

By Representative Fischer

1                                   A bill to be entitled  
2           An act relating to assisted living facilities;  
3           amending s. 400.407, F.S.; modifying the number  
4           of monitoring visits that must be made by the  
5           Agency for Health Care Administration to an  
6           assisted living facility licensed to provide  
7           extended congregate care services; changing the  
8           requirements for admission to an assisted  
9           living facility licensed to provide extended  
10          congregate care services; amending s. 400.408,  
11          F.S.; requiring certain individuals with  
12          knowledge of unlicensed assisted living  
13          facility activity to be subject to disciplinary  
14          action; amending s. 400.426, F.S.; authorizing  
15          use of a certain assessment to fulfill medical  
16          examination requirements; providing an  
17          effective date.

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

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21           Section 1. Subsection (3) of section 400.407, Florida  
22 Statutes, is amended to read:

23           400.407 License required; fee, display.--

24           (3) Any license granted by the agency shall state the  
25 maximum resident capacity of the facility, the type of care  
26 for which the license is granted, the date the license is  
27 issued, the expiration date of the license, and any other  
28 information deemed necessary by the agency. Licenses shall be  
29 issued for one or more of the following categories of care:  
30 standard, extended congregate care, limited nursing services,  
31 or limited mental health services.

1           (a) A standard license shall be issued to facilities  
2 providing one or more of the services identified in s.  
3 400.402(16). Such facilities may also employ or contract with  
4 a person licensed under chapter 464 to administer medications  
5 and perform other tasks as specified in s. 400.4255.

6           (b) An extended congregate care license shall be  
7 issued to facilities providing, directly or through contract,  
8 services beyond those authorized in paragraph (a), including  
9 acts performed pursuant to chapter 464 by persons licensed  
10 thereunder, and supportive services which may be defined by  
11 rule to persons who otherwise would be disqualified from  
12 continued residence in a facility licensed under this part.

13           1. In order for extended congregate care services to  
14 be provided in a facility licensed under this part, the agency  
15 must first determine that all requirements established in law  
16 and rule are met and must specifically designate, on the  
17 facility's license, that such services may be provided and  
18 whether the designation applies to all or part of a facility.  
19 Such designation may be made at the time of initial licensure  
20 or biennial relicensure, or upon request in writing by a  
21 licensee under this part. Notification of approval or denial  
22 of such request shall be made within 90 days after receipt of  
23 such request and all necessary documentation. Existing  
24 facilities qualifying to provide extended congregate care  
25 services shall have maintained a standard license and shall  
26 not have been subject to administrative sanctions during the  
27 previous 2 years, or since initial licensure if the facility  
28 has been licensed for less than 2 years, for any of the  
29 following reasons:

30           a. A class I or class II violation;

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1           b. Three or more repeat or recurring class III  
2 violations of identical or similar resident care standards as  
3 specified in rule from which a pattern of noncompliance is  
4 found by the agency;

5           c. Three or more class III violations which were not  
6 corrected in accordance with the corrective action plan  
7 approved by the agency;

8           d. Violation of resident care standards resulting in a  
9 requirement to employ the services of a consultant pharmacist  
10 or consultant dietitian;

11           e. Denial, suspension, or revocation of a license for  
12 another facility under this part in which the applicant for an  
13 extended congregate care license has at least 25 percent  
14 ownership interest; or

15           f. Imposition of a moratorium on admissions or  
16 initiation of injunctive proceedings.

17           2. Facilities that ~~which~~ are licensed to provide  
18 extended congregate care services shall maintain a written  
19 progress report on each person who receives such services,  
20 which report describes the type, amount, duration, scope, and  
21 outcome of services that are rendered and the general status  
22 of the resident's health. A registered nurse, or appropriate  
23 designee, representing the agency shall visit such facilities  
24 at least two ~~three~~ times a year to monitor residents who are  
25 receiving extended congregate care services and to determine  
26 if the facility is in compliance with applicable provisions of  
27 this part and with ~~related~~ rules relating to extended  
28 congregate care. One of the visits may be in conjunction with  
29 the regular biennial survey.The monitoring visits may be  
30 provided through contractual arrangements with appropriate  
31 community agencies. A registered nurse shall serve as part of

1 the team that biennially inspects such facility. The agency  
2 may waive one of the required yearly monitoring visits for a  
3 facility that has been licensed for at least 24 months to  
4 provide extended congregate care services, if, during the  
5 biennial inspection, the registered nurse determines that  
6 extended congregate care services are being provided  
7 appropriately, and if the facility has no class I or class II  
8 violations and no uncorrected class III violations. Before  
9 such decision is made, the agency shall consult with the  
10 long-term care ombudsman council for the area in which the  
11 facility is located to determine if any complaints have been  
12 made and substantiated about the quality of services or care.  
13 The agency shall not waive one of the required yearly  
14 monitoring visits if complaints have been made and  
15 substantiated.

16 3. Facilities that ~~which~~ are licensed to provide  
17 extended congregate care services shall:

18 a. Demonstrate the capability to meet unanticipated  
19 resident service needs.

20 b. Offer a physical environment which promotes a  
21 homelike setting, provides for resident privacy, promotes  
22 resident independence, and allows sufficient congregate space  
23 as defined by rule.

24 c. Have sufficient staff available, taking into  
25 account the physical plant and firesafety features of the  
26 building, to assist with the evacuation of residents in an  
27 emergency, as necessary.

28 d. Adopt and follow policies and procedures which  
29 maximize resident independence, dignity, choice, and  
30 decisionmaking to permit residents to age in place to the  
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1 extent possible, so that moves due to changes in functional  
2 status are minimized or avoided.

3 e. Allow residents or, if applicable, a resident's  
4 representative, designee, surrogate, guardian, or attorney in  
5 fact to make a variety of personal choices, participate in  
6 developing service plans, and share responsibility in  
7 decisionmaking.

8 f. Implement the concept of managed risk.

9 g. Provide, either directly or through contract, the  
10 services of a person licensed pursuant to chapter 464.

11 h. In addition to the training mandated in s. 400.452,  
12 provide specialized training as defined by rule for facility  
13 staff.

14 4. Facilities licensed to provide extended congregate  
15 care services shall be exempt from the criteria for continued  
16 residency as set forth in rule pursuant to s. 400.441(1)(h).  
17 Facilities so licensed shall adopt their own requirements  
18 within guidelines for continued residency set forth by the  
19 department in rule. However, such facilities shall not serve  
20 residents who require 24-hour nursing supervision. Facilities  
21 licensed to provide extended congregate care services shall  
22 provide each resident with a written copy of facility policies  
23 governing admission and retention.

24 5. The primary purpose of extended congregate care  
25 services is to allow residents, as they become more impaired,  
26 the option of remaining in a familiar setting from which they  
27 would otherwise be disqualified for continued residency. A  
28 facility licensed to provide extended congregate care services  
29 may also admit an individual who exceeds the admission  
30 criteria for a facility with a standard license, if the

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1 individual is determined appropriate for admission to the  
2 extended congregate care facility, ~~and either~~  
3 ~~a. Transfers from a facility with a standard license;~~  
4 ~~or~~  
5 ~~b. Transfers from another facility licensed to provide~~  
6 ~~extended congregate care services.~~  
7 6. Before admission of an individual to a facility  
8 licensed to provide extended congregate care services, the  
9 individual must undergo a medical examination as provided in  
10 s. 400.426(4) and the facility must develop a preliminary  
11 service plan for the individual.  
12 7. When a facility can no longer provide or arrange  
13 for services in accordance with the resident's service plan  
14 and needs and the facility's policy, the facility shall make  
15 arrangements for relocating the person in accordance with s.  
16 400.428(1)(k).  
17 8. Failure to provide extended congregate care  
18 services may result in denial of extended congregate care  
19 license renewal.  
20 9. No later than January 1 of each year, the  
21 department, in consultation with the agency, shall prepare and  
22 submit to the Governor, the President of the Senate, the  
23 Speaker of the House of Representatives, and the chairmen of  
24 appropriate legislative committees, a report on the status of,  
25 and recommendations related to, extended congregate care  
26 services. The status report must include, but need not be  
27 limited to, the following information:  
28 a. A description of the facilities licensed to provide  
29 such services, including total number of beds licensed under  
30 this part.  
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1           b. The number and characteristics of residents  
2 receiving such services.

3           c. The types of services rendered that could not be  
4 provided through a standard license.

5           d. An analysis of deficiencies cited during biennial  
6 inspections.

7           e. The number of residents who required extended  
8 congregate care services at admission and the source of  
9 admission.

10          f. Recommendations for statutory or regulatory  
11 changes.

12          g. The availability of extended congregate care to  
13 state clients residing in facilities licensed under this part  
14 and in need of additional services, and recommendations for  
15 appropriations to subsidize extended congregate care services  
16 for such persons.

17          h. Such other information as the department considers  
18 appropriate.

19          (c) A limited nursing services license shall be issued  
20 to a facility which provides services beyond those authorized  
21 in paragraph (a) and as specified in this paragraph.

22           1. In order for limited nursing services to be  
23 provided in a facility licensed under this part, the agency  
24 must first determine that all requirements established in law  
25 and rule are met and must specifically designate, on the  
26 facility's license, that such services may be provided. Such  
27 designation may be made at the time of initial licensure or  
28 biennial relicensure, or upon request in writing by a licensee  
29 under this part. Notification of approval or denial of such  
30 request shall be made within 90 days after receipt of such  
31 request and all necessary documentation. Existing facilities

1 qualifying to provide limited nursing services shall have  
2 maintained a standard license and shall not have been subject  
3 to administrative sanctions which affect the health, safety,  
4 and welfare of residents for the previous 2 years or since  
5 initial licensure if the facility has been licensed for less  
6 than 2 years.

7           2. Facilities which are licensed to provide limited  
8 nursing services shall maintain a written progress report on  
9 each person who receives such nursing services, which report  
10 describes the type, amount, duration, scope, and outcome of  
11 services that are rendered and the general status of the  
12 resident's health. A registered nurse representing the agency  
13 shall visit such facilities at least once a year to monitor  
14 residents who are receiving limited nursing services and to  
15 determine if the facility is in compliance with applicable  
16 provisions of this part and with related rules. The  
17 monitoring visits may be provided through contractual  
18 arrangements with appropriate community agencies. A  
19 registered nurse shall also serve as part of the team that  
20 biennially inspects such facility.

21           3. A person who receives limited nursing services  
22 under this part must meet the admission criteria established  
23 by the agency for assisted living facilities. When a resident  
24 no longer meets the admission criteria for a facility licensed  
25 under this part, arrangements for relocating the person shall  
26 be made in accordance with s. 400.428(1)(k), unless the  
27 facility is licensed to provide extended congregate care  
28 services.

29           Section 2. Subsection (1) of section 400.408, Florida  
30 Statutes, is amended to read:

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1           400.408 Referral of person for residency to unlicensed  
2 facility; penalty; verification of licensure status.--

3           (1) It is unlawful to knowingly refer a person for  
4 residency to an unlicensed facility that provides services  
5 that may only be provided by an assisted living facility; to  
6 an assisted living facility the license of which is under  
7 denial or has been suspended or revoked; or to a facility that  
8 has a moratorium on admissions. Any person who violates this  
9 subsection is guilty of a noncriminal violation, punishable by  
10 a fine not exceeding \$500 as provided in s. 775.083.

11           (a) Any employee of the agency or department, or the  
12 Department of Health and Rehabilitative Services, who  
13 knowingly refers a person for residency to an unlicensed  
14 facility; to a facility the license of which is under denial  
15 or has been suspended or revoked; or to a facility that has a  
16 moratorium on admissions is subject to disciplinary action by  
17 the agency or department, or the Department of Health and  
18 Rehabilitative Services.

19           (b) The employer of any person who is under contract  
20 with the agency or department, or the Department of Health and  
21 Rehabilitative Services, and who knowingly refers a person for  
22 residency to an unlicensed facility; to a facility the license  
23 of which is under denial or has been suspended or revoked; or  
24 to a facility that has a moratorium on admissions shall be  
25 fined and required to prepare a corrective action plan  
26 designed to prevent such referrals.

27           (c) Unreported knowledge of any unlicensed assisted  
28 living facility activity by any licensed health care  
29 professional, or by the owner or employee of any facility  
30 licensed by the Agency for Health Care Administration or the  
31 Department of Business and Professional Regulation, subjects

1 the licensed professional or the licensed facility to  
2 disciplinary action by the appropriate board, agency, or  
3 department.

4 Section 3. Subsection (4) of section 400.426, Florida  
5 Statutes, 1996 Supplement, is amended to read:

6 400.426 Appropriateness of placements; examinations of  
7 residents.--

8 (4) Where possible, each resident shall have been  
9 examined by a licensed physician or a licensed nurse  
10 practitioner within 60 days before admission to the facility.  
11 The signed and completed medical examination report shall be  
12 submitted to the owner or administrator of the facility who  
13 shall utilize the information contained therein to assist in  
14 the determination of the appropriateness of the resident's  
15 admission and continued stay in the facility. The medical  
16 examination report shall become a permanent part of the record  
17 of the resident at the facility and shall be made available to  
18 the agency during inspection or upon request. An assessment  
19 conducted by the Comprehensive Assessment and Review for  
20 Long-term Care Program (CARES) fulfills the medical  
21 examination requirement of this subsection and s.  
22 400.407(3)(b)6.

23 Section 4. This act shall take effect upon becoming a  
24 law.

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27 SENATE SUMMARY

28 Modifies the number of monitoring visits that must be  
29 made to an assisted living facility licensed to provide  
30 extended congregate care services by the Agency for  
31 Health Care Administration. Changes admission  
requirements to an assisted living facility. Authorizes a  
specific type of assessment to fulfill medical  
examination requirements.