

By Representative Roberts-Burke

1                                   A bill to be entitled  
2           An act relating to adult family-care homes;  
3           amending ss. 400.617, 400.618, 400.619,  
4           400.621, 400.6211, 400.622, and 400.625, F.S.;  
5           revising legislative intent and purpose;  
6           revising definitions; requiring adult  
7           family-care home providers to meet certain  
8           screening requirements; revising requirements  
9           for rules relating to appropriate placement of  
10          residents; providing certain limitations on  
11          rules; deleting authority for rules relating to  
12          supervision of residents; conforming  
13          terminology and updating obsolete references to  
14          the former Department of Health and  
15          Rehabilitative Services; amending s. 419.001,  
16          F.S.; correcting a cross reference; providing  
17          an 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. Subsections (1), (2), and (3) of section  
22   400.617, Florida Statutes, are amended to read:

23           400.617 Legislative intent; purpose.--

24           (1) The Legislature encourages the provision of care  
25   for disabled adults and frail elders ~~aged persons~~ in  
26   family-type living arrangements in private homes.

27           (2) Adult family-care homes provide housing and  
28   personal care for disabled adults and frail elders who choose  
29   to live with an individual or family in a private home.The  
30   purpose of ss. 400.616-400.629 is to provide for the health,  
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1 safety, and welfare of residents of adult family-care homes in  
2 the state.

3 (3) The Legislature recognizes that adult family-care  
4 homes are an important part of the continuum of long-term  
5 care. The personal care ~~services~~ available in these homes,  
6 which may be provided directly or through contract or  
7 agreement, is ~~are~~ intended to help residents remain as  
8 independent as possible in order to delay or avoid placement  
9 in a nursing home or other institution. Regulations governing  
10 adult family-care homes must be sufficiently flexible to allow  
11 residents to age in place if resources are available to meet  
12 their needs and accommodate their preferences.

13 Section 2. Section 400.618, Florida Statutes, is  
14 amended to read:

15 400.618 Definitions.--As used in ss. 400.616-400.629,  
16 the term:

17 (1) "Activities of daily living" means functions and  
18 tasks for self-care, including eating, bathing, grooming,  
19 dressing, ambulating, and other similar tasks.

20 (2) "Adult family-care home" means a full-time,  
21 family-type living arrangement, in a private home, under which  
22 a person or persons provide, ~~for profit or not for profit,~~  
23 room, board, and personal care ~~one or more personal services,~~  
24 as appropriate for the level of functional impairment, for no  
25 more than five ~~aged persons or~~ disabled adults or frail elders  
26 who are not relatives. The following establishments are not  
27 adult family-care homes:

28 (a) An establishment that provides personal care for  
29 two ~~services for three~~ or fewer adults who do not receive  
30 optional state supplementation under s. 409.212, ~~but that does~~

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1 ~~not hold itself out to the public to be an establishment that~~  
2 ~~regularly provides such services.~~

3 (b) An establishment in which a person or persons  
4 provide personal care services only to their relatives.

5 (c) An establishment that is licensed as an assisted  
6 living facility.

7 ~~(3) "Aged person" means any person age 60 or over who~~  
8 ~~is currently a resident of the state and who, because of a~~  
9 ~~functional impairment, requires one or more personal services~~  
10 ~~but does not require 24-hour skilled nursing home or~~  
11 ~~institutional care.~~

12 (3)(4) "Agency" means the Agency for Health Care  
13 Administration.

14 (4)(5) "Aging in place" means remaining in a  
15 noninstitutional living environment despite the physical or  
16 mental changes that may occur in a person who is aging. For  
17 aging in place to occur, needed services are added, increased,  
18 or adjusted to compensate for a person's physical or mental  
19 changes.

20 (5) "Appropriate placement" means that the resident's  
21 needs can be met by the adult family-care home or can be met  
22 by services arranged by the adult family-care home or the  
23 resident.

24 (6) "Chemical restraint" means a pharmacologic drug  
25 that physically limits, restricts, or deprives an individual  
26 of movement or mobility, and is used for discipline or  
27 convenience and not required for the treatment of medical  
28 symptoms.

29 (7) "Department" means the Department of Elderly  
30 Affairs.

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1           (8) "Disabled adult" means any person between 18 and  
2 59 years of age, inclusive, who is a resident of the state and  
3 who has one or more permanent physical or mental limitations  
4 that restrict the person's ability to perform the normal  
5 activities of daily living.

6           (9) "Frail elder" means a functionally impaired  
7 elderly person who is 60 years of age or older and who has  
8 physical or mental limitations that restrict the person's  
9 ability to perform the normal activities of daily living and  
10 that impede the person's capacity to live independently  
11 without the provision of core services.

12           (10)~~(9)~~ "Personal care" includes, but is ~~services~~  
13 ~~include, but are~~ not limited to, individual assistance with or  
14 supervision of activities of daily living; supervision of  
15 self-administered medication; assistance with prescribed  
16 medications;and other similar services that the department  
17 does not exclude ~~defines~~ by rule.

18           (11)~~(10)~~ "Provider" means a person who is licensed to  
19 operate an adult family-care home.

20           (12)~~(11)~~ "Relative" means an individual who is the  
21 father, mother, son, daughter, brother, sister, uncle, aunt,  
22 first cousin, nephew, niece, husband, wife, father-in-law,  
23 mother-in-law, son-in-law, daughter-in-law, brother-in-law,  
24 sister-in-law, stepfather, stepmother, stepson, stepdaughter,  
25 stepbrother, stepsister, half brother, or half sister of a  
26 provider.

27           Section 3. Subsections (1), (4), (5), (8), and (9) of  
28 section 400.619, Florida Statutes, are amended to read:

29           400.619 Licensure requirements.--

30           (1) Each person who intends to be a provider of an  
31 adult family-care home must obtain a license from the agency

1 before caring for a disabled adult or frail elder ~~an aged~~  
2 ~~person~~ in the adult family-care home. Such application must  
3 be made at least 90 days before the applicant intends to  
4 operate the adult family-care home.

5 (4) Upon receipt of a license application and the fee,  
6 the agency must check with the central abuse registry and the  
7 Department of Law Enforcement concerning the adult family-care  
8 home applicant, all adult household members, and all staff  
9 members. The agency shall also conduct an onsite visit to the  
10 home that is to be licensed. The provider of an adult  
11 family-care home must meet the requirements for level 1  
12 screening under s. 435.03.

13 (5) Access to a licensed adult family-care home must  
14 be provided at reasonable times for the appropriate officials  
15 of the department, the Department of Children and Family  
16 ~~Health and Rehabilitative~~ Services, the agency, and the State  
17 Fire Marshal, who are responsible for the development and  
18 maintenance of fire, health, sanitary, and safety standards,  
19 to inspect the facility to assure compliance with these  
20 standards. In addition, access to a licensed adult  
21 family-care home must be provided at reasonable times for the  
22 long-term care ombudsman council.

23 (8) The licensed maximum capacity of each adult  
24 family-care home is based on the service needs of the  
25 residents and the capability of the provider to meet the needs  
26 of the residents. Any relative who lives in the adult  
27 family-care home and who is ~~an aged person or~~ a disabled adult  
28 or frail elder must be included in that limitation.

29 (9) Each adult family-care home must designate at  
30 least one licensed space for a resident receiving optional  
31 state supplementation as defined in s. 409.212. The

1 Department of Children and Family ~~Health and Rehabilitative~~  
2 Services shall specify by rule the procedures to be followed  
3 for referring residents who receive optional state  
4 supplementation to adult family-care homes. Those homes  
5 licensed as adult foster homes or assisted living facilities  
6 prior to January 1, 1994, that convert to adult family-care  
7 homes, are exempt from the requirement of designating one  
8 space for a resident receiving optional state supplementation.

9 Section 4. Section 400.621, Florida Statutes, is  
10 amended to read:

11 400.621 Rules and standards relating to adult  
12 family-care homes.--

13 (1) The department shall, in consultation with the  
14 Department of Children and Family ~~Health and Rehabilitative~~  
15 Services and the agency, by rule, establish minimum standards  
16 and licensure procedures for adult family-care homes. The  
17 rules must, at a minimum:

18 (a) Provide for the health, safety, and well-being of  
19 each resident in the adult family-care home.

20 (b) Provide procedures for annual license renewal,  
21 prevention of abuse, proper management of each resident's  
22 property and personal affairs, inspections, and records and  
23 reports.

24 (c) Promote the growth of adult family-care homes as a  
25 component of a long-term care system.

26 (d) Promote the goal of aging in place.

27 (e) Mandate compliance with chapter 419.

28 (f) Assure the appropriate placement of residents in  
29 adult family-care homes.~~that an adult family-care home is the~~  
30 ~~appropriate living arrangement for each resident.~~ A resident  
31 who requires 24-hour nursing supervision may not be retained

1 in an adult family-care home. ~~A person who would not be an~~  
2 ~~appropriate resident in any assisted living facility under s.~~  
3 ~~400.426 would not be an appropriate resident in an adult~~  
4 ~~family-care home.~~

5 (g) Assure the least possible disruption of residents'  
6 lives when an adult family-care home is closed.

7 (h) Provide procedures to protect the residents'  
8 rights as provided in s. 400.628.

9 (2) The department and agency rules that implement  
10 regulatory requirements for adult family-care homes shall be  
11 as minimal and flexible as possible, to ensure the protection  
12 of residents while minimizing obstacles that could inhibit the  
13 establishment of adult family-care homes.

14 ~~(3)~~(2) Minimum firesafety standards shall be  
15 established and enforced by the State Fire Marshal in  
16 cooperation with the department and the agency. Such  
17 standards must be included in the rules adopted by the  
18 department after consultation with the State Fire Marshal and  
19 the agency.

20 ~~(3) The department shall by rule establish standards~~  
21 ~~for the adequate supervision of adult family-care residents.~~

22 (4) The provider of any adult family-care home that is  
23 in operation at the time any rules are adopted or amended  
24 under ss. 400.616-400.629 may be given a reasonable time, not  
25 exceeding 6 months, within which to comply with those new or  
26 revised rules and standards.

27 Section 5. Paragraph (c) of subsection (2) and  
28 subsection (4) of section 400.6211, Florida Statutes, are  
29 amended to read:

30 400.6211 Training and education programs.--

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1           (2) Training and education programs must include, but  
2 are not limited to, information relating to:

3           (c) Identifying and meeting the special needs of ~~aged~~  
4 ~~persons and~~ disabled adults and frail elders.

5           (4) If the Department of Children and Family Health  
6 ~~and Rehabilitative~~ Services, the agency, or the department  
7 determines that there are problems in an adult family-care  
8 home which could be reduced through specific training or  
9 education beyond that required under this section, the  
10 department may require the provider or staff to complete such  
11 training or education.

12           Section 6. Section 400.622, Florida Statutes, is  
13 amended to read:

14           400.622 Injunctive proceedings.--

15           (1) The department, the Department of Children and  
16 Family Health and Rehabilitative Services, or the agency may  
17 institute injunctive proceedings in a court of competent  
18 jurisdiction to:

19           (a) Enforce the provisions of ss. 400.616-400.629 or  
20 any license requirement, minimum standard, rule, or order  
21 issued or entered into under ss. 400.616-400.629; or

22           (b) Terminate the operation of an adult family-care  
23 home when violations of any license requirement, standard, or  
24 rule adopted under ss. 400.616-400.629 exist which materially  
25 affect the health, safety, or welfare of residents.

26           (2) Such injunctive relief may be temporary or  
27 permanent.

28           Section 7. Subsection (2) of section 400.625, Florida  
29 Statutes, is amended to read:

30           400.625 Residency agreements.--

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