

By Senator Clary

7-1037-99

1 A bill to be entitled
2 An act relating to assisted living facilities;
3 amending s. 400.4178, F.S.; revising training
4 requirements for staff that provide special
5 care for residents who have Alzheimer's disease
6 or related disorders; amending s. 400.424,
7 F.S.; amending provisions relating to contracts
8 between the facilities and their residents;
9 amending s. 400.4255, F.S.; revising guidelines
10 for providing nursing services to residents;
11 allowing facilities to honor do-not-resuscitate
12 orders; amending s. 400.427, F.S.; prohibiting
13 a staff member's acting as a resident's
14 attorney-in-fact, with exceptions; amending s.
15 400.441, F.S., relating to rulemaking
16 authority; deleting firesafety requirements
17 from the rulemaking authority of the Department
18 of Elderly Affairs; providing authority to make
19 rules pertaining to advertising, nursing
20 services, and security; deleting authority to
21 dispose of fees and fines; removing from the
22 facilities the responsibility for the medical
23 regulation of chemical restraints; deleting a
24 requirement to send proposed rule drafts to the
25 Legislature; allowing the Department of Elderly
26 Affairs, rather than the Agency for Health Care
27 Administration, to provide waivers from
28 department rules; requiring the department,
29 rather than the agency, to develop abbreviated
30 inspection procedures and standards; deleting a
31 requirement of an annual report; creating s.

1 400.4411, F.S.; providing firesafety standards;
2 amending s. 400.452, F.S., relating to
3 departmental training requirements; allowing
4 the department to charge a fee for approving
5 training curricula and training providers;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 400.4178, Florida Statutes, is
11 amended to read:

12 400.4178 Special care for persons with Alzheimer's
13 disease or ~~other~~ related disorders.--

14 (1) A facility that ~~which~~ advertises that it provides
15 special care for persons who have ~~with~~ Alzheimer's disease or
16 ~~other~~ related disorders must ~~meet the following standards of~~
17 ~~operation:~~

18 (a)~~1~~. If the facility has 17 or more residents, have
19 an awake staff member on duty at all hours of the day and
20 night, ~~or~~

21 (b)~~2~~. If the facility has fewer than 17 residents,
22 have an awake staff member on duty at all hours of the day and
23 night or have mechanisms in place to monitor and ensure the
24 safety of the ~~facility's~~ residents.

25 (c)~~(b)~~ Offer activities specifically designed for
26 persons who are cognitively impaired.

27 (d)~~(c)~~ Have a physical environment that provides for
28 the safety and welfare of the ~~facility's~~ residents.

29 (e)~~(d)~~ Employ staff or contract with staff who
30 complete ~~have completed~~ the training and continuing education
31 required in subsection (2).

1 (2) Staff of assisted living facilities that provide
2 special care for residents who have Alzheimer's disease or
3 related disorders must complete the following training and
4 continuing education requirements:

5 (a) Facility staff who have ~~An individual who is~~
6 ~~employed by a facility that provides special care for~~
7 ~~residents with Alzheimer's disease or other related disorders,~~
8 ~~and who has regular contact with such residents,~~ must complete
9 up to 4 hours of initial dementia-specific training ~~developed~~
10 ~~or approved by the department. The training shall be completed~~
11 ~~within 3 months after beginning employment. Completion of~~ and
12 ~~shall satisfy the core training program under s. 400.452~~
13 satisfies this requirement ~~requirements of s. 400.452(2)(g).~~

14 (b) In addition to satisfying the training
15 requirements of paragraph (a), facility staff who provide ~~A~~
16 ~~direct caregiver who is employed by a facility that provides~~
17 ~~special care for residents with Alzheimer's disease or other~~
18 ~~related disorders, and who provides direct care to such~~
19 ~~residents,~~ must complete the ~~required initial training and 4~~
20 ~~additional hours of training developed or approved by the~~
21 ~~department. The training shall be completed within 9 months~~
22 ~~after beginning employment and shall satisfy the core training~~
23 ~~requirements of s. 400.452(2)(g).~~

24 (c) Facility staff who have only ~~An individual who is~~
25 ~~employed by a facility that provides special care for~~
26 ~~residents with Alzheimer's disease or other related disorders,~~
27 ~~but who only has incidental contact with such residents,~~ must
28 be given, at a minimum, general information on interacting
29 with individuals who have ~~with~~ Alzheimer's disease or other
30 related disorders, within 3 months after beginning employment.
31 Such information may be provided by the facility.

1 (3) In addition to the training required under
2 subsection (2), a direct caregiver must participate in a
3 minimum of 4 ~~contact~~ hours of continuing education during each
4 calendar year following the year in which the caregiver
5 obtains the initial training in topics relating to dementia.

6 ~~The continuing education must include one or more topics~~
7 ~~included in the dementia-specific training developed or~~
8 ~~approved by the department, in which the caregiver has not~~
9 ~~received previous training.~~

10 (4) Staff who complete the training required under
11 subsection (2) need not repeat that training upon changing

12 ~~Upon completing any training listed in subsection (2), the~~
13 ~~employee or direct caregiver shall be issued a certificate~~
14 ~~that includes the name of the training provider, the topic~~
15 ~~covered, and the date and signature of the training provider.~~
16 ~~The certificate is evidence of completion of training in the~~
17 ~~identified topic, and the employee or direct caregiver is not~~
18 ~~required to repeat training in that topic if the employee or~~
19 ~~direct caregiver changes employment to a different facility.~~

20 However, direct care staff must continue to ~~The employee or~~
21 ~~direct caregiver must comply with other applicable continuing~~
22 ~~education requirements.~~

23 (5) The department, or its designee, shall approve the
24 ~~initial and continuing education courses and providers for~~
25 training required under subsection (2). The department may
26 charge a reasonable fee to review the curriculum and
27 qualifications of anyone who seeks to provide training courses
28 approved under this section and adopted by rule.

29 ~~(6)~~ The department shall keep a current list of
30 approved training courses and providers who are approved to
31 ~~provide initial and continuing education for staff of~~

1 ~~facilities that provide special care for persons with~~
2 ~~Alzheimer's disease or other related disorders.~~

3 ~~(6)(7) Any facility more than 90 percent of whose~~
4 ~~residents receive monthly optional supplementation payments is~~
5 ~~not required to pay for the training and education programs~~
6 ~~required under this section. A facility that has one or more~~
7 ~~such residents shall pay a reduced fee that is proportional to~~
8 ~~the percentage of such residents in the facility. A facility~~
9 ~~that does not have any residents who receive monthly optional~~
10 ~~supplementation payments must pay a reasonable fee, as~~
11 ~~established by the department by rule, for ~~such~~ training and~~
12 ~~continuing education programs provided by the department. A~~
13 ~~facility that has one or more such residents shall pay a~~
14 ~~reduced fee that is proportional to the percentage of~~
15 ~~residents in the facility. If 90 percent or more of the~~
16 ~~residents of a facility receive monthly optional~~
17 ~~supplementation payments, the facility is not required to pay~~
18 ~~for the training and continuing education programs required~~
19 ~~under this section.~~

20 ~~(7)(8) The department shall adopt rules to establish~~
21 ~~standards for trainers and training courses, to set fee~~
22 ~~schedules, and to implement facility standards established by~~
23 ~~this section.~~

24 Section 2. Section 400.424, Florida Statutes, is
25 amended to read:

26 400.424 Contracts.--

27 (1) The presence of each resident in a facility shall
28 be covered by a contract, executed at the time of admission or
29 prior thereto, between the licensee and the resident or, if
30 applicable, the resident's ~~his or her~~ designee or legal
31 representative. Each party to the contract shall be provided

1 with a duplicate original thereof, and the licensee shall keep
2 on file in the facility all such contracts. The licensee may
3 not destroy or otherwise dispose of any such contract until 5
4 years after its expiration.

5 (2) Each contract must contain express provisions
6 specifically setting forth the services and accommodations to
7 be provided by the facility; the rates or charges; provision
8 for at least 30 days' written notice of a rate increase; the
9 rights, duties, and obligations of the residents, other than
10 those specified in s. 400.428; and other matters that the
11 parties deem appropriate.

12 (3) Whenever money is deposited or advanced by a
13 resident on ~~in~~ a contract as security for performance of the
14 contract agreement or as advance rent for other than the next
15 immediate rental period:

16 (a) The licensee shall either:

17 1. Hold the total amount of money in a separate
18 non-interest-bearing account in a Florida banking institution
19 for the benefit of the resident or residents. The licensee may
20 not commingle such moneys with any other funds of the facility
21 nor in any other way make use of such moneys until the moneys
22 are actually due; or

23 2. Hold the total amount of such money in a separate
24 interest-bearing account in a Florida banking institution for
25 the benefit of the resident or residents, in which case the
26 resident shall receive and collect interest at a rate of at
27 least 75 percent of the annualized average interest rate
28 payable on the account or at the rate of 5 percent per year,
29 simple interest, whichever the licensee elects. The licensee
30 may not commingle such moneys with any other funds of the
31 facility nor in any other way make use of such moneys until

1 the moneys are actually due. At least once a year, the
2 licensee shall pay directly to the resident, or credit against
3 the current month's rent, the interest due the resident. ~~Such~~
4 ~~funds shall be deposited in a banking institution in this~~
5 ~~state that is located, if possible, in the same community in~~
6 ~~which the facility is located; shall be kept separate from the~~
7 ~~funds and property of the facility; may not be represented as~~
8 ~~part of the assets of the facility on financial statements;~~
9 ~~and shall be used, or otherwise expended, only for the account~~
10 ~~of the resident.~~

11 (b) The licensee shall, within 30 days after receiving
12 ~~of receipt of~~ advance rent or a security deposit, notify the
13 resident ~~or residents~~ in writing of the manner in which the
14 licensee is holding the advance rent or security deposit and
15 the rate of interest, if any, which the resident is to receive
16 and the time of interest payments to the resident. Such
17 written notice must:

- 18 1. Be given in person or by mail to the resident; and
- 19 2. State the name and address of the depository where
20 the advance rent or security deposit is ~~moneys are~~ being held.
21 ~~The licensee shall notify residents of the facility's policy~~
22 ~~on advance deposits.~~

23 ~~(4)(3)(a)~~ (4)(3)(a) The contract shall include a refund policy
24 to be implemented at the time of a resident's transfer,
25 discharge, or death. The refund policy shall provide that the
26 resident or responsible party is entitled to a prorated refund
27 based on the daily rate for any unused portion of payment
28 beyond the termination date after all charges, including the
29 cost of damages to the residential unit resulting from
30 circumstances other than normal use, have been paid to the
31 licensee. For the purpose of this subsection ~~paragraph~~, the

1 termination date shall be the date the unit is vacated by the
2 resident and cleared of all personal belongings. If the
3 amount of belongings does not preclude renting the unit, the
4 facility may clear the unit and charge the resident or his or
5 her estate for moving and storing the items at a rate equal to
6 the actual cost to the facility, not to exceed 20 percent of
7 the regular rate for the unit, provided that 14 days' advance
8 written notification is given. If the resident's possessions
9 are not claimed within 45 days after notification, the
10 facility may dispose of them. The contract shall also specify
11 any other conditions under which claims will be made against
12 the refund due the resident. Except in the case of death or a
13 discharge due to medical reasons, the refunds shall be
14 computed in accordance with the notice of relocation
15 requirements specified in the contract. However, a resident
16 may not be required to provide the licensee with more than 30
17 days' notice of termination. If after a contract is
18 terminated, the facility intends to make a claim against a
19 refund due the resident, the facility shall notify the
20 resident or responsible party in writing of the claim and
21 shall provide said party with a reasonable time period of no
22 less than 14 calendar days to respond. The facility shall
23 provide a refund to the resident or responsible party within
24 45 days after the transfer, discharge, or death of the
25 resident. The agency shall impose a fine upon a facility that
26 fails to comply with the refund provisions of the paragraph,
27 which fine shall be equal to three times the amount due to the
28 resident. One-half of the fine shall be remitted to the
29 resident or his or her estate, and the other half to the
30 Health Care Trust Fund to be used for the purpose specified in
31 s. 400.418.

1 ~~(5)(b)~~ If a licensee agrees to reserve a bed for a
2 resident who is admitted to a medical facility, including, but
3 not limited to, a nursing home, health care facility, or
4 psychiatric facility, the resident or his or her responsible
5 party shall notify the licensee of any change in status that
6 would prevent the resident from returning to the facility.
7 Until such notice is received, the agreed-upon daily rate may
8 be charged by the licensee.

9 ~~(6)(c)~~ The purpose of any advance payment and a refund
10 policy for such payment, including any advance payment for
11 housing, meals, or personal services, shall be covered in the
12 contract.

13 ~~(7)(4)~~ The contract shall state whether or not the
14 facility is affiliated with any religious organization and, if
15 so, which organization and its general responsibility to the
16 facility.

17 (8) In order to avoid duplication of services, the
18 contract must include a provision permitting the facility to
19 disclose the services covered by the contract to home health
20 agencies or hospices contracting with the resident to provide
21 services that are covered by Medicare or Medicaid or any other
22 publicly funded insurance program.

23 ~~(9)(5)~~ Neither the contract nor any provision thereof
24 relieves any licensee of any requirement or obligation imposed
25 upon it by this part or rules adopted under this part.

26 ~~(10)(6)~~ In lieu of the provisions of this section,
27 facilities certified under chapter 651 shall comply with the
28 requirements of s. 651.055.

29 ~~(11)(7)~~ Notwithstanding the provisions of this
30 section, facilities which consist of 60 or more apartments may
31 require refund policies and termination notices in accordance

1 with the provisions of part II of chapter 83, provided that
2 the lease is terminated automatically without financial
3 penalty in the event of a resident's death or relocation due
4 to psychiatric hospitalization or to medical reasons which
5 necessitate services or care beyond which the facility is
6 licensed to provide. The date of termination in such
7 instances shall be the date the unit is fully vacated. A
8 lease may be substituted for the contract if it meets the
9 disclosure requirements of this section. For the purpose of
10 this section, the term "apartment" means a room or set of
11 rooms with a kitchen or kitchenette and lavatory located
12 within one or more buildings containing other similar or like
13 residential units.

14 ~~(12)(8)~~ The department may by rule clarify terms,
15 establish procedures, clarify refund policies and contract
16 provisions, and specify documentation as necessary to
17 administer this section.

18 Section 3. Section 400.4255, Florida Statutes, is
19 amended to read:

20 400.4255 Use of ~~licensed~~ personnel; emergency care.--

21 (1)(a) Nurses licensed under chapter 464 who are
22 employed by, under contract to, or volunteers in an assisted
23 living facility may administer medications to residents,
24 manage individual weekly pill organizers for residents, give
25 prepackaged enemas ordered by a physician, and provide such
26 other nursing services as the department by rule authorizes
27 them to provide. Persons who are exempt from nursing licensure
28 under s. 464.022(1) and third parties who are contracting
29 directly with a resident or the resident's representative may
30 provide additional nursing services, provided that the
31 resident continues to meet the criteria for appropriate

1 placement established under s. 400.426 and by rule. ~~Persons~~
2 ~~under contract to the facility, facility staff, or volunteers,~~
3 ~~who are licensed according to chapter 464, or those persons~~
4 ~~exempt under s. 464.022(1), and others as defined by rule, may~~
5 ~~administer medications to residents, take residents' vital~~
6 ~~signs, manage individual weekly pill organizers for residents~~
7 ~~who self-administer medication, give prepackaged enemas~~
8 ~~ordered by a physician, observe residents, document~~
9 ~~observations on the appropriate resident's record, report~~
10 ~~observations to the resident's physician, and contract or~~
11 ~~allow residents or a resident's representative, designee,~~
12 ~~surrogate, guardian, or attorney in fact to contract with a~~
13 ~~third party, provided residents meet the criteria for~~
14 ~~appropriate placement as defined in s. 400.426. Nursing~~
15 ~~assistants certified pursuant to s. 400.211 may take~~
16 ~~residents' vital signs as directed by a licensed nurse or~~
17 ~~physician.~~

18 (b) All staff in facilities licensed under this part
19 shall exercise their professional responsibility to observe
20 residents, to document observations on the appropriate
21 resident's record, and to report the observations to the
22 resident's physician. ~~However, the owner or administrator of~~
23 ~~the facility shall be responsible for determining that the~~
24 ~~resident receiving services is appropriate for residence in~~
25 ~~the facility.~~

26 ~~(c) In an emergency situation, licensed personnel may~~
27 ~~carry out their professional duties pursuant to chapter 464~~
28 ~~until emergency medical personnel assume responsibility for~~
29 ~~care.~~

30 (2) In facilities licensed to provide extended
31 congregate care, persons licensed under chapter 464, or

1 certified under s. 400.211, who are under contract to,
2 employed by, or volunteers in an assisted living facility
3 licensed to provide extended congregate care may perform all
4 duties within the scope of their respective license or
5 certification if approved by the administrator of the
6 facility.~~under contract to the facility, facility staff, or~~
7 ~~volunteers, who are licensed according to chapter 464, or~~
8 ~~those persons exempt under s. 464.022(1), or those persons~~
9 ~~certified as nursing assistants pursuant to s. 400.211, may~~
10 ~~also perform all duties within the scope of their license or~~
11 ~~certification, as approved by the facility administrator and~~
12 ~~pursuant to this part.~~

13 (3) Notwithstanding any limitations imposed by this
14 section or by rule, personnel in an assisted living facility
15 may, in an emergency, while awaiting the arrival of emergency
16 personnel, provide any service permitted within the scope of
17 their respective license or certification.

18 (4) Facility staff may withhold or withdraw
19 cardiopulmonary resuscitation if presented with an order not
20 to resuscitate which is executed under s. 401.45. The
21 department shall adopt rules that provide for the
22 implementation of such orders. Facility staff are not subject
23 to criminal prosecution or civil liability, and may not be
24 considered to have engaged in negligent or unprofessional
25 conduct, for withholding or withdrawing cardiopulmonary
26 resuscitation pursuant to such an order and rules adopted by
27 the department.

28 Section 4. Section 400.427, Florida Statutes, 1998
29 Supplement, is amended to read:

30 400.427 Property and personal affairs of residents.--
31

1 ~~(1)(a)~~ A resident shall be given the option of using
2 his or her own belongings, as space permits; choosing his or
3 her roommate; and, whenever possible, unless the resident is
4 adjudicated incompetent or incapacitated ~~under state law~~,
5 managing his or her own affairs.

6 (1)(b) The admission of a resident to a facility does
7 ~~and his or her presence therein shall~~ not confer on the
8 facility or its owner, administrator, employees, or
9 representatives any authority to manage, use, or dispose of
10 any funds or property of the resident; nor shall such
11 admission or presence confer on any of such persons any
12 authority or responsibility for the personal affairs of the
13 resident, except that which may be necessary for the safe
14 management of the facility or for the safety of the resident.

15 (2) A facility, or an owner, administrator, employee,
16 or representative thereof, may not act as the guardian,
17 trustee, attorney-in-fact, or conservator for any resident of
18 the assisted living facility or any of such resident's
19 property unless the resident is a relative of the owner,
20 administrator, employee, or representative. An owner,
21 administrator, or staff member, or representative thereof, may
22 not act as a ~~competent~~ resident's payee for social security,
23 veteran's, or railroad benefits without the consent of the
24 resident or the resident's representative. Any facility whose
25 owner, administrator, or staff, or representative thereof,
26 serves as representative payee for any resident of the
27 facility shall post file a surety bond, a copy of which must
28 be filed with the agency, in an amount equal to twice the
29 average monthly aggregate income or personal funds due to
30 residents, or expendable for their account, which are received
31 by a facility. ~~Any facility whose owner, administrator, or~~

1 ~~staff, or a representative thereof, is granted power of~~
2 ~~attorney for any resident of the facility shall file a surety~~
3 ~~bond with the agency for each resident for whom such power of~~
4 ~~attorney is granted. The surety bond shall be in an amount~~
5 ~~equal to twice the average monthly income of the resident,~~
6 ~~plus the value of any resident's property under the control of~~
7 ~~the attorney in fact. The bond shall be executed by the~~
8 ~~facility as principal and a licensed surety company authorized~~
9 ~~and licensed to do business in this state as surety. The bond~~
10 ~~shall be conditioned upon the faithful compliance of the~~
11 ~~facility with this section and shall run to the agency for the~~
12 ~~benefit of any resident who suffers a financial loss as a~~
13 ~~result of the misuse or misappropriation by a facility of~~
14 ~~funds held pursuant to this subsection. Any surety company~~
15 ~~that cancels or does not renew the bond of any licensee shall~~
16 ~~notify the agency in writing not less than 30 days in advance~~
17 ~~of such action, giving the reason for the cancellation or~~
18 ~~nonrenewal. Any facility owner, administrator, or staff, or~~
19 ~~representative thereof, who is granted power of attorney for~~
20 ~~any resident of the facility shall, on a monthly basis, be~~
21 ~~required to provide the resident a written statement of any~~
22 ~~transaction made on behalf of the resident pursuant to this~~
23 ~~subsection, and a copy of such statement given to the resident~~
24 ~~shall be retained in each resident's file and available for~~
25 ~~agency inspection.~~

26 (3) A facility, upon mutual consent with the resident
27 or the resident's representative, shall provide for the
28 safekeeping in the facility of personal effects not in excess
29 of \$500 and funds of the resident not in excess of \$200 cash,
30 and shall keep complete and accurate records of all such funds
31 and personal effects received. If a resident is absent from a

1 facility for 24 hours or more, the facility may provide for
2 the safekeeping of the resident's personal effects in excess
3 of \$500.

4 (4) Any funds or other property belonging to or due to
5 a resident, or expendable for his or her account, which is
6 received by a facility shall be held in trust and expended
7 only for the account of the resident. Resident funds must
8 ~~which shall~~ be kept separate from the funds and property of
9 the facility; however, a resident's funds may be held in one
10 account with other residents' funds if a separate written
11 accounting of each person's funds is maintained.~~and other~~
12 ~~residents or shall be specifically credited to such resident.~~
13 ~~Such trust funds shall be used or otherwise expended only for~~
14 ~~the account of the resident.~~At least quarterly, and upon the
15 discharge or transfer of the resident or upon the transfer of
16 facility ownership once every 3 months, unless upon order of a
17 ~~court of competent jurisdiction, the facility shall furnish to~~
18 the resident or the resident's representative ~~and his or her~~
19 ~~guardian~~, trustee, or conservator, if any, a complete and
20 verified statement of all funds and other property to which
21 this subsection applies, detailing the amount and items
22 received, together with their sources and disposition. ~~In any~~
23 ~~event, the facility shall furnish such statement annually and~~
24 ~~upon the discharge or transfer of a resident.~~ Any
25 governmental agency or private charitable agency contributing
26 funds or other property to the account of a resident shall
27 also be entitled to receive such statement annually and upon
28 the discharge or transfer of the resident or upon the transfer
29 of facility ownership.

30 (5) Any personal funds available to ~~facility~~ residents
31 may be used by residents as they choose to obtain clothing,

1 personal items, leisure activities, and other supplies and
2 services for their personal use which are not covered by the
3 contract. ~~A facility may not demand, require, or contract for~~
4 ~~payment of all or any part of the personal funds in~~
5 ~~satisfaction of the facility rate for supplies and services~~
6 ~~beyond that amount agreed to in writing and may not levy an~~
7 ~~additional charge to the individual or the account for any~~
8 ~~supplies or services that the facility has agreed by contract~~
9 ~~to provide as part of the standard monthly rate. Any~~
10 additional services ~~service~~ or supplies provided by the
11 facility which are charged separately to the resident
12 ~~individual~~ or the resident's account and not covered by the
13 contract rate may be provided only with the specific written
14 consent of the individual, who shall be furnished in advance
15 of the provision of the services or supplies with an itemized
16 written statement to be attached to the contract setting forth
17 the charges for the additional services or supplies.

18 (6)

19 (a) In addition to any damages or civil penalties
20 provided by law to which a person is subject, any person who⁺

21 ~~1.~~ intentionally withholds a resident's personal
22 funds, personal property, or personal needs allowance;~~;~~ or who
23 demands, beneficially receives, or contracts for payment of
24 all or any part of a resident's personal property or personal
25 needs allowance in satisfaction of the facility rate for
26 supplies and services; or who

27 ~~2.~~ borrows from or pledges any personal funds of a
28 resident, other than the amount agreed to by written contract
29 under s. 400.424, commits a misdemeanor of the first degree,
30 punishable as provided in s. 775.082 or s. 775.083.

31

1 ~~(b) Any facility owner, administrator, or staff, or~~
2 ~~representative thereof, who is granted power of attorney for~~
3 ~~any resident of the facility and who misuses or~~
4 ~~misappropriates funds obtained through this power commits a~~
5 ~~felony of the third degree, punishable as provided in s.~~
6 ~~775.082, s. 775.083, or s. 775.084.~~

7 (7) In the event of the resident's death ~~of a~~
8 ~~resident~~, a licensee shall return all refunds, funds, and
9 property held in trust to the resident's ~~personal~~
10 representative, if one has been appointed, or ~~at the time the~~
11 ~~facility disburses such funds, and~~, if not, to the resident's
12 spouse or adult next of kin named in a beneficiary designation
13 form provided by the facility to the resident. If the resident
14 has no spouse or adult next of kin or such person cannot be
15 located, funds due the resident shall be placed in an
16 interest-bearing account, ~~and all property~~ held in trust by
17 ~~the facility shall be safeguarded~~ until such time as the funds
18 and property are disbursed pursuant to the Florida Probate
19 Code. Such funds shall be kept separate from the funds and
20 property of the facility and other residents of the facility.
21 If the funds of the deceased resident are not disbursed
22 pursuant to the Florida Probate Code within 2 years after the
23 resident's death, the funds shall be deposited in the Health
24 Care Trust Fund administered by the agency.

25 (8) The department may by rule clarify terms and
26 specify procedures and documentation necessary to administer
27 the provisions of this section relating to the proper
28 management of residents' funds and personal property and the
29 execution of surety bonds.

30 Section 5. Section 400.441, Florida Statutes, 1998
31 Supplement, is amended to read:

1 400.441 Rules establishing standards.--
2 (1) It is the intent of the Legislature that rules
3 published and enforced pursuant to this section ~~shall~~ include
4 criteria by which a reasonable and consistent quality of
5 resident care and quality of life may be ensured and the
6 results of such resident care may be demonstrated. Such rules
7 shall also ensure a safe and sanitary environment that is
8 residential and noninstitutional in design or nature,
9 accommodates. ~~It is further intended that reasonable efforts~~
10 ~~be made to accommodate~~ the needs and preferences of residents,
11 and promotes the dignity, individuality, personal strengths,
12 and decisionmaking ability of residents ~~to enhance the quality~~
13 ~~of life in a facility.~~ In order to provide safe and sanitary
14 facilities and the highest quality of resident care
15 accommodating the needs, and preferences, and independence of
16 residents, the department, in consultation with the agency,
17 the Department of Children and Family Services, and the
18 Department of Health, shall adopt rules, policies, and
19 procedures to implement ~~administer~~ this part, which ~~must~~
20 include reasonable and fair minimum standards and procedures
21 relating in relation to:
22 (a) The requirements for and maintenance of assisted
23 living facilities, not in conflict with the provisions of
24 chapter 553, relating to plumbing, heating, lighting,
25 ventilation, living space, and other housing conditions, which
26 will ensure the health, safety, ~~and comfort,~~ and independence
27 of residents. ~~and protection from fire hazard, including~~
28 ~~adequate provisions for fire alarm and other fire protection~~
29 ~~suitable to the size of the structure. Uniform firesafety~~
30 ~~standards shall be established and enforced by the State Fire~~
31

1 ~~Marshal in cooperation with the agency, the department, and~~
2 ~~the Department of Health.~~

3 ~~1. Evacuation capability determination.--~~

4 ~~a. The provisions of the National Fire Protection~~
5 ~~Association, NFPA 101A, Chapter 5, 1995 edition, shall be used~~
6 ~~for determining the ability of the residents, with or without~~
7 ~~staff assistance, to relocate from or within a licensed~~
8 ~~facility to a point of safety as provided in the fire codes~~
9 ~~adopted herein. An evacuation capability evaluation for~~
10 ~~initial licensure shall be conducted within 6 months after the~~
11 ~~date of licensure. For existing licensed facilities that are~~
12 ~~not equipped with an automatic fire sprinkler system, the~~
13 ~~administrator shall evaluate the evacuation capability of~~
14 ~~residents at least annually. The evacuation capability~~
15 ~~evaluation for each facility not equipped with an automatic~~
16 ~~fire sprinkler system shall be validated, without liability,~~
17 ~~by the State Fire Marshal, by the local fire marshal, or by~~
18 ~~the local authority having jurisdiction over firesafety,~~
19 ~~before the license renewal date. If the State Fire Marshal,~~
20 ~~local fire marshal, or local authority having jurisdiction~~
21 ~~over firesafety has reason to believe that the evacuation~~
22 ~~capability of a facility as reported by the administrator may~~
23 ~~have changed, it may, with assistance from the facility~~
24 ~~administrator, reevaluate the evacuation capability through~~
25 ~~timed exiting drills. Translation of timed fire exiting drills~~
26 ~~to evacuation capability may be determined:~~

27 ~~(I) Three minutes or less: prompt.~~

28 ~~(II) More than 3 minutes, but not more than 13~~
29 ~~minutes: slow.~~

30 ~~(III) More than 13 minutes: impractical.~~

31

1 ~~b. The Office of the State Fire Marshal shall provide~~
2 ~~or cause the provision of training and education on the proper~~
3 ~~application of Chapter 5, NFPA 101A, 1995 edition, to its~~
4 ~~employees, to staff of the Agency for Health Care~~
5 ~~Administration who are responsible for regulating facilities~~
6 ~~under this part, and to local governmental inspectors. The~~
7 ~~Office of the State Fire Marshal shall provide or cause the~~
8 ~~provision of this training within its existing budget, but may~~
9 ~~charge a fee for this training to offset its costs. The~~
10 ~~initial training must be delivered within 6 months after July~~
11 ~~1, 1995, and as needed thereafter.~~

12 ~~c. The Office of the State Fire Marshal, in~~
13 ~~cooperation with provider associations, shall provide or cause~~
14 ~~the provision of a training program designed to inform~~
15 ~~facility operators on how to properly review bid documents~~
16 ~~relating to the installation of automatic fire sprinklers.~~
17 ~~The Office of the State Fire Marshal shall provide or cause~~
18 ~~the provision of this training within its existing budget, but~~
19 ~~may charge a fee for this training to offset its costs. The~~
20 ~~initial training must be delivered within 6 months after July~~
21 ~~1, 1995, and as needed thereafter.~~

22 ~~d. The administrator of a licensed facility shall sign~~
23 ~~an affidavit verifying the number of residents occupying the~~
24 ~~facility at the time of the evacuation capability evaluation.~~

25 ~~2. Firesafety requirements.--~~

26 ~~a. Except for the special applications provided~~
27 ~~herein, effective January 1, 1996, the provisions of the~~
28 ~~National Fire Protection Association, Life Safety Code, NFPA~~
29 ~~101, 1994 edition, Chapter 22 for new facilities and Chapter~~
30 ~~23 for existing facilities shall be the uniform fire code~~

31

1 ~~applied by the State Fire Marshal for assisted living~~
2 ~~facilities, pursuant to s. 633.022.~~

3 ~~b. Any new facility, regardless of size, that applies~~
4 ~~for a license on or after January 1, 1996, must be equipped~~
5 ~~with an automatic fire sprinkler system. The exceptions as~~
6 ~~provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as~~
7 ~~adopted herein, apply to any new facility housing eight or~~
8 ~~fewer residents. On July 1, 1995, local governmental entities~~
9 ~~responsible for the issuance of permits for construction shall~~
10 ~~inform, without liability, any facility whose permit for~~
11 ~~construction is obtained prior to January 1, 1996, of this~~
12 ~~automatic fire sprinkler requirement. As used in this part,~~
13 ~~the term "a new facility" does not mean an existing facility~~
14 ~~that has undergone change of ownership.~~

15 ~~c. Notwithstanding any provision of s. 633.022 or of~~
16 ~~the National Fire Protection Association, NFPA 101A, Chapter~~
17 ~~5, 1995 edition, to the contrary, any existing facility~~
18 ~~housing eight or fewer residents is not required to install an~~
19 ~~automatic fire sprinkler system, nor to comply with any other~~
20 ~~requirement in Chapter 23 of NFPA 101, 1994 edition, that~~
21 ~~exceeds the firesafety requirements of NFPA 101, 1988 edition,~~
22 ~~that applies to this size facility, unless the facility has~~
23 ~~been classified as impractical to evacuate. Any existing~~
24 ~~facility housing eight or fewer residents that is classified~~
25 ~~as impractical to evacuate must install an automatic fire~~
26 ~~sprinkler system within the timeframes granted in this~~
27 ~~section.~~

28 ~~d. Any existing facility that is required to install~~
29 ~~an automatic fire sprinkler system under this paragraph need~~
30 ~~not meet other firesafety requirements of Chapter 23, NFPA~~
31 ~~101, 1994 edition, which exceed the provisions of NFPA 101,~~

1 ~~1988 edition. The mandate contained in this paragraph which~~
2 ~~requires certain facilities to install an automatic fire~~
3 ~~sprinkler system supersedes any other requirement.~~

4 ~~e. This paragraph does not supersede the exceptions~~
5 ~~granted in NFPA 101, 1988 edition or 1994 edition.~~

6 ~~f. This paragraph does not exempt facilities from~~
7 ~~other firesafety provisions adopted under s. 633.022 and local~~
8 ~~building code requirements in effect before July 1, 1995.~~

9 ~~g. A local government may charge fees only in an~~
10 ~~amount not to exceed the actual expenses incurred by local~~
11 ~~government relating to the installation and maintenance of an~~
12 ~~automatic fire sprinkler system in an existing and properly~~
13 ~~licensed assisted living facility structure as of January 1,~~
14 ~~1996.~~

15 ~~h. If a licensed facility undergoes major~~
16 ~~reconstruction or addition to an existing building on or after~~
17 ~~January 1, 1996, the entire building must be equipped with an~~
18 ~~automatic fire sprinkler system. Major reconstruction of a~~
19 ~~building means repair or restoration that costs in excess of~~
20 ~~50 percent of the value of the building as reported on the tax~~
21 ~~rolls, excluding land, before reconstruction. Multiple~~
22 ~~reconstruction projects within a 5-year period the total costs~~
23 ~~of which exceed 50 percent of the initial value of the~~
24 ~~building at the time the first reconstruction project was~~
25 ~~permitted are to be considered as major reconstruction.~~
26 ~~Application for a permit for an automatic fire sprinkler~~
27 ~~system is required upon application for a permit for a~~
28 ~~reconstruction project that creates costs that go over the~~
29 ~~50-percent threshold.~~

30 ~~i. Any facility licensed before January 1, 1996, that~~
31 ~~is required to install an automatic fire sprinkler system~~

1 ~~shall ensure that the installation is completed within the~~
2 ~~following timeframes based upon evacuation capability of the~~
3 ~~facility as determined under subparagraph 1.:~~

4 ~~(I) Impractical evacuation capability, 24 months.~~

5 ~~(II) Slow evacuation capability, 48 months.~~

6 ~~(III) Prompt evacuation capability, 60 months.~~

7
8 ~~The beginning date from which the deadline for the automatic~~
9 ~~fire sprinkler installation requirement must be calculated is~~
10 ~~upon receipt of written notice from the local fire official~~
11 ~~that an automatic fire sprinkler system must be installed. The~~
12 ~~local fire official shall send a copy of the document~~
13 ~~indicating the requirement of a fire sprinkler system to the~~
14 ~~Agency for Health Care Administration.~~

15 ~~j. It is recognized that the installation of an~~
16 ~~automatic fire sprinkler system may create financial hardship~~
17 ~~for some facilities. The appropriate local fire official~~
18 ~~shall, without liability, grant two 1-year extensions to the~~
19 ~~timeframes for installation established herein, if an~~
20 ~~automatic fire sprinkler installation cost estimate and proof~~
21 ~~of denial from two financial institutions for a construction~~
22 ~~loan to install the automatic fire sprinkler system are~~
23 ~~submitted. However, for any facility with a class I or class~~
24 ~~II, or a history of uncorrected class III, firesafety~~
25 ~~deficiencies, an extension must not be granted. The local~~
26 ~~fire official shall send a copy of the document granting the~~
27 ~~time extension to the Agency for Health Care Administration.~~

28 ~~k. A facility owner whose facility is required to be~~
29 ~~equipped with an automatic fire sprinkler system under Chapter~~
30 ~~23, NFPA 101, 1994 edition, as adopted herein, must disclose~~
31 ~~to any potential buyer of the facility that an installation of~~

1 ~~an automatic fire sprinkler requirement exists. The sale of~~
2 ~~the facility does not alter the timeframe for the installation~~
3 ~~of the automatic fire sprinkler system.~~

4 ~~1. Existing facilities required to install an~~
5 ~~automatic fire sprinkler system as a result of~~
6 ~~construction-type restrictions in Chapter 23, NFPA 101, 1994~~
7 ~~edition, as adopted herein, or evacuation capability~~
8 ~~requirements shall be notified by the local fire official in~~
9 ~~writing of the automatic fire sprinkler requirement, as well~~
10 ~~as the appropriate date for final compliance as provided in~~
11 ~~this subparagraph. The local fire official shall send a copy~~
12 ~~of the document to the Agency for Health Care Administration.~~

13 ~~m. Except in cases of life-threatening fire hazards,~~
14 ~~if an existing facility experiences a change in the evacuation~~
15 ~~capability, or if the local authority having jurisdiction~~
16 ~~identifies a construction-type restriction, such that an~~
17 ~~automatic fire sprinkler system is required, it shall be~~
18 ~~afforded time for installation as provided in this~~
19 ~~subparagraph.~~

20
21 ~~Facilities that are fully sprinkled and in compliance with~~
22 ~~other firesafety standards are not required to conduct more~~
23 ~~than one of the required fire drills between the hours of 11~~
24 ~~p.m. and 7 a.m., per year. In lieu of the remaining drills,~~
25 ~~staff responsible for residents during such hours may be~~
26 ~~required to participate in a mock drill that includes a review~~
27 ~~of evacuation procedures. Such standards must be included or~~
28 ~~referenced in the rules adopted by the State Fire Marshal.~~
29 ~~Pursuant to s. 633.022(1)(b), the State Fire Marshal is the~~
30 ~~final administrative authority for firesafety standards~~
31 ~~established and enforced pursuant to this section. All~~

1 ~~licensed facilities must have an annual fire inspection~~
2 ~~conducted by the local fire marshal or authority having~~
3 ~~jurisdiction.~~

4 (b) The preparation and annual update of a
5 comprehensive emergency management plan. ~~Such standards must~~
6 ~~be included in the rules adopted by The department~~ shall
7 consult after consultation with the Department of Community
8 Affairs in adopting rules regulating such plans. At a
9 minimum, the plans ~~rules~~ must ~~provide for plan components that~~
10 address emergency evacuation transportation; adequate
11 sheltering arrangements; postdisaster activities, including
12 provision of emergency power, food, and water; postdisaster
13 transportation; supplies; staffing; emergency equipment;
14 individual identification of residents and transfer of
15 records; communication with families; and responses to family
16 inquiries. Each facility's ~~The~~ comprehensive emergency
17 management plan is subject to review and approval by the local
18 emergency management agency. During its review, the local
19 emergency management agency shall ensure that the following
20 agencies, at a minimum, are also given the opportunity to
21 review the plan: the Department of Elderly Affairs, the
22 Department of Health, the Agency for Health Care
23 Administration, ~~and~~ the Department of Community Affairs, ~~and~~
24 ~~Also, appropriate volunteer organizations must be given the~~
25 ~~opportunity to review the plan.~~ The local emergency
26 management agency shall complete its review within 60 days and
27 either approve the plan or advise the facility of necessary
28 revisions.

29 (c) The number, training, and qualifications of all
30 personnel having responsibility for the care and safety of
31 residents. ~~The rules must require adequate staff to provide~~

1 ~~for the safety of all residents.~~ Facilities licensed for 17
2 or more residents are required to maintain an alert staff ~~for~~
3 24 hours per day.

4 (d) All safety and sanitary conditions within the
5 facility and its surroundings which will ensure the health,
6 and comfort, and security of residents. The rules must
7 clearly delineate the responsibilities of the agency's
8 licensure and survey staff, the county health departments, and
9 the local authority having jurisdiction over fire safety and
10 ensure that regulatory jurisdiction does not conflict or
11 overlap and that inspections are not duplicated duplicative.
12 ~~The agency may collect fees for food service inspections~~
13 ~~conducted by the county health departments and transfer such~~
14 ~~fees to the Department of Health.~~

15 (e) License application and license renewal,
16 advertising, transfer of ownership, proper management of
17 resident funds and personal property, surety bonds, resident
18 contracts, refund policies, financial ability to operate, and
19 facility and staff records.

20 (f) Inspections, complaint investigations,
21 moratoriums, classification of deficiencies, and levying and
22 enforcement of penalties, ~~and use of income from fees and~~
23 ~~finances.~~

24 (g) The enforcement of the resident bill of rights
25 specified in s. 400.428.

26 (h) The care and maintenance of residents, which must
27 include, but is not limited to:

- 28 1. The supervision of residents;
- 29 2. The provision of personal and nursing services;
- 30 3. The provision of, or arrangement for, social and
31 leisure activities;

1 4. The arrangement for appointments and transportation
2 to appropriate medical, dental, nursing, or mental health
3 services, as needed by residents;

4 5. The management of medication;

5 6. The nutritional needs of residents; and

6 7. Resident records.

7 (i) Facilities holding a limited nursing, extended
8 congregate care, or limited mental health license.

9 (j) The establishment of specific criteria to define
10 appropriateness of resident admission and continued residency
11 in a facility holding a standard, limited nursing, extended
12 congregate care, and limited mental health license.

13 (k) The use of physical or chemical restraints. The
14 use of physical restraints is limited to half-bed rails as
15 prescribed and documented biannually by the resident's
16 physician with the consent of the resident or, if applicable,
17 the resident's representative or designee or the resident's
18 surrogate, guardian, or attorney in fact. The use of chemical
19 restraints is limited to prescribed dosages of medications
20 evaluated and authorized by the resident's physician ~~and must~~
21 ~~be consistent with the resident's diagnosis~~. Residents who are
22 receiving medications that can serve as chemical restraints
23 must be evaluated by their physician at least annually to
24 assess+

25 ~~1.~~ the continued need for the medication.

26 ~~2.~~ ~~The level of the medication in the resident's~~
27 ~~blood.~~

28 ~~3.~~ ~~The need for adjustments in the prescription.~~

29 (l) Facility and resident security, including security
30 systems that ensure the residents' safety but maximize their
31 access and independence.

1 (2) In adopting any rules pursuant to this part, the
2 department, in conjunction with the agency, shall make
3 distinct standards for facilities based upon facility size;
4 the types of care provided; the physical and mental
5 capabilities and needs of residents; the type, frequency, and
6 amount of services and care offered; ~~and~~ the staffing
7 characteristics of the facility; and any other factors that
8 require allowances for differences. Rules developed pursuant
9 to this section shall not restrict the use of shared staffing
10 and shared programming in facilities that are part of
11 retirement communities that provide multiple levels of care
12 and otherwise meet the requirements of law and rule. Except
13 for uniform firesafety standards, the department shall adopt
14 by rule separate and distinct standards for facilities with 16
15 or fewer beds and for facilities with 17 or more beds. The
16 standards for facilities with 16 or fewer beds shall be
17 appropriate for a noninstitutional residential environment,
18 provided that the structure is no more than two stories in
19 height and all persons who cannot exit the facility unassisted
20 in an emergency reside on the first floor. ~~The department, in~~
21 ~~conjunction with the agency, may make other distinctions among~~
22 ~~types of facilities as necessary to enforce the provisions of~~
23 ~~this part.~~Where appropriate, the agency shall offer alternate
24 solutions for complying with established standards, based on
25 distinctions made by the department and the agency relative to
26 the physical characteristics of facilities and the types of
27 care offered therein.

28 (3) In addition to waivers granted under s. 120.542,
29 ~~The department shall submit a copy of proposed rules to the~~
30 ~~Speaker of the House of Representatives, the President of the~~
31

1 ~~Senate, and appropriate committees of substance for review and~~
2 ~~comment prior to the promulgation thereof.~~

3 ~~(a) Rules promulgated by the department shall~~
4 ~~encourage the development of homelike facilities which promote~~
5 ~~the dignity, individuality, personal strengths, and~~
6 ~~decisionmaking ability of residents.~~

7 ~~(b) The agency, in consultation with the department,~~
8 in consultation with the agency, may waive rules adopted under
9 promulgated pursuant to this part in order to demonstrate and
10 evaluate innovative or cost-effective residential congregate
11 care alternatives that ~~which~~ enable individuals to age in
12 place. Such waivers may be granted only in instances where
13 there is reasonable assurance that the health, safety, or
14 welfare of residents will not be endangered. To apply for a
15 waiver, the licensee shall submit to the department and the
16 agency a written description of the concept to be
17 demonstrated, including goals, objectives, and anticipated
18 benefits; the number and types of residents who will be
19 affected, if applicable; the rules for which a waiver is being
20 requested; a brief description of how the demonstration will
21 be evaluated; and any other information that the department
22 considers ~~deemed~~ appropriate ~~by the agency~~. Any facility
23 granted a waiver shall submit a report of findings to ~~the~~
24 ~~agency and~~ the department and the agency within 12 months. At
25 such time, the department ~~agency~~ may renew or revoke the
26 waiver or pursue any regulatory or statutory changes necessary
27 to allow other facilities to adopt the same practices. The
28 department may by rule ~~clarify terms and~~ establish waiver
29 application procedures, criteria for reviewing waiver
30 proposals, and procedures for reporting findings, and clarify
31 terms as necessary to implement this subsection.

1 (4) The agency may use an abbreviated biennial
2 inspection procedure, as established by rule, which consists
3 of a review of key quality-of-care standards in lieu of a full
4 inspection in facilities which have a good record of past
5 performance as documented in the agency's last two survey
6 reports. However, a full inspection shall be conducted in
7 facilities that ~~which~~ have had a history of class I
8 violations, uncorrected or class II or ~~violations, uncorrected~~
9 class III violations, confirmed ombudsman council complaints,
10 or confirmed licensure complaints, within the previous
11 licensure period immediately preceding the inspection or when
12 a potentially serious problem is identified during the
13 abbreviated inspection. The department ~~agency~~, in
14 consultation with the agency ~~department~~, shall develop the key
15 quality-of-care standards with input from the State Long-Term
16 Care Ombudsman Council and representatives of provider groups
17 for adoption by rule ~~incorporation into its rules~~. Beginning
18 ~~on or before March 1, 1991, the department, in consultation~~
19 ~~with the agency, shall report annually to the Legislature~~
20 ~~concerning its implementation of this subsection. The report~~
21 ~~shall include, at a minimum, the key quality-of-care standards~~
22 ~~which have been developed; the number of facilities identified~~
23 ~~as being eligible for the abbreviated inspection; the number~~
24 ~~of facilities which have received the abbreviated inspection~~
25 ~~and, of those, the number that were converted to full~~
26 ~~inspection; the number and type of subsequent complaints~~
27 ~~received by the agency or department on facilities which have~~
28 ~~had abbreviated inspections; any recommendations for~~
29 ~~modification to this subsection; any plans by the agency to~~
30 ~~modify its implementation of this subsection; and any other~~
31 ~~information which the department believes should be reported.~~

1 (5) The department may charge a reasonable fee to
2 cover the cost of duplication and postage for ~~A fee shall be~~
3 ~~charged by the department to any person requesting a copy of~~
4 ~~this part or rules adopted promulgated under this part. Such~~
5 ~~fees shall not exceed the actual cost of duplication and~~
6 ~~postage.~~

7 Section 6. Section 400.4411, Florida Statutes, is
8 created to read:

9 400.4411 Firesafety standards.--In accordance with s.
10 633.022 and this section, the State Fire Marshal, in
11 consultation with the department, the agency, and the
12 Department of Health, shall establish uniform firesafety
13 standards for assisted living facilities. The State Fire
14 Marshal is the final administrative authority for firesafety
15 standards established and enforced under this section.

16 (1) EVALUATION CAPABILITY DETERMINATION.--The
17 provisions of the National Fire Protection Association, NFPA
18 101A, chapter 5, 1995 edition, must be used to determine the
19 ability of residents, with or without staff assistance, to be
20 relocated from or within a facility to a point of safety as
21 provided in the firesafety standards.

22 (a) Each facility shall, within 6 months after the
23 date of initial licensing, evaluate the facility's evacuation
24 capability.

25 (b) Any existing facility that is not fully equipped
26 with an automatic fire sprinkler system shall evaluate its
27 evacuation capability at least annually. The local authority
28 that has jurisdiction over fire safety or the State Fire
29 Marshal shall, without liability, validate the evacuation
30 capability of such a facility before the facility's biennial
31 license renewal date. However, if the local authority has

1 reason to believe that the facility's evacuation capability as
2 reported by the facility may have changed, the local authority
3 may, with the assistance of the facility administrator,
4 reevaluate the evacuation capability through timed exiting
5 drills according to the following criteria:

- 6 1. Three minutes or less: prompt.
7 2. More than 3 minutes but not more than 13 minutes:
8 slow.
9 3. More than 13 minutes: impractical.

10 (c) A facility that is fully equipped with sprinklers
11 and is otherwise in compliance with all firesafety standards
12 is not required to conduct more than one of the required fire
13 drills between the hours of 11 p.m. and 7 a.m., per year.
14 Staff responsible for residents during those hours may be
15 required to participate in a mock drill that includes a review
16 of evacuation procedures. Such standards must be included or
17 referenced in the rules adopted by the State Fire Marshal.

18 (d) The administrator shall sign an affidavit
19 verifying the number of residents occupying the facility at
20 the time of the evacuation capability determination.

21 (2) FIRESAFETY REQUIREMENTS.--

22 (a) Except for the modifications provided in this
23 section, the provisions of the National Fire Protection
24 Association, Life Safety Code, NFPA, 1994 edition, chapter 22
25 for new facilities and chapter 23 for existing facilities,
26 shall be the firesafety standard for assisted living
27 facilities, pursuant to s. 633.022.

28 (b) Any new facility that applies for a license after
29 December 31, 1995, must be equipped with an automatic fire
30 sprinkler system. The exceptions provided in section
31 22-2.3.5.1 NFPA 101, 1994 edition, apply only to a new

1 facility housing eight or fewer residents. As used in this
2 section, the term "new facility" does not include an existing
3 facility that has undergone a transfer of ownership.

4 (c) Notwithstanding any provision of s. 633.022 or the
5 National Fire Protection Association, NFPA 101A, chapter 5,
6 1995 edition, any existing facility housing eight or fewer
7 residents is not required to install an automatic fire
8 sprinkler system nor to comply with any other requirement in
9 chapter 23 of NFPA 101, 1994 edition, which exceeds the
10 firesafety requirements of NFPA 101, 1988 edition, except that
11 a facility that has been classified as impractical to evacuate
12 must install an automatic fire sprinkler system within the
13 timeframes specified in this section.

14 (d) Any existing facility that is required to install
15 an automatic fire sprinkler system under this subsection need
16 not meet other firesafety requirements of chapter 23, NFPA
17 101, 1994 edition, which exceed the provisions of NFPA 101,
18 1988 edition. The provisions of this subsection which require
19 certain facilities to install an automatic fire sprinkler
20 system supersede any other requirement.

21 (e) This subsection does not supersede the exceptions
22 granted in NFPA 101, 1988 or 1994 edition.

23 (f) This subsection does not exempt facilities from
24 other firesafety provisions adopted under s. 633.022 and local
25 building code requirements in effect before July 1, 1995.

26 (g) Fees charged by a local government may not exceed
27 the actual expenses incurred by the local government in
28 connection with the installation and maintenance of an
29 automatic fire sprinkler system in an existing and properly
30 licensed assisted living facility.

31

1 (h) If a licensed facility undergoes major
2 reconstruction or addition to an existing building after
3 December 31, 1995, the entire building must be equipped with
4 an automatic fire sprinkler system. Major reconstruction of a
5 building means addition, repair, or restoration that costs
6 more than 50 percent of the value of the building as reported
7 on the tax rolls, excluding land, before reconstruction.
8 Multiple reconstruction projects that take place within a
9 5-year period the total costs of which exceed 50 percent of
10 the initial value of the building at the time the first
11 reconstruction project was permitted are to be considered
12 major reconstruction.

13 (i) Any facility licensed before January 1, 1996,
14 which is required to install an automatic fire sprinkler
15 system must complete the installation within the following
16 timeframes based upon the evacuation capability of the
17 facility as determined under subsection (1):

- 18 1. Impractical evacuation capability: 24 months.
- 19 2. Slow evacuation capability: 48 months.
- 20 3. Prompt evacuation capability: 60 months.

21 (j) Existing facilities that are required to install
22 an automatic fire sprinkler system as a result of
23 construction-type restrictions in chapter 23, NFPA 101, 1994
24 edition, or evacuation capability requirements shall be
25 notified by the local authority having jurisdiction, in
26 writing, of the automatic fire sprinkler requirement and of
27 the appropriate deadline date for final compliance. The
28 beginning date from which the deadline for final compliance is
29 calculated is the date on which the facility receives the
30 written notice from the local authority. The local authority
31 shall send to the agency a copy of each such notice.

1 (k) Except in case of life-threatening fire hazards,
2 if an existing facility experiences a change in evacuation
3 capability or if the local authority having jurisdiction
4 identifies a construction-type restriction that requires the
5 installation of an automatic fire sprinkler system, the
6 facility must be given time for installation as provided in
7 this subsection.

8 (l) It is recognized that the installation of an
9 automatic fire sprinkler system may create financial hardship
10 for some facilities. The appropriate local authority having
11 jurisdiction shall, without liability, grant two 1-year
12 extensions if an automatic fire sprinkler installation cost
13 estimate and proof of denial by two financial institutions of
14 a construction loan to install the automatic fire sprinkler
15 system are submitted. However, an extension may not be granted
16 to any facility that has had a class I, an uncorrected class
17 II, or a history of uncorrected class III firesafety
18 violations. The local authority shall send to the agency a
19 copy of each document granting a time extension.

20 (m) A facility owner of an existing facility that is
21 required to be equipped with an automatic fire sprinkler
22 system must disclose the requirement to any potential buyer.
23 The sale of the facility does not alter the timeframe for the
24 installation of the automatic fire sprinkler system.

25 (3) FIRESAFETY INSPECTIONS.--Each licensed facility
26 must have an annual fire inspection conducted by the local
27 authority having jurisdiction or the State Fire Marshal.

28 (4) TRAINING.--

29 (a) The State Fire Marshal shall provide or cause to
30 be provided training and education on the proper application
31 of chapter 5, NFPA 101A, 1995 edition, to its employees, to

1 agency staff who are responsible for regulating facilities
2 under this part, and to local government inspectors. The State
3 Fire Marshal may charge a fee to offset training costs.

4 (b) The State Fire Marshal, in cooperation with
5 provider associations, shall provide or cause to be provided a
6 training program designed to inform facility operators how to
7 properly review bid documents relating to the installation of
8 automatic fire sprinklers. The State Fire Marshal may charge a
9 fee to offset training costs.

10 Section 7. Section 400.452, Florida Statutes, 1998
11 Supplement, is amended to read:

12 400.452 Staff training and educational programs; core
13 educational requirement.--

14 (1) The department shall provide, or cause to be
15 provided, training and educational programs for ~~the~~
16 administrators and other assisted living facility staff to
17 better enable them to appropriately respond to the needs of
18 residents, to maintain resident care and facility standards,
19 and to meet licensure requirements.

20 (2) The department shall also establish an assisted
21 living facility ~~a core educational program requirement to be~~
22 ~~used in these programs.~~ Successful completion of the core
23 educational requirement must include successful completion of
24 a competency test. The core training program must be available
25 at least quarterly in each planning and service area of the
26 department. A new facility administrator must complete the
27 core educational requirement within 3 months after being
28 employed as an administrator. Failure to complete the core
29 educational requirement is a violation of this part and
30 subjects the violator to a penalty as prescribed in s.
31 400.419. Administrators licensed in accordance with chapter

1 486, part II, are exempt from this requirement.~~Programs must~~
2 ~~be provided by the department or by a provider approved by the~~
3 ~~department at least quarterly.~~ The core training program
4 ~~educational requirement must, at a minimum, cover at least the~~
5 following topics:

6 (a) State law and rules relating to assisted living
7 facilities.

8 (b) Resident rights and identifying and reporting
9 abuse, neglect, and exploitation.

10 (c) Special needs of elderly persons, persons with
11 mental illness, and persons with developmental disabilities
12 and how to meet those needs.

13 (d) Nutrition and food service, including acceptable
14 sanitation practices for preparing, storing, and serving food.

15 (e) Medication practice, management, and recordkeeping
16 in an assisted living facility, ~~and proper techniques for~~
17 ~~assisting residents with self-administered medication.~~

18 (f) Firesafety requirements, ~~including fire evacuation~~
19 ~~drill procedures~~ and other emergency procedures.

20 (g) Care of persons with Alzheimer's disease and
21 related disorders.

22 ~~(3) Such a program must be available at least~~
23 ~~quarterly in each planning and service area of the department.~~
24 ~~The competency test must be developed by the department in~~
25 ~~conjunction with the agency and providers. A new facility~~
26 ~~administrator must complete the core educational requirement~~
27 ~~including the competency test within 3 months after being~~
28 ~~employed as an administrator. Failure to complete a core~~
29 ~~educational requirement specified in this subsection is a~~
30 ~~violation of this part and subjects the violator to an~~
31 ~~administrative fine as prescribed in s. 400.419.~~

1 ~~Administrators licensed in accordance with chapter 468, part~~
2 ~~II, are exempt from this requirement. Other licensed~~
3 ~~professionals may be exempted, as determined by the department~~
4 ~~by rule.~~

5 (3)~~(4)~~ Administrators are required to participate in a
6 minimum of 12 hours of continuing education ~~for a minimum of~~
7 ~~12 contact hours~~ every 2 years.

8 (4)~~(5)~~ Staff involved with the management of
9 medications and assisting with the self-administration of
10 medications under s. 400.4256 must complete a minimum of 4
11 hours of training pursuant to a curriculum developed by the
12 department and provided by a registered nurse, licensed
13 pharmacist, or department staff.

14 (5)~~(6)~~ Other facility staff shall participate in
15 training relevant to their job duties as specified by rule of
16 the department.

17 (6)~~(7)~~ A facility that does not have any residents who
18 receive monthly optional supplementation payments must pay a
19 reasonable fee for such training and education programs. A
20 facility that has one or more such residents shall pay a
21 reduced fee that is proportional to the percentage of such
22 residents in the facility. Any facility more than 90 percent
23 of whose residents receive monthly optional state
24 supplementation payments is not required to pay for the
25 training and continuing education programs required under this
26 section. Failure to pay training fees in accordance with this
27 subsection is a violation of this part and subjects the
28 violator to a penalty as prescribed in s. 400.419.

29 (7)~~(8)~~ If the department or the agency determines that
30 there are problems in a facility that could be reduced through
31 specific staff training or education beyond that already

1 required under this section, the department or the agency may
2 require, and provide, or cause to be provided, the training or
3 education of any personal care staff in the facility.

4 ~~(8)(9)~~ The department shall adopt rules to establish
5 training programs, standards and curriculum for training,
6 staff training requirements, training fees, and procedures for
7 approving training programs, ~~and training fees~~. The department
8 may charge a reasonable fee to review the curriculum and
9 qualifications of anyone who seeks to provide approved
10 training programs under this section and rules adopted under
11 this section.

12 Section 8. This act shall take effect July 1, 1999.

13
14 *****

15 SENATE SUMMARY

16 Revises provisions relating to assisted living
17 facilities. Revises training requirements for staff that
18 provide special care for residents who have Alzheimer's
19 disease or related disorders. Amends provisions relating
20 to contracts between the facilities and their residents.
21 Revises guidelines for providing nursing services to
22 residents. Allows facilities to honor do-not-resuscitate
23 orders. Prohibits a staff member's acting as a resident's
24 attorney-in-fact unless the two of them are relatives.
25 Deletes firesafety requirements from the rulemaking
26 authority of the Department of Elderly Affairs. Provides
27 the authority to make rules pertaining to advertising,
28 nursing services, and security. Deletes authority to
29 dispose of fees and fines. Removes from the facilities
30 the responsibility for the medical regulation of chemical
31 restraints. Deletes a requirement to send proposed rule
drafts to the Legislature. Allows the Department of
Elderly Affairs, rather than the Agency for Health Care
Administration, to provide waivers from department rules.
Requires the department, rather than the agency, to
develop abbreviated inspection procedures and standards.
Deletes a requirement of an annual report. Revises
departmental training requirements. Allows the department
to charge a fee for approving training curricula and
training providers.