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A bill to be entitled  
An act relating to AHCA administrative authority;  
amending ss. 390.012, 400.021, 400.176, 400.23,  
400.487, 400.497, 400.506, 400.914, and 483.245, F.S.;  
removing rulemaking requirements; repealing ss.  
400.0712(3), and 400.509(7); providing an effective  
date.

WHEREAS, The Administrative Procedures Act, ch. 120, F.S. (the  
APA), provides that:

1. Rulemaking is not a matter of agency discretion,
2. Rules, to be adopted, require both a grant of express  
rulemaking authority and a specific law to be implemented  
or interpreted, and
3. Rulemaking is required whenever an agency intends to rely  
upon a statement of general applicability that meets the  
definition of a rule under s. 120.52(16), F.S.; and

WHEREAS, A grant of express rulemaking authority may have a  
broad or narrow scope, depending upon the clear intent of the  
legislature; and

WHEREAS, The repeal or deletion of a redundant provision  
authorizing rulemaking should not be interpreted to repeal  
rulemaking authority otherwise provided that clearly applies to  
the same subject; and

WHEREAS, Statutory provisions that mandate rulemaking when the  
substantive law would otherwise be implemented without need for  
administrative rules may be repealed without altering the

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29 substantive law or rulemaking authority upon which such  
 30 provisions rely;

31 NOW THEREFORE,

32

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

34

35 Section 1. Paragraph (d) of subsection (3) of section  
 36 390.012, Florida Statutes, is amended to read:

37 390.012 Powers of agency; rules; disposal of fetal  
 38 remains.—

39 (3) For clinics that perform or claim to perform abortions  
 40 after the first trimester of pregnancy, the agency shall adopt  
 41 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
 42 provisions of this chapter, including the following:

43 (d) Rules relating to the medical screening and evaluation  
 44 of each abortion clinic patient. At a minimum, these rules shall  
 45 require:

46 1. A medical history including reported allergies to  
 47 medications, antiseptic solutions, or latex; past surgeries; and  
 48 an obstetric and gynecological history.

49 2. A physical examination, including a bimanual  
 50 examination estimating uterine size and palpation of the adnexa.

51 3. The appropriate laboratory tests, including:

52 a. Urine or blood tests for pregnancy performed before the  
 53 abortion procedure.

54 b. A test for anemia.

55 c. Rh typing, unless reliable written documentation of  
 56 blood type is available.

57 |           d. Other tests as indicated from the physical examination.

58 |           4. An ultrasound evaluation for all patients. The rules  
59 | shall require that if a person who is not a physician performs  
60 | an ultrasound examination, that person shall have documented  
61 | evidence that he or she has completed a course in the operation  
62 | of ultrasound equipment as prescribed in rule. ~~The rules shall~~  
63 | ~~require clinics to be in compliance with s. 390.0111.~~

64 |           5. That the physician is responsible for estimating the  
65 | gestational age of the fetus based on the ultrasound examination  
66 | and obstetric standards in keeping with established standards of  
67 | care regarding the estimation of fetal age as defined in rule  
68 | and shall write the estimate in the patient's medical history.  
69 | The physician shall keep original prints of each ultrasound  
70 | examination of a patient in the patient's medical history file.

71 |           Section 2. Subsection (11) of section 400.021, Florida  
72 | Statutes, is amended to read:

73 |           400.021 Definitions.—When used in this part, unless the  
74 | context otherwise requires, the term:

75 |           (11) "Nursing home bed" means an accommodation which is  
76 | ready for immediate occupancy, or is capable of being made ready  
77 | for occupancy within 48 hours, excluding provision of staffing;  
78 | and which conforms to minimum space requirements, including the  
79 | availability of appropriate equipment and furnishings within the  
80 | 48 hours, as specified by ~~rule of~~ the agency, for the provision  
81 | of services specified in this part to a single resident.

82 |           Section 3. Subsection (3) of section 400.0712, Florida  
83 | Statutes, is repealed:

84 |           400.0712 Application for inactive license.—

85 ~~\_\_\_\_\_ (3) The agency shall adopt rules pursuant to ss.~~  
 86 ~~120.536(1) and 120.54 necessary to implement this section.~~

87 Section 4. Subsection (2) of section 400.176, Florida  
 88 Statutes, is amended to read:

89 400.176 Rebates prohibited; penalties.—

90 (2) The agency ~~shall adopt rules which~~ may establish and  
 91 assess administrative penalties for acts prohibited by  
 92 subsection (1). In the case of an entity licensed by the agency,  
 93 such penalties may include any disciplinary action available to  
 94 the agency under the appropriate licensing laws. In the case of  
 95 an entity not licensed by the agency, such penalties may  
 96 include:

97 (a) A fine not to exceed \$5,000; and

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

100 Section 5. Section 400.23, Florida Statutes, is amended to  
 101 read:

102 400.23 Rules; evaluation and deficiencies; licensure  
 103 status.—

104 (1) It is the intent of the Legislature that rules  
 105 published and enforced pursuant to this part and part II of  
 106 chapter 408 shall include criteria by which a reasonable and  
 107 consistent quality of resident care may be ensured and the  
 108 results of such resident care can be demonstrated and by which  
 109 safe and sanitary nursing homes can be provided. It is further  
 110 intended that reasonable efforts be made to accommodate the  
 111 needs and preferences of residents to enhance the quality of  
 112 life in a nursing home. In addition, efforts shall be made to

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113 minimize the paperwork associated with the reporting and  
114 documentation requirements of these rules.

115 (2) Pursuant to the intention of the Legislature, the  
116 agency, in consultation with the Department of Health and the  
117 Department of Elderly Affairs, shall~~may~~ adopt ~~and enforce~~ rules  
118 to implement this part and part II of chapter 408. Rules shall,  
119 ~~which shall include~~specify, but not be limited to, reasonable  
120 and fair criteria in relation to:

121 (a) The location of the facility and housing conditions  
122 that will ensure the health, safety, and comfort of residents,  
123 including an adequate call system. In making such rules, the  
124 agency shall be guided by criteria recommended by nationally  
125 recognized reputable professional groups and associations with  
126 knowledge of such subject matters. The agency shall update or  
127 revise such criteria as the need arises. The agency may require  
128 alterations to a building if it determines that an existing  
129 condition constitutes a distinct hazard to life, health, or  
130 safety. In performing any inspections of facilities authorized  
131 by this part or part II of chapter 408, the agency may enforce  
132 the special-occupancy provisions of the Florida Building Code  
133 and the Florida Fire Prevention Code which apply to nursing  
134 homes. Residents or their representatives shall be able to  
135 request a change in the placement of the bed in their room,  
136 provided that at admission they are presented with a room that  
137 meets requirements of the Florida Building Code. The location of  
138 a bed may be changed if the requested placement does not  
139 infringe on the resident's roommate or interfere with the  
140 resident's care or safety as determined by the care planning

141 team in accordance with facility policies and procedures. In  
 142 addition, the bed placement may not be used as a restraint. Each  
 143 facility shall maintain a log of resident rooms with beds that  
 144 are not in strict compliance with the Florida Building Code in  
 145 order for such log to be used by surveyors and nurse monitors  
 146 during inspections and visits. A resident or resident  
 147 representative who requests that a bed be moved shall sign a  
 148 statement indicating that he or she understands the room will  
 149 not be in compliance with the Florida Building Code, but they  
 150 would prefer to exercise their right to self-determination. The  
 151 statement must be retained as part of the resident's care plan.  
 152 Any facility that offers this option must submit a letter signed  
 153 by the nursing home administrator of record to the agency  
 154 notifying it of this practice with a copy of the policies and  
 155 procedures of the facility. The agency is directed to provide  
 156 assistance to the Florida Building Commission in updating the  
 157 construction standards of the code relative to nursing homes.

158 (b) The number and qualifications of all personnel,  
 159 including management, medical, nursing, and other professional  
 160 personnel, and nursing assistants, orderlies, and support  
 161 personnel, having responsibility for any part of the care given  
 162 residents.

163 (c) All sanitary conditions within the facility and its  
 164 surroundings, including water supply, sewage disposal, food  
 165 handling, and general hygiene which will ensure the health and  
 166 comfort of residents.

167 (d) The equipment essential to the health and welfare of  
 168 the residents.

169 (e) A uniform accounting system.

170 (f) The care, treatment, and maintenance of residents and  
 171 measurement of the quality and adequacy thereof, based on rules  
 172 developed under this chapter and the Omnibus Budget  
 173 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,  
 174 1987), Title IV (Medicare, Medicaid, and Other Health-Related  
 175 Programs), Subtitle C (Nursing Home Reform), as amended.

176 (g) The preparation and annual update of a comprehensive  
 177 emergency management plan. The agency shall ~~adopt rules~~  
 178 ~~establishing~~ minimum criteria for the plan after consultation  
 179 with the Division of Emergency Management. At a minimum, ~~the~~  
 180 ~~rules must provide for~~ plan components that should provide  
 181 for~~address~~ emergency evacuation transportation; adequate  
 182 sheltering arrangements; postdisaster activities, including  
 183 emergency power, food, and water; postdisaster transportation;  
 184 supplies; staffing; emergency equipment; individual  
 185 identification of residents and transfer of records; and  
 186 responding to family inquiries. The comprehensive emergency  
 187 management plan is subject to review and approval by the local  
 188 emergency management agency. During its review, the local  
 189 emergency management agency shall ensure that the following  
 190 agencies, at a minimum, are given the opportunity to review the  
 191 plan: the Department of Elderly Affairs, the Department of  
 192 Health, the Agency for Health Care Administration, and the  
 193 Division of Emergency Management. Also, appropriate volunteer  
 194 organizations must be given the opportunity to review the plan.  
 195 The local emergency management agency shall complete its review  
 196 within 60 days and either approve the plan or advise the

197 facility of necessary revisions.

198 (h) The availability, distribution, and posting of reports  
 199 and records pursuant to s. 400.191 and the Gold Seal Program  
 200 pursuant to s. 400.235.

201 (3) (a) 1. The agency shall ~~adopt rules providing~~ enforce  
 202 minimum staffing requirements for nursing home facilities. ~~These~~  
 203 ~~requirements~~ that must include, for each facility:

204 a. A minimum weekly average of certified nursing assistant  
 205 and licensed nursing staffing combined of 3.6 hours of direct  
 206 care per resident per day. As used in this sub-subparagraph, a  
 207 week is defined as Sunday through Saturday.

208 b. A minimum certified nursing assistant staffing of 2.5  
 209 hours of direct care per resident per day. A facility may not  
 210 staff below one certified nursing assistant per 20 residents.

211 c. A minimum licensed nursing staffing of 1.0 hour of  
 212 direct care per resident per day. A facility may not staff below  
 213 one licensed nurse per 40 residents.

214 2. Nursing assistants employed under s. 400.211(2) may be  
 215 included in computing the staffing ratio for certified nursing  
 216 assistants if their job responsibilities include only nursing-  
 217 assistant-related duties.

218 3. Each nursing home facility must document compliance  
 219 with staffing standards as required under this paragraph and  
 220 post daily the names of staff on duty for the benefit of  
 221 facility residents and the public.

222 4. The agency shall recognize the use of licensed nurses  
 223 for compliance with minimum staffing requirements for certified  
 224 nursing assistants if the nursing home facility otherwise meets

225 the minimum staffing requirements for licensed nurses and the  
 226 licensed nurses are performing the duties of a certified nursing  
 227 assistant. Unless otherwise approved by the agency, licensed  
 228 nurses counted toward the minimum staffing requirements for  
 229 certified nursing assistants must exclusively perform the duties  
 230 of a certified nursing assistant for the entire shift and not  
 231 also be counted toward the minimum staffing requirements for  
 232 licensed nurses. If the agency approved a facility's request to  
 233 use a licensed nurse to perform both licensed nursing and  
 234 certified nursing assistant duties, the facility must allocate  
 235 the amount of staff time specifically spent on certified nursing  
 236 assistant duties for the purpose of documenting compliance with  
 237 minimum staffing requirements for certified and licensed nursing  
 238 staff. The hours of a licensed nurse with dual job  
 239 responsibilities may not be counted twice.

240 (b) Nonnursing staff providing eating assistance to  
 241 residents shall not count toward compliance with minimum  
 242 staffing standards.

243 (c) Licensed practical nurses licensed under chapter 464  
 244 who are providing nursing services in nursing home facilities  
 245 under this part may supervise the activities of other licensed  
 246 practical nurses, certified nursing assistants, and other  
 247 unlicensed personnel providing services in such facilities in  
 248 accordance with rules adopted by the Board of Nursing.

249 (4) ~~Rules developed pursuant to~~ This section shall does  
 250 not restrict the use of shared staffing and shared programming  
 251 in facilities which are part of retirement communities that  
 252 provide multiple levels of care and otherwise meet the

253 requirement of law or rule.

254 ~~(5) The agency, in collaboration with the Division of~~  
 255 ~~Children's Medical Services of the Department of Health, must~~  
 256 ~~adopt rules for:~~

257 (a) Minimum standards of care for persons under 21 years  
 258 of age who reside in nursing home facilities may be established  
 259 by the agency in collaboration with the Division of Children's  
 260 Medical Services of the Department of Health. A facility may be  
 261 exempted from these standards and the provisions of paragraph  
 262 (b) for specific persons between 18 and 21 years of age, if the  
 263 person's physician agrees that minimum standards of care based  
 264 on age are not necessary.

265 (b) The following ~~Min~~imum staffing requirements for  
 266 persons under 21 years of age who reside in nursing home  
 267 facilities, ~~which~~ apply in lieu of the requirements contained in  
 268 subsection (3).

269 1. For persons under 21 years of age who require skilled  
 270 care:

271 a. A minimum combined average of 3.9 hours of direct care  
 272 per resident per day must be provided by licensed nurses,  
 273 respiratory therapists, respiratory care practitioners, and  
 274 certified nursing assistants.

275 b. A minimum licensed nursing staffing of 1.0 hour of  
 276 direct care per resident per day must be provided.

277 c. No more than 1.5 hours of certified nursing assistant  
 278 care per resident per day may be counted in determining the  
 279 minimum direct care hours required.

280 d. One registered nurse must be on duty on the site 24

281 hours per day on the unit where children reside.

282 2. For persons under 21 years of age who are medically  
283 fragile:

284 a. A minimum combined average of 5.0 hours of direct care  
285 per resident per day must be provided by licensed nurses,  
286 respiratory therapists, respiratory care practitioners, and  
287 certified nursing assistants.

288 b. A minimum licensed nursing staffing of 1.7 hours of  
289 direct care per resident per day must be provided.

290 c. No more than 1.5 hours of certified nursing assistant  
291 care per resident per day may be counted in determining the  
292 minimum direct care hours required.

293 d. One registered nurse must be on duty on the site 24  
294 hours per day on the unit where children reside.

295 (6) Prior to conducting a survey of the facility, the  
296 survey team shall obtain a copy of the local long-term care  
297 ombudsman council report on the facility. Problems noted in the  
298 report shall be incorporated into and followed up through the  
299 agency's inspection process. This procedure does not preclude  
300 the local long-term care ombudsman council from requesting the  
301 agency to conduct a followup visit to the facility.

302 (7) The agency shall, at least every 15 months, evaluate  
303 all nursing home facilities and make a determination as to the  
304 degree of compliance by each licensee with the established rules  
305 adopted under this part as a basis for assigning a licensure  
306 status to that facility. The agency shall base its evaluation on  
307 the most recent inspection report, taking into consideration  
308 findings from other official reports, surveys, interviews,

309 investigations, and inspections. In addition to license  
 310 categories authorized under part II of chapter 408, the agency  
 311 shall assign a licensure status of standard or conditional to  
 312 each nursing home.

313 (a) A standard licensure status means that a facility has  
 314 no class I or class II deficiencies and has corrected all class  
 315 III deficiencies within the time established by the agency.

316 (b) A conditional licensure status means that a facility,  
 317 due to the presence of one or more class I or class II  
 318 deficiencies, or class III deficiencies not corrected within the  
 319 time established by the agency, is not in substantial compliance  
 320 at the time of the survey with criteria established under this  
 321 part or with rules adopted by the agency. If the facility has no  
 322 class I, class II, or class III deficiencies at the time of the  
 323 followup survey, a standard licensure status may be assigned.

324 (c) In evaluating the overall quality of care and services  
 325 and determining whether the facility will receive a conditional  
 326 or standard license, the agency shall consider the needs and  
 327 limitations of residents in the facility and the results of  
 328 interviews and surveys of a representative sampling of  
 329 residents, families of residents, ombudsman council members in  
 330 the planning and service area in which the facility is located,  
 331 guardians of residents, and staff of the nursing home facility.

332 (d) The current licensure status of each facility must be  
 333 indicated in bold print on the face of the license. A list of  
 334 the deficiencies of the facility shall be posted in a prominent  
 335 place that is in clear and unobstructed public view at or near  
 336 the place where residents are being admitted to that facility.

337 Licensees receiving a conditional licensure status for a  
 338 facility shall prepare, within 10 working days after receiving  
 339 notice of deficiencies, a plan for correction of all  
 340 deficiencies and shall submit the plan to the agency for  
 341 approval.

342 (e) The agency shall ~~adopt rules that~~:

343 1. Establish uniform procedures for the evaluation of  
 344 facilities.

345 2. Provide criteria in the areas referenced in paragraph  
 346 (c).

347 3. Address other areas necessary for carrying out the  
 348 intent of this section.

349 (8) The agency shall ~~adopt rules pursuant to this part and~~  
 350 ~~part II of chapter 408 to provide~~ ensure that, when the criteria  
 351 established under subsection (2) are not met, such deficiencies  
 352 shall be classified according to the nature and the scope of the  
 353 deficiency. The scope shall be cited as isolated, patterned, or  
 354 widespread. An isolated deficiency is a deficiency affecting one  
 355 or a very limited number of residents, or involving one or a  
 356 very limited number of staff, or a situation that occurred only  
 357 occasionally or in a very limited number of locations. A  
 358 patterned deficiency is a deficiency where more than a very  
 359 limited number of residents are affected, or more than a very  
 360 limited number of staff are involved, or the situation has  
 361 occurred in several locations, or the same resident or residents  
 362 have been affected by repeated occurrences of the same deficient  
 363 practice but the effect of the deficient practice is not found  
 364 to be pervasive throughout the facility. A widespread deficiency

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365 is a deficiency in which the problems causing the deficiency are  
366 pervasive in the facility or represent systemic failure that has  
367 affected or has the potential to affect a large portion of the  
368 facility's residents. The agency shall indicate the  
369 classification on the face of the notice of deficiencies as  
370 follows:

371 (a) A class I deficiency is a deficiency that the agency  
372 determines presents a situation in which immediate corrective  
373 action is necessary because the facility's noncompliance has  
374 caused, or is likely to cause, serious injury, harm, impairment,  
375 or death to a resident receiving care in a facility. The  
376 condition or practice constituting a class I violation shall be  
377 abated or eliminated immediately, unless a fixed period of time,  
378 as determined by the agency, is required for correction. A class  
379 I deficiency is subject to a civil penalty of \$10,000 for an  
380 isolated deficiency, \$12,500 for a patterned deficiency, and  
381 \$15,000 for a widespread deficiency. The fine amount shall be  
382 doubled for each deficiency if the facility was previously cited  
383 for one or more class I or class II deficiencies during the last  
384 licensure inspection or any inspection or complaint  
385 investigation since the last licensure inspection. A fine must  
386 be levied notwithstanding the correction of the deficiency.

387 (b) A class II deficiency is a deficiency that the agency  
388 determines has compromised the resident's ability to maintain or  
389 reach his or her highest practicable physical, mental, and  
390 psychosocial well-being, as defined by an accurate and  
391 comprehensive resident assessment, plan of care, and provision  
392 of services. A class II deficiency is subject to a civil penalty

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393 of \$2,500 for an isolated deficiency, \$5,000 for a patterned  
394 deficiency, and \$7,500 for a widespread deficiency. The fine  
395 amount shall be doubled for each deficiency if the facility was  
396 previously cited for one or more class I or class II  
397 deficiencies during the last licensure inspection or any  
398 inspection or complaint investigation since the last licensure  
399 inspection. A fine shall be levied notwithstanding the  
400 correction of the deficiency.

401 (c) A class III deficiency is a deficiency that the agency  
402 determines will result in no more than minimal physical, mental,  
403 or psychosocial discomfort to the resident or has the potential  
404 to compromise the resident's ability to maintain or reach his or  
405 her highest practical physical, mental, or psychosocial well-  
406 being, as defined by an accurate and comprehensive resident  
407 assessment, plan of care, and provision of services. A class III  
408 deficiency is subject to a civil penalty of \$1,000 for an  
409 isolated deficiency, \$2,000 for a patterned deficiency, and  
410 \$3,000 for a widespread deficiency. The fine amount shall be  
411 doubled for each deficiency if the facility was previously cited  
412 for one or more class I or class II deficiencies during the last  
413 licensure inspection or any inspection or complaint  
414 investigation since the last licensure inspection. A citation  
415 for a class III deficiency must specify the time within which  
416 the deficiency is required to be corrected. If a class III  
417 deficiency is corrected within the time specified, a civil  
418 penalty may not be imposed.

419 (d) A class IV deficiency is a deficiency that the agency  
420 determines has the potential for causing no more than a minor

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421 negative impact on the resident. If the class IV deficiency is  
 422 isolated, no plan of correction is required.

423 (9) Civil penalties paid by any licensee under subsection  
 424 (8) shall be deposited in the Health Care Trust Fund and  
 425 expended as provided in s. 400.063.

426 (10) Agency records, reports, ranking systems, Internet  
 427 information, and publications must be promptly updated to  
 428 reflect the most current agency actions.

429 Section 6. Subsection (7) of section 400.487, Florida  
 430 Statutes, is amended to read:

431 400.487 Home health service agreements; physician's,  
 432 physician assistant's, and advanced registered nurse  
 433 practitioner's treatment orders; patient assessment;  
 434 establishment and review of plan of care; provision of services;  
 435 orders not to resuscitate.-

436 (7) Home health agency personnel may withhold or withdraw  
 437 cardiopulmonary resuscitation if presented with an order not to  
 438 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~  
 439 ~~adopt rules providing for the implementation of such orders.~~  
 440 Home health personnel and agencies shall not be subject to  
 441 criminal prosecution or civil liability, nor be considered to  
 442 have engaged in negligent or unprofessional conduct, for  
 443 withholding or withdrawing cardiopulmonary resuscitation  
 444 pursuant to such an order ~~and rules adopted by the agency.~~

445 Section 7. Section 400.497, Florida Statutes, is amended  
 446 to read:

447 400.497 Rules establishing minimum standards.-The agency  
 448 ~~shall~~may ~~adopt, publish, and enforce~~ rules to implement part II

449 of chapter 408 and this part, including, ~~as applicable,~~ the  
 450 agency's duties and responsibilities under ss. 400.506 and  
 451 400.509, ~~which must~~ Rules shall specify, but not be limited  
 452 to, provide reasonable and fair minimum standards relating to:

453 (1) The home health aide competency test and home health  
 454 aide training. The agency shall create the home health aide  
 455 competency test and establish the curriculum and instructor  
 456 qualifications for home health aide training. Licensed home  
 457 health agencies may provide this training and shall furnish  
 458 documentation of such training to other licensed health  
 459 agencies upon request. Successful passage of the competency test  
 460 by home health aides may be substituted for the training  
 461 required under this section and any rule adopted pursuant  
 462 thereto.

463 (2) Shared staffing. ~~The agency shall allow~~ Shared  
 464 staffing is permitted if the home health agency is part of a  
 465 retirement community that provides multiple levels of care, is  
 466 located on one campus, is licensed under this chapter or chapter  
 467 429, and otherwise meets the requirements of law and rule.

468 (3) The criteria for the frequency of onsite licensure  
 469 surveys.

470 (4) Licensure application and renewal.

471 (5) Oversight by the director of nursing, including:- ~~The~~  
 472 ~~agency shall develop rules related to:-~~

473 (a) Standards that address oversight responsibilities by  
 474 the director of nursing of skilled nursing and personal care  
 475 services provided by the home health agency's staff;

476 (b) Requirements for a director of nursing to provide to

477 the agency, upon request, a certified daily report of the home  
 478 health services provided by a specified direct employee or  
 479 contracted staff member on behalf of the home health agency. The  
 480 agency may request a certified daily report only for a period  
 481 not to exceed 2 years prior to the date of the request; and

482 (c) A quality assurance program for home health services  
 483 provided by the home health agency.

484 (6) Conditions for using a recent unannounced licensure  
 485 inspection for the inspection required in s. 408.806 related to  
 486 a licensure application associated with a change in ownership of  
 487 a licensed home health agency.

488 (7) The requirements for onsite and electronic  
 489 accessibility of supervisory personnel of home health agencies.

490 (8) Information to be included in patients' records.

491 (9) Geographic service areas.

492 (10) Preparation of a comprehensive emergency management  
 493 plan pursuant to s. 400.492.

494 ~~(a) The Agency for Health Care Administration shall adopt~~  
 495 ~~rules establishing minimum criteria for the plan and plan~~  
 496 ~~updates, with the concurrence of the Department of Health and in~~  
 497 ~~consultation with the Division of Emergency Management.~~

498 ~~(b) The rules must address the requirements in s. 400.492.~~  
 499 ~~In addition, the rules~~ An emergency plan shall provide for the  
 500 maintenance of patient-specific medication lists that can  
 501 accompany patients who are transported from their homes.

502 (eb) The plan is subject to review and approval by the  
 503 county health department. During its review, the county health  
 504 department shall contact state and local health and medical

505 stakeholders when necessary. The county health department shall  
 506 complete its review to ensure that the plan is in accordance  
 507 with the ~~criteria in the Agency for Health Care Administration~~  
 508 ~~rules~~ requirements of law within 90 days after receipt of the  
 509 plan and shall approve the plan or advise the home health agency  
 510 of necessary revisions. If the home health agency fails to  
 511 submit a plan or fails to submit the requested information or  
 512 revisions to the county health department within 30 days after  
 513 written notification from the county health department, the  
 514 county health department shall notify the Agency for Health Care  
 515 Administration. The agency shall notify the home health agency  
 516 that its failure constitutes a deficiency, subject to a fine of  
 517 \$5,000 per occurrence. If the plan is not submitted, information  
 518 is not provided, or revisions are not made as requested, the  
 519 agency may impose the fine.

520 (e~~c~~) For any home health agency that operates in more than  
 521 one county, the Department of Health shall review the plan,  
 522 after consulting with state and local health and medical  
 523 stakeholders when necessary. The department shall complete its  
 524 review within 90 days after receipt of the plan and shall  
 525 approve the plan or advise the home health agency of necessary  
 526 revisions. The department shall make every effort to avoid  
 527 imposing differing requirements on a home health agency that  
 528 operates in more than one county as a result of differing or  
 529 conflicting comprehensive plan requirements of the counties in  
 530 which the home health agency operates.

531 (e~~d~~) The requirements in this subsection do not apply to:  
 532 1. A facility that is certified under chapter 651 and has

533 a licensed home health agency used exclusively by residents of  
 534 the facility; or

535 2. A retirement community that consists of residential  
 536 units for independent living and either a licensed nursing home  
 537 or an assisted living facility, and has a licensed home health  
 538 agency used exclusively by the residents of the retirement  
 539 community, provided the comprehensive emergency management plan  
 540 for the facility or retirement community provides for continuous  
 541 care of all residents with special needs during an emergency.

542 Section 8. Paragraph (f) of subsection (12) and subsection  
 543 (17) of section 400.506, Florida Statutes, is amended to read:

544 400.506 Licensure of nurse registries; requirements;  
 545 penalties.—

546 (12) Each nurse registry shall prepare and maintain a  
 547 comprehensive emergency management plan that is consistent with  
 548 the criteria in this subsection and with the local special needs  
 549 plan. The plan shall be updated annually. The plan shall include  
 550 the means by which the nurse registry will continue to provide  
 551 the same type and quantity of services to its patients who  
 552 evacuate to special needs shelters which were being provided to  
 553 those patients prior to evacuation. The plan shall specify how  
 554 the nurse registry shall facilitate the provision of continuous  
 555 care by persons referred for contract to persons who are  
 556 registered pursuant to s. 252.355 during an emergency that  
 557 interrupts the provision of care or services in private  
 558 residences. Nurse registries may establish links to local  
 559 emergency operations centers to determine a mechanism by which  
 560 to approach specific areas within a disaster area in order for a

561 provider to reach its clients. Nurse registries shall  
 562 demonstrate a good faith effort to comply with the requirements  
 563 of this subsection by documenting attempts of staff to follow  
 564 procedures outlined in the nurse registry's comprehensive  
 565 emergency management plan which support a finding that the  
 566 provision of continuing care has been attempted for patients  
 567 identified as needing care by the nurse registry and registered  
 568 under s. 252.355 in the event of an emergency under this  
 569 subsection.

570 ~~(f) The Agency for Health Care Administration shall adopt~~  
 571 ~~rules establishing minimum criteria for the comprehensive~~  
 572 ~~emergency management plan and plan updates required by this~~  
 573 ~~subsection, with the concurrence of the Department of Health and~~  
 574 ~~in consultation with the Division of Emergency Management.~~

575 ~~(17) The Agency for Health Care Administration shall adopt~~  
 576 ~~rules to implement this section and part II of chapter 408.~~

577 Section 9. Subsection (7) of section 400.509, Florida  
 578 Statutes, is repealed:

579 400.509 Registration of particular service providers  
 580 exempt from licensure; certificate of registration; regulation  
 581 of registrants.—

582 ~~(7) The Agency for Health Care Administration shall adopt~~  
 583 ~~rules to administer this section and part II of chapter 408.~~

584 Note.—Former s. 400.478.

585 Section 10. Section 400.914, Florida Statutes, is amended  
 586 to read:

587 400.914 ~~Rules establishing~~Rulemaking; standards.—

588 (1) Pursuant to the intention of the Legislature to

589 provide safe and sanitary facilities and healthful programs, the  
 590 agency in conjunction with the Division of Children's Medical  
 591 Services of the Department of Health ~~shall~~may adopt ~~and publish~~  
 592 rules to implement the provisions of this part and part II of  
 593 chapter 408, ~~which shall include reasonable and fair standards.~~  
 594 Any conflict between these standards and those that may be set  
 595 forth in local, county, or city ordinances shall be resolved in  
 596 favor of those having statewide effect. ~~Such standards shall~~  
 597 ~~relate~~Rules shall specify, but not be limited to, reasonable and  
 598 fair standards relating to:

599 (a) The assurance that PPEC services are family centered  
 600 and provide individualized medical, developmental, and family  
 601 training services.

602 (b) The maintenance of PPEC centers, not in conflict with  
 603 the provisions of chapter 553 and based upon the size of the  
 604 structure and number of children, relating to plumbing, heating,  
 605 lighting, ventilation, and other building conditions, including  
 606 adequate space, which will ensure the health, safety, comfort,  
 607 and protection from fire of the children served.

608 (c) The appropriate provisions of the most recent edition  
 609 of the "Life Safety Code" (NFPA-101) shall be applied.

610 (d) The number and qualifications of all personnel who  
 611 have responsibility for the care of the children served.

612 (e) All sanitary conditions within the PPEC center and its  
 613 surroundings, including water supply, sewage disposal, food  
 614 handling, and general hygiene, and maintenance thereof, which  
 615 will ensure the health and comfort of children served.

616 (f) Programs and basic services promoting and maintaining

617 the health and development of the children served and meeting  
 618 the training needs of the children's legal guardians.

619 (g) Supportive, contracted, other operational, and  
 620 transportation services.

621 (h) Maintenance of appropriate medical records, data, and  
 622 information relative to the children and programs. Such records  
 623 shall be maintained in the facility for inspection by the  
 624 agency.

625 (2) ~~The agency shall adopt rules to ensure that:~~

626 (a) No child may ~~attends~~ a PPEC center for more than 12  
 627 hours within a 24-hour period.

628 (b) No PPEC center may ~~provides~~ services other than those  
 629 provided to medically or technologically dependent children.

630 Note.—Former s. 391.214.

631 Section 11. Subsection (2) of section 483.245, Florida  
 632 Statutes, is amended to read:

633 483.245 Rebates prohibited; penalties.—

634 (2) The agency ~~shall adopt rules that~~ may establish and  
 635 assess administrative penalties for acts prohibited by  
 636 subsection (1). In the case of an entity licensed by the agency,  
 637 such penalties may include any disciplinary action available to  
 638 the agency under the appropriate licensing laws. In the case of  
 639 an entity not licensed by the agency, such penalties may  
 640 include:

641 (a) A fine not to exceed \$1,000;

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

644 Section 12. This act shall take effect July 1, 2013.