CHAPTER 2006-192

House Bill No. 7141

An act relating to the licensure of health care providers; creating pts. I, II, III, and IV of ch. 408, F.S.; creating s. 408.801, F.S.; providing a short title; providing legislative findings and purpose; creating s. 408.802, F.S.; providing applicability; creating s. 408.803, F.S.; providing definitions; creating s. 408.804, F.S.; requiring providers to have and display a license; providing limitations; creating s. 408.805, F.S.; establishing license fees and conditions for assessment thereof; providing a method for calculating annual adjustment of fees; providing for inspection fees; providing that fees are nonrefundable; creating s. 408.806, F.S.; providing a license application process; requiring specified information to be included on the application; requiring payment of late fees under certain circumstances; requiring inspections; providing an exception; authorizing the Agency for Health Care Administration to establish procedures and rules for electronic transmission of required information; creating s. 408.807, F.S.; providing procedures for change of ownership; requiring the transferor to notify the agency in writing within a specified time period; providing for duties and liability of the transferor; providing for maintenance of certain records; creating s. 408.808, F.S.; providing license categories and requirements therefor; creating s. 408.809, F.S.; requiring background screening of specified employees; providing for submission of proof of compliance, under certain circumstances; providing conditions for granting provisional and standard licenses; providing an exception to screening requirements; creating s. 408.810, F.S.; providing minimum licensure requirements; providing procedures for discontinuance of operation and surrender of license; requiring forwarding of client records; requiring publication of a notice of discontinuance of operation of a provider; providing for statewide toll-free telephone numbers for reporting complaints and abusive, neglectful, and exploitative practices; requiring proof of legal right to occupy property, proof of insurance, and proof of financial viability, under certain circumstances; requiring disclosure of information relating to financial instability; providing a penalty; prohibiting the agency from licensing a health care provider that does not have a certificate of need or an exemption; creating s. 408.811, F.S.; providing for inspections and investigations to determine compliance; providing that inspection reports are public records; requiring retention of records for a specified period of time; creating s. 408.812, F.S.; prohibiting certain unlicensed activity by a provider; requiring unlicensed providers to cease activity; providing penalties; requiring reporting of unlicensed providers; creating s. 408.813, F.S.; authorizing the agency to impose administrative fines; creating s. 408.814, F.S.; providing conditions for the agency to impose a moratorium or emergency suspension on a provider; requiring notice; creating s. 408.815, F.S.; providing grounds for denial or revocation of a license or change-of-ownership application; providing conditions to continue operation; exempting renewal applications from provisions requiring the agency to approve or deny

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an application within a specified period of time, under certain circumstances; creating s. 408.816, F.S.; authorizing the agency to institute injunction proceedings, under certain circumstances; creating s. 408.817, F.S.; providing basis for review of administrative proceedings challenging agency licensure enforcement action; creating s. 408.818, F.S.; requiring fees and fines related to health care licensing to be deposited into the Health Care Trust Fund; creating s. 408.819, F.S.; authorizing the agency to adopt rules; providing a timeframe for compliance; creating s. 408.820, F.S.; providing exemptions from specified requirements of pt. II of ch. 408, F.S.; amending s. 400.801, F.S.; providing that the definition of homes for special services applies to sites licensed by the agency after a certain date; amending s. 400.9905, F.S.; excluding certain entities from the definition of "clinic"; amending s. 408.036, F.S.; exempting a nursing home created by combining certain licensed beds from requirements for obtaining a certificate of need from the agency; providing for future repeal; amending s. 408.831, F.S.; revising provisions relating to agency action to deny, suspend, or revoke a license, registration, certificate, or application; conforming cross-references; providing for priority of application in case of conflict; authorizing the agency to adjust annual licensure fees to provide biennial licensure fees; requesting interim assistance of the Division of Statutory Revision to prepare conforming legislation for the 2007 Regular Session; authorizing the agency to issue licenses for less than a specified time period and providing conditions therefor; amending s. 395.4001, F.S.; providing definitions; repealing s. 395.4035, F.S., to terminate the Trauma Services Trust Fund; amending s. 395.4036, F.S.; revising provisions relating to distribution of funds to trauma centers and use thereof; creating s. 395.41, F.S.; establishing a trauma center startup grant program; providing conditions for the receipt of a startup grant; providing limitations; making the trauma center startup grant program subject to an appropriation in the General Appropriations Act; providing effective dates. providing an effective date.

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

Section 1. Part I of chapter 408, Florida Statutes, consisting of sections 408.031, 408.032, 408.033, 408.034, 408.035, 408.036, 408.0361, 408.037, 408.038, 408.039, 408.040, 408.041, 408.042, 408.043, 408.044, 408.045, 408.0455, 408.05, 408.061, 408.062, 408.063, 408.07, 408.08, 408.09, 408.10, 408.15, 408.16, 408.18, 408.185, 408.20, 408.301, 408.302, 408.40, 408.50, 408.70, 408.7056, 408.7057, and 408.7071, Florida Statutes, is created and entitled "Health Facility and Services Planning."

Section 2. Part II of chapter 408, Florida Statutes, consisting of sections 408.801, 408.802, 408.803, 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818, 408.819, 408.820, and 408.831, Florida Statutes, is created and entitled "Health Care Licensing: General Provisions."

Section 3. Part III of chapter 408, Florida Statutes, consisting of sections 408.90, 408.901, 408.902, 408.903, 408.904, 408.905, 408.906, 408.907,

408.908, and 408.909, Florida Statutes, is created and entitled "Health Insurance Access."

Section 4. Part IV of chapter 408, Florida Statutes, consisting of sections 408.911, 408.913, 408.914, 408.915, 408.916, 408.917, and 408.918, Florida Statutes, is created and entitled "Health and Human Services Eligibility Access System."

Section 5. Sections 408.801, 408.802, 408.803, 408.804, 408.805, 408.806, 408.807, 408.808, 408.809, 408.810, 408.811, 408.812, 408.813, 408.814, 408.815, 408.816, 408.817, 408.818, 408.819, and 408.820, Florida Statutes, are created to read:

408.801 Short title; purpose.—

(1) This part may be cited as the "Health Care Licensing Procedures Act."

(2) The Legislature finds that there is unnecessary duplication and variation in the requirements for licensure by the agency. It is the intent of the Legislature to provide a streamlined and consistent set of basic licensing requirements for all such providers in order to minimize confusion, standardize terminology, and include issues that are otherwise not adequately addressed in the Florida Statutes pertaining to specific providers.

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

(1) Laboratories authorized to perform testing under the Drug-Free Workplace Act, as provided under ss. 112.0455 and 440.102.

(2) Birth centers, as provided under chapter 383.

(3) Abortion clinics, as provided under chapter 390.

(4) Crisis stabilization units, as provided under parts I and IV of chapter 394.

(5) Short-term residential treatment facilities, as provided under parts I and IV of chapter 394.

(6) Residential treatment facilities, as provided under part IV of chapter 394.

(7) Residential treatment centers for children and adolescents, as provided under part IV of chapter 394.

(8) Hospitals, as provided under part I of chapter 395.

(9) Ambulatory surgical centers, as provided under part I of chapter 395.

(10) Mobile surgical facilities, as provided under part I of chapter 395.

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

(12) Health care risk managers, as provided under part I of chapter 395.

(13) Nursing homes, as provided under part II of chapter 400.

(14) Assisted living facilities, as provided under part III of chapter 400.

(15) Home health agencies, as provided under part IV of chapter 400.

(16) Nurse registries, as provided under part IV of chapter 400.

(17) Companion services or homemaker services providers, as provided under part IV of chapter 400.

(18) Adult day care centers, as provided under part V of chapter 400.

(19) Hospices, as provided under part VI of chapter 400.

(20) Adult family-care homes, as provided under part VII of chapter 400.

(21) Homes for special services, as provided under part VIII of chapter 400.

(22) Transitional living facilities, as provided under part VIII of chapter 400.

(23) Prescribed pediatric extended care centers, as provided under part IX of chapter 400.

(24) Home medical equipment providers, as provided under part X of chapter 400.

(25) Intermediate care facilities for persons with developmental disabilities, as provided under part XI of chapter 400.

(26) Health care services pools, as provided under part XII of chapter 400.

(27) Health care clinics, as provided under part XIII of chapter 400.

(28) Clinical laboratories, as provided under part I of chapter 483.

(29) Multiphasic health testing centers, as provided under part II of chapter 483.

(30) Organ and tissue procurement agencies, as provided under chapter 765.

408.803 Definitions.—As used in this part, the term:

(1) "Agency" means the Agency for Health Care Administration, which is the licensing agency under this part.

(2) "Applicant" means an individual, corporation, partnership, firm, association, or governmental entity that submits an application for a license to the agency.

(3) "Authorizing statute" means the statute authorizing the licensed operation of a provider listed in s. 408.802 and includes chapters 112, 383, 390, 394, 395, 400, 440, 483, and 765.

(4) "Certification" means certification as a Medicare or Medicaid provider of the services that require licensure, or certification pursuant to the federal Clinical Laboratory Improvement Amendment (CLIA).

(5) "Change of ownership" means an event in which the licensee changes to a different legal entity or in which 45 percent or more of the ownership, voting shares, or controlling interest in a corporation whose shares are not publicly traded on a recognized stock exchange is transferred or assigned, including the final transfer or assignment of multiple transfers or assignments over a 2-year period that cumulatively total 45 percent or greater. A change solely in the management company or board of directors is not a change of ownership.

(6) "Client" means any person receiving services from a provider listed in s. 408.802.

(7) "Controlling interest" means:

(a) The applicant or licensee;

(b) A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the applicant or licensee; or

(c) A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the management company or other entity, related or unrelated, with which the applicant or licensee contracts to manage the provider.

The term does not include a voluntary board member.

(8) "License" means any permit, registration, certificate, or license issued by the agency.

(9) "Licensee" means an individual, corporation, partnership, firm, association, or governmental entity that is issued a permit, registration, certificate, or license by the agency. The licensee is legally responsible for all aspects of the provider operation.

(10) "Moratorium" means a prohibition on the acceptance of new clients.

(11) "Provider" means any activity, service, agency, or facility regulated by the agency and listed in s. 408.802.

(12) "Services that require licensure" means those services, including residential services, that require a valid license before those services may be provided in accordance with authorizing statutes and agency rules.

(13) "Voluntary board member" means a board member of a not-for-profit corporation or organization who serves solely in a voluntary capacity, does

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not receive any remuneration for his or her services on the board of directors, and has no financial interest in the corporation or organization. The agency shall recognize a person as a voluntary board member following submission of a statement to the agency by the board member and the not-for-profit corporation or organization that affirms that the board member conforms to this definition. The statement affirming the status of the board member must be submitted to the agency on a form provided by the agency.

408.804 License required; display.—

(1) It is unlawful to provide services that require licensure, or operate or maintain a provider that offers or provides services that require licensure, without first obtaining from the agency a license authorizing the provision of such services or the operation or maintenance of such provider.

(2) A license must be displayed in a conspicuous place readily visible to clients who enter at the address that appears on the license and is valid only in the hands of the licensee to whom it is issued and may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily. The license is valid only for the licensee, provider, and location for which the license is issued.

408.805 Fees required; adjustments.—Unless otherwise limited by authorizing statutes, license fees must be reasonably calculated by the agency to cover its costs in carrying out its responsibilities under this part, authorizing statutes, and applicable rules, including the cost of licensure, inspection, and regulation of providers.

(1) Licensure fees shall be adjusted to provide for biennial licensure under agency rules.

(2) The agency shall annually adjust licensure fees, including fees paid per bed, by not more than the change in the Consumer Price Index based on the 12 months immediately preceding the increase.

(3) An inspection fee must be paid as required in authorizing statutes.

(4) Fees are nonrefundable.

(5) When a change is reported that requires issuance of a license, a fee may be assessed. The fee must be based on the actual cost of processing and issuing the license.

(6) A fee may be charged to a licensee requesting a duplicate license. The fee may not exceed the actual cost of duplication and postage.

(7) Total fees collected may not exceed the cost of administering this part, authorizing statutes, and applicable rules.

408.806 License application process.—

(1) An application for licensure must be made to the agency on forms furnished by the agency, submitted under oath, and accompanied by the

appropriate fee in order to be accepted and considered timely. The application must contain information required by authorizing statutes and applicable rules and must include:

(a) The name, address, and social security number of the applicant and each controlling interest if the applicant or controlling interest is an individual.

(b) The name, address, and federal employer identification number or taxpayer identification number of the applicant and each controlling interest if the applicant or controlling interest is not an individual.

(c) The name by which the provider is to be known.

(d) The total number of beds or capacity requested, as applicable.

(e) The name of the person or persons under whose management or supervision the provider will operate and the name of the administrator, if required.

(f) If the applicant offers continuing care agreements as defined in chapter 651, proof shall be furnished that the applicant has obtained a certificate of authority as required for operation under chapter 651.

(g) Other information, including satisfactory inspection results, that the agency finds necessary to determine the ability of the applicant to carry out its responsibilities under this part, authorizing statutes, and applicable rules.

(2)(a) The applicant for a renewal license must submit an application that must be received by the agency at least 60 days prior to the expiration of the current license. If the renewal application and fee are received prior to the license expiration date, the license shall not be deemed to have expired if the license expiration date occurs during the agency's review of the renewal application.

(b) The applicant for initial licensure due to a change of ownership must submit an application that must be received by the agency at least 60 days prior to the date of change of ownership.

(c) For any other application or request, the applicant must submit an application or request that must be received by the agency at least 60 days prior to the requested effective date, unless otherwise specified in authorizing statutes or applicable rules.

(d) The agency shall notify the licensee by mail or electronically at least 90 days prior to the expiration of a license that a renewal license is necessary to continue operation. The failure to timely submit a renewal application and license fee shall result in a $50 per day late fee charged to the licensee by the agency; however, the aggregate amount of the late fee may not exceed 50 percent of the licensure fee or $500, whichever is less. If an application is received after the required filing date and exhibits a hand-canceled postmark obtained from a United States post office dated on or before the required filing date, no fine will be levied.

(3)(a) Upon receipt of an application for a license, the agency shall examine the application and, within 30 days after receipt, notify the applicant in writing of any apparent errors or omissions and request any additional information required.

(b) Requested information omitted from an application for licensure, license renewal, or change of ownership, other than an inspection, must be filed with the agency within 21 days after the agency's request for omitted information or the application shall be deemed incomplete and shall be withdrawn from further consideration and the fees shall be forfeited.

(c) Within 60 days after the receipt of a complete application, the agency shall approve or deny the application.

(4)(a) Licensees subject to the provisions of this part shall be issued biennial licenses unless conditions of the license category specify a shorter license period.

(b) Each license issued shall indicate the name of the licensee, the type of provider or service that the licensee is required or authorized to operate or offer, the date the license is effective, the expiration date of the license, the maximum capacity of the licensed premises, if applicable, and any other information required or deemed necessary by the agency.

(5) In accordance with authorizing statutes and applicable rules, proof of compliance with s. 408.810 must be submitted with an application for licensure.

(6) The agency may not issue an initial license to a health care provider subject to the certificate-of-need provisions in part I of this chapter if the licensee has not been issued a certificate of need or certificate-of-need exemption, when applicable. Failure to apply for the renewal of a license prior to the expiration date renders the license void.

(7)(a) An applicant must demonstrate compliance with the requirements in this part, authorizing statutes, and applicable rules during an inspection pursuant to s. 408.811, as required by authorizing statutes.

(b) An initial inspection is not required for companion services or homemaker services providers, as provided under part IV of chapter 400, or for health care services pools, as provided under part XII of chapter 400.

(c) If an inspection is required by the authorizing statute for a license application other than an initial application, the inspection must be unannounced. This paragraph does not apply to inspections required pursuant to ss. 383.324, 395.0161(4), and 483.061(2).

(d) If a provider is not available when an inspection is attempted, the application shall be denied.

(8) The agency may establish procedures for the electronic notification and submission of required information, including, but not limited to:

(a) Licensure applications.

(b) Required signatures.

(c) Payment of fees.

(d) Notarization of applications.

Requirements for electronic submission of any documents required by this part or authorizing statutes may be established by rule.

408.807 Change of ownership.—Whenever a change of ownership occurs:

(1) The transferor shall notify the agency in writing at least 60 days before the anticipated date of the change of ownership.

(2) The transferee shall make application to the agency for a license within the timeframes required in s. 408.806.

(3) The transferor shall be responsible and liable for:

(a) The lawful operation of the provider and the welfare of the clients served until the date the transferee is licensed by the agency.

(b) Any and all penalties imposed against the transferor for violations occurring before the date of change of ownership.

(4) Any restriction on licensure, including a conditional license existing at the time of a change of ownership, shall remain in effect until the agency determines that the grounds for the restriction are corrected.

(5) The transferee shall maintain records of the transferor as required in this part, authorizing statutes, and applicable rules, including:

(a) All client records.

(b) Inspection reports.

(c) All records required to be maintained pursuant to s. 409.913, if applicable.

408.808 License categories.—

(1) STANDARD LICENSE.—A standard license may be issued to an applicant at the time of initial licensure, license renewal, or change of ownership. A standard license shall be issued when the applicant is in compliance with all statutory requirements and agency rules. Unless sooner revoked, a standard license expires 2 years after the date of issue.

(2) PROVISIONAL LICENSE.—A provisional license may be issued to an applicant pursuant to s. 408.809(3). An applicant against whom a proceeding denying or revoking a license is pending at the time of license renewal may be issued a provisional license effective until final action not subject to further appeal.

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(3) INACTIVE LICENSE.—An inactive license may be issued to a health care provider subject to the certificate-of-need provisions in part I of this chapter when the provider is currently licensed, does not have a provisional license, and will be temporarily unable to provide services but is reasonably expected to resume services within 12 months. Such designation may be made for a period not to exceed 12 months but may be renewed by the agency for up to 12 additional months upon demonstration by the licensee of the provider's progress toward reopening. A request by a licensee for an inactive license or to extend the previously approved inactive period must be submitted to the agency and must include a written justification for the inactive license with the beginning and ending dates of inactivity specified, a plan for the transfer of any clients to other providers, and the appropriate licensure fees. The agency may not accept a request that is submitted after initiating closure, after any suspension of service, or after notifying clients of closure or suspension of service, unless the action is a result of a disaster at the licensed premises. For the purposes of this section, the term "disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or manmade, which renders the provider inoperable at the premises. Upon agency approval, the provider shall notify clients of any necessary discharge or transfer as required by authorizing statutes or applicable rules. The beginning of the inactive license period is the date the provider ceases operations. The end of the inactive license period shall become the license expiration date. All licensure fees must be current, must be paid in full, and may be prorated. Reactivation of an inactive license requires the approval of a renewal application, including payment of licensure fees and agency inspections indicating compliance with all requirements of this part, authorizing statutes, and applicable rules.

(4) OTHER LICENSES.—Other types of license categories may be issued pursuant to authorizing statutes or applicable rules.

408.809 Background screening; prohibited offenses.—

(1) Level 2 background screening pursuant to chapter 435 must be conducted through the agency on each of the following persons, who shall be considered an employee for the purposes of conducting screening under chapter 435:

(a) The licensee, if an individual.

(b) The administrator or a similarly titled person who is responsible for the day-to-day operation of the provider.

(c) The financial officer or similarly titled individual who is responsible for the financial operation of the licensee or provider.

(d) Any person who is a controlling interest if the agency has reason to believe that such person has been convicted of any offense prohibited by s. 435.04. For each controlling interest who has been convicted of any such offense, the licensee shall submit to the agency a description and explanation of the conviction at the time of license application.

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(2) Proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any provider or professional licensure requirements of the agency, the Department of Health, the Agency for Persons with Disabilities, or the Department of Children and Family Services satisfies the requirements of this section, provided that such proof is accompanied, under penalty of perjury, by an affidavit of compliance with the provisions of chapter 435 using forms provided by the agency. Proof of compliance with the background screening requirements of the Department of Financial Services submitted within the previous 5 years for an applicant for a certificate of authority to operate a continuing care retirement community under chapter 651 satisfies the Department of Law Enforcement and Federal Bureau of Investigation portions of a level 2 background check.

(3) A provisional license may be granted to an applicant when each individual required by this section to undergo background screening has met the standards for the Department of Law Enforcement background check but the agency has not yet received background screening results from the Federal Bureau of Investigation. A standard license may be granted to the licensee upon the agency's receipt of a report of the results of the Federal Bureau of Investigation background screening for each individual required by this section to undergo background screening that confirms that all standards have been met or upon the granting of an exemption from disqualification by the agency as set forth in chapter 435.

(4) When a person is newly employed in a capacity that requires screening under this section, the licensee must notify the agency of the change within the time period specified in the authorizing statute or rules and must submit to the agency information necessary to conduct level 2 screening or provide evidence of compliance with background screening requirements of this section. The person may serve in his or her capacity pending the agency's receipt of the report from the Federal Bureau of Investigation if he or she has met the standards for the Department of Law Enforcement background check. However, the person may not continue to serve in his or her capacity if the report indicates any violation of background screening standards unless an exemption from disqualification has been granted by the agency as set forth in chapter 435.

(5) Background screening is not required to obtain a certificate of exemption issued under s. 483.106.

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

(1) An applicant for licensure must comply with the background screening requirements of s. 408.809.

(2) An applicant for licensure must provide a description and explanation of any exclusions, suspensions, or terminations of the applicant from the Medicare, Medicaid, or federal Clinical Laboratory Improvement Amendment (CLIA) programs.

(3) Unless otherwise specified in this part, authorizing statutes, or applicable rules, any information required to be reported to the agency must be submitted within 21 calendar days after the report period or effective date of the information.

(4) Whenever a licensee discontinues operation of a provider:

(a) The licensee must inform the agency not less than 30 days prior to the discontinuance of operation and inform clients of such discontinuance as required by authorizing statutes. Immediately upon discontinuance of operation by a provider, the licensee shall surrender the license to the agency and the license shall be canceled.

(b) The licensee shall remain responsible for retaining and appropriately distributing all records within the timeframes prescribed in authorizing statutes and applicable rules. In addition, the licensee or, in the event of death or dissolution of a licensee, the estate or agent of the licensee shall:

1. Make arrangements to forward records for each client to one of the following, based upon the client's choice: the client or the client's legal representative, the client's attending physician, or the health care provider where the client currently receives services; or

2. Cause a notice to be published in the newspaper of greatest general circulation in the county in which the provider was located that advises clients of the discontinuance of the provider operation. The notice must inform clients that they may obtain copies of their records and specify the name, address, and telephone number of the person from whom the copies of records may be obtained. The notice must appear at least once a week for 4 consecutive weeks.

(5)(a) On or before the first day services are provided to a client, a licensee must inform the client and his or her immediate family or representative, if appropriate, of the right to report:

1. Complaints. The statewide toll-free telephone number for reporting complaints to the agency must be provided to clients in a manner that is clearly legible and must include the words: "To report a complaint regarding the services you receive, please call toll-free (phone number)."

2. Abusive, neglectful, or exploitative practices. The statewide toll-free telephone number for the central abuse hotline must be provided to clients in a manner that is clearly legible and must include the words: "To report abuse, neglect, or exploitation, please call toll-free (phone number)." The agency shall publish a minimum of a 90-day advance notice of a change in the toll-free telephone numbers.

(b) Each licensee shall establish appropriate policies and procedures for providing such notice to clients.

(6) An applicant must provide the agency with proof of the applicant's legal right to occupy the property before a license may be issued. Proof may include, but need not be limited to, copies of warranty deeds, lease or rental

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agreements, contracts for deeds, quitclaim deeds, or other such documentation.

(7) If proof of insurance is required by the authorizing statute, that insurance must be in compliance with chapter 624, chapter 626, chapter 627, or chapter 628 and with agency rules.

(8) Upon application for initial licensure or change of ownership licensure, the applicant shall furnish satisfactory proof of the applicant's financial ability to operate in accordance with the requirements of this part, authorizing statutes, and applicable rules. The agency shall establish standards for this purpose, including information concerning the applicant's controlling interests. The agency shall also establish documentation requirements, to be completed by each applicant, that show anticipated provider revenues and expenditures, the basis for financing the anticipated cash-flow requirements of the provider, and an applicant's access to contingency financing. A current certificate of authority, pursuant to chapter 651, may be provided as proof of financial ability to operate. The agency may require a licensee to provide proof of financial ability to operate at any time if there is evidence of financial instability, including, but not limited to, unpaid expenses necessary for the basic operations of the provider.

(9) A controlling interest may not withhold from the agency any evidence of financial instability, including, but not limited to, checks returned due to insufficient funds, delinquent accounts, nonpayment of withholding taxes, unpaid utility expenses, nonpayment for essential services, or adverse court action concerning the financial viability of the provider or any other provider licensed under this part that is under the control of the controlling interest. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continuing violation is a separate offense.

(10) The agency may not issue a license to a health care provider subject to the certificate-of-need provisions in part I of this chapter if the health care provider has not been issued a certificate of need or an exemption. Upon initial licensure of any such provider, the authorization contained in the certificate of need shall be considered fully implemented and merged into the license and shall have no force and effect upon termination of the license for any reason.

408.811 Right of inspection; copies; inspection reports.—

(1) An authorized officer or employee of the agency may make or cause to be made any inspection or investigation deemed necessary by the agency to determine the state of compliance with this part, authorizing statutes, and applicable rules. The right of inspection extends to any business that the agency has reason to believe is being operated as a provider without a license, but inspection of any business suspected of being operated without the appropriate license may not be made without the permission of the owner or person in charge unless a warrant is first obtained from a circuit court. Any application for a license issued under this part, authorizing statutes, or applicable rules constitutes permission for an appropriate in-

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spection to verify the information submitted on or in connection with the application.

(a) All inspections shall be unannounced, except as specified in s. 408.806.

(b) Inspections for relicensure shall be conducted biennially unless otherwise specified by authorizing statutes or applicable rules.

(2) Inspections conducted in conjunction with certification may be accepted in lieu of a complete licensure inspection. However, a licensure inspection may also be conducted to review any licensure requirements that are not also requirements for certification.

(3) The agency shall have access to and the licensee shall provide copies of all provider records required during an inspection at no cost to the agency.

(4)(a) Each licensee shall maintain as public information, available upon request, records of all inspection reports pertaining to that provider that have been filed by the agency unless those reports are exempt from or contain information that is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution or is otherwise made confidential by law. Effective October 1, 2006, copies of such reports shall be retained in the records of the provider for at least 3 years following the date the reports are filed and issued, regardless of a change of ownership.

(b) A licensee shall, upon the request of any person who has completed a written application with intent to be admitted by such provider, any person who is a client of such provider, or any relative, spouse, or guardian of any such person, furnish to the requester a copy of the last inspection report pertaining to the licensed provider that was issued by the agency or by an accrediting organization if such report is used in lieu of a licensure inspection.

408.812 Unlicensed activity.—

(1) A person or entity may not offer or advertise services that require licensure as defined by this part, authorizing statutes, or applicable rules to the public without obtaining a valid license from the agency. A licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license.

(2) The operation or maintenance of an unlicensed provider or the performance of any services that require licensure without proper licensure is a violation of this part and authorizing statutes. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of clients. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the unlicensed provider or the performance of any services in violation of this part and authorizing statutes, until compliance with this part, authorizing statutes, and agency rules has been demonstrated to the satisfaction of the agency.

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(3) It is unlawful for any person or entity to own, operate, or maintain an unlicensed provider. If after receiving notification from the agency, such person or entity fails to cease operation and apply for a license under this part and authorizing statutes, the person or entity shall be subject to penalties as prescribed by authorizing statutes and applicable rules. Each day of continued operation is a separate offense.

(4) Any person or entity that fails to cease operation after agency notification may be fined $1,000 for each day of noncompliance.

(5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses and impose actions under s. 408.814 and a fine of $1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained for the unlicensed operation.

(6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(7) Any person aware of the operation of an unlicensed provider must report that provider to the agency.

408.813 Administrative fines.—As a penalty for any violation of this part, authorizing statutes, or applicable rules, the agency may impose an administrative fine. Unless the amount or aggregate limitation of the fine is prescribed by authorizing statutes or applicable rules, the agency may establish criteria by rule for the amount or aggregate limitation of administrative fines applicable to this part, authorizing statutes, and applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. For fines imposed by final order of the agency and not subject to further appeal, the violator shall pay the fine plus interest at the rate specified in s. 55.03 for each day beyond the date set by the agency for payment of the fine.

408.814 Moratorium; emergency suspension.—

(1) The agency may impose an immediate moratorium or emergency suspension as defined in s. 120.60 on any provider if the agency determines that any condition related to the provider or licensee presents a threat to the health, safety, or welfare of a client.

(2) A provider or licensee, the license of which is denied or revoked, may be subject to immediate imposition of a moratorium or emergency suspension to run concurrently with licensure denial, revocation, or injunction.

(3) A moratorium or emergency suspension remains in effect after a change of ownership, unless the agency has determined that the conditions that created the moratorium, emergency suspension, or denial of licensure have been corrected.

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(4) When a moratorium or emergency suspension is placed on a provider or licensee, notice of the action shall be posted and visible to the public at the location of the provider until the action is lifted.

408.815 License or application denial; revocation.—

(1) In addition to the grounds provided in authorizing statutes, grounds that may be used by the agency for denying and revoking a license or change of ownership application include any of the following actions by a controlling interest:

(a) False representation of a material fact in the license application or omission of any material fact from the application.

(b) An intentional or negligent act materially affecting the health or safety of a client of the provider.

(c) A violation of this part, authorizing statutes, or applicable rules.

(d) A demonstrated pattern of deficient performance.

(e) The applicant, licensee, or controlling interest has been or is currently excluded, suspended, or terminated from participation in the state Medicaid program, the Medicaid program of any other state, or the Medicare program.

(2) If a licensee lawfully continues to operate while a denial or revocation is pending in litigation, the licensee must continue to meet all other requirements of this part, authorizing statutes, and applicable rules and must file subsequent renewal applications for licensure and pay all licensure fees. The provisions of ss. 120.60(1) and 408.806(3)(c) shall not apply to renewal applications filed during the time period in which the litigation of the denial or revocation is pending until that litigation is final.

(3) An action under s. 408.814 or denial of the license of the transferor may be grounds for denial of a change of ownership application of the transferee.

408.816 Injunctions.—

(1) In addition to the other powers provided by this part, authorizing statutes, and applicable rules, the agency may institute injunction proceedings in a court of competent jurisdiction to:

(a) Restrain or prevent the establishment or operation of a provider that does not have a license or is in violation of any provision of this part, authorizing statutes, or applicable rules. The agency may also institute injunction proceedings in a court of competent jurisdiction when a violation of this part, authorizing statutes, or applicable rules constitutes an emergency affecting the immediate health and safety of a client.

(b) Enforce the provisions of this part, authorizing statutes, or any minimum standard, rule, or order issued or entered into pursuant thereto when the attempt by the agency to correct a violation through administrative sanctions has failed or when the violation materially affects the health,

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safety, or welfare of clients or involves any operation of an unlicensed provider.

(c) Terminate the operation of a provider when a violation of any provision of this part, authorizing statutes, or any standard or rule adopted pursuant thereto exists that materially affects the health, safety, or welfare of a client.

Such injunctive relief may be temporary or permanent.

(2) If action is necessary to protect clients of providers from immediate, life-threatening situations, the court may allow a temporary injunction without bond upon proper proofs being made. If it appears by competent evidence or a sworn, substantiated affidavit that a temporary injunction should be issued, the court, pending the determination on final hearing, shall enjoin the operation of the provider.

408.817 Administrative proceedings.—Administrative proceedings challenging agency licensure enforcement action shall be reviewed on the basis of the facts and conditions that resulted in the agency action.

408.818 Health Care Trust Fund.—Unless otherwise prescribed by authorizing statutes, all fees and fines collected under this part, authorizing statutes, and applicable rules shall be deposited into the Health Care Trust Fund, created in s. 408.16, and used to pay the costs of the agency in administering the provider program paying the fees or fines.

408.819 Rules.—The agency is authorized to adopt rules as necessary to administer this part. Any licensed provider that is in operation at the time of adoption of any applicable rule under this part or authorizing statutes shall be given a reasonable time under the particular circumstances, not to exceed 6 months after the date of such adoption, within which to comply with such rule, unless otherwise specified by rule.

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

(1) Laboratories authorized to perform testing under the Drug-Free Workplace Act, as provided under ss. 112.0455 and 440.102, are exempt from s. 408.810(5)-(10).

(2) Birth centers, as provided under chapter 383, are exempt from s. 408.810(7)-(10).

(3) Abortion clinics, as provided under chapter 390, are exempt from s. 408.810(7)-(10).

(4) Crisis stabilization units, as provided under parts I and IV of chapter 394, are exempt from s. 408.810(8)-(10).

(5) Short-term residential treatment facilities, as provided under parts I and IV of chapter 394, are exempt from s. 408.810(8)-(10).

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(6) Residential treatment facilities, as provided under part IV of chapter 394, are exempt from s. 408.810(8)-(10).

(7) Residential treatment centers for children and adolescents, as provided under part IV of chapter 394, are exempt from s. 408.810(8)-(10).

(8) Hospitals, as provided under part I of chapter 395, are exempt from s. 408.810(7)-(9).

(9) Ambulatory surgical centers, as provided under part I of chapter 395, are exempt from s. 408.810(7)-(10).

(10) Mobile surgical facilities, as provided under part I of chapter 395, are exempt from s. 408.810(7)-(10).

(11) Private review agents, as provided under part I of chapter 395, are exempt from ss. 408.806(7), 408.810, and 408.811.

(12) Health care risk managers, as provided under part I of chapter 395, are exempt from ss. 408.806(7), 408.810, and 408.811.

(13) Nursing homes, as provided under part II of chapter 400, are exempt from s. 408.810(7).

(14) Assisted living facilities, as provided under part III of chapter 400, are exempt from s. 408.810(10).

(15) Home health agencies, as provided under part IV of chapter 400, are exempt from s. 408.810(10).

(16) Nurse registries, as provided under part IV of chapter 400, are exempt from s. 408.810(6) and (10).

(17) Companion services or homemaker services providers, as provided under part IV of chapter 400, are exempt from s. 408.810(6)-(10).

(18) Adult day care centers, as provided under part V of chapter 400, are exempt from s. 408.810(10).

(19) Adult family-care homes, as provided under part VII of chapter 400, are exempt from s. 408.810(7)-(10).

(20) Homes for special services, as provided under part VIII of chapter 400, are exempt from s. 408.810(7)-(10).

(21) Transitional living facilities, as provided under part VIII of chapter 400, are exempt from s. 408.810(7)-(10).

(22) Prescribed pediatric extended care centers, as provided under part IX of chapter 400, are exempt from s. 408.810(10).

(23) Home medical equipment providers, as provided under part X of chapter 400, are exempt from s. 408.810(10).

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(24) Intermediate care facilities for persons with developmental disabilities, as provided under part XI of chapter 400, are exempt from s. 408.810(7).

(25) Health care services pools, as provided under part XII of chapter 400, are exempt from s. 408.810(6)-(10).

(26) Health care clinics, as provided under part XIII of chapter 400, are exempt from ss. 408.809 and 408.810(1), (6), (7), and (10).

(27) Clinical laboratories, as provided under part I of chapter 483, are exempt from s. 408.810(5)-(10).

(28) Multiphasic health testing centers, as provided under part II of chapter 483, are exempt from s. 408.810(5)-(10).

(29) Organ and tissue procurement agencies, as provided under chapter 765, are exempt from s. 408.810(5)-(10).

Section 6. Paragraph (b) of subsection (1) of section 400.801, Florida Statutes, is amended to read:

400.801 Homes for special services.—

(1) As used in this section, the term:

(b) "Home for special services" means a site licensed by the agency prior to January 1, 2006, where specialized health care services are provided, including personal and custodial care, but not continuous nursing services.

Section 7. Paragraphs (e) and (i) of subsection (4) of section 400.9905, Florida Statutes, are amended, and paragraph (k) is added to that subsection, to read:

400.9905 Definitions.—

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

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

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

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

Section 8. Paragraphs (f) through (s) of subsection (3) of section 408.036, Florida Statutes, are redesignated as paragraphs (g) through (t), respectively, and a new paragraph (f) is added to that subsection to read:

408.036 Projects subject to review; exemptions.—

(3) EXEMPTIONS.—Upon request, the following projects are subject to exemption from the provisions of subsection (1):

(f) For the creation of a single nursing home within a district by combining licensed beds from two or more licensed nursing homes within such district, regardless of subdistrict boundaries, if 50 percent of the beds in the created nursing home are transferred from the only nursing home in a county and its utilization data demonstrate that it had an occupancy rate of less than 75 percent for the 12-month period ending 90 days before the request for the exemption. This paragraph is repealed upon the expiration of the moratorium established in s. 651.1185(1).

Section 9. Subsections (1) and (3) of section 408.831, Florida Statutes, are amended to read:

408.831 Denial, suspension, or revocation of a license, registration, certificate, or application.—

(1) In addition to any other remedies provided by law, the agency may deny each application or suspend or revoke each license, registration, or certificate of entities regulated or licensed by it:

(a) If the applicant, licensee, or a licensee subject to this part which shares a common controlling interest with the applicant ~~registrant, or certificateholder, or, in the case of a corporation, partnership, or other business entity, if any officer, director, agent, or managing employee of that business entity or any affiliated person, partner, or shareholder having an ownership interest equal to 5 percent or greater in that business entity,~~ has failed to pay all outstanding fines, liens, or overpayments assessed by final order of the agency or final order of the Centers for Medicare and Medicaid Services, not subject to further appeal, unless a repayment plan is approved by the agency; or

(b) For failure to comply with any repayment plan.

(3) This section provides standards of enforcement applicable to all entities licensed or regulated by the Agency for Health Care Administration. This section controls over any conflicting provisions of chapters 39, ~~381,~~ 383, 390, 391, ~~393,~~ 394, 395, 400, 408, 468, 483, and 765 ~~641~~ or rules adopted pursuant to those chapters.

Section 10. In case of conflict between the provisions of part II of chapter 408, Florida Statutes, and the authorizing statutes governing the licensure of health care providers by the Agency for Health Care Administration found in s. 112.0455 and chapters 383, 390, 394, 395, 400, 440, 483, and 765, Florida Statutes, the provisions of part II of chapter 408, Florida Statutes, shall prevail.

Section 11. All provisions that apply to the entities specified in s. 408.802, Florida Statutes, as created by this act, in effect on October 1, 2006, that provide for annual licensure fees are hereby adjusted to provide for biennial licensure fees with a corresponding doubling of the amount.

Section 12. The Legislature recognizes that there is a need to conform the Florida Statutes to the policy decisions reflected in this act and that there may be a need to resolve apparent conflicts between any changes or additions to the authorizing statutes, as defined in s. 408.803, Florida Statutes, or any other legislation that has been or may be enacted during 2006 and this chapter 408, Florida Statutes, as amended by this act. Therefore, in the interim between this act becoming a law and the 2007 Regular Session of the Legislature or an earlier special session addressing this issue, the Division of Statutory Revision shall provide the relevant substantive committees of the Senate and the House of Representatives with assistance, upon request, to enable such committees to prepare draft legislation to conform the Florida Statutes and any legislation enacted during 2006 to the provisions of this act.

Section 13. For the purpose of staggering license expiration dates, the Agency for Health Care Administration may issue a license for less than a 2-year period to those providers making the transition from annual to biennial licensure as authorized in this act. The agency shall charge a prorated licensure fee for this shortened period. This authority shall expire September 30, 2008.

Section 14. Section 395.4001, Florida Statutes, is amended to read:

395.4001 Definitions.—As used in this part, the term:

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

(2) "Charity care" or "uncompensated trauma care" means that portion of hospital charges reported to the agency for which there is no compensation, other than restricted or unrestricted revenues provided to a hospital by local governments or tax districts regardless of method of payment, for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 200 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity.

(3) "Department" means the Department of Health.

(4) "Interfacility trauma transfer" means the transfer of a trauma victim between two facilities licensed under this chapter, pursuant to this part.

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(5) "International Classification Injury Severity Score" means the statistical method for computing the severity of injuries sustained by trauma patients. The International Classification Injury Severity Score shall be the methodology used by the department and trauma centers to report the severity of an injury.

(6)~~(5)~~ "Level I trauma center" means a trauma center that:

(a) Has formal research and education programs for the enhancement of trauma care; is verified by the department to be in substantial compliance with Level I trauma center and pediatric trauma center standards; and has been approved by the department to operate as a Level I trauma center.

(b) Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.

(c) Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

(7)~~(6)~~ "Level II trauma center" means a trauma center that:

(a) Is verified by the department to be in substantial compliance with Level II trauma center standards and has been approved by the department to operate as a Level II trauma center.

(b) Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.

(c) Participates in an inclusive system of trauma care.

(8) "Local funding contribution" means local municipal, county, or tax district funding exclusive of any patient-specific funds received pursuant to ss. 154.301-154.316, private foundation funding, or public or private grant funding of at least $150,000 received by a hospital or health care system that operates a trauma center.

(9)~~(7)~~ "Pediatric trauma center" means a hospital that is verified by the department to be in substantial compliance with pediatric trauma center standards as established by rule of the department and has been approved by the department to operate as a pediatric trauma center.

(10)~~(8)~~ "Provisional trauma center" means a hospital that has been verified by the department to be in substantial compliance with the requirements in s. 395.4025 and has been approved by the department to operate as a provisional Level I trauma center, Level II trauma center, or pediatric trauma center.

(11)~~(9)~~ "Trauma agency" means a department-approved agency established and operated by one or more counties, or a department-approved entity with which one or more counties contract, for the purpose of administering an inclusive regional trauma system.

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(12)~~(10)~~ "Trauma alert victim" means a person who has incurred a single or multisystem injury due to blunt or penetrating means or burns, who requires immediate medical intervention or treatment, and who meets one or more of the adult or pediatric scorecard criteria established by the department by rule.

(13) "Trauma caseload volume" means the number of trauma patients reported by individual trauma centers to the Trauma Registry and validated by the department.

(14)~~(11)~~ "Trauma center" means a hospital that has been verified by the department to be in substantial compliance with the requirements in s. 395.4025 and has been approved by the department to operate as a Level I trauma center, Level II trauma center, or pediatric trauma center.

(15) "Trauma patient" means a person who has incurred a physical injury or wound caused by trauma and has accessed a trauma center.

(16)~~(12)~~ "Trauma scorecard" means a statewide methodology adopted by the department by rule under which a person who has incurred a traumatic injury is graded as to the severity of his or her injuries or illness and which methodology is used as the basis for making destination decisions.

(17)~~(13)~~ "Trauma transport protocol" means a document which describes the policies, processes, and procedures governing the dispatch of vehicles, the triage, prehospital transport, and interfacility trauma transfer of trauma victims.

(18)~~(14)~~ "Trauma victim" means any person who has incurred a single or multisystem injury due to blunt or penetrating means or burns and who requires immediate medical intervention or treatment.

Section 15. Section 395.4035, Florida Statutes, is repealed.

Section 16. Subsection (1) of section 395.4036, Florida Statutes, is amended to read:

395.4036 Trauma payments.—

(1) Recognizing the Legislature's stated intent to provide financial support to the current verified trauma centers and to provide incentives for the establishment of additional trauma centers as part of a system of state-sponsored trauma centers, the department shall utilize funds collected under s. 318.18(15)~~(14)~~ and deposited into the Administrative Trust Fund of the department to ensure the availability and accessibility of trauma services throughout the state as provided in this subsection.

(a) Twenty percent of the total funds collected under this subsection during the state fiscal year shall be distributed to verified trauma centers ~~located in a region~~ that have ~~has~~ a local funding contribution as of December 31. Distribution of funds under this paragraph shall be based on trauma caseload volume for the most recent calendar year available.

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(b) Forty percent of the total funds collected under this subsection shall be distributed to verified trauma centers based on trauma caseload volume for ~~of~~ the most recent ~~previous~~ calendar year available. The determination of caseload volume for distribution of funds under this paragraph shall be based on the department's Trauma Registry data.

(c) Forty percent of the total funds collected under this subsection shall be distributed to verified trauma centers based on severity of trauma patients for the most recent calendar year available. The determination of severity for distribution of funds under this paragraph shall be based on the department's International Classification Injury Severity Scores or another statistically valid and scientifically accepted method of stratifying a trauma patient's severity of injury, risk of mortality, and resource consumption as adopted by the department by rule, weighted based on the costs associated with and incurred by the trauma center in treating trauma patients. The weighting of scores shall be established by the department by rule ~~scores of 1-14 and 15 plus~~.

Funds deposited in the department's Administrative Trust Fund for verified trauma centers may be used to maximize the receipt of federal funds that may be available for such trauma centers. Notwithstanding this section and s. 318.14, distributions to trauma centers may be adjusted in a manner to ensure that total payments to trauma centers represent the same proportional allocation as set forth in this section and s. 318.14. For purposes of this section and s. 318.14, total funds distributed to trauma centers may include revenue from the Administrative Trust Fund and federal funds for which revenue from the Administrative Trust Fund is used to meet state or local matching requirements. Funds collected under ss. 318.14 and 318.18(15) and deposited in the Administrative Trust Fund of the department shall be distributed to trauma centers on a quarterly basis using the most recent calendar year data available. Such data shall not be used for more than four quarterly distributions unless there are extenuating circumstances as determined by the department, in which case the most recent calendar year data available shall continue to be used and appropriate adjustments shall be made as soon as the more recent data becomes available. ~~Trauma centers may request that their distributions from the Administrative Trust Fund be used as intergovernmental transfer funds in the Medicaid program.~~

Section 17. Section 395.41, Florida Statutes, is created to read:

395.41 Trauma center startup grant program.—There is established a trauma center startup grant program.

(1) The Legislature recognizes the need for a statewide, cohesive, uniform, and integrated trauma system, and the Legislature acknowledges that the state has been divided into trauma service areas. Each of the trauma service areas should have at least one trauma center; however, some trauma service areas do not have a trauma center because of the significant up-front investment of capital required for hospitals to develop the physical space, equipment, and qualified personnel necessary to provide quality trauma services.

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(2) An acute care general hospital that has submitted a letter of intent and an application to become a trauma center pursuant to s. 395.4025 may apply to the department for a startup grant. The grant applicant must demonstrate that:

(a) There are currently no other trauma centers in the hospital's trauma service area as established under s. 395.402.

(b) There is not a trauma center within a 100-mile radius of the proposed trauma center.

(c) The hospital has received a local funding contribution as defined under s. 395.4001.

(d) The hospital has incurred startup costs in excess of the amount of grant funding requested.

(e) The hospital is pursuing the establishment of a residency program in internal medicine or emergency medicine.

(3) A hospital receiving startup grant funding that does not become a provisional trauma center within 24 months after submitting an application to become a trauma center must forfeit any state grant funds received pursuant to this section.

(4) A hospital that receives startup grant funding may not receive more than $500,000, must ensure that the startup grant funding is matched on a dollar-for-dollar basis with a local funding contribution, and shall receive startup grant funding only one time.

Section 18. This act shall take effect October 1, 2006, except that section 395.41, Florida Statutes, as created by this act, shall take effect subject to an appropriation for the trauma center startup grant program in the 2006-2007 General Appropriations Act.

[The appropriation in the 2006-2007 General Appropriations Act for the trauma center startup grant program was vetoed by the Governor. Therefore, s. 395.41, Florida Statutes, as created by this act, will not take effect.]

Approved by the Governor June 12, 2006.

Filed in Office Secretary of State June 12, 2006.

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