a  
699 statewide source of data concerning the physician workforce.

700 (b) Develop a model and quantify, on an ongoing basis, the  
701 adequacy of the state's current and future physician workforce  
702 as reliable data becomes available. Such model must take into  
703 account demographics, physician practice status, place of  
704 education and training, generational changes, population growth,  
705 economic indicators, and issues concerning the "pipeline" into  
706 medical education.

707 (c) Develop and recommend strategies to determine whether  
708 the number of qualified medical school applicants who might

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709 become competent, practicing physicians in this state will be  
710 sufficient to meet the capacity of the state's medical schools.  
711 If appropriate, the department shall, working with  
712 representatives of appropriate governmental and nongovernmental  
713 entities, develop strategies and recommendations and identify  
714 best practice programs that introduce health care as a  
715 profession and strengthen skills needed for medical school  
716 admission for elementary, middle, and high school students, and  
717 improve premedical education at the precollege and college level  
718 in order to increase this state's potential pool of medical  
719 students.

720 (d) Develop strategies to ensure that the number of  
721 graduates from the state's public and private allopathic and  
722 osteopathic medical schools are adequate to meet physician  
723 workforce needs, based on the analysis of the physician  
724 workforce data, so as to provide a high-quality medical  
725 education to students in a manner that recognizes the uniqueness  
726 of each new and existing medical school in this state.

727 (e) Pursue strategies and policies to create, expand, and  
728 maintain graduate medical education positions in the state based  
729 on the analysis of the physician workforce data. Such strategies  
730 and policies must take into account the effect of federal  
731 funding limitations on the expansion and creation of positions  
732 in graduate medical education. The department shall develop  
733 options to address such federal funding limitations. The  
734 department shall consider options to provide direct state  
735 funding for graduate medical education positions in a manner  
736 that addresses requirements and needs relative to accreditation



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737 of graduate medical education programs. The department shall  
738 consider funding residency positions as a means of addressing  
739 needed physician specialty areas, rural areas having a shortage  
740 of physicians, and areas of ongoing critical need, and as a  
741 means of addressing the state's physician workforce needs based  
742 on an ongoing analysis of physician workforce data.

743 (f) Develop strategies to maximize federal and state  
744 programs that provide for the use of incentives to attract  
745 physicians to this state or retain physicians within the state.  
746 Such strategies should explore and maximize federal-state  
747 partnerships that provide incentives for physicians to practice  
748 in federally designated shortage areas. Strategies shall also  
749 consider the use of state programs, such as the Florida Health  
750 Service Corps established pursuant to s. 381.0302 and the  
751 Medical Education Reimbursement and Loan Repayment Program  
752 pursuant to s. 1009.65, which provide for education loan  
753 repayment or loan forgiveness and provide monetary incentives  
754 for physicians to relocate to underserved areas of the state.

755 (g) Coordinate and enhance activities relative to  
756 physician workforce needs, undergraduate medical education, and  
757 graduate medical education provided by the Division of Medical  
758 Quality Assurance, ~~the Community Hospital Education Program and~~  
759 ~~the Graduate Medical Education Committee established pursuant to~~  
760 ~~s. 381.0403~~, area health education center networks established  
761 pursuant to s. 381.0402, and other offices and programs within  
762 the Department of Health as designated by the State Surgeon  
763 General.

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764 (h) Work in conjunction with and act as a coordinating  
765 body for governmental and nongovernmental stakeholders to  
766 address matters relating to the state's physician workforce  
767 assessment and development for the purpose of ensuring an  
768 adequate supply of well-trained physicians to meet the state's  
769 future needs. Such governmental stakeholders shall include, but  
770 need not be limited to, the State Surgeon General or his or her  
771 designee, the Commissioner of Education or his or her designee,  
772 the Secretary of Health Care Administration or his or her  
773 designee, and the Chancellor of the State University System or  
774 his or her designee ~~from the Board of Governors of the State~~  
775 ~~University System~~, and, at the discretion of the department,  
776 other representatives of state and local agencies that are  
777 involved in assessing, educating, or training the state's  
778 current or future physicians. Other stakeholders shall include,  
779 but need not be limited to, organizations representing the  
780 state's public and private allopathic and osteopathic medical  
781 schools; organizations representing hospitals and other  
782 institutions providing health care, particularly those that have  
783 an interest in providing accredited medical education and  
784 graduate medical education to medical students and medical  
785 residents; organizations representing allopathic and osteopathic  
786 practicing physicians; and, at the discretion of the department,  
787 representatives of other organizations or entities involved in  
788 assessing, educating, or training the state's current or future  
789 physicians.

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790 (i) Serve as a liaison with other states and federal  
791 agencies and programs in order to enhance resources available to  
792 the state's physician workforce and medical education continuum.

793 (j) Act as a clearinghouse for collecting and  
794 disseminating information concerning the physician workforce and  
795 medical education continuum in this state.

796 (5) PHYSICIAN WORKFORCE ADVISORY COUNCIL.—There is created  
797 in the Department of Health the Physician Workforce Advisory  
798 Council, an advisory council as defined in s. 20.03. The council  
799 shall comply with the requirements of s. 20.052, except as  
800 otherwise provided in this section.

801 (a) The council shall be composed of the following 23  
802 members:

803 1. The following members appointed by the State Surgeon  
804 General:

805 a. A designee from the department.

806 b. An individual recommended by the Area Health Education  
807 Center Network.

808 c. Two individuals recommended by the Council of Florida  
809 Medical School Deans, one representing a college of allopathic  
810 medicine and one representing a college of osteopathic medicine.

811 d. Two individuals recommended by the Florida Hospital  
812 Association, one representing a statutory teaching hospital and  
813 one representing a hospital that is licensed under chapter 395,  
814 has an accredited graduate medical education program, and is not  
815 a statutory teaching hospital.

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816 e. Two individuals recommended by the Florida Medical  
817 Association, one representing a primary care specialty and one  
818 representing a nonprimary care specialty.

819 f. Two individuals recommended by the Florida Osteopathic  
820 Medical Association, one representing a primary care specialty  
821 and one representing a nonprimary care specialty.

822 g. Two individuals who are program directors of accredited  
823 graduate medical education programs, one representing a program  
824 that is accredited by the Accreditation Council for Graduate  
825 Medical Education and one representing a program that is  
826 accredited by the American Osteopathic Association.

827 h. An individual recommended by the Florida Justice  
828 Association.

829 i. An individual representing a profession in the field of  
830 health services administration.

831 j. A layperson member.

832

833 Each entity authorized to make recommendations under this  
834 subparagraph shall make at least two recommendations to the  
835 State Surgeon General for each appointment to the council. The  
836 State Surgeon General shall appoint one member for each position  
837 from among the recommendations made by each authorized entity.

838 2. The following members appointed by the respective  
839 agency head, legislative presiding officer, or congressional  
840 delegation:

841 a. The Commissioner of Education or his or her designee.

842 b. The Chancellor of the State University System or his or  
843 her designee.

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844 c. The Secretary of Health Care Administration or his or  
845 her designee.

846 d. The executive director of the Department of Veterans'  
847 Affairs or his or her designee.

848 e. The Secretary of Elderly Affairs or his or her  
849 designee.

850 f. The President of the Senate or his or her designee.

851 g. The Speaker of the House of Representatives or his or  
852 her designee.

853 h. A designee of Florida's Congressional Delegation.

854 (b) Each council member shall be appointed to a 4-year  
855 term. An individual may not serve more than two terms. Any  
856 council member may be removed from office for malfeasance;  
857 misfeasance; neglect of duty; incompetence; permanent inability  
858 to perform official duties; or pleading guilty or nolo  
859 contendere to, or being found guilty of, a felony. Any council  
860 member who meets the criteria for removal, or who is otherwise  
861 unwilling or unable to properly fulfill the duties of the  
862 office, shall be succeeded by an individual chosen by the State  
863 Surgeon General to serve out the remainder of the council  
864 member's term. If the remainder of the replaced council member's  
865 term is less than 18 months, notwithstanding the provisions of  
866 this paragraph, the succeeding council member may be reappointed  
867 twice by the State Surgeon General.

868 (c) The chair of the council is the State Surgeon General,  
869 who shall designate a vice chair to serve in the absence of the  
870 State Surgeon General. A vacancy shall be filled for the

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871 remainder of the unexpired term in the same manner as the  
872 original appointment.

873 (d) Council members are not entitled to receive  
874 compensation or reimbursement for per diem or travel expenses.

875 (e) The council shall meet twice a year in person or by  
876 teleconference.

877 (f) The council shall:

878 1. Advise the State Surgeon General and the department on  
879 matters concerning current and future physician workforce needs  
880 in this state.

881 2. Review survey materials and the compilation of survey  
882 information.

883 3. Provide recommendations to the department for the  
884 development of additional items to be incorporated in the survey  
885 completed by physicians licensed under chapter 458 or chapter  
886 459.

887 4. Assist the department in preparing the annual report to  
888 the Legislature pursuant to ss. 458.3192 and 459.0082.

889 5. Assist the department in preparing an initial strategic  
890 plan, conduct ongoing strategic planning in accordance with this  
891 section, and provide ongoing advice on implementing the  
892 recommendations.

893 6. Monitor the need for an increased number of primary  
894 care physicians to provide the necessary current and projected  
895 health and medical services for the state.

896 7. Monitor the status of graduate medical education in  
897 this state, including, but not limited to, as considered  
898 appropriate:

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899 a. The effectiveness of graduate medical education pilot  
900 projects funded pursuant to subsection (6).

901 b. The role of residents and medical faculty in the  
902 provision of health care.

903 c. The relationship of graduate medical education to the  
904 state's physician workforce.

905 d. The availability and use of state and federal  
906 appropriated funds for graduate medical education.

907 Section 8. Section 392.51, Florida Statutes, is amended to  
908 read:

909 392.51 Findings and intent.—The Legislature finds and  
910 declares that active tuberculosis is a highly contagious  
911 infection that is sometimes fatal and constitutes a serious  
912 threat to the public health. The Legislature finds that there is  
913 a significant reservoir of tuberculosis infection in this state  
914 and that there is a need to develop community programs to  
915 identify tuberculosis and to respond quickly with appropriate  
916 measures. The Legislature finds that some patients who have  
917 active tuberculosis have complex medical, social, and economic  
918 problems that make outpatient control of the disease difficult,  
919 if not impossible, without posing a threat to the public health.  
920 The Legislature finds that in order to protect the citizenry  
921 from those few persons who pose a threat to the public, it is  
922 necessary to establish a system of mandatory contact  
923 identification, treatment to cure, hospitalization, and  
924 isolation for contagious cases and to provide a system of  
925 voluntary, community-oriented care and surveillance in all other  
926 cases. The Legislature finds that the delivery of tuberculosis

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927 control services is best accomplished by the coordinated efforts  
928 of the respective county health departments, ~~the A.G. Holley~~  
929 ~~State Hospital~~, and the private health care delivery system.

930 Section 9. Subsection (5) of section 392.69, Florida  
931 Statutes, is created to read:

932 392.69 Appropriation, sinking, and maintenance trust  
933 funds; additional powers of the department.-

934 (5) The department shall develop a plan to provide  
935 treatment to cure, hospitalization, and isolation exclusively by  
936 private and non-state public hospitals for contagious cases of  
937 tuberculosis for persons who pose a threat to the public. The  
938 department shall submit the plan to the Governor, the President  
939 of the Senate and the Speaker of the House of Representatives by  
940 November 1, 2010. The plan shall include the following elements:

941 (a) Identification of hospitals functionally capable of  
942 caring for such patients;

943 (b) Reimbursement for hospital inpatient services at the  
944 Medicaid rate and reimbursement for other medically necessary  
945 services which are not hospital inpatient services at the  
946 relevant Medicaid rate;

947 (c) Projected cost estimates; and

948 (d) A transition plan for closing the A. G. Holley State  
949 Hospital and transferring patients to such hospitals over a 90-  
950 day period of time.

951 Section 10. Paragraph (d) of subsection (5) of section  
952 411.01, Florida Statutes, is amended to read:

953 411.01 School readiness programs; early learning  
954 coalitions.-



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955 (5) CREATION OF EARLY LEARNING COALITIONS.—

956 (d) Implementation.—

957 1. An early learning coalition may not implement the  
958 school readiness program until the coalition is authorized  
959 through approval of the coalition's school readiness plan by the  
960 Agency for Workforce Innovation.

961 2. Each early learning coalition shall develop a plan for  
962 implementing the school readiness program to meet the  
963 requirements of this section and the performance standards and  
964 outcome measures adopted by the Agency for Workforce Innovation.  
965 The plan must demonstrate how the program will ensure that each  
966 3-year-old and 4-year-old child in a publicly funded school  
967 readiness program receives scheduled activities and instruction  
968 designed to enhance the age-appropriate progress of the children  
969 in attaining the performance standards adopted by the Agency for  
970 Workforce Innovation under subparagraph (4)(d)8. Before  
971 implementing the school readiness program, the early learning  
972 coalition must submit the plan to the Agency for Workforce  
973 Innovation for approval. The Agency for Workforce Innovation may  
974 approve the plan, reject the plan, or approve the plan with  
975 conditions. The Agency for Workforce Innovation shall review  
976 school readiness plans at least annually.

977 3. If the Agency for Workforce Innovation determines  
978 during the annual review of school readiness plans, or through  
979 monitoring and performance evaluations conducted under paragraph  
980 (4)(1), that an early learning coalition has not substantially  
981 implemented its plan, has not substantially met the performance  
982 standards and outcome measures adopted by the agency, or has not

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983 | effectively administered the school readiness program or  
984 | Voluntary Prekindergarten Education Program, the Agency for  
985 | Workforce Innovation may dissolve the coalition and temporarily  
986 | contract with a qualified entity to continue school readiness  
987 | and prekindergarten services in the coalition's county or  
988 | multicounty region until the coalition is reestablished through  
989 | resubmission of a school readiness plan and approval by the  
990 | agency.

991 |         4. The Agency for Workforce Innovation shall adopt  
992 | criteria for the approval of school readiness plans. The  
993 | criteria must be consistent with the performance standards and  
994 | outcome measures adopted by the agency and must require each  
995 | approved plan to include the following minimum standards and  
996 | provisions:

997 |         a. A sliding fee scale establishing a copayment for  
998 | parents based upon their ability to pay, which is the same for  
999 | all program providers, to be implemented and reflected in each  
1000 | program's budget.

1001 |         b. A choice of settings and locations in licensed,  
1002 | registered, religious-exempt, or school-based programs to be  
1003 | provided to parents.

1004 |         c. Instructional staff who have completed the training  
1005 | course as required in s. 402.305(2)(d)1., as well as staff who  
1006 | have additional training or credentials as required by the  
1007 | Agency for Workforce Innovation. The plan must provide a method  
1008 | for assuring the qualifications of all personnel in all program  
1009 | settings.

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1010 d. Specific eligibility priorities for children within the  
1011 early learning coalition's county or multicounty region in  
1012 accordance with subsection (6).

1013 e. Performance standards and outcome measures adopted by  
1014 the Agency for Workforce Innovation.

1015 f. Payment rates adopted by the early learning coalition  
1016 and approved by the Agency for Workforce Innovation. Payment  
1017 rates may not have the effect of limiting parental choice or  
1018 creating standards or levels of services that have not been  
1019 authorized by the Legislature.

1020 g. Systems support services, including a central agency,  
1021 child care resource and referral, eligibility determinations,  
1022 training of providers, and parent support and involvement.

1023 h. Direct enhancement services to families and children.  
1024 System support and direct enhancement services shall be in  
1025 addition to payments for the placement of children in school  
1026 readiness programs.

1027 i. The business organization of the early learning  
1028 coalition, which must include the coalition's articles of  
1029 incorporation and bylaws if the coalition is organized as a  
1030 corporation. If the coalition is not organized as a corporation  
1031 or other business entity, the plan must include the contract  
1032 with a fiscal agent. An early learning coalition may contract  
1033 with other coalitions to achieve efficiency in multicounty  
1034 services, and these contracts may be part of the coalition's  
1035 school readiness plan.

1036 j. Strategies to meet the needs of unique populations,  
1037 such as migrant workers.

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1039 As part of the school readiness plan, the early learning  
1040 coalition may request the Governor to apply for a waiver to  
1041 allow the coalition to administer the Head Start Program to  
1042 accomplish the purposes of the school readiness program. If a  
1043 school readiness plan demonstrates that specific statutory goals  
1044 can be achieved more effectively by using procedures that  
1045 require modification of existing rules, policies, or procedures,  
1046 a request for a waiver to the Agency for Workforce Innovation  
1047 may be submitted as part of the plan. Upon review, the Agency  
1048 for Workforce Innovation may grant the proposed modification.

1049 5. Persons with an early childhood teaching certificate  
1050 may provide support and supervision to other staff in the school  
1051 readiness program.

1052 6. An early learning coalition may not implement its  
1053 school readiness plan until it submits the plan to and receives  
1054 approval from the Agency for Workforce Innovation. Once the plan  
1055 is approved, the plan and the services provided under the plan  
1056 shall be controlled by the early learning coalition. The plan  
1057 shall be reviewed and revised as necessary, but at least  
1058 biennially. An early learning coalition may not implement the  
1059 revisions until the coalition submits the revised plan to and  
1060 receives approval from the Agency for Workforce Innovation. If  
1061 the Agency for Workforce Innovation rejects a revised plan, the  
1062 coalition must continue to operate under its prior approved  
1063 plan.

1064 7. Sections 125.901(2)(a)3. and, ~~411.221, and 411.232~~ do  
1065 not apply to an early learning coalition with an approved school

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1066 readiness plan. To facilitate innovative practices and to allow  
1067 the regional establishment of school readiness programs, an  
1068 early learning coalition may apply to the Governor and Cabinet  
1069 for a waiver of, and the Governor and Cabinet may waive, any of  
1070 the provisions of ss. 411.223, ~~411.232~~, and 1003.54, if the  
1071 waiver is necessary for implementation of the coalition's school  
1072 readiness plan.

1073 8. Two or more counties may join for purposes of planning  
1074 and implementing a school readiness program.

1075 9. An early learning coalition may, subject to approval by  
1076 the Agency for Workforce Innovation as part of the coalition's  
1077 school readiness plan, receive subsidized child care funds for  
1078 all children eligible for any federal subsidized child care  
1079 program.

1080 10. An early learning coalition may enter into multiparty  
1081 contracts with multicounty service providers in order to meet  
1082 the needs of unique populations such as migrant workers.

1083 Section 11. Paragraphs (f) and (g) of subsection (2) of  
1084 section 411.224, Florida Statutes, are redesignated as  
1085 paragraphs (e) and (f), respectively, and present paragraph (e)  
1086 of that subsection is amended to read:

1087 411.224 Family support planning process.—The Legislature  
1088 establishes a family support planning process to be used by the  
1089 Department of Children and Family Services as the service  
1090 planning process for targeted individuals, children, and  
1091 families under its purview.

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1092 (2) To the extent possible within existing resources, the  
1093 following populations must be included in the family support  
1094 planning process:

1095 ~~(e) Participants who are served by the Children's Early~~  
1096 ~~Investment Program established in s. 411.232.~~

1097 Section 12. Section 458.3192, Florida Statutes, is amended  
1098 to read:

1099 458.3192 Analysis of survey results; report.—

1100 (1) Each year, the Department of Health shall analyze the  
1101 results of the physician survey required by s. 458.3191 and  
1102 determine by geographic area and specialty the number of  
1103 physicians who:

1104 (a) Perform deliveries of children in this state ~~Florida~~.

1105 (b) Read mammograms and perform breast-imaging-guided  
1106 procedures in this state ~~Florida~~.

1107 (c) Perform emergency care on an on-call basis for a  
1108 hospital emergency department.

1109 (d) Plan to reduce or increase emergency on-call hours in  
1110 a hospital emergency department.

1111 (e) Plan to relocate ~~their allopathic or osteopathic~~  
1112 ~~practice~~ outside the state.

1113 (f) Practice medicine in this state.

1114 (g) Reduce or modify the scope of their practice.

1115 (2) The Department of Health must report its findings to  
1116 the Governor, the President of the Senate, and the Speaker of  
1117 the House of Representatives by November 1 each year. The  
1118 department may also include in its report findings,  
1119 recommendations, or other information requested by the council.

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1120 Section 13. Section 459.0082, Florida Statutes, is amended  
1121 to read:

1122 459.0082 Analysis of survey results; report.—

1123 (1) Each year, the Department of Health shall analyze the  
1124 results of the physician survey required by s. 459.0081 and  
1125 determine by geographic area and specialty the number of  
1126 physicians who:

1127 (a) Perform deliveries of children in this state Florida.

1128 (b) Read mammograms and perform breast-imaging-guided  
1129 procedures in this state Florida.

1130 (c) Perform emergency care on an on-call basis for a  
1131 hospital emergency department.

1132 (d) Plan to reduce or increase emergency on-call hours in  
1133 a hospital emergency department.

1134 (e) Plan to relocate ~~their allopathic or osteopathic~~  
1135 ~~practice~~ outside the state.

1136 (f) Practice medicine in this state.

1137 (g) Reduce or modify the scope of their practice.

1138 (2) The Department of Health must report its findings to  
1139 the Governor, the President of the Senate, and the Speaker of  
1140 the House of Representatives by November 1 each year. The  
1141 department may also include in its report findings,  
1142 recommendations, or other information requested by the council.

1143 Section 14. Paragraph (a) of subsection (1) of section  
1144 409.908, Florida Statutes, is amended to read:

1145 409.908 Reimbursement of Medicaid providers.—Subject to  
1146 specific appropriations, the agency shall reimburse Medicaid  
1147 providers, in accordance with state and federal law, according

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1148 | to methodologies set forth in the rules of the agency and in  
1149 | policy manuals and handbooks incorporated by reference therein.  
1150 | These methodologies may include fee schedules, reimbursement  
1151 | methods based on cost reporting, negotiated fees, competitive  
1152 | bidding pursuant to s. 287.057, and other mechanisms the agency  
1153 | considers efficient and effective for purchasing services or  
1154 | goods on behalf of recipients. If a provider is reimbursed based  
1155 | on cost reporting and submits a cost report late and that cost  
1156 | report would have been used to set a lower reimbursement rate  
1157 | for a rate semester, then the provider's rate for that semester  
1158 | shall be retroactively calculated using the new cost report, and  
1159 | full payment at the recalculated rate shall be effected  
1160 | retroactively. Medicare-granted extensions for filing cost  
1161 | reports, if applicable, shall also apply to Medicaid cost  
1162 | reports. Payment for Medicaid compensable services made on  
1163 | behalf of Medicaid eligible persons is subject to the  
1164 | availability of moneys and any limitations or directions  
1165 | provided for in the General Appropriations Act or chapter 216.  
1166 | Further, nothing in this section shall be construed to prevent  
1167 | or limit the agency from adjusting fees, reimbursement rates,  
1168 | lengths of stay, number of visits, or number of services, or  
1169 | making any other adjustments necessary to comply with the  
1170 | availability of moneys and any limitations or directions  
1171 | provided for in the General Appropriations Act, provided the  
1172 | adjustment is consistent with legislative intent.

1173 |         (1) Reimbursement to hospitals licensed under part I of  
1174 | chapter 395 must be made prospectively or on the basis of  
1175 | negotiation.



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1176 (a) Reimbursement for inpatient care is limited as  
1177 provided for in s. 409.905(5), except for:

1178 1. The raising of rate reimbursement caps, excluding rural  
1179 hospitals.

1180 2. Recognition of the costs of graduate medical education.

1181 3. Other methodologies recognized in the General  
1182 Appropriations Act.

1183

1184 During the years funds are transferred from the Department of  
1185 Health, any reimbursement supported by such funds shall be  
1186 subject to certification by the Department of Health that the  
1187 hospital has complied with s. 381.4018 ~~s. 381.0403~~. The agency  
1188 ~~may is authorized to~~ receive funds from state entities,  
1189 including, but not limited to, the Department of Health, local  
1190 governments, and other local political subdivisions, for the  
1191 purpose of making special exception payments, including federal  
1192 matching funds, through the Medicaid inpatient reimbursement  
1193 methodologies. Funds received from state entities or local  
1194 governments for this purpose shall be separately accounted for  
1195 and shall not be commingled with other state or local funds in  
1196 any manner. The agency may certify all local governmental funds  
1197 used as state match under Title XIX of the Social Security Act,  
1198 to the extent that the identified local health care provider  
1199 that is otherwise entitled to and is contracted to receive such  
1200 local funds is the benefactor under the state's Medicaid program  
1201 as determined under the General Appropriations Act and pursuant  
1202 to an agreement between the Agency for Health Care  
1203 Administration and the local governmental entity. The local

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1204 governmental entity shall use a certification form prescribed by  
1205 the agency. At a minimum, the certification form shall identify  
1206 the amount being certified and describe the relationship between  
1207 the certifying local governmental entity and the local health  
1208 care provider. The agency shall prepare an annual statement of  
1209 impact which documents the specific activities undertaken during  
1210 the previous fiscal year pursuant to this paragraph, to be  
1211 submitted to the Legislature no later than January 1, annually.

1212 Section 15. Paragraph (q) of subsection (2) of section  
1213 499.01, Florida Statutes, is amended to read:

1214 499.01 Permits.—

1215 (2) The following permits are established:

1216 (q) Device manufacturer permit.—A device manufacturer  
1217 permit is required for any person that engages in the  
1218 manufacture, repackaging, or assembly of medical devices for  
1219 human use in this state, except that a permit is not required  
1220 if:

1221 1. The ~~the~~ person is engaged only in manufacturing,  
1222 repackaging, or assembling a medical device pursuant to a  
1223 practitioner's order for a specific patient; or

1224 2. The person does not manufacture, repackage, or assemble  
1225 any medical devices or components for such devices, except those  
1226 devices or components which are exempt from registration  
1227 pursuant to s. 499.015(8).

1228 a.1. A manufacturer or repackager of medical devices in  
1229 this state must comply with all appropriate state and federal  
1230 good manufacturing practices and quality system rules.

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1231 ~~b.2.~~ The department shall adopt rules related to storage,  
1232 handling, and recordkeeping requirements for manufacturers of  
1233 medical devices for human use.

1234 Section 16. Section 499.029, Florida Statutes, is amended  
1235 to read:

1236 499.029 Prescription Cancer Drug Donation Program.—

1237 (1) This section may be cited as the Prescription "~~Cancer~~  
1238 Drug Donation Program Act."

1239 (2) There is created a Prescription Cancer Drug Donation  
1240 Program within the department for the purpose of authorizing and  
1241 facilitating the donation of prescription cancer drugs and  
1242 supplies to eligible patients.

1243 (3) As used in this section:

1244 ~~(a) "Cancer drug" means a prescription drug that has been~~  
1245 ~~approved under s. 505 of the federal Food, Drug, and Cosmetic~~  
1246 ~~Act and is used to treat cancer or its side effects or is used~~  
1247 ~~to treat the side effects of a prescription drug used to treat~~  
1248 ~~cancer or its side effects. "Cancer drug" does not include a~~  
1249 ~~substance listed in Schedule II, Schedule III, Schedule IV, or~~  
1250 ~~Schedule V of s. 893.03.~~

1251 ~~(a)(b)~~ "Closed drug delivery system" means a system in  
1252 which the actual control of the unit-dose medication package is  
1253 maintained by the facility rather than by the individual  
1254 patient.

1255 (b) "Dispensing practitioner" means a practitioner  
1256 registered under s. 465.0276.

1257 (c) "Donor" means a patient or patient representative who  
1258 donates prescription cancer drugs or supplies needed to

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1259 administer prescription ~~cancer~~ drugs that have been maintained  
1260 within a closed drug delivery system; health care facilities,  
1261 nursing homes, hospices, or hospitals with closed drug delivery  
1262 systems; or pharmacies, prescription drug manufacturers, medical  
1263 device manufacturers or suppliers, or wholesalers of  
1264 prescription drugs or supplies, in accordance with this section.  
1265 "Donor" includes a physician licensed under chapter 458 or  
1266 chapter 459 who receives prescription ~~cancer~~ drugs or supplies  
1267 directly from a drug manufacturer, wholesale distributor, or  
1268 pharmacy.

1269 (d) "Eligible patient" means a person who the department  
1270 determines is eligible to receive prescription ~~cancer~~ drugs from  
1271 the program.

1272 (e) "Participant ~~facility~~" means a ~~class II hospital~~  
1273 pharmacy or dispensing practitioner that has elected to  
1274 participate in the program and that accepts donated prescription  
1275 ~~cancer~~ drugs and supplies under the rules adopted by the  
1276 department for the program.

1277 (f) "Prescribing practitioner" means a physician licensed  
1278 under chapter 458 or chapter 459 or any other medical  
1279 professional with authority under state law to prescribe drugs  
1280 ~~cancer medication~~.

1281 (g) "Prescription drug" does not include a substance  
1282 listed in Schedule II, Schedule III, Schedule IV, or Schedule V  
1283 of s. 893.03.

1284 (h) ~~(g)~~ "Program" means the Prescription Cancer Drug  
1285 Donation Program created by this section.

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1286        (i)~~(h)~~ "Supplies" means any supplies used in the  
1287 administration of a prescription ~~cancer~~ drug.

1288        (4) Any donor may donate prescription ~~cancer~~ drugs or  
1289 supplies to a participant ~~facility~~ that elects to participate in  
1290 the program and meets criteria established by the department for  
1291 such participation. Prescription ~~Cancer~~ drugs or supplies may  
1292 not be donated to a specific ~~cancer~~ patient, and donated  
1293 prescription drugs or supplies may not be resold by the  
1294 participant ~~program~~. Prescription ~~Cancer~~ drugs billed to and  
1295 paid for by Medicaid in long-term care facilities that are  
1296 eligible for return to stock under federal Medicaid regulations  
1297 shall be credited to Medicaid and are not eligible for donation  
1298 under the program. A participant ~~facility~~ may provide dispensing  
1299 and counseling ~~consulting~~ services to individuals who are not  
1300 patients of the participant ~~hospital~~.

1301        (5) The prescription ~~cancer~~ drugs or supplies donated to  
1302 the program may be prescribed only by a prescribing practitioner  
1303 for use by an eligible patient and may be dispensed only by a  
1304 pharmacist or a dispensing practitioner.

1305        (6) (a) A prescription ~~cancer~~ drug may only be accepted or  
1306 dispensed under the program if the prescription drug is in its  
1307 original, unopened, sealed container, or in a tamper-evident  
1308 unit-dose packaging, except that a prescription ~~cancer~~ drug  
1309 packaged in single-unit doses may be accepted and dispensed if  
1310 the outside packaging is opened but the single-unit-dose  
1311 packaging is unopened with tamper-resistant packaging intact.

1312        (b) A prescription ~~cancer~~ drug may not be accepted or  
1313 dispensed under the program if the drug bears an expiration date

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1314 that is less than 6 months after the date the drug was donated  
1315 or if the drug appears to have been tampered with or mislabeled  
1316 as determined in paragraph (c).

1317 (c) Prior to being dispensed to an eligible patient, the  
1318 prescription ~~cancer~~ drug or supplies donated under the program  
1319 shall be inspected by a pharmacist or dispensing practitioner to  
1320 determine that the drug and supplies do not appear to have been  
1321 tampered with or mislabeled.

1322 (d) A dispenser of donated prescription ~~cancer~~ drugs or  
1323 supplies may not submit a claim or otherwise seek reimbursement  
1324 from any public or private third-party payor for donated  
1325 prescription ~~cancer~~ drugs or supplies dispensed to any patient  
1326 under the program, and a public or private third-party payor is  
1327 not required to provide reimbursement to a dispenser for donated  
1328 prescription ~~cancer~~ drugs or supplies dispensed to any patient  
1329 under the program.

1330 (7) (a) A donation of prescription ~~cancer~~ drugs or supplies  
1331 shall be made only at a participant's ~~participant~~ facility. A  
1332 participant ~~facility~~ may decline to accept a donation. A  
1333 participant ~~facility~~ that accepts donated prescription ~~cancer~~  
1334 drugs or supplies under the program shall comply with all  
1335 applicable provisions of state and federal law relating to the  
1336 storage and dispensing of the donated prescription ~~cancer~~ drugs  
1337 or supplies.

1338 (b) A participant ~~facility~~ that voluntarily takes part in  
1339 the program may charge a handling fee sufficient to cover the  
1340 cost of preparation and dispensing of prescription ~~cancer~~ drugs

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1341 or supplies under the program. The fee shall be established in  
1342 rules adopted by the department.

1343 (8) The department, upon the recommendation of the Board  
1344 of Pharmacy, shall adopt rules to carry out the provisions of  
1345 this section. Initial rules under this section shall be adopted  
1346 no later than 90 days after the effective date of this act. The  
1347 rules shall include, but not be limited to:

1348 (a) Eligibility criteria, including a method to determine  
1349 priority of eligible patients under the program.

1350 (b) Standards and procedures for participants ~~participant~~  
1351 ~~facilities~~ that accept, store, distribute, or dispense donated  
1352 prescription cancer drugs or supplies.

1353 (c) Necessary forms for administration of the program,  
1354 including, but not limited to, forms for use by entities that  
1355 donate, accept, distribute, or dispense prescription cancer  
1356 drugs or supplies under the program.

1357 (d) The maximum handling fee that may be charged by a  
1358 participant ~~facility~~ that accepts and distributes or dispenses  
1359 donated prescription cancer drugs or supplies.

1360 (e) Categories of prescription cancer drugs and supplies  
1361 that the program will accept for dispensing; however, the  
1362 department may exclude any drug based on its therapeutic  
1363 effectiveness or high potential for abuse or diversion.

1364 (f) Maintenance and distribution of the participant  
1365 ~~facility~~ registry established in subsection (10).

1366 (9) A person who is eligible to receive prescription  
1367 ~~cancer~~ drugs or supplies under the state Medicaid program or  
1368 under any other prescription drug program funded in whole or in

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1369 part by the state, by any other prescription drug program funded  
1370 in whole or in part by the Federal Government, or by any other  
1371 prescription drug program offered by a third-party insurer,  
1372 unless benefits have been exhausted, or a certain prescription  
1373 ~~cancer~~ drug or supply is not covered by the prescription drug  
1374 program, is ineligible to participate in the program created  
1375 under this section.

1376 (10) The department shall establish and maintain a  
1377 participant ~~facility~~ registry for the program. The participant  
1378 ~~facility~~ registry shall include the participant's ~~participant~~  
1379 ~~facility's~~ name, address, and telephone number. The department  
1380 shall make the participant ~~facility~~ registry available on the  
1381 department's website to any donor wishing to donate prescription  
1382 ~~cancer~~ drugs or supplies to the program. The department's  
1383 website shall also contain links to prescription ~~cancer~~ drug  
1384 manufacturers that offer drug assistance programs or free  
1385 medication.

1386 (11) Any donor of prescription ~~cancer~~ drugs or supplies,  
1387 or any participant in the program, who exercises reasonable care  
1388 in donating, accepting, distributing, or dispensing prescription  
1389 ~~cancer~~ drugs or supplies under the program and the rules adopted  
1390 under this section shall be immune from civil or criminal  
1391 liability and from professional disciplinary action of any kind  
1392 for any injury, death, or loss to person or property relating to  
1393 such activities.

1394 (12) A pharmaceutical manufacturer is not liable for any  
1395 claim or injury arising from the transfer of any prescription  
1396 ~~cancer~~ drug under this section, including, but not limited to,



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1397 liability for failure to transfer or communicate product or  
1398 consumer information regarding the transferred drug, as well as  
1399 the expiration date of the transferred drug.

1400 (13) If any conflict exists between the provisions in this  
1401 section and the provisions in this chapter or chapter 465, the  
1402 provisions in this section shall control the operation of the  
1403 ~~Cancer-Drug-Donation~~ Program.

1404 Section 17. Subsections (4) and (5) of section 509.013,  
1405 Florida Statutes, are amended to read:

1406 509.013 Definitions.—As used in this chapter, the term:

1407 (4)(a) "Public lodging establishment" includes a transient  
1408 public lodging establishment as defined in subparagraph 1. and a  
1409 nontransient public lodging establishment as defined in  
1410 subparagraph 2.

1411 1. "Transient public lodging establishment" means any  
1412 unit, group of units, dwelling, building, or group of buildings  
1413 within a single complex of buildings which is rented to guests  
1414 more than three times in a calendar year for periods of less  
1415 than 30 days or 1 calendar month, whichever is less, or which is  
1416 advertised or held out to the public as a place regularly rented  
1417 to guests.

1418 2. "Nontransient public lodging establishment" means any  
1419 unit, group of units, dwelling, building, or group of buildings  
1420 within a single complex of buildings which is rented to guests  
1421 for periods of at least 30 days or 1 calendar month, whichever  
1422 is less, or which is advertised or held out to the public as a  
1423 place regularly rented to guests for periods of at least 30 days  
1424 or 1 calendar month.

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1425  
1426 License classifications of public lodging establishments, and  
1427 the definitions therefor, are set out in s. 509.242. For the  
1428 purpose of licensure, the term does not include condominium  
1429 common elements as defined in s. 718.103.

1430 (b) The following are excluded from the definitions in  
1431 paragraph (a):

1432 1. Any dormitory or other living or sleeping facility  
1433 maintained by a public or private school, college, or university  
1434 for the use of students, faculty, or visitors;

1435 2. Any facility certified or licensed and regulated by the  
1436 Agency for Health Care Administration or the Department of  
1437 Children and Family Services ~~hospital, nursing home, sanitarium,~~  
1438 ~~assisted living facility,~~ or other similar place regulated under  
1439 s. 381.0072;

1440 3. Any place renting four rental units or less, unless the  
1441 rental units are advertised or held out to the public to be  
1442 places that are regularly rented to transients;

1443 4. Any unit or group of units in a condominium,  
1444 cooperative, or timeshare plan and any individually or  
1445 collectively owned one-family, two-family, three-family, or  
1446 four-family dwelling house or dwelling unit that is rented for  
1447 periods of at least 30 days or 1 calendar month, whichever is  
1448 less, and that is not advertised or held out to the public as a  
1449 place regularly rented for periods of less than 1 calendar  
1450 month, provided that no more than four rental units within a  
1451 single complex of buildings are available for rent;

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1452 5. Any migrant labor camp or residential migrant housing  
1453 permitted by the Department of Health; under ss. 381.008-  
1454 381.00895; and

1455 6. Any establishment inspected by the Department of Health  
1456 and regulated by chapter 513.

1457 (5) (a) "Public food service establishment" means any  
1458 building, vehicle, place, or structure, or any room or division  
1459 in a building, vehicle, place, or structure where food is  
1460 prepared, served, or sold for immediate consumption on or in the  
1461 vicinity of the premises; called for or taken out by customers;  
1462 or prepared prior to being delivered to another location for  
1463 consumption.

1464 (b) The following are excluded from the definition in  
1465 paragraph (a):

1466 1. Any place maintained and operated by a public or  
1467 private school, college, or university:

1468 a. For the use of students and faculty; or

1469 b. Temporarily to serve such events as fairs, carnivals,  
1470 and athletic contests.

1471 2. Any eating place maintained and operated by a church or  
1472 a religious, nonprofit fraternal, or nonprofit civic  
1473 organization:

1474 a. For the use of members and associates; or

1475 b. Temporarily to serve such events as fairs, carnivals,  
1476 or athletic contests.

1477 3. Any eating place located on an airplane, train, bus, or  
1478 watercraft which is a common carrier.

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1479 4. Any eating place maintained by a facility certified or  
1480 licensed and regulated by the Agency for Health Care  
1481 Administration or the Department of Children and Family Services  
1482 ~~hospital, nursing home, sanitarium, assisted living facility,~~  
1483 ~~adult day care center,~~ or other similar place that is regulated  
1484 under s. 381.0072.

1485 5. Any place of business issued a permit or inspected by  
1486 the Department of Agriculture and Consumer Services under s.  
1487 500.12.

1488 6. Any place of business where the food available for  
1489 consumption is limited to ice, beverages with or without  
1490 garnishment, popcorn, or prepackaged items sold without  
1491 additions or preparation.

1492 7. Any theater, if the primary use is as a theater and if  
1493 patron service is limited to food items customarily served to  
1494 the admittees of theaters.

1495 8. Any vending machine that dispenses any food or  
1496 beverages other than potentially hazardous foods, as defined by  
1497 division rule.

1498 9. Any vending machine that dispenses potentially  
1499 hazardous food and which is located in a facility regulated  
1500 under s. 381.0072.

1501 10. Any research and development test kitchen limited to  
1502 the use of employees and which is not open to the general  
1503 public.

1504 Section 18. (1) Effective July 1, 2011, all of the  
1505 statutory powers, duties and functions, records, personnel,  
1506 property, and unexpended balances of appropriations,

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1507 allocations, or other funds for the administration of part I of  
1508 chapter 499, Florida Statutes, relating to drugs, devices,  
1509 cosmetics, and household products shall be transferred by a type  
1510 two transfer, as defined in s. 20.06(2), Florida Statutes, from  
1511 the Department of Health to the Department of Business and  
1512 Professional Regulation.

1513 (2) The transfer of regulatory authority under part I of  
1514 chapter 499, Florida Statutes, provided by this act shall not  
1515 affect the validity of any judicial or administrative action  
1516 pending as of 11:59 p.m. on the day before the effective date of  
1517 this act to which the Department of Health is at that time a  
1518 party, and the Department of Business and Professional  
1519 Regulation shall be substituted as a party in interest in any  
1520 such action.

1521 (3) All lawful orders issued by the Department of Health  
1522 implementing or enforcing or otherwise in regard to any  
1523 provision of part I of chapter 499, Florida Statutes, issued  
1524 prior to the effective date of this act shall remain in effect  
1525 and be enforceable after the effective date of this act unless  
1526 thereafter modified in accordance with law.

1527 (4) The rules of the Department of Health relating to the  
1528 implementation of part I of chapter 499, Florida Statutes, that  
1529 were in effect at 11:59 p.m. on the day prior to this act taking  
1530 effect shall become the rules of the Department of Business and  
1531 Professional Regulation and shall remain in effect until amended  
1532 or repealed in the manner provided by law.

1533 (5) Notwithstanding the transfer of regulatory authority  
1534 under part I of chapter 499, Florida Statutes, provided by this

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1535 act, persons and entities holding in good standing any permit  
1536 under part I of chapter 499, Florida Statutes, as of 11:59 p.m.  
1537 on the day prior to the effective date of this act shall, as of  
1538 the effective date of this act, be deemed to hold in good  
1539 standing a permit in the same capacity as that for which the  
1540 permit was formerly issued.

1541 (6) Notwithstanding the transfer of regulatory authority  
1542 under part I of chapter 499, Florida Statutes, provided by this  
1543 act, persons holding in good standing any certification under  
1544 part I of chapter 499, Florida Statutes, as of 11:59 p.m. on the  
1545 day prior to the effective date of this act shall, as of the  
1546 effective date of this act, be deemed to be certified in the  
1547 same capacity in which they were formerly certified.

1548 Section 19. (1) Effective July 1, 2011, all of the  
1549 statutory powers, duties and functions, records, personnel,  
1550 property, and unexpended balances of appropriations,  
1551 allocations, or other funds for the administration of the boards  
1552 and professions established within the Division of Medical  
1553 Quality Assurance as specified in s. 20.43(3)(g), Florida  
1554 Statutes, shall be transferred by a type two transfer, as  
1555 defined in s. 20.06(2), Florida Statutes, from the Department of  
1556 Health to the Department of Business and Professional  
1557 Regulation.

1558 (2) The transfer of regulatory authority of the Division  
1559 of Medical Quality Assurance provided by this act shall not  
1560 affect the validity of any judicial or administrative action  
1561 pending as of 11:59 p.m. on the day before the effective date of  
1562 this act to which the Department of Health is at that time a

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1563 party, and the Department of Business and Professional  
1564 Regulation shall be substituted as a party in interest in any  
1565 such action.

1566 (3) All lawful orders issued by the Department of Health  
1567 implementing or enforcing or otherwise in regard to any function  
1568 of the Division of Medical Quality Assurance issued prior to the  
1569 effective date of this act shall remain in effect and be  
1570 enforceable after the effective date of this act unless  
1571 thereafter modified in accordance with law.

1572 (4) The rules of the Department of Health relating to the  
1573 implementation of statutory directives administered by the  
1574 Division of Medical Quality Assurance that were in effect at  
1575 11:59 p.m. on the day prior to this act taking effect shall  
1576 become the rules of the Department of Business and Professional  
1577 Regulation and shall remain in effect until amended or repealed  
1578 in the manner provided by law.

1579 (5) Notwithstanding the transfer of regulatory authority  
1580 of the Division of Medical Quality Assurance provided by this  
1581 act, persons and entities holding in good standing any license  
1582 or permit issued by the Division of Medical Quality Assurance as  
1583 of 11:59 p.m. on the day prior to the effective date of this act  
1584 shall, as of the effective date of this act, be deemed to hold  
1585 in good standing a permit in the same capacity as that for which  
1586 the permit was formerly issued.

1587 (6) Notwithstanding the transfer of regulatory authority  
1588 of the Division of Medical Quality Assurance provided by this  
1589 act, persons holding in good standing any certification issued  
1590 by the Division of Medical Quality Assurance as of 11:59 p.m. on

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1591 the day prior to the effective date of this act shall, as of the  
1592 effective date of this act, be deemed to be certified in the  
1593 same capacity in which they were formerly certified.

1594 Section 20. This act shall take effect July 1, 2010.

1595 -----

1596 **T I T L E A M E N D M E N T**

1597 Remove the entire title and insert:

1598 An act relating to the reorganization of the Department of  
1599 Health; amending s. 20.43, F.S.; revising the mission and  
1600 responsibilities of the department; providing duties of the  
1601 State Surgeon General to with respect to management of the  
1602 department; abolishing responsibility to regulate health  
1603 practitioners effective July 1, 2011; abolishing specified  
1604 divisions of the department effective July 1, 2011, unless  
1605 reviewed and reenacted by the Legislature; authorizing the  
1606 department to establish multicounty service areas for county  
1607 health departments; requiring the department to submit a  
1608 reorganization plan to the Legislature by a specified date;  
1609 prohibiting the department from establishing new programs or  
1610 modifying current programs without legislative approval;  
1611 requiring department to seek approval from the Legislative  
1612 Budget Commission for certain activities; providing that the  
1613 request for approval is subject to the procedures of s. 216.177;  
1614 amending s. 381.0011, F.S.; revising duties and powers of the  
1615 department; requiring the department to manage emergency  
1616 preparedness and disaster response functions; authorizing the  
1617 department to issue health alerts or advisories under certain  
1618 conditions; revising rulemaking authority of the department;



## COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7183 (2010)

Amendment No. 1

1619 amending s. 381.006, F.S.; revising the definition of the term  
1620 "group care facilities"; amending s. 381.0072, F.S.; revising  
1621 the definition of the term "food service establishment";  
1622 authorizing the department to advise and consult with other  
1623 agencies relating to the provision of food services; revising  
1624 entities that are exempt from rules relating to standards for  
1625 food service establishment manager certification; amending s.  
1626 381.0101, F.S.; revising the definition of the term "primary  
1627 environmental health program"; repealing s. 381.001, F.S.,  
1628 relating to legislative intent with respect to the state's  
1629 public health system; repealing s. 381.04015, F.S., relating to  
1630 the Women's Health Strategy; repealing s. 381.0403, F.S.,  
1631 relating to the Community Hospital Education Act and the  
1632 Community Hospital Education Council; repealing s. 401.243,  
1633 F.S., relating to the department's injury prevention program;  
1634 repealing s. 411.23, 411.231, and 411.232, F.S., relating to the  
1635 Children's Early Investment Act; amending s. 381.4018, F.S.;  
1636 providing definitions; revising the list of governmental  
1637 stakeholders that the Department of Health is required to work  
1638 with regarding the state strategic plan and in assessing the  
1639 state's physician workforce; creating the Physician Workforce  
1640 Advisory Council; providing membership of the council; providing  
1641 for appointments to the council; providing terms of membership;  
1642 providing for removal of a council member; providing for the  
1643 chair and vice chair of the council; providing that council  
1644 members are not entitled to receive compensation or  
1645 reimbursement for per diem or travel expenses; providing the  
1646 duties of the council; amending s. 392.51, F.S.; deleting

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7183 (2010)

Amendment No. 1

1647 legislative intent; amending s. 392.69, F.S.; requiring the  
1648 Department of Health to develop a plan to provide tuberculosis  
1649 services; requiring the Department of Health to submit the plan  
1650 to the Governor, President of the Senate and Speaker of the  
1651 House of Representatives by November 1, 2010; providing elements  
1652 for the plan; amending ss. 411.01 and 411.224, F.S.; conforming  
1653 cross-references; amending ss. 458.3192 and 459.0082, F.S.;  
1654 requiring the department to determine by geographic area and  
1655 specialty the number of physicians and osteopathic physicians  
1656 who plan to relocate outside the state, practice medicine in  
1657 this state, and reduce or modify the scope of their practice;  
1658 authorizing the department to report additional information in  
1659 its findings to the Governor and the Legislature; amending s.  
1660 409.908, F.S.; conforming a cross-reference; amending s. 499.01,  
1661 F.S.; creating an exemption from device manufacture permits for  
1662 certain persons; amending s. 499.029, F.S.; expanding the drugs  
1663 and supplies that may be donated under the program; expanding  
1664 the types of facilities that may participate in the program;  
1665 amending s. 509.013, F.S.; revising the definitions of the terms  
1666 "public lodging establishment" and "public food establishment";  
1667 transferring and reassigning certain functions and  
1668 responsibilities, including records, personnel, property, and  
1669 unexpended balances of appropriations and other resources, from  
1670 the Department of Health to the Department of Business and  
1671 Professional Regulation by a type two transfer; providing for  
1672 the continued validity of pending judicial or administrative  
1673 actions to which the Department of Health is a party; providing  
1674 for the continued validity of lawful orders issued by the

COUNCIL/COMMITTEE AMENDMENT

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1675 Department of Health; transferring rules created by the  
1676 Department of Health to the Department of Business and  
1677 Professional Regulation; providing for the continued validity of  
1678 permits and certifications issued by the Department of Health;  
1679 providing an effective date.

1680

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7183 (2010)

Amendment No. Am 1 to Am 1

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative(s) Domino offered the following:  
4

5 **Amendment to Amendment (1) by Representative Hudson**

6 Remove lines 16-25 and insert:

7 1. ~~(a)~~ Identifying, diagnosing, investigating, and  
8 conducting surveillance of communicable and noncommunicable  
9 diseases in the state ~~Prevent to the fullest extent possible,~~  
10 ~~the occurrence and progression of communicable and~~  
11 ~~noncommunicable diseases and disabilities.~~

12 2. ~~(b)~~ Implementing interventions that prevent or limit  
13 the impact and spread of communicable and noncommunicable  
14 diseases in the state ~~Maintain a constant surveillance of~~  
15 ~~disease occurrence and accumulate health statistics necessary to~~  
16 ~~establish disease trends and to design health programs.~~  
17

Amendment No. Am 2 to Am 1

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative(s) Nehr offered the following:  
4

5 **Amendment to Amendment (1) by Representative Hudson (with**  
6 **title amendment)**

7 Between lines 1233 and 1234, insert:

8 Section 16. Paragraph (i) is added to subsection (3) of  
9 section 499.01212, Florida Statutes, to read:

10 499.01212 Pedigree paper.—

11 (3) EXCEPTIONS.—A pedigree paper is not required for:

12 (i) The wholesale distribution of prescription drugs  
13 contained within a sealed medical convenience kit provided that:

14 1. The medical convenience kit is assembled in an  
15 establishment that is registered as a medical device  
16 manufacturer with the Food and Drug Administration; and

17 2. The medical convenience kit does not contain any  
18 controlled substance that appears in any schedule contained in

Amendment No. Am 2 to Am 1

19 or subject to Chapter 893 Florida Statutes or the federal  
20 Comprehensive Drug Abuse Prevention and Control Act of 1970.

21

22

23

24

-----  
**T I T L E   A M E N D M E N T**

25

Remove line 1662 and insert:

26

27

certain persons; amending s. 499.01212, F.S.; exempting

28

prescription drugs contained in sealed medical convenience kits

29

from the pedigree paper requirements under specified

30

circumstances; amending s. 499.029, F.S.; expanding the drugs

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7183 (2010)

Amendment No. Am 3 to Am 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative(s) Schwartz offered the following:  
4

5 **Amendment to Amendment (1) by Representative Hudson (with**  
6 **title amendment)**

7 Remove lines 302-306  
8  
9

10  
11 -----  
12 **T I T L E A M E N D M E N T**

13 Remove lines 1609-1610  
14

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7183 (2010)

Amendment No. Am 4 to Am 1

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee

3 Representative(s) Hudson offered the following:  
4

5 **Amendment to Amendment (1) by Representative Hudson (with**  
6 **title amendment)**

7 Remove line 633 and insert:

8 Section 6. Sections 381.001, 381.04015, 401.243,  
9

10  
11 -----  
12 **T I T L E A M E N D M E N T**

13 Remove lines 1630-1632 and insert:

14 the Women's Health Strategy; repealing s. 401.243,



COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7183 (2010)

Amendment No. Am 5 to Am 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Health Care Appropriations  
2 Committee  
3 Representative(s) Hudson offered the following:  
4

5 **Amendment to Amendment (1) by Representative Hudson (with**  
6 **title amendment)**

7 Remove lines 1143-1211  
8  
9

10  
11 -----  
12 **T I T L E A M E N D M E N T**

13 Remove lines 1659-1660 and insert:  
14 its findings to the Governor and the Legislature; amending s.  
15 499.01,