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1                                   A bill to be entitled  
 2           An act relating to home health care; creating s. 400.519,  
 3           F.S.; creating the Home Care Consumer and Worker  
 4           Protection Act; creating s. 400.520, F.S.; providing  
 5           legislative intent; creating s. 400.521, F.S.; providing  
 6           definitions; creating s. 400.522, F.S.; providing  
 7           applicability; creating s. 400.523, F.S.; requiring that  
 8           an organization provide consumers with certain notice;  
 9           prescribing information to be included in the notice;  
 10          requiring the organization to retain the notice for a  
 11          specified period of time; providing penalties for failure  
 12          to provide the notice; granting a consumer the right of  
 13          indemnification against the organization under certain  
 14          circumstances; creating s. 400.524, F.S.; requiring that  
 15          an organization provide home care services workers with  
 16          certain notice; prescribing information to be included in  
 17          the notice; requiring the organization to retain the  
 18          notice for a specified period of time; providing penalties  
 19          for failure to provide the notice; creating s. 400.525,  
 20          F.S.; authorizing the Agency for Health Care  
 21          Administration to conduct investigations, receive  
 22          testimony, administer oaths, and take certain actions when  
 23          a violation has occurred; authorizing the agency to impose  
 24          penalties and collect attorney's fees and costs; amending  
 25          s. 400.497, F.S.; authorizing certain personal care  
 26          services providers to provide home health aide training;  
 27          conforming cross-references; amending s. 400.509, F.S.;  
 28          providing an exemption from licensure for personal care  
 29          services providers under certain circumstances; requiring

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30 personal care services providers to have liability  
 31 insurance and submit proof of coverage; conforming cross-  
 32 references; amending ss. 400.141, 400.191, 400.461,  
 33 400.462, 400.464, 400.471, 400.474, 400.4785, 400.484,  
 34 400.487, 400.495, 400.506, 400.512, 400.515, 400.93,  
 35 408.07, 408.802, 408.806, 408.820, 409.905, 429.04,  
 36 483.285, and 627.6617, F.S.; conforming cross-references;  
 37 providing an effective date.

38

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

40

41 Section 1. Section 400.519, Florida Statutes, is created to  
 42 read:

43 400.519 Short title.--Sections 400.519-400.525 may be cited  
 44 as the "Home Care Consumer and Worker Protection Act."

45 Section 2. Section 400.520, Florida Statutes, is created to  
 46 read:

47 400.520 Legislative intent.--It is the intent of the  
 48 Legislature to protect home care services consumers and the home  
 49 care services workers who provide those services by ensuring that  
 50 both the consumer and the home care services worker have the  
 51 ability to make informed decisions regarding their status as  
 52 employers, independent contractors, and employees.

53 Section 3. Section 400.521, Florida Statutes, is created to  
 54 read:

55 400.521 Definitions.--As used in ss. 400.519-400.525:

56 (1) "Agency" means the Agency for Health Care  
 57 Administration.

58 (2) "Consumer" means a person who receives skilled or

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59 nonskilled care in his or her temporary or permanent residence  
 60 from a home care services worker or a person who pays for and  
 61 directs the services if that person is not the person receiving  
 62 services.

63 (3) "Home care services" means skilled or nonskilled care  
 64 provided to a person in or at his or her temporary or permanent  
 65 residence for the purpose of enabling that person to remain  
 66 safely and comfortably in his or her temporary or permanent  
 67 residence.

68 (4) "Home care services worker" means a person who performs  
 69 home care services of any kind or character for hire.

70 (5) "Nonskilled care" means services that are provided by a  
 71 person who is trained or qualified to provide personal care as  
 72 defined in s. 400.462(21). Nonskilled care includes, but is not  
 73 limited to, homemaker services, companion services, and personal  
 74 care services.

75 Section 4. Section 400.522, Florida Statutes, is created to  
 76 read:

77 400.522 Application.--Sections 400.519-400.525 shall apply  
 78 to an organization that is licensed or registered under s.  
 79 400.506 or s. 400.509 and provides skilled or nonskilled care.

80 Section 5. Section 400.523, Florida Statutes, is created to  
 81 read:

82 400.523 Consumer notice.--

83 (1) An organization shall provide a consumer with a notice  
 84 that includes, but is not limited to, the following information:

85 (a) A description of the duties, responsibilities,  
 86 obligations, and legal liabilities of the organization to the  
 87 consumer and to the home care services worker. The description

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88 shall clearly set forth the consumer's responsibility for:

89 1. Daily supervision of the home care services worker.

90 2. Assigning duties to the home care services worker.

91 3. Hiring, firing, and disciplining the home care services  
 92 worker.

93 4. Providing the home care services worker with the  
 94 equipment and materials necessary to care for the consumer.

95 5. Conducting a level 2 background check on the home care  
 96 services worker.

97 6. Conducting a reference check on the home care services  
 98 worker.

99 7. Ensuring that the home care services worker has the  
 100 proper credentials and the appropriate licensure or  
 101 certification.

102 (b) A statement identifying the organization as an  
 103 employer, joint employer, leasing employer, or nonemployer of the  
 104 home care services worker and the organization's responsibility  
 105 for the payment of the home care services worker's wages,  
 106 including overtime pay for hours worked in excess of 40 hours in  
 107 a workweek; federal, state, and local taxes; social security and  
 108 Medicare taxes; workers' compensation payments; and unemployment  
 109 compensation payments.

110 (c) A statement that, regardless of the organization's  
 111 status, the consumer may be considered an employer under state or  
 112 federal law and he or she may be held responsible for the payment  
 113 of the home care services worker's federal, state, and local  
 114 taxes; social security and Medicare taxes; minimum wages and  
 115 overtime pay; and unemployment and workers' compensation  
 116 insurance.

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117 (d) A list of the forms that the consumer may be required  
 118 by law to complete and submit as an employer.

119 (e) The penalties that may be assessed against the consumer  
 120 in the event that he or she is determined to be an employer but  
 121 has not fulfilled his or her obligations as an employer.

122 (f) The phone number and address of the organization.

123 (2) The notice shall be:

124 (a) Provided to the consumer when a home care services  
 125 worker is placed in the consumer's home. A separate notice is not  
 126 required when a home care services worker is a temporary  
 127 substitute for the consumer's regular home care service worker.

128 (b) On a form developed by the agency.

129 (c) Signed by the consumer and retained by the organization  
 130 at its office for at least 3 years.

131 (3) An organization that does not provide a notice to the  
 132 consumer shall be subject to fines and penalties as set forth in  
 133 s. 400.525.

134 (4) The failure of an organization to provide a notice to  
 135 the consumer does not relieve a consumer of any of his or her  
 136 duties or obligations as an employer. However, in the event that  
 137 an organization fails to provide a notice and the consumer is  
 138 found to be liable for payment of wages, taxes, workers'  
 139 compensation, or unemployment compensation to the home care  
 140 services worker, the consumer shall have a right of  
 141 indemnification against the organization, which shall include the  
 142 actual amounts paid to or on behalf of the home care services  
 143 worker and the attorney's fees and costs of the consumer.

144 Section 6. Section 400.524, Florida Statutes, is created to  
 145 read:

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146           400.524 Worker notice.--  
 147           (1) An organization shall provide a home care services  
 148 worker with a notice that explains the home care services  
 149 worker's legal relationship with the organization and the  
 150 consumer. The notice shall include, at a minimum, the following  
 151 information:  
 152           (a) A description of the duties, responsibilities,  
 153 obligations, and legal liabilities of the organization, the  
 154 consumer, and the home care services worker in the event that the  
 155 home care services worker is determined to be an independent  
 156 contractor. The description shall include the following  
 157 information:  
 158           1. A statement indicating the party that is responsible for  
 159 the payment of the home care services worker's wages, including  
 160 overtime pay for hours worked in excess of 40 hours in a  
 161 workweek; federal, state, and local taxes; social security and  
 162 Medicare taxes; and unemployment and workers' compensation  
 163 insurance.  
 164           2. A statement identifying the party responsible for  
 165 hiring, firing, disciplining, supervising, assigning duties to,  
 166 and providing equipment or materials for use by the home care  
 167 services worker.  
 168           (b) The phone number and address of the organization.  
 169           (2) The notice shall be:  
 170           (a) Provided to the home care services worker upon his or  
 171 her placement in the home of a consumer.  
 172           (b) On a form developed by the agency.  
 173           (c) Signed by the worker and retained by the organization  
 174 at its office for at least 3 years.

175 (3) An organization that does not provide a notice to the  
 176 home care services worker shall be subject to fines and penalties  
 177 as set forth in s. 400.525.

178 Section 7. Section 400.525, Florida Statutes, is created to  
 179 read:

180 400.525 Investigations; orders; civil penalties.--

181 (1) The agency may at any time, and shall upon receiving a  
 182 complaint from any interested person, investigate a possible  
 183 violation of ss. 400.519-400.525.

184 (2) The agency may examine the premises of any  
 185 organization; may compel by subpoena for examination or  
 186 inspection the attendance and testimony of witnesses and the  
 187 production of books, payrolls, records, papers, and other  
 188 evidence in any investigation or hearing; and may administer  
 189 oaths or affirmations to witnesses.

190 (3) After appropriate notice and investigation, and if  
 191 supported by the evidence, the agency may issue and cause to be  
 192 served on any person an order to cease and desist from violation  
 193 of ss. 400.519-400.525 and take any further action that is  
 194 determined to be necessary to eliminate the effect of the  
 195 violation.

196 (4) Whenever it appears that any person has violated a  
 197 valid order of the agency issued under ss. 400.519-400.525, the  
 198 agency may commence an action and obtain from the court an order  
 199 directing the person to obey the order of the agency or be  
 200 subject to punishment for contempt of court.

201 (5) In addition to any order or action, the agency may  
 202 petition a court of competent jurisdiction for an order enjoining  
 203 any violation of ss. 400.519-400.525.

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204       (6) Any organization that violates ss. 400.519-400.525 or  
 205 rules adopted under ss. 400.519-400.525 shall be subject to a  
 206 civil penalty of \$500 per day per violation. Civil penalties may  
 207 be assessed by the agency in an administrative action and may, if  
 208 necessary, be recovered in a civil action brought by the agency  
 209 through the Attorney General or the state attorney in the county  
 210 in which the violation occurred. The court may order that the  
 211 civil penalties assessed for violation of ss. 400.519-400.525,  
 212 together with any costs or attorney's fees arising out of the  
 213 action to collect the penalties, be paid to the agency. The fact  
 214 that the violation has ceased does not excuse a person from  
 215 liability for civil penalties arising from the violation.

216       Section 8. Subsection (7) of section 400.141, Florida  
 217 Statutes, is amended to read:

218       400.141 Administration and management of nursing home  
 219 facilities.--Every licensed facility shall comply with all  
 220 applicable standards and rules of the agency and shall:

221       (7) If the facility has a standard license or is a Gold  
 222 Seal facility, exceeds the minimum required hours of licensed  
 223 nursing and certified nursing assistant direct care per resident  
 224 per day, and is part of a continuing care facility licensed under  
 225 chapter 651 or a retirement community that offers other services  
 226 pursuant to ss. 400.461-400.518 ~~part III of this chapter~~ or part  
 227 I or part III of chapter 429 on a single campus, be allowed to  
 228 share programming and staff. At the time of inspection and in the  
 229 semiannual report required pursuant to subsection (15), a  
 230 continuing care facility or retirement community that uses this  
 231 option must demonstrate through staffing records that minimum  
 232 staffing requirements for the facility were met. Licensed nurses



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233 and certified nursing assistants who work in the nursing home  
 234 facility may be used to provide services elsewhere on campus if  
 235 the facility exceeds the minimum number of direct care hours  
 236 required per resident per day and the total number of residents  
 237 receiving direct care services from a licensed nurse or a  
 238 certified nursing assistant does not cause the facility to  
 239 violate the staffing ratios required under s. 400.23(3)(a).  
 240 Compliance with the minimum staffing ratios shall be based on  
 241 total number of residents receiving direct care services,  
 242 regardless of where they reside on campus. If the facility  
 243 receives a conditional license, it may not share staff until the  
 244 conditional license status ends. This subsection does not  
 245 restrict the agency's authority under federal or state law to  
 246 require additional staff if a facility is cited for deficiencies  
 247 in care which are caused by an insufficient number of certified  
 248 nursing assistants or licensed nurses. The agency may adopt rules  
 249 for the documentation necessary to determine compliance with this  
 250 provision.

251  
 252 Facilities that have been awarded a Gold Seal under the program  
 253 established in s. 400.235 may develop a plan to provide certified  
 254 nursing assistant training as prescribed by federal regulations  
 255 and state rules and may apply to the agency for approval of their  
 256 program.

257 Section 9. Paragraph (a) of subsection (2) of section  
 258 400.191, Florida Statutes, is amended to read:

259 400.191 Availability, distribution, and posting of reports  
 260 and records.--

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261 (2) The agency shall publish the Nursing Home Guide  
 262 annually in consumer-friendly printed form and quarterly in  
 263 electronic form to assist consumers and their families in  
 264 comparing and evaluating nursing home facilities.

265 (a) The agency shall provide an Internet site which shall  
 266 include at least the following information either directly or  
 267 indirectly through a link to another established site or sites of  
 268 the agency's choosing:

269 1. A section entitled "Have you considered programs that  
 270 provide alternatives to nursing home care?" which shall be the  
 271 first section of the Nursing Home Guide and which shall  
 272 prominently display information about available alternatives to  
 273 nursing homes and how to obtain additional information regarding  
 274 these alternatives. The Nursing Home Guide shall explain that  
 275 this state offers alternative programs that permit qualified  
 276 elderly persons to stay in their homes instead of being placed in  
 277 nursing homes and shall encourage interested persons to call the  
 278 Comprehensive Assessment Review and Evaluation for Long-Term Care  
 279 Services (CARES) Program to inquire if they qualify. The Nursing  
 280 Home Guide shall list available home and community-based programs  
 281 which shall clearly state the services that are provided and  
 282 indicate whether nursing home services are included if needed.

283 2. A list by name and address of all nursing home  
 284 facilities in this state, including any prior name by which a  
 285 facility was known during the previous 24-month period.

286 3. Whether such nursing home facilities are proprietary or  
 287 nonproprietary.

288 4. The current owner of the facility's license and the year  
 289 that that entity became the owner of the license.

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290           5. The name of the owner or owners of each facility and  
 291 whether the facility is affiliated with a company or other  
 292 organization owning or managing more than one nursing facility in  
 293 this state.

294           6. The total number of beds in each facility and the most  
 295 recently available occupancy levels.

296           7. The number of private and semiprivate rooms in each  
 297 facility.

298           8. The religious affiliation, if any, of each facility.

299           9. The languages spoken by the administrator and staff of  
 300 each facility.

301           10. Whether or not each facility accepts Medicare or  
 302 Medicaid recipients or insurance, health maintenance  
 303 organization, Veterans Administration, CHAMPUS program, or  
 304 workers' compensation coverage.

305           11. Recreational and other programs available at each  
 306 facility.

307           12. Special care units or programs offered at each  
 308 facility.

309           13. Whether the facility is a part of a retirement  
 310 community that offers other services pursuant to ss. 400.461-  
 311 400.518 ~~part III of this chapter~~ or part I or part III of chapter  
 312 429.

313           14. Survey and deficiency information, including all  
 314 federal and state recertification, licensure, revisit, and  
 315 complaint survey information, for each facility for the past 30  
 316 months. For noncertified nursing homes, state survey and  
 317 deficiency information, including licensure, revisit, and

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318 | complaint survey information for the past 30 months shall be  
 319 | provided.

320 |         15. A summary of the deficiency data for each facility over  
 321 | the past 30 months. The summary may include a score, rating, or  
 322 | comparison ranking with respect to other facilities based on the  
 323 | number of citations received by the facility on recertification,  
 324 | licensure, revisit, and complaint surveys; the severity and scope  
 325 | of the citations; and the number of recertification surveys the  
 326 | facility has had during the past 30 months. The score, rating, or  
 327 | comparison ranking may be presented in either numeric or symbolic  
 328 | form for the intended consumer audience.

329 |         Section 10. Section 400.461, Florida Statutes, is amended  
 330 | to read:

331 |             400.461 Short title; purpose.--

332 |             (1) Sections ~~This part, consisting of ss. 400.461-400.518,~~  
 333 | may be cited as the "Home Health Services Act."

334 |             (2) The purpose of ss. 400.461-400.518 ~~this part~~ is to  
 335 | provide for the licensure of every home health agency and nurse  
 336 | registry and to provide for the development, establishment, and  
 337 | enforcement of basic standards that will ensure the safe and  
 338 | adequate care of persons receiving health services in their own  
 339 | homes.

340 |         Section 11. Section 400.462, Florida Statutes, is amended  
 341 | to read:

342 |             400.462 Definitions.--As used in ss. 400.461-400.518 ~~this~~  
 343 | ~~part~~, the term:

344 |             (1) "Administrator" means a direct employee, as defined in  
 345 | subsection (9). The administrator must be a licensed physician,  
 346 | physician assistant, or registered nurse licensed to practice in

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347 | this state or an individual having at least 1 year of supervisory  
 348 | or administrative experience in home health care or in a facility  
 349 | licensed under chapter 395, under part II of this chapter, or  
 350 | under part I of chapter 429. An administrator may manage a  
 351 | maximum of five licensed home health agencies located within one  
 352 | agency service district or within an immediately contiguous  
 353 | county. If the home health agency is licensed under this chapter  
 354 | and is part of a retirement community that provides multiple  
 355 | levels of care, an employee of the retirement community may  
 356 | administer the home health agency and up to a maximum of four  
 357 | entities licensed under this chapter or chapter 429 that are  
 358 | owned, operated, or managed by the same corporate entity. An  
 359 | administrator shall designate, in writing, for each licensed  
 360 | entity, a qualified alternate administrator to serve during  
 361 | absences.

362 |       (2) "Admission" means a decision by the home health agency,  
 363 | during or after an evaluation visit to the patient's home, that  
 364 | there is reasonable expectation that the patient's medical,  
 365 | nursing, and social needs for skilled care can be adequately met  
 366 | by the agency in the patient's place of residence. Admission  
 367 | includes completion of an agreement with the patient or the  
 368 | patient's legal representative to provide home health services as  
 369 | required in s. 400.487(1).

370 |       (3) "Advanced registered nurse practitioner" means a person  
 371 | licensed in this state to practice professional nursing and  
 372 | certified in advanced or specialized nursing practice, as defined  
 373 | in s. 464.003.

374 |       (4) "Agency" means the Agency for Health Care  
 375 | Administration.

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376 (5) "Certified nursing assistant" means any person who has  
 377 been issued a certificate under part II of chapter 464. The  
 378 licensed home health agency or licensed nurse registry shall  
 379 ensure that the certified nursing assistant employed by or under  
 380 contract with the home health agency or licensed nurse registry  
 381 is adequately trained to perform the tasks of a home health aide  
 382 in the home setting.

383 (6) "Client" means an elderly, handicapped, or convalescent  
 384 individual who receives companion services or homemaker services  
 385 in the individual's home or place of residence.

386 (7) "Companion" or "sitter" means a person who spends time  
 387 with or cares for an elderly, handicapped, or convalescent  
 388 individual and accompanies such individual on trips and outings  
 389 and may prepare and serve meals to such individual. A companion  
 390 may not provide hands-on personal care to a client.

391 (8) "Department" means the Department of Children and  
 392 Family Services.

393 (9) "Direct employee" means an employee for whom one of the  
 394 following entities pays withholding taxes: a home health agency;  
 395 a management company that has a contract to manage the home  
 396 health agency on a day-to-day basis; or an employee leasing  
 397 company that has a contract with the home health agency to handle  
 398 the payroll and payroll taxes for the home health agency.

399 (10) "Director of nursing" means a registered nurse who is  
 400 a direct employee, as defined in subsection (9), of the agency  
 401 and who is a graduate of an approved school of nursing and is  
 402 licensed in this state; who has at least 1 year of supervisory  
 403 experience as a registered nurse; and who is responsible for  
 404 overseeing the professional nursing and home health aid delivery

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405 of services of the agency. A director of nursing may be the  
 406 director of a maximum of five licensed home health agencies  
 407 operated by a related business entity and located within one  
 408 agency service district or within an immediately contiguous  
 409 county. If the home health agency is licensed under this chapter  
 410 and is part of a retirement community that provides multiple  
 411 levels of care, an employee of the retirement community may serve  
 412 as the director of nursing of the home health agency and of up to  
 413 four entities licensed under this chapter or chapter 429 which  
 414 are owned, operated, or managed by the same corporate entity.

415 (11) "Home health agency" means an organization that  
 416 provides home health services and staffing services.

417 (12) "Home health agency personnel" means persons who are  
 418 employed by or under contract with a home health agency and enter  
 419 the home or place of residence of patients at any time in the  
 420 course of their employment or contract.

421 (13) "Home health services" means health and medical  
 422 services and medical supplies furnished by an organization to an  
 423 individual in the individual's home or place of residence. The  
 424 term includes organizations that provide one or more of the  
 425 following:

- 426 (a) Nursing care.
- 427 (b) Physical, occupational, respiratory, or speech therapy.
- 428 (c) Home health aide services.
- 429 (d) Dietetics and nutrition practice and nutrition  
 430 counseling.
- 431 (e) Medical supplies, restricted to drugs and biologicals  
 432 prescribed by a physician.

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433 (14) "Home health aide" means a person who is trained or  
 434 qualified, as provided by rule, and who provides hands-on  
 435 personal care, performs simple procedures as an extension of  
 436 therapy or nursing services, assists in ambulation or exercises,  
 437 or assists in administering medications as permitted in rule and  
 438 for which the person has received training established by the  
 439 agency under s. 400.497(1). The licensed home health agency or  
 440 licensed nurse registry shall ensure that the home health aide  
 441 employed by or under contract with the home health agency or  
 442 licensed nurse registry is adequately trained to perform the  
 443 tasks of a home health aide in the home setting.

444 (15) "Homemaker" means a person who performs household  
 445 chores that include housekeeping, meal planning and preparation,  
 446 shopping assistance, and routine household activities for an  
 447 elderly, handicapped, or convalescent individual. A homemaker may  
 448 not provide hands-on personal care to a client.

449 (16) "Home infusion therapy provider" means an organization  
 450 that employs, contracts with, or refers a licensed professional  
 451 who has received advanced training and experience in intravenous  
 452 infusion therapy and who administers infusion therapy to a  
 453 patient in the patient's home or place of residence.

454 (17) "Home infusion therapy" means the administration of  
 455 intravenous pharmacological or nutritional products to a patient  
 456 in his or her home.

457 (18) "Nurse registry" means any person that procures,  
 458 offers, promises, or attempts to secure health-care-related  
 459 contracts for registered nurses, licensed practical nurses,  
 460 certified nursing assistants, home health aides, companions, or  
 461 homemakers, who are compensated by fees as independent



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462 | contractors, including, but not limited to, contracts for the  
 463 | provision of services to patients and contracts to provide  
 464 | private duty or staffing services to health care facilities  
 465 | licensed under chapter 395, this chapter, or chapter 429 or other  
 466 | business entities.

467 | (19) "Organization" means a corporation, government or  
 468 | governmental subdivision or agency, partnership or association,  
 469 | or any other legal or commercial entity, any of which involve  
 470 | more than one health care professional discipline; a health care  
 471 | professional and a home health aide or certified nursing  
 472 | assistant; more than one home health aide; more than one  
 473 | certified nursing assistant; or a home health aide and a  
 474 | certified nursing assistant. The term does not include an entity  
 475 | that provides services using only volunteers or only individuals  
 476 | related by blood or marriage to the patient or client.

477 | (20) "Patient" means any person who receives home health  
 478 | services in his or her home or place of residence.

479 | (21) "Personal care" means assistance to a patient in the  
 480 | activities of daily living, such as dressing, bathing, eating, or  
 481 | personal hygiene, and assistance in physical transfer,  
 482 | ambulation, and in administering medications as permitted by  
 483 | rule.

484 | (22) "Physician" means a person licensed under chapter 458,  
 485 | chapter 459, chapter 460, or chapter 461.

486 | (23) "Physician assistant" means a person who is a graduate  
 487 | of an approved program or its equivalent, or meets standards  
 488 | approved by the boards, and is licensed to perform medical  
 489 | services delegated by the supervising physician, as defined in s.  
 490 | 458.347 or s. 459.022.

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491 (24) "Skilled care" means nursing services or therapeutic  
 492 services required by law to be delivered by a health care  
 493 professional who is licensed under part I of chapter 464; part I,  
 494 part III, or part V of chapter 468; or chapter 486 and who is  
 495 employed by or under contract with a licensed home health agency  
 496 or is referred by a licensed nurse registry.

497 (25) "Staffing services" means services provided to a  
 498 health care facility or other business entity on a temporary  
 499 basis by licensed health care personnel and by certified nursing  
 500 assistants and home health aides who are employed by, or work  
 501 under the auspices of, a licensed home health agency or who are  
 502 registered with a licensed nurse registry. Staffing services may  
 503 be provided anywhere within the state.

504 Section 12. Subsections (3), (4), and (5) of section  
 505 400.464, Florida Statutes, are amended to read:

506 400.464 Home health agencies to be licensed; expiration of  
 507 license; exemptions; unlawful acts; penalties.--

508 (3) Any home infusion therapy provider shall be licensed as  
 509 a home health agency. Any infusion therapy provider currently  
 510 authorized to receive Medicare reimbursement under a DME - Part B  
 511 Provider number for the provision of infusion therapy shall be  
 512 licensed as a noncertified home health agency. Such a provider  
 513 shall continue to receive that specified Medicare reimbursement  
 514 without being certified so long as the reimbursement is limited  
 515 to those items authorized pursuant to the DME - Part B Provider  
 516 Agreement and the agency is licensed in compliance with the other  
 517 provisions of ss. 400.461-400.518 ~~this part~~.

518 (4) (a) An organization may not provide, offer, or advertise  
 519 home health services to the public unless the organization has a

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520 valid license or is specifically exempted under ss. 400.461-  
 521 400.518 ~~this part~~. An organization that offers or advertises to  
 522 the public any service for which licensure or registration is  
 523 required under ss. 400.461-400.518 ~~this part~~ must include in the  
 524 advertisement the license number or registration number issued to  
 525 the organization by the agency. The agency shall assess a fine of  
 526 not less than \$100 to any licensee or registrant who fails to  
 527 include the license or registration number when submitting the  
 528 advertisement for publication, broadcast, or printing. The fine  
 529 for a second or subsequent offense is \$500. The holder of a  
 530 license issued under ss. 400.461-400.518 ~~this part~~ may not  
 531 advertise or indicate to the public that it holds a home health  
 532 agency or nurse registry license other than the one it has been  
 533 issued.

534 (b) The operation or maintenance of an unlicensed home  
 535 health agency or the performance of any home health services in  
 536 violation of ss. 400.461-400.518 ~~this part~~ is declared a  
 537 nuisance, inimical to the public health, welfare, and safety. The  
 538 agency or any state attorney may, in addition to other remedies  
 539 provided in ss. 400.461-400.518 ~~this part~~, bring an action for an  
 540 injunction to restrain such violation, or to enjoin the future  
 541 operation or maintenance of the home health agency or the  
 542 provision of home health services in violation of ss. 400.461-  
 543 400.518 ~~this part~~, until compliance with ss. 400.461-400.518 ~~this~~  
 544 ~~part~~ or the rules adopted under ss. 400.461-400.518 ~~this part~~ has  
 545 been demonstrated to the satisfaction of the agency.

546 (c) A person who violates paragraph (a) is subject to an  
 547 injunctive proceeding under s. 400.515. A violation of paragraph  
 548 (a) is a deceptive and unfair trade practice and constitutes a

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549 violation of the Florida Deceptive and Unfair Trade Practices Act  
550 under part II of chapter 501.

551 (d) A person who violates the provisions of paragraph (a)  
552 commits a misdemeanor of the second degree, punishable as  
553 provided in s. 775.082 or s. 775.083. Any person who commits a  
554 second or subsequent violation commits a misdemeanor of the first  
555 degree, punishable as provided in s. 775.082 or s. 775.083. Each  
556 day of continuing violation constitutes a separate offense.

557 (e) Any person who owns, operates, or maintains an  
558 unlicensed home health agency and who, within 10 working days  
559 after receiving notification from the agency, fails to cease  
560 operation and apply for a license under ss. 400.461-400.518 ~~this~~  
561 ~~part~~ commits a misdemeanor of the second degree, punishable as  
562 provided in s. 775.082 or s. 775.083. Each day of continued  
563 operation is a separate offense.

564 (f) Any home health agency that fails to cease operation  
565 after agency notification may be fined \$500 for each day of  
566 noncompliance.

567 (5) The following are exempt from the licensure  
568 requirements of ss. 400.461-400.518 ~~this part~~:

569 (a) A home health agency operated by the Federal  
570 Government.

571 (b) Home health services provided by a state agency, either  
572 directly or through a contractor with:

- 573 1. The Department of Elderly Affairs.  
574 2. The Department of Health, a community health center, or  
575 a rural health network that furnishes home visits for the purpose  
576 of providing environmental assessments, case management, health

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577 education, personal care services, family planning, or followup  
 578 treatment, or for the purpose of monitoring and tracking disease.

579 3. Services provided to persons with developmental  
 580 disabilities, as defined in s. 393.063.

581 4. Companion and sitter organizations that were registered  
 582 under s. 400.509(1) on January 1, 1999, and were authorized to  
 583 provide personal services under a developmental services provider  
 584 certificate on January 1, 1999, may continue to provide such  
 585 services to past, present, and future clients of the organization  
 586 who need such services, notwithstanding the provisions of this  
 587 act.

588 5. The Department of Children and Family Services.

589 (c) A health care professional, whether or not  
 590 incorporated, who is licensed under chapter 457; chapter 458;  
 591 chapter 459; part I of chapter 464; chapter 467; part I, part  
 592 III, part V, or part X of chapter 468; chapter 480; chapter 486;  
 593 chapter 490; or chapter 491; and who is acting alone within the  
 594 scope of his or her professional license to provide care to  
 595 patients in their homes.

596 (d) A home health aide or certified nursing assistant who  
 597 is acting in his or her individual capacity, within the  
 598 definitions and standards of his or her occupation, and who  
 599 provides hands-on care to patients in their homes.

600 (e) An individual who acts alone, in his or her individual  
 601 capacity, and who is not employed by or affiliated with a  
 602 licensed home health agency or registered with a licensed nurse  
 603 registry. This exemption does not entitle an individual to  
 604 perform home health services without the required professional  
 605 license.

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606 (f) The delivery of instructional services in home dialysis  
607 and home dialysis supplies and equipment.

608 (g) The delivery of nursing home services for which the  
609 nursing home is licensed under part II of this chapter, to serve  
610 its residents in its facility.

611 (h) The delivery of assisted living facility services for  
612 which the assisted living facility is licensed under part I of  
613 chapter 429, to serve its residents in its facility.

614 (i) The delivery of hospice services for which the hospice  
615 is licensed under part IV of this chapter, to serve hospice  
616 patients admitted to its service.

617 (j) A hospital that provides services for which it is  
618 licensed under chapter 395.

619 (k) The delivery of community residential services for  
620 which the community residential home is licensed under chapter  
621 419, to serve the residents in its facility.

622 (l) A not-for-profit, community-based agency that provides  
623 early intervention services to infants and toddlers.

624 (m) Certified rehabilitation agencies and comprehensive  
625 outpatient rehabilitation facilities that are certified under  
626 Title 18 of the Social Security Act.

627 (n) The delivery of adult family-care home services for  
628 which the adult family-care home is licensed under part II of  
629 chapter 429, to serve the residents in its facility.

630 Section 13. Subsections (2), (7), (10), and (14) of section  
631 400.471, Florida Statutes, are amended to read:

632 400.471 Application for license; fee; provisional license;  
633 temporary permit.--

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634 (2) The initial applicant must file with the application  
 635 satisfactory proof that the home health agency is in compliance  
 636 with ss. 400.461-400.518 ~~this part~~ and applicable rules,  
 637 including:

638 (a) A listing of services to be provided, either directly  
 639 by the applicant or through contractual arrangements with  
 640 existing providers.

641 (b) The number and discipline of professional staff to be  
 642 employed.

643 (c) Proof of financial ability to operate.

644 (d) Completion of questions concerning volume data on the  
 645 renewal application as determined by rule.

646 (7) Sixty days before the expiration date, an application  
 647 for renewal must be submitted to the agency under oath on forms  
 648 furnished by it, and a license must be renewed if the applicant  
 649 has met the requirements established under ss. 400.461-400.518  
 650 ~~this part~~ and applicable rules. The home health agency must file  
 651 with the application satisfactory proof that it is in compliance  
 652 with ss. 400.461-400.518 ~~this part~~ and applicable rules. If there  
 653 is evidence of financial instability, the home health agency must  
 654 submit satisfactory proof of its financial ability to comply with  
 655 the requirements of ss. 400.461-400.518 ~~this part~~. The agency  
 656 shall impose an administrative fine of \$50 per day for each day  
 657 the home health agency fails to file an application within the  
 658 timeframe specified in this subsection. Each day of continuing  
 659 violation is a separate violation; however, the aggregate of such  
 660 fines may not exceed \$500.

661 (10) The license fee and renewal fee required of a home  
 662 health agency are nonrefundable. The agency shall set the license

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663 fees in an amount that is sufficient to cover its costs in  
 664 carrying out its responsibilities under ss. 400.461-400.518 ~~this~~  
 665 ~~part~~, but not to exceed \$2,000. However, state, county, or  
 666 municipal governments applying for licenses under ss. 400.461-  
 667 400.518 ~~this part~~ are exempt from the payment of license fees.  
 668 All fees collected under ss. 400.461-400.518 ~~this part~~ must be  
 669 deposited in the Health Care Trust Fund for the administration of  
 670 ss. 400.461-400.518 ~~this part~~.

671 (14) The agency may not issue a license to a home health  
 672 agency that has any unpaid fines assessed under ss. 400.461-  
 673 400.518 ~~this part~~.

674 Section 14. Paragraph (a) of subsection (2) of section  
 675 400.474, Florida Statutes, is amended to read:

676 400.474 Denial, suspension, revocation of license;  
 677 injunction; grounds; penalties.--

678 (2) Any of the following actions by a home health agency or  
 679 its employee is grounds for disciplinary action by the agency:

680 (a) Violation of ss. 400.461-400.518 ~~this part~~ or of  
 681 applicable rules.

682 Section 15. Subsection (2) of section 400.4785, Florida  
 683 Statutes, is amended to read:

684 400.4785 Patients with Alzheimer's disease or other related  
 685 disorders; staff training requirements; certain disclosures.--

686 (2) An agency licensed under ss. 400.461-400.518 ~~this part~~  
 687 which claims that it provides special care for persons who have  
 688 Alzheimer's disease or other related disorders must disclose in  
 689 its advertisements or in a separate document those services that  
 690 distinguish the care as being especially applicable to, or  
 691 suitable for, such persons. The agency must give a copy of all



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692 such advertisements or a copy of the document to each person who  
 693 requests information about the agency and must maintain a copy of  
 694 all such advertisements and documents in its records. The Agency  
 695 for Health Care Administration shall examine all such  
 696 advertisements and documents in the agency's records as part of  
 697 the license renewal procedure.

698 Section 16. Subsection (1) of section 400.484, Florida  
 699 Statutes, is amended to read:

700 400.484 Right of inspection; deficiencies; fines.--

701 (1) Any duly authorized officer or employee of the agency  
 702 may make such inspections and investigations as are necessary in  
 703 order to determine the state of compliance with ss. 400.461-  
 704 400.518 ~~this part~~ and with applicable rules. The right of  
 705 inspection extends to any business that the agency has reason to  
 706 believe is being operated as a home health agency without a  
 707 license, but such inspection of any such business may not be made  
 708 without the permission of the owner or person in charge unless a  
 709 warrant is first obtained from a circuit court. Any application  
 710 for a license issued under ss. 400.461-400.518 ~~this part~~ or for  
 711 license renewal constitutes permission for an appropriate  
 712 inspection to verify the information submitted on or in  
 713 connection with the application.

714 Section 17. Subsection (5) of section 400.487, Florida  
 715 Statutes, is amended to read:

716 400.487 Home health service agreements; physician's,  
 717 physician assistant's, and advanced registered nurse  
 718 practitioner's treatment orders; patient assessment;  
 719 establishment and review of plan of care; provision of services;  
 720 orders not to resuscitate.--

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721 (5) When nursing services are ordered, the home health  
 722 agency to which a patient has been admitted for care must provide  
 723 the initial admission visit, all service evaluation visits, and  
 724 the discharge visit by a direct employee. Services provided by  
 725 others under contractual arrangements to a home health agency  
 726 must be monitored and managed by the admitting home health  
 727 agency. The admitting home health agency is fully responsible for  
 728 ensuring that all care provided through its employees or contract  
 729 staff is delivered in accordance with ss. 400.461-400.518 ~~this~~  
 730 ~~part~~ and applicable rules.

731 Section 18. Section 400.495, Florida Statutes, is amended  
 732 to read:

733 400.495 Notice of toll-free telephone number for central  
 734 abuse hotline.--On or before the first day home health services  
 735 are provided to a patient, any home health agency or nurse  
 736 registry licensed under ss. 400.461-400.518 ~~this part~~ must inform  
 737 the patient and his or her immediate family, if appropriate, of  
 738 the right to report abusive, neglectful, or exploitative  
 739 practices. The statewide toll-free telephone number for the  
 740 central abuse hotline must be provided to patients in a manner  
 741 that is clearly legible and must include the words: "To report  
 742 abuse, neglect, or exploitation, please call toll-free (phone  
 743 number) ." The Agency for Health Care Administration shall adopt  
 744 rules that provide for 90 days' advance notice of a change in the  
 745 toll-free telephone number and that outline due process  
 746 procedures, as provided under chapter 120, for home health agency  
 747 personnel and nurse registry personnel who are reported to the  
 748 central abuse hotline. Home health agencies and nurse registries

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749 shall establish appropriate policies and procedures for providing  
750 such notice to patients.

751 Section 19. Section 400.497, Florida Statutes, is amended  
752 to read:

753 400.497 Rules establishing minimum standards.--The agency  
754 shall adopt, publish, and enforce rules to implement ss. 400.461-  
755 400.518 ~~this part~~, including, as applicable, ss. 400.506 and  
756 400.509, which must provide reasonable and fair minimum standards  
757 relating to:

758 (1) The home health aide competency test and home health  
759 aide training. The agency shall create the home health aide  
760 competency test and establish the curriculum and instructor  
761 qualifications for home health aide training. Licensed home  
762 health agencies or organizations licensed or registered under s.  
763 400.509 that provide personal care may provide this training and  
764 shall furnish documentation of such training to other licensed  
765 home health agencies upon request. Successful passage of the  
766 competency test by home health aides or organizations licensed or  
767 registered under s. 400.509 may be substituted for the training  
768 required under this section and any rule adopted pursuant  
769 thereto.

770 (2) Shared staffing. The agency shall allow shared staffing  
771 if the home health agency is part of a retirement community that  
772 provides multiple levels of care, is located on one campus, is  
773 licensed under this chapter or chapter 429, and otherwise meets  
774 the requirements of law and rule.

775 (3) The criteria for the frequency of onsite licensure  
776 surveys.

777 (4) Licensure application and renewal.

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778 (5) The requirements for onsite and electronic  
779 accessibility of supervisory personnel of home health agencies.

780 (6) Information to be included in patients' records.

781 (7) Geographic service areas.

782 (8) Preparation of a comprehensive emergency management  
783 plan pursuant to s. 400.492.

784 (a) The Agency for Health Care Administration shall adopt  
785 rules establishing minimum criteria for the plan and plan  
786 updates, with the concurrence of the Department of Health and in  
787 consultation with the Department of Community Affairs.

788 (b) The rules must address the requirements in s. 400.492.  
789 In addition, the rules shall provide for the maintenance of  
790 patient-specific medication lists that can accompany patients who  
791 are transported from their homes.

792 (c) The plan is subject to review and approval by the  
793 county health department. During its review, the county health  
794 department shall contact state and local health and medical  
795 stakeholders when necessary. The county health department shall  
796 complete its review to ensure that the plan is in accordance with  
797 the criteria in the Agency for Health Care Administration rules  
798 within 90 days after receipt of the plan and shall approve the  
799 plan or advise the home health agency of necessary revisions. If  
800 the home health agency fails to submit a plan or fails to submit  
801 the requested information or revisions to the county health  
802 department within 30 days after written notification from the  
803 county health department, the county health department shall  
804 notify the Agency for Health Care Administration. The agency  
805 shall notify the home health agency that its failure constitutes  
806 a deficiency, subject to a fine of \$5,000 per occurrence. If the

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807 plan is not submitted, information is not provided, or revisions  
 808 are not made as requested, the agency may impose the fine.

809 (d) For any home health agency that operates in more than  
 810 one county, the Department of Health shall review the plan, after  
 811 consulting with state and local health and medical stakeholders  
 812 when necessary. The department shall complete its review within  
 813 90 days after receipt of the plan and shall approve the plan or  
 814 advise the home health agency of necessary revisions. The  
 815 department shall make every effort to avoid imposing differing  
 816 requirements on a home health agency that operates in more than  
 817 one county as a result of differing or conflicting comprehensive  
 818 plan requirements of the counties in which the home health agency  
 819 operates.

820 (e) The requirements in this subsection do not apply to:

821 1. A facility that is certified under chapter 651 and has a  
 822 licensed home health agency used exclusively by residents of the  
 823 facility; or

824 2. A retirement community that consists of residential  
 825 units for independent living and either a licensed nursing home  
 826 or an assisted living facility, and has a licensed home health  
 827 agency used exclusively by the residents of the retirement  
 828 community, provided the comprehensive emergency management plan  
 829 for the facility or retirement community provides for continuous  
 830 care of all residents with special needs during an emergency.

831 Section 20. Subsection (3) and paragraph (c) of subsection  
 832 (8) of section 400.506, Florida Statutes, are amended to read:

833 400.506 Licensure of nurse registries; requirements;  
 834 penalties.--

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835 (3) Application for license must be made to the Agency for  
 836 Health Care Administration on forms furnished by it and must be  
 837 accompanied by the appropriate licensure fee, as established by  
 838 rule and not to exceed the cost of regulation under ss. 400.461-  
 839 400.518 ~~this part~~. The licensure fee for nurse registries may not  
 840 exceed \$2,000 and must be deposited in the Health Care Trust  
 841 Fund.

842 (8)

843 (c) Any person who owns, operates, or maintains an  
 844 unlicensed nurse registry and who, within 10 working days after  
 845 receiving notification from the agency, fails to cease operation  
 846 and apply for a license under ss. 400.461-400.518 ~~this part~~  
 847 commits a misdemeanor of the second degree, punishable as  
 848 provided in s. 775.082 or s. 775.083. Each day of continued  
 849 operation is a separate offense.

850 Section 21. Subsections (1) and (6) of section 400.509,  
 851 Florida Statutes, are amended to read:

852 400.509 Registration of particular service providers exempt  
 853 from licensure; certificate of registration; regulation of  
 854 registrants; liability insurance.--

855 (1) (a) Any organization that provides companion services or  
 856 homemaker services or that provides personal care services  
 857 through employed certified nursing assistants certified under  
 858 part II of chapter 464 or through employed home health aides who  
 859 are trained and have successfully completed the home health aide  
 860 competency test established by the agency under s. 400.497(1) and  
 861 does not provide a home health service, other than assisting a  
 862 patient with bathing, dressing, toileting, grooming, eating,  
 863 physical transfer, and those normal daily routines the patient

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864 could perform for himself or herself if he or she was physically  
 865 capable, to a person is exempt from licensure under ss. 400.461-  
 866 400.518 ~~this part~~. However, any organization that provides  
 867 companion services, ~~or~~ homemaker services, or personal care  
 868 services must register with the agency.

869 (b) Any organization that provides personal care services  
 870 must obtain and maintain liability insurance coverage as defined  
 871 in s. 624.605(1)(b) in an amount of at least \$250,000 per claim  
 872 and must submit proof of liability insurance coverage with an  
 873 initial application for registration and with each annual  
 874 application for registration renewal.

875 (6) On or before the first day on which services are  
 876 provided to a patient or client, any registrant under ss.  
 877 400.461-400.518 ~~this part~~ must inform the patient or client and  
 878 his or her immediate family, if appropriate, of the right to  
 879 report abusive, neglectful, or exploitative practices. The  
 880 statewide toll-free telephone number for the central abuse  
 881 hotline must be provided to patients or clients in a manner that  
 882 is clearly legible and must include the words: "To report abuse,  
 883 neglect, or exploitation, please call toll-free (phone number)  
 884 ." Registrants must establish appropriate policies and  
 885 procedures for providing such notice to patients or clients.

886 Section 22. Paragraph (a) of subsection (7) of section  
 887 400.512, Florida Statutes, is amended to read:

888 400.512 Screening of home health agency personnel; nurse  
 889 registry personnel; and companions and homemakers.--The agency  
 890 shall require employment or contractor screening as provided in  
 891 chapter 435, using the level 1 standards for screening set forth  
 892 in that chapter, for home health agency personnel; persons

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893 referred for employment by nurse registries; and persons employed  
894 by companion or homemaker services registered under s. 400.509.

895 (7) (a) It is a misdemeanor of the first degree, punishable  
896 under s. 775.082 or s. 775.083, for any person willfully,  
897 knowingly, or intentionally to:

898 1. Fail, by false statement, misrepresentation,  
899 impersonation, or other fraudulent means, to disclose in any  
900 application for voluntary or paid employment a material fact used  
901 in making a determination as to such person's qualifications to  
902 be an employee under this section;

903 2. Operate or attempt to operate an entity licensed or  
904 registered under ss. 400.461-400.518 ~~this part~~ with persons who  
905 do not meet the minimum standards for good moral character as  
906 contained in this section; or

907 3. Use information from the criminal records obtained under  
908 this section for any purpose other than screening that person for  
909 employment as specified in this section or release such  
910 information to any other person for any purpose other than  
911 screening for employment under this section.

912 Section 23. Section 400.515, Florida Statutes, is amended  
913 to read:

914 400.515 Injunction proceedings.--In addition to the other  
915 powers provided under this chapter, the agency may institute  
916 injunction proceedings in a court of competent jurisdiction to  
917 restrain or prevent the establishment or operation of a home  
918 health agency or nurse registry that does not have a license or  
919 that is in violation of any provision of ss. 400.461-400.518 ~~this~~  
920 ~~part~~ or any rule adopted pursuant to ss. 400.461-400.518 ~~this~~  
921 ~~part~~. The agency may also institute injunction proceedings in a



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922 court of competent jurisdiction when violation of ss. 400.461-  
 923 400.518 ~~this part~~ or of applicable rules constitutes an emergency  
 924 affecting the immediate health and safety of a patient or client.

925 Section 24. Paragraph (d) of subsection (5) of section  
 926 400.93, Florida Statutes, is amended to read:

927 400.93 Licensure required; exemptions; unlawful acts;  
 928 penalties.--

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

935 (d) Home health agencies licensed under ss. 400.461-400.518  
 936 ~~part III~~.

937 Section 25. Subsection (28) of section 408.07, Florida  
 938 Statutes, is amended to read:

939 408.07 Definitions.--As used in this chapter, with the  
 940 exception of ss. 408.031-408.045, the term:

941 (28) "Home health agency" means an organization licensed  
 942 under ss. 400.461-400.518 ~~part III of chapter 400~~.

943 Section 26. Subsections (15), (16), and (17) of section  
 944 408.802, Florida Statutes, are amended to read:

945 408.802 Applicability.--The provisions of this part apply  
 946 to the provision of services that require licensure as defined in  
 947 this part and to the following entities licensed, registered, or  
 948 certified by the agency, as described in chapters 112, 383, 390,  
 949 394, 395, 400, 440, 483, and 765:

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950 (15) Home health agencies, as provided under ss. 400.461-  
 951 400.518 ~~part IV of chapter 400~~.

952 (16) Nurse registries, as provided under ss. 400.461-  
 953 400.518 ~~part IV of chapter 400~~.

954 (17) Companion services or homemaker services providers, as  
 955 provided under ss. 400.461-400.518 ~~part IV of chapter 400~~.

956 Section 27. Paragraph (b) of subsection (7) of section  
 957 408.806, Florida Statutes, is amended to read:

958 408.806 License application process.--

959 (7)

960 (b) An initial inspection is not required for companion  
 961 services or homemaker services providers, as provided under ss.  
 962 400.461-400.518 ~~part IV of chapter 400~~, or for health care  
 963 services pools, as provided under part IX ~~XII~~ of chapter 400.

964 Section 28. Subsections (15), (16), and (17) of section  
 965 408.820, Florida Statutes, are amended to read:

966 408.820 Exemptions.--Except as prescribed in authorizing  
 967 statutes, the following exemptions shall apply to specified  
 968 requirements of this part:

969 (15) Home health agencies, as provided under ss. 400.461-  
 970 400.518 ~~part IV of chapter 400~~, are exempt from s. 408.810(10).

971 (16) Nurse registries, as provided under ss. 400.461-  
 972 400.518 ~~part IV of chapter 400~~, are exempt from s. 408.810(6) and  
 973 (10).

974 (17) Companion services or homemaker services providers, as  
 975 provided under ss. 400.461-400.518 ~~part IV of chapter 400~~, are  
 976 exempt from s. 408.810(6)-(10).

977 Section 29. Subsection (4) of section 409.905, Florida  
 978 Statutes, is amended to read:

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979           409.905 Mandatory Medicaid services.--The agency may make  
 980 payments for the following services, which are required of the  
 981 state by Title XIX of the Social Security Act, furnished by  
 982 Medicaid providers to recipients who are determined to be  
 983 eligible on the dates on which the services were provided. Any  
 984 service under this section shall be provided only when medically  
 985 necessary and in accordance with state and federal law. Mandatory  
 986 services rendered by providers in mobile units to Medicaid  
 987 recipients may be restricted by the agency. Nothing in this  
 988 section shall be construed to prevent or limit the agency from  
 989 adjusting fees, reimbursement rates, lengths of stay, number of  
 990 visits, number of services, or any other adjustments necessary to  
 991 comply with the availability of moneys and any limitations or  
 992 directions provided for in the General Appropriations Act or  
 993 chapter 216.

994           (4) HOME HEALTH CARE SERVICES.--The agency shall pay for  
 995 nursing and home health aide services, supplies, appliances, and  
 996 durable medical equipment, necessary to assist a recipient living  
 997 at home. An entity that provides services pursuant to this  
 998 subsection shall be licensed under ss. 400.461-400.518 ~~part III~~  
 999 ~~of chapter 400~~. These services, equipment, and supplies, or  
 1000 reimbursement therefor, may be limited as provided in the General  
 1001 Appropriations Act and do not include services, equipment, or  
 1002 supplies provided to a person residing in a hospital or nursing  
 1003 facility.

1004           (a) In providing home health care services, the agency may  
 1005 require prior authorization of care based on diagnosis.

1006           (b) The agency shall implement a comprehensive utilization  
 1007 management program that requires prior authorization of all

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1008 private duty nursing services, an individualized treatment plan  
 1009 that includes information about medication and treatment orders,  
 1010 treatment goals, methods of care to be used, and plans for care  
 1011 coordination by nurses and other health professionals. The  
 1012 utilization management program shall also include a process for  
 1013 periodically reviewing the ongoing use of private duty nursing  
 1014 services. The assessment of need shall be based on a child's  
 1015 condition, family support and care supplements, a family's  
 1016 ability to provide care, and a family's and child's schedule  
 1017 regarding work, school, sleep, and care for other family  
 1018 dependents. When implemented, the private duty nursing  
 1019 utilization management program shall replace the current  
 1020 authorization program used by the Agency for Health Care  
 1021 Administration and the Children's Medical Services program of the  
 1022 Department of Health. The agency may competitively bid on a  
 1023 contract to select a qualified organization to provide  
 1024 utilization management of private duty nursing services. The  
 1025 agency is authorized to seek federal waivers to implement this  
 1026 initiative.

1027 Section 30. Paragraph (g) of subsection (2) of section  
 1028 429.04, Florida Statutes, is amended to read:

1029 429.04 Facilities to be licensed; exemptions.--

1030 (2) The following are exempt from licensure under this  
 1031 part:

1032 (g) Any facility certified under chapter 651, or a  
 1033 retirement community, may provide services authorized under this  
 1034 part or ss. 400.461-400.518 ~~part III of chapter 400~~ to its  
 1035 residents who live in single-family homes, duplexes,  
 1036 quadruplexes, or apartments located on the campus without

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1037 obtaining a license to operate an assisted living facility if  
 1038 residential units within such buildings are used by residents who  
 1039 do not require staff supervision for that portion of the day when  
 1040 personal services are not being delivered and the owner obtains a  
 1041 home health license to provide such services. However, any  
 1042 building or distinct part of a building on the campus that is  
 1043 designated for persons who receive personal services and require  
 1044 supervision beyond that which is available while such services  
 1045 are being rendered must be licensed in accordance with this part.  
 1046 If a facility provides personal services to residents who do not  
 1047 otherwise require supervision and the owner is not licensed as a  
 1048 home health agency, the buildings or distinct parts of buildings  
 1049 where such services are rendered must be licensed under this  
 1050 part. A resident of a facility that obtains a home health license  
 1051 may contract with a home health agency of his or her choice,  
 1052 provided that the home health agency provides liability insurance  
 1053 and workers' compensation coverage for its employees. Facilities  
 1054 covered by this exemption may establish policies that give  
 1055 residents the option of contracting for services and care beyond  
 1056 that which is provided by the facility to enable them to age in  
 1057 place. For purposes of this section, a retirement community  
 1058 consists of a facility licensed under this part or under part II  
 1059 of chapter 400, and apartments designed for independent living  
 1060 located on the same campus.

1061 Section 31. Subsection (5) of section 483.285, Florida  
 1062 Statutes, is amended to read:

1063 483.285 Application of part; exemptions.--This part applies  
 1064 to all multiphasic health testing centers within the state, but  
 1065 does not apply to:

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1066 (5) A home health agency licensed under ss. 400.461-400.518  
 1067 ~~part IV of chapter 400.~~

1068 Section 32. Subsection (1) of section 627.6617, Florida  
 1069 Statutes, is amended to read:

1070 627.6617 Coverage for home health care services.--

1071 (1) Any group health insurance policy providing coverage on  
 1072 an expense-incurred basis shall provide coverage for home health  
 1073 care by a home health care agency licensed pursuant to ss.  
 1074 400.461-400.518 ~~part IV of chapter 400.~~ Such coverage may be  
 1075 limited to home health care under a plan of treatment prescribed  
 1076 by a licensed physician. Services may be performed by a  
 1077 registered graduate nurse, a licensed practical nurse, a physical  
 1078 therapist, a speech therapist, an occupational therapist, or a  
 1079 home health aide. Provisions for utilization review may be  
 1080 imposed, provided that similar provisions apply to all other  
 1081 types of health care services.

1082 Section 33. This act shall take effect July 1, 2007.