

By the Committee on Elder Affairs & Long-Term Care and Representatives Argenziano, Crist, Fiorentino, Sobel, Kosmas, Levine, Reddick, Bilirakis, Littlefield, Russell, Jacobs, Bitner, Murman and Fasano

1 A bill to be entitled
2 An act relating to nursing home facilities;
3 creating s. 400.0078, F.S.; requiring the
4 Office of State Long-Term Care Ombudsman to
5 establish a statewide toll-free telephone
6 number; amending s. 400.022, F.S.; providing
7 immediate access to residents for
8 representatives of the Office of the Attorney
9 General; creating s. 400.0225, F.S.; directing
10 the Agency for Health Care Administration to
11 contract for consumer satisfaction surveys for
12 nursing home residents; providing procedures
13 and requirements for use of such surveys;
14 amending s. 400.0255, F.S.; defining terms
15 relating to facility decisions to transfer or
16 discharge a resident; providing procedures,
17 requirements, and limitations; requiring notice
18 to the agency under certain circumstances;
19 providing for review of a notice of discharge
20 or transfer by the district long-term care
21 ombudsman, upon request; specifying timeframes;
22 amending s. 400.071, F.S.; providing additional
23 requirements for licensure and renewal;
24 providing a certificate-of-need preference for
25 Gold Seal licensees; creating s. 400.118, F.S.;
26 directing the agency to establish a quality
27 assurance early warning system; providing for
28 quality-of-care monitoring; providing duties of
29 monitors; excluding certain information from
30 discovery or introduction in evidence in civil
31 or administrative actions; providing for rapid

1 response teams; amending s. 400.121, F.S.;
2 authorizing the agency to require certain
3 facilities to increase staffing; authorizing
4 such facilities to request an expedited interim
5 rate increase; providing a penalty; amending s.
6 400.141, F.S.; providing requirements for
7 appointment of a medical director; providing
8 for resident use of a community pharmacy and
9 for certain repackaging of prescription
10 medication; providing for immunity from
11 liability in the administration of repackaged
12 medication; revising conditions for encouraging
13 facilities to provide other needed services;
14 requiring public display of certain assistance
15 information; authorizing Gold Seal facilities
16 to develop programs to provide certified
17 nursing assistant training; amending s.
18 400.162, F.S.; revising procedures and policies
19 regarding the safekeeping of residents'
20 property; amending s. 400.19, F.S., relating to
21 the agency's right of entry and inspection;
22 providing a time period for investigation of
23 certain complaints; amending s. 400.191, F.S.;
24 revising requirements for provision of
25 information to the public by the agency;
26 amending s. 400.215, F.S.; specifying
27 conditions for probationary employment of
28 applicants, pending results of an abuse
29 registry screening; requiring the agency to
30 provide a direct-access screening system;
31 amending s. 400.23, F.S.; abolishing the

1 Nursing Home Advisory Committee; revising the
2 system for evaluating facility compliance with
3 licensure requirements; eliminating ratings and
4 providing for standard or conditional licensure
5 status; directing the agency to adopt rules to
6 provide minimum staffing requirements for
7 nursing homes and to allow certain staff to
8 assist residents with eating; increasing the
9 maximum penalties for deficiencies in facility
10 operations; creating s. 400.235, F.S.;
11 providing for development of a Gold Seal
12 Program for recognition of facilities
13 demonstrating excellence in long-term care;
14 establishing a Panel on Excellence in Long-Term
15 Care under the Executive Office of the
16 Governor; providing membership; providing
17 program criteria; providing for duties of the
18 panel and the Governor; providing for agency
19 rules; providing for biennial relicensure of
20 Gold Seal Program facilities, under certain
21 conditions; amending s. 400.241, F.S.;
22 prohibiting willful interference with an
23 unannounced inspection; providing a penalty;
24 amending s. 408.035, F.S.; providing
25 certificate-of-need review criteria for Gold
26 Seal facilities; creating s. 430.80, F.S.;
27 requiring that the Agency for Health Care
28 Administration implement a pilot project for
29 establishing teaching nursing homes; specifying
30 requirements for a nursing home facility to be
31 designated as a teaching nursing home;

1 requiring that the agency develop additional
2 criteria; authorizing a teaching nursing home
3 to be affiliated with a medical school within
4 the State University System; providing for
5 annual appropriations to a teaching nursing
6 home; providing certain limitations on the
7 expenditure of funds by a teaching nursing
8 home; amending s. 468.1755, F.S.; providing for
9 disciplinary action against a nursing home
10 administrator who authorizes discharge or
11 transfer of a resident for a reason other than
12 provided by law; amending ss. 394.4625,
13 400.063, and 468.1756, F.S.; correcting cross
14 references; reenacting ss. 468.1695(3) and
15 468.1735, F.S.; incorporating the amendment to
16 s. 468.1755, F.S., in references thereto;
17 providing for funding for recruitment of
18 qualified nursing facility staff; creating a
19 panel on Medicaid reimbursement; providing
20 membership and duties; requiring reports;
21 providing for expiration; requiring a study of
22 factors affecting recruitment, training,
23 employment, and retention of qualified
24 certified nursing assistants; requiring a
25 report; repealing s. 400.29, F.S., relating to
26 an agency annual report of nursing home
27 facilities; providing appropriations; providing
28 effective dates.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Section 400.0078, Florida Statutes, is
2 created to read:

3 400.0078 Statewide toll-free telephone number.--The
4 Office of State Long-Term Care Ombudsman shall establish a
5 statewide toll-free telephone number for receiving complaints
6 concerning nursing facilities.

7 Section 2. Paragraph (c) of subsection (1) of section
8 400.022, Florida Statutes, is amended to read:

9 400.022 Residents' rights.--

10 (1) All licensees of nursing home facilities shall
11 adopt and make public a statement of the rights and
12 responsibilities of the residents of such facilities and shall
13 treat such residents in accordance with the provisions of that
14 statement. The statement shall assure each resident the
15 following:

16 (c) Any entity or individual that provides health,
17 social, legal, or other services to a resident has the right
18 to have reasonable access to the resident. The resident has
19 the right to deny or withdraw consent to access at any time by
20 any entity or individual. Notwithstanding the visiting policy
21 of the facility, the following individuals must be permitted
22 immediate access to the resident:

23 1. Any representative of the federal or state
24 government, including, but not limited to, representatives of
25 the Department of Children and Family Health and
26 ~~Rehabilitative~~ Services, the Department of Health,the Agency
27 for Health Care Administration, the Office of the Attorney
28 General,and the Department of Elderly Affairs; any law
29 enforcement officer; members of the state or district
30 ombudsman council; and the resident's individual physician.

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1 2. Subject to the resident's right to deny or withdraw
2 consent, immediate family or other relatives of the resident.

3
4 The facility must allow representatives of the State ~~Nursing~~
5 ~~Home and Long-Term Care Facility~~ Ombudsman Council to examine
6 a resident's clinical records with the permission of the
7 resident or the resident's legal representative and consistent
8 with state law.

9 Section 3. Section 400.0225, Florida Statutes, is
10 created to read:

11 400.0225 Consumer satisfaction surveys.--The agency,
12 or its contractor, in consultation with the nursing home
13 industry and consumer representatives, shall develop an
14 easy-to-use consumer satisfaction survey, shall ensure that
15 every nursing facility licensed pursuant to this part
16 participates in assessing consumer satisfaction, and shall
17 establish procedures to ensure that, at least annually, a
18 representative sample of residents of each facility is
19 selected to participate in the survey. The sample shall be of
20 sufficient size to allow comparisons between and among
21 facilities. Family members, guardians, or other resident
22 designees may assist the resident in completing the survey.
23 Employees and volunteers of the nursing facility or of a
24 corporation or business entity with an ownership interest in
25 the facility are prohibited from assisting a resident with or
26 attempting to influence a resident's responses to the consumer
27 satisfaction survey. The agency, or its contractor, shall
28 survey family members, guardians, or other resident designees
29 when the resident is mentally incapable of responding to the
30 survey. The agency, or its contractor, shall specify the
31 protocol for conducting and reporting the consumer

1 satisfaction surveys. Reports of consumer satisfaction surveys
2 shall protect the identity of individual respondents. The
3 agency shall contract for consumer satisfaction surveys and
4 report the results of those surveys in the consumer
5 information materials prepared and distributed by the agency.

6 Section 4. Section 400.0231, Florida Statutes, is
7 renumbered as section 400.1415, Florida Statutes.

8 Section 5. Section 400.0255, Florida Statutes, is
9 amended to read:

10 400.0255 Resident ~~hearings of facility decisions to~~
11 ~~transfer or discharge; requirements and procedures;~~
12 hearings.--

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

14 (a) "Discharge" means to move a resident to a
15 noninstitutional setting when the releasing facility ceases to
16 be responsible for the resident's care.

17 (b) "Transfer" means to move a resident from the
18 facility to another legally responsible institutional setting.
19 ~~"discharge" or "transfer" means the movement of a resident to~~
20 ~~a bed outside the certified facility. "Discharge" or~~
21 ~~"transfer" does not refer to the movement of a resident to a~~
22 ~~bed within the same certified facility.~~

23 (2) Each facility licensed under this part must comply
24 with subsection (10) and s. 400.022(1)(p) when deciding to
25 discharge or transfer a resident.

26 (3) When a resident is to be discharged or
27 transferred, the nursing home administrator employed by the
28 nursing home that is discharging or transferring the resident,
29 or an individual employed by the nursing home who is
30 designated by the nursing home administrator to act on behalf
31 of the administrator, must sign the notice of discharge or

1 transfer. Any notice indicating a medical reason for transfer
2 or discharge must be signed by the resident's attending
3 physician or the medical director of the facility.

4 (4)(a) Each facility must notify the agency of any
5 proposed discharge or transfer of a resident when such
6 discharge or transfer is necessitated by changes in the
7 physical plant of the facility that make the facility unsafe
8 for the resident.

9 (b) Upon receipt of such a notice, the agency shall
10 conduct an onsite inspection of the facility to verify the
11 necessity of the discharge or transfer.

12 (5)(2) A resident of any Medicaid or Medicare
13 certified facility may challenge a decision by the facility to
14 discharge or transfer the resident.

15 (6) The facility may not cite a lack of
16 Medicaid-certified beds as a reason for a transfer or
17 discharge unless the facility has been denied permission by
18 the agency to add a vacant bed to the number of
19 Medicaid-certified beds.

20 (7) A facility that has been reimbursed for reserving
21 a bed and, for reasons other than those permitted under this
22 section, refuses to readmit a resident within the prescribed
23 timeframe shall refund the bed reservation payment.

24 (8)(3) At least 30 days prior to any proposed transfer
25 or discharge, a facility must provide advance notice of the
26 proposed transfer or discharge to the resident and, if known,
27 to a family member or the resident's legal guardian or
28 representative, except, in the following circumstances, the
29 facility shall give notice as soon as practicable before the
30 transfer or discharge:

31

1 (a) The transfer or discharge is necessary for the
2 resident's welfare and the resident's needs cannot be met in
3 the facility, and the circumstances are documented in the
4 resident's medical records by the resident's physician; or

5 (b) The health or safety of other residents or
6 facility employees would be endangered, and the circumstances
7 are documented in the resident's medical records by the
8 resident's physician or the medical director if the resident's
9 physician is not available.

10 ~~(9)(4)~~ The notice required by subsection ~~(8)(3)~~ must
11 be in writing and must contain all information required by
12 state and federal law, rules, or regulations applicable to
13 Medicaid or Medicare cases. The agency shall develop a
14 standard document to be used by all facilities licensed under
15 this part for purposes of notifying residents of a discharge
16 or transfer. Such document must include a means for a resident
17 to request the district long-term care ombudsman council to
18 review the notice and request information about or assistance
19 with initiating a fair hearing with the department's Office of
20 Appeals Hearings. In addition to any other pertinent
21 information included, the form shall specify the reason
22 allowed under federal or state law that the resident is being
23 discharged or transferred, with an explanation to support this
24 action. Further, the form shall state the effective date of
25 the discharge or transfer and the location to which the
26 resident is being discharged or transferred. The form shall
27 clearly describe the resident's appeal rights and the
28 procedures for filing an appeal, including the right to
29 request the district ombudsman council to review the notice of
30 discharge or transfer. A copy of the notice must be placed in
31 the resident's clinical record, and a copy must be transmitted

1 to the resident's legal guardian or representative and to the
2 ~~local~~ district ombudsman council.

3 (10) A resident may request that the district
4 ombudsman council review any notice of discharge or transfer
5 given to the resident. When requested by a resident to review
6 a notice of discharge or transfer, the district ombudsman
7 council shall do so within 7 days after receipt of the
8 request. The nursing home administrator, or the
9 administrator's designee, must forward the request for review
10 contained in the notice to the district ombudsman council
11 within 24 hours after such request is submitted. Failure to
12 forward the request within 24 hours after the request is
13 submitted shall toll the running of the 30-day advance notice
14 period until the request has been forwarded.

15 (11)(5)(a) A resident is entitled to a fair hearing to
16 challenge a facility's proposed transfer or discharge. The
17 resident, or the resident's legal representative or designee,
18 may request a hearing at any time within 90 days after ~~of~~ the
19 resident's receipt of the facility's notice of the proposed
20 discharge or transfer.

21 (b) If a resident requests a hearing within 10 days
22 after ~~of~~ receiving the notice from the facility, the request
23 shall stay the proposed transfer or discharge pending a
24 hearing decision. The facility may not take action, and the
25 resident may remain in the facility, until the outcome of the
26 initial fair hearing, which must be completed within 90 days
27 after ~~of~~ receipt of a request for a fair hearing.

28 (c) If the resident fails to request a hearing within
29 10 days after ~~of~~ receipt of the facility notice of the
30 proposed discharge or transfer, the facility may transfer or
31

1 discharge the resident after 30 days from the date the
2 resident received the notice.

3 (12)~~(6)~~ Notwithstanding paragraph(11)~~(b)~~~~(5)~~~~(b)~~, an
4 emergency discharge or transfer may be implemented as
5 necessary pursuant to state or federal law during the period
6 of time after the notice is given and before the time a
7 hearing decision is rendered. Notice of an emergency discharge
8 or transfer to the resident, the resident's legal guardian or
9 representative, and the district ombudsman council if
10 requested pursuant to subsection (10) must be by telephone or
11 in person. This notice shall be given before the transfer, if
12 possible, or as soon thereafter as practicable. A district
13 ombudsman council conducting a review under this subsection
14 shall do so within 24 hours after receipt of the request. The
15 resident's file must be documented to show who was contacted,
16 whether the contact was by telephone or in person, and the
17 date and time of the contact. If the notice is not given in
18 writing, written notice meeting the requirements of subsection
19 ~~(9)~~~~(4)~~ must be given the next working day.

20 (13) After receipt of any notice required under this
21 section, the district ombudsman council may request a private
22 informal conversation with a resident to whom the notice is
23 directed, and, if known, a family member or the resident's
24 legal guardian or designee, to ensure that the facility is
25 proceeding with the discharge or transfer in accordance with
26 the requirements of this section. If requested, the district
27 ombudsman council shall assist the resident with filing an
28 appeal of the proposed discharge or transfer.

29 (14)~~(7)~~ The following persons must be present at all
30 hearings ~~proceedings~~ authorized under this section:
31

1 (a) The resident, or the resident's legal
2 representative or designee.

3 (b) The facility administrator, or the facility's
4 legal representative or designee.

5
6 A representative of the district long-term care ombudsman
7 council may be present at all hearings ~~proceedings~~ authorized
8 by this section.

9 ~~(15)(8)~~ In any hearing ~~proceeding~~ under this section,
10 the following information concerning the parties shall be
11 confidential and exempt from the provisions of s. 119.07(1):

12 (a) Names and addresses.

13 (b) Medical services provided.

14 (c) Social and economic conditions or circumstances.

15 (d) Evaluation of personal information.

16 (e) Medical data, including diagnosis and past history
17 of disease or disability.

18 (f) Any information received verifying income
19 eligibility and amount of medical assistance payments. Income
20 information received from the Social Security Administration
21 or the Internal Revenue Service must be safeguarded according
22 to the requirements of the agency that furnished the data.

23
24 The exemption created by this subsection does not prohibit
25 access to such information by a district long-term care
26 ombudsman council upon request, by a reviewing court if such
27 information is required to be part of the record upon
28 subsequent review, or as specified in s. 24(a), Art. I of the
29 State Constitution.

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31

1 ~~(16)(9)~~(a) The department's Office of Appeals Hearings
2 shall conduct hearings under this section. The office shall
3 notify the facility of a resident's request for a hearing.

4 (b) The department shall, by rule, establish
5 procedures to be used for fair hearings requested by
6 residents. These procedures shall be equivalent to the
7 procedures used for fair hearings for other Medicaid cases,
8 chapter 10-2, part VI, Florida Administrative Code. The
9 burden of proof must be clear and convincing evidence. A
10 hearing decision must be rendered within 90 days after ~~of~~
11 receipt of the request for hearing.

12 ~~(c)(10)~~ If the hearing decision is favorable to the
13 resident who has been transferred or discharged, the resident
14 must be readmitted to the facility's first available bed.

15 ~~(d)(11)~~ The decision of the hearing officer shall be
16 final. Any aggrieved party may appeal the decision to the
17 district court of appeal in the appellate district where the
18 facility is located. Review procedures shall be conducted in
19 accordance with the Florida Rules of Appellate Procedure.

20 ~~(17)(12)~~ The department may adopt rules necessary to
21 administer ~~implement the provisions of~~ this section.

22 Section 6. Paragraph (g) is added to subsection (2) of
23 section 400.071, Florida Statutes, 1998 Supplement, present
24 subsections (8) and (9) are amended and renumbered as
25 subsections (9) and (10), respectively, and a new subsection
26 (8) is added to said section, to read:

27 400.071 Application for license.--

28 (2) The application shall be under oath and shall
29 contain the following:

30 (g) Copies of any civil verdict or judgment involving
31 the applicant rendered within the 10 years preceding the

1 application, relating to medical negligence, violation of
2 residents' rights, or wrongful death. As a condition of
3 licensure, the licensee agrees to provide to the agency copies
4 of any new verdict or judgment involving the applicant,
5 relating to such matters, within 30 days after filing with the
6 clerk of the court. The information required in this
7 paragraph shall be maintained in the facility's licensure file
8 and in an agency database which is available as a public
9 record.

10 (8) As a condition of licensure, each facility must
11 agree to participate in a consumer satisfaction measurement
12 process as prescribed by the agency.

13 (9)(8) The agency may not issue a license to a nursing
14 home that fails to receive a certificate of need under the
15 provisions of ss. 408.031-408.045. It is the intent of the
16 Legislature that, in reviewing a certificate-of-need
17 application to add beds to an existing nursing home facility,
18 preference be given to the application of a licensee who has
19 been awarded a Gold Seal as provided for in s. 400.235, if the
20 applicant otherwise meets the review criteria specified in s.
21 408.035.

22 (10)(9) The agency may develop an abbreviated survey
23 for licensure renewal applicable to a licensee that has
24 continuously operated as a nursing facility since 1991 or
25 earlier, and has operated under the same management for at
26 least the preceding 30 months, and has had during the
27 preceding 30 months no class I or class II deficiencies
28 maintained a superior rating during that period.

29 Section 7. Section 400.118, Florida Statutes, is
30 created to read:
31

1 400.118 Quality assurance; early warning system;
2 monitoring; rapid response teams.--

3 (1) The agency shall establish an early warning system
4 to detect conditions in nursing facilities that could be
5 detrimental to the health, safety, and welfare of residents.
6 The early warning system shall include, but not be limited to,
7 analysis of financial and quality-of-care indicators that
8 would predict the need for the agency to take action pursuant
9 to the authority set forth in this part.

10 (2)(a) The agency shall establish within each district
11 office one or more quality-of-care monitors, based on the
12 number of nursing facilities in the district, to monitor all
13 nursing facilities in the district on a regular, unannounced,
14 aperiodic basis, including nights, evenings, weekends, and
15 holidays. Priority for monitoring visits shall be given to
16 nursing facilities with a history of patient care
17 deficiencies. Quality-of-care monitors shall be registered
18 nurses who are trained and experienced in nursing facility
19 regulation, standards of practice in long-term care, and
20 evaluation of patient care. Individuals in these positions
21 shall not be deployed by the agency as a part of the district
22 survey team in the conduct of routine, scheduled surveys, but
23 shall function solely and independently as quality-of-care
24 monitors. Quality-of-care monitors shall assess the overall
25 quality of life in the nursing facility and shall assess
26 specific conditions in the facility directly related to
27 patient care. The quality-of-care monitor shall include in an
28 assessment visit observation of the care and services rendered
29 to residents and formal and informal interviews with
30 residents, family members, facility staff, resident guests,
31 volunteers, other regulatory staff, and representatives of a

1 long-term care ombudsman council or human rights advocacy
2 committee.

3 (b) Findings of a monitoring visit, both positive and
4 negative, shall be provided orally and in writing to the
5 facility administrator or, in the absence of the facility
6 administrator, to the administrator on duty or the director of
7 nursing. The quality-of-care monitor may recommend to the
8 facility administrator procedural and policy changes and staff
9 training, as needed, to improve the care or quality of life of
10 facility residents. Conditions observed by the quality-of-care
11 monitor which threaten the health or safety of a resident
12 shall be reported immediately to the agency area office
13 supervisor for appropriate regulatory action and, as
14 appropriate or as required by law, to law enforcement, adult
15 protective services, or other responsible agencies.

16 (c) Any record, whether written or oral, or any
17 written or oral communication generated pursuant to paragraph
18 (a) or paragraph (b) shall not be subject to discovery or
19 introduction into evidence in any civil or administrative
20 action against a nursing facility arising out of matters which
21 are the subject of quality-of-care monitoring, and a person
22 who was in attendance at a monitoring visit or evaluation may
23 not be permitted or required to testify in any such civil or
24 administrative action as to any evidence or other matters
25 produced or presented during the monitoring visits or
26 evaluations. However, information, documents, or records
27 otherwise available from original sources are not to be
28 construed as immune from discovery or use in any such civil or
29 administrative action merely because they were presented
30 during monitoring visits or evaluations, and any person who
31 participates in such activities may not be prevented from

1 testifying as to matters within his or her knowledge, but such
2 witness may not be asked about his or her participation in
3 such activities. The exclusion from the discovery or
4 introduction of evidence in any civil or administrative action
5 provided for herein shall not apply when the quality-of-care
6 monitor makes a report to the appropriate authorities
7 regarding a threat to the health or safety of a resident.

8 (3) The agency shall also create teams of experts that
9 can function as rapid response teams to visit nursing
10 facilities identified through the agency's early warning
11 system. Rapid response teams may visit facilities that request
12 the agency's assistance. The rapid response teams shall not be
13 deployed for the purpose of helping a facility prepare for a
14 regular survey.

15 Section 8. Subsection (6) is added to section 400.121,
16 Florida Statutes, 1998 Supplement, to read:

17 400.121 Denial, suspension, revocation of license;
18 moratorium on admissions; administrative fines; procedure.--

19 (6) The agency is authorized to require a facility to
20 increase staffing beyond the minimum required by law, if the
21 agency has taken administrative action against the facility
22 for care-related deficiencies directly attributable to
23 insufficient staff. Under such circumstances, the facility may
24 request an expedited interim rate increase. The agency shall
25 process the request within 10 days after receipt of all
26 required documentation from the facility. A facility that
27 fails to maintain the required increased staffing is subject
28 to a fine of \$500 per day for each day the staffing is below
29 the level required by the agency.

30 Section 9. Section 400.141, Florida Statutes, is
31 amended to read:

1 400.141 Administration and management of nursing home
2 facilities.--Every licensed facility shall comply with all
3 applicable standards and rules of the agency and shall:

4 (1) Be under the administrative direction and charge
5 of a licensed administrator.

6 (2) Appoint a medical director licensed pursuant to
7 chapter 458 or chapter 459. The agency may establish by rule
8 more specific criteria for the appointment of a medical
9 director.

10 ~~(3)~~(2) Have available the regular, consultative, and
11 emergency services of physicians licensed by the state.

12 ~~(4)~~(3) Provide for the access of the facility
13 residents to dental and other health-related services,
14 recreational services, rehabilitative services, and social
15 work services appropriate to their needs and conditions and
16 not directly furnished by the licensee. When a geriatric
17 outpatient nurse clinic is conducted in accordance with rules
18 adopted by the agency, outpatients attending such clinic shall
19 not be counted as part of the general resident population of
20 the nursing home facility, nor shall the nursing staff of the
21 geriatric outpatient clinic be counted as part of the nursing
22 staff of the facility, until the outpatient clinic load
23 exceeds 15 a day.

24 (5) Provide for resident use of a community pharmacy
25 as specified in s. 400.022(1)(q). Any other law to the
26 contrary notwithstanding, a registered pharmacist licensed in
27 Florida may repackage a nursing facility resident's bulk
28 prescription medication which has been packaged by another
29 pharmacist licensed in any state in the United States into a
30 unit dose system compatible with the system used by the
31 nursing facility, if such resident has bulk prescription

1 medication benefits covered under a qualified pension plan as
2 specified in s. 4972 of the Internal Revenue Code, a federal
3 retirement program as specified under 5 C.F.R. s. 831, or a
4 long-term care policy as defined in s. 627.9404(1). A
5 pharmacist who correctly repackages and relabels the
6 medication and the nursing facility which correctly
7 administers such repackaged medication under the provisions of
8 this subsection shall not be held liable in any civil or
9 administrative action arising from the repackaging. In order
10 to be eligible for the repackaging, a nursing facility
11 resident for whom the medication is to be repackaged shall
12 sign an informed consent form provided by the facility which
13 includes an explanation of the repackaging process and which
14 notifies the resident of the immunities from liability
15 provided herein.

16 (6)(4) Be allowed and encouraged by the agency to
17 provide other needed services under certain conditions.If the
18 facility has a standard licensure status, and has had no class
19 I or class II deficiencies during the past 2 years or has been
20 awarded a Gold Seal under the program established in s.
21 400.235, it may ~~is rated superior or standard,~~be encouraged
22 by the agency to provide services, including, but not limited
23 to, respite and adult day services, which enable individuals
24 to move in and out of the facility. A facility is not subject
25 to any additional licensure requirements for providing these
26 services. Respite care may be offered to persons in need of
27 short-term or temporary nursing home services. Respite care
28 must be provided in accordance with this part and rules
29 adopted by the agency. However, the agency shall, by rule,
30 adopt modified requirements for resident assessment, resident
31 care plans, resident contracts, physician orders, and other

1 provisions, as appropriate, for short-term or temporary
2 nursing home services. The agency shall allow for shared
3 programming and staff in a facility which meets minimum
4 standards and offers services pursuant to this subsection,
5 but, if the facility is cited for deficiencies in patient
6 care, may require additional staff and programs appropriate to
7 the needs of service recipients. A person who receives respite
8 care may not be counted as a resident of the facility for
9 purposes of the facility's licensed capacity unless that
10 person receives 24-hour respite care. A person receiving
11 either respite care for 24 hours or longer or adult day
12 services must be included when calculating minimum staffing
13 for the facility. Any costs and revenues generated by a
14 nursing home facility from nonresidential programs or services
15 shall be excluded from the calculations of Medicaid per diems
16 for nursing home institutional care reimbursement.

17 (7)~~(5)~~ If the facility has a standard licensure status
18 or is a Gold Seal facility ~~is rated superior or standard,~~
19 exceeds minimum staffing standards, and is part of a
20 retirement community that offers other services pursuant to
21 part III, part IV, or part V, be allowed to share programming
22 and staff. At the time of relicensure, a retirement community
23 that uses this option must demonstrate through staffing
24 records that minimum staffing requirements for the facility
25 were exceeded.

26 (8)~~(6)~~ Maintain the facility premises and equipment
27 and conduct its operations in a safe and sanitary manner.

28 (9)~~(7)~~ If the licensee furnishes food service, provide
29 a wholesome and nourishing diet sufficient to meet generally
30 accepted standards of proper nutrition for its residents and
31 provide such therapeutic diets as may be prescribed by

1 attending physicians. In making rules to implement this
2 subsection, the agency shall be guided by standards
3 recommended by nationally recognized professional groups and
4 associations with knowledge of dietetics.

5 (10)~~(8)~~ Keep full records of resident admissions and
6 discharges; medical and general health status, including
7 medical records, personal and social history, and identity and
8 address of next of kin or other persons who may have
9 responsibility for the affairs of the residents; and
10 individual resident care plans including, but not limited to,
11 prescribed services, service frequency and duration, and
12 service goals. The records shall be open to inspection by the
13 agency.

14 (11)~~(9)~~ Keep such fiscal records of its operations and
15 conditions as may be necessary to provide information pursuant
16 to this part.

17 (12)~~(10)~~ Furnish copies of personnel records for
18 employees affiliated with such facility, to any other facility
19 licensed by this state requesting this information pursuant to
20 this part. Such information contained in the records may
21 include, but is not limited to, disciplinary matters and any
22 reason for termination. Any facility releasing such records
23 pursuant to this part shall be considered to be acting in good
24 faith and may not be held liable for information contained in
25 such records, absent a showing that the facility maliciously
26 falsified such records.

27 (13) Publicly display a poster provided by the agency
28 containing the names, addresses, and telephone numbers for the
29 state's abuse hotline, the State Long-Term Care Ombudsman, the
30 Agency for Health Care Administration consumer hotline, the
31 Advocacy Center for Persons with Disabilities, the Statewide

1 Human Rights Advocacy Committee, and the Medicaid Fraud
2 Control Unit, with a clear description of the assistance to be
3 expected from each.

4
5 Facilities that have been awarded a Gold Seal under the
6 program established in s. 400.235 may develop a plan to
7 provide certified nursing assistant training as prescribed by
8 federal regulations and state rules and may apply to the
9 agency for approval of its program.

10 Section 10. Subsection (3) of section 400.162, Florida
11 Statutes, is amended to read:

12 400.162 Property and personal affairs of residents.--

13 (3) A licensee shall provide for the safekeeping of
14 personal effects, funds, and other property of the resident in
15 the facility. Whenever necessary for the protection of
16 valuables, or in order to avoid unreasonable responsibility
17 therefor, the licensee may require that such valuables be
18 excluded or removed from the facility and kept at some place
19 not subject to the control of the licensee. At the request of
20 a resident, the facility shall mark the resident's personal
21 property with the resident's name or another type of
22 identification, without defacing the property. Any theft or
23 loss of a resident's personal property shall be documented by
24 the facility. The facility shall develop policies and
25 procedures to minimize the risk of theft or loss of the
26 personal property of residents. A copy of the policy shall be
27 provided to every employee and to each resident at admission.
28 Facility policies must include provisions related to reporting
29 theft or loss of a resident's property to law enforcement and
30 any facility waiver of liability for loss or theft. The

1 facility shall post notice of these policies and procedures,
2 and any revision thereof, in places accessible to residents.

3 Section 11. Subsections (1) and (4) of section 400.19,
4 Florida Statutes, are amended to read:

5 400.19 Right of entry and inspection.--

6 (1) The agency and any duly designated officer or
7 employee thereof or a member of the State Long-Term Care
8 Ombudsman Council or the district long-term care ombudsman
9 council shall have the right to enter upon and into the
10 premises of any facility licensed pursuant to this part, or
11 any distinct nursing home unit of a hospital licensed under
12 chapter 395 or any freestanding facility licensed under
13 chapter 395 that provides extended care or other long-term
14 care services, at any reasonable time in order to determine
15 the state of compliance with the provisions of this part and
16 rules in force pursuant thereto. The right of entry and
17 inspection shall also extend to any premises which the agency
18 has reason to believe is being operated or maintained as a
19 facility without a license, but no such entry or inspection of
20 any premises shall be made without the permission of the owner
21 or person in charge thereof, unless a warrant is first
22 obtained from the circuit court authorizing same. Any
23 application for a facility license or renewal thereof, made
24 pursuant to this part, shall constitute permission for and
25 complete acquiescence in any entry or inspection of the
26 premises for which the license is sought, in order to
27 facilitate verification of the information submitted on or in
28 connection with the application; to discover, investigate, and
29 determine the existence of abuse or neglect; or to elicit,
30 receive, respond to, and resolve complaints. The agency shall,
31 within 60 days after receipt of a complaint made by a resident

1 or resident's representative, complete its investigation and
2 provide to the complainant its findings and resolution.

3 (4) The agency shall conduct unannounced onsite
4 facility reviews following written verification of licensee
5 noncompliance in instances in which a long-term care ombudsman
6 council, pursuant to ss. 400.0071 and 400.0075, has received a
7 complaint and has documented deficiencies in resident care or
8 in the physical plant of the facility that threaten the
9 health, safety, or security of residents, or when the agency
10 documents through inspection that conditions in a facility
11 present a direct or indirect threat to the health, safety, or
12 security of residents. However, the agency shall conduct four
13 or more unannounced onsite reviews within a 12-month period of
14 each facility which has a conditional licensure status ~~rating~~.
15 Deficiencies related to physical plant do not require followup
16 reviews after the agency has determined that correction of the
17 deficiency has been accomplished and that the correction is of
18 the nature that continued compliance can be reasonably
19 expected.

20 Section 12. Section 400.191, Florida Statutes, is
21 amended to read:

22 400.191 Availability, distribution, and posting of
23 reports and records.--

24 (1) The agency shall provide information to the public
25 about all of the licensed nursing home facilities operating in
26 the state.The agency shall, within 60 days after ~~from the~~
27 ~~date of~~ an annual inspection visit or within 30 days after
28 ~~from the date of~~ any interim visit to a facility, send copies
29 of the inspection reports to the district long-term care
30 ombudsman council, the agency's local office, and a public
31 library or the county seat for the county in which the

1 ~~facility is located., forward the results of all inspections~~
2 ~~of nursing home facilities to:~~
3 ~~(a) The district ombudsman council in whose district~~
4 ~~the inspected facility is located.~~
5 ~~(b) At least one public library or, in the absence of~~
6 ~~a public library, the county seat in the county in which the~~
7 ~~inspected facility is located.~~
8 ~~(c) The area office supervisor of the agency in whose~~
9 ~~district the inspected facility is located.~~
10 (2) The agency shall provide additional information in
11 consumer-friendly printed and electronic formats to assist
12 consumers and their families in comparing and evaluating
13 nursing home facilities.
14 (a) The agency shall provide an Internet site which
15 shall include at least the following information:
16 1. A list by name and address of all nursing home
17 facilities in this state.
18 2. Whether such nursing home facilities are
19 proprietary or nonproprietary.
20 3. The licensure status of each facility.
21 4. The ownership history of each facility.
22 5. The name of the owner or owners of each facility
23 and whether the facility is a part of a corporation owning or
24 operating more than one nursing facility in this state.
25 6. Performance, regulatory, and enforcement
26 information about the corporation, as well as the facility.
27 7. The total number of beds in each facility.
28 8. The number of private and semiprivate rooms in each
29 facility.
30 9. The religious affiliation, if any, of each
31 facility.

- 1 10. The languages spoken by the administrator and
2 staff of each facility.
- 3 11. Whether or not each facility accepts Medicare or
4 Medicaid recipients.
- 5 12. Recreational and other programs available at each
6 facility.
- 7 13. For nursing homes certified for Medicare or
8 Medicaid, information from the Minimum Data Set system of the
9 federal Health Care Financing Administration about the
10 clinical performance of each facility, including information
11 related to the nursing home quality indicators.
- 12 14. Information about the licensure status and
13 regulatory history of each facility.
- 14 15. Special care units or programs offered at each
15 facility.
- 16 16. Whether the facility is a part of a retirement
17 community that offers other services pursuant to part III,
18 part IV, or part V.
- 19 17. The results of consumer and family satisfaction
20 surveys for each facility.
- 21 18. The licensure status and rating history for the
22 past 5 years for each facility.
- 23 19. Survey and deficiency information contained on the
24 Online Survey Certification and Reporting (OSCAR) system of
25 the federal Health Care Financing Administration, including
26 annual survey, revisit, and complaint survey information, for
27 each facility for the past 3 years. For noncertified nursing
28 homes, state survey and deficiency information, including
29 annual survey, revisit, and complaint survey information for
30 the past 3 years shall be provided.
- 31

1 (b) The agency shall provide the following information
2 in printed form:

3 1. A list by name and address of all nursing home
4 facilities in this state.

5 2. Whether such nursing home facilities are
6 proprietary or nonproprietary and their current ownership.

7 3. The licensure status of each facility.

8 4. The total number of beds, and of private and
9 semiprivate rooms, in each facility.

10 5. The religious affiliation, if any, of each
11 facility.

12 6. The languages spoken by the administrator and staff
13 of each facility.

14 7. Whether or not each facility accepts Medicare or
15 Medicaid recipients.

16 8. Recreational programs, special care units, and
17 other programs available at each facility.

18 9. A summary of information from the Minimum Data Set
19 system of the federal Health Care Financing Administration
20 about the clinical performance of each facility.

21 10. Information about the licensure status and
22 regulatory history of each facility.

23 11. The results of consumer and family satisfaction
24 surveys for each facility.

25 12. The Internet address for the site where more
26 detailed information can be seen.

27 13. A statement advising consumers that each facility
28 will have its own policies and procedures related to
29 protecting resident property.

30 (3)(2) Each nursing home facility licensee shall
31 maintain as public information, available upon request,

1 records of all cost and inspection reports pertaining to that
2 facility that have been filed with, or issued by, any
3 governmental agency. Copies of such reports shall be retained
4 in such records for not less than 5 years from the date the
5 reports are filed or issued.

6 (4)~~(3)~~ Any records of a nursing home facility
7 determined by the agency to be necessary and essential to
8 establish lawful compliance with any rules or standards shall
9 be made available to the agency on the premises of the
10 facility.

11 (5)~~(4)~~ Every nursing home facility licensee shall:

12 (a) Post, in a sufficient number of prominent
13 positions in the nursing home so as to be accessible to all
14 residents and to the general public, a concise summary of the
15 last inspection report pertaining to the nursing home and
16 issued by the agency, with references to the page numbers of
17 the full reports, noting any deficiencies found by the agency
18 and the actions taken by the licensee to rectify such
19 deficiencies and indicating in such summaries where the full
20 reports may be inspected in the nursing home.

21 (b) Upon request, provide to any person who has
22 completed a written application with an intent to be admitted
23 to, or to any resident of, such nursing home, or to any
24 relative, spouse, or guardian of such person, a copy of the
25 last inspection report pertaining to the nursing home and
26 issued by the agency, provided the person requesting the
27 report agrees to pay a reasonable charge to cover copying
28 costs.

29 Section 13. Effective upon this act becoming a law,
30 paragraph (a) of subsection (2) of section 400.215, Florida

31

1 Statutes, 1998 Supplement, is amended, and paragraph (e) is
2 added to said subsection, to read:

3 400.215 Personnel screening requirement.--

4 (2) Employers and employees shall comply with the
5 requirements of s. 435.05.

6 (a) Notwithstanding the provisions of s. 435.05(1),
7 facilities must have in their possession evidence that level 1
8 screening has been completed before allowing an employee to
9 begin working with patients as provided in subsection (1). All
10 information necessary for conducting background screening
11 using level 1 standards as specified in s. 435.03(1) and for
12 conducting a search of the central abuse registry and tracking
13 system as specified in s. 435.03(3)(a) shall be submitted by
14 the nursing facility to the agency. Results of the background
15 screening and the abuse registry check shall be provided by
16 the agency to the requesting nursing facility. An applicant
17 who has been qualified under a level 1 criminal screening and
18 who, under penalty of perjury, attests to not having been
19 classified in the central abuse registry and tracking system
20 as a perpetrator in a confirmed report of abuse, neglect, or
21 exploitation may be allowed to work on a probationary status
22 in the nursing facility, under supervision, for a period not
23 to exceed 30 days, pending the results of an abuse registry
24 screening.

25 (e) Notwithstanding the confidentiality provisions of
26 s. 415.107, the agency shall provide no later than 45 days
27 after the effective date of this paragraph, a direct-access
28 electronic screening capability to all enrolled facilities or
29 agencies required by law to restrict employment to only an
30 applicant who does not have a disqualifying report in the
31 central abuse registry and tracking system. The agency shall,

1 upon request, provide to such facility or agency a user code
2 by which the facility or agency may query the listing of all
3 persons disqualified because of a confirmed classification.
4 The direct-access screening system shall allow for the
5 electronic matching of an applicant's identifying information,
6 including name, date of birth, race, sex, and social security
7 number, against the listing of disqualified persons. The
8 agency may charge a fee for issuing the user code sufficient
9 to cover the cost of establishing and maintaining the
10 direct-access screening system. The direct-access screening
11 system shall provide immediately to the user only the
12 electronic notification of applicant clearance or
13 disqualification. The system shall also maintain for
14 appropriate entry into the agency screening database an
15 electronic record of the inquiry on behalf of the applicant.

16 Section 14. Section 400.23, Florida Statutes, 1998
17 Supplement, is amended, and subsections (11) and (12) of said
18 section are renumbered as subsections (1) and (2) of section
19 400.232, Florida Statutes, to read:

20 400.23 Rules; ~~criteria; Nursing Home Advisory~~
21 ~~Committee~~; evaluation and deficiencies; licensure status
22 ~~rating system; fee for review of plans.--~~

23 (1) It is the intent of the Legislature that rules
24 published and enforced pursuant to this part shall include
25 criteria by which a reasonable and consistent quality of
26 resident care may be ensured and the results of such resident
27 care can be demonstrated and by which safe and sanitary
28 nursing homes can be provided. It is further intended that
29 reasonable efforts be made to accommodate the needs and
30 preferences of residents to enhance the quality of life in a
31 nursing home. In addition, efforts shall be made to minimize

1 the paperwork associated with the reporting and documentation
2 requirements of these rules.

3 (2) Pursuant to the intention of the Legislature, the
4 agency, in consultation with the Department of Health ~~and~~
5 ~~Rehabilitative Services~~ and the Department of Elderly Affairs,
6 shall adopt and enforce rules to implement this part, which
7 shall include reasonable and fair criteria in relation to:

8 (a) The location and construction of the facility;
9 including fire and life safety, plumbing, heating, lighting,
10 ventilation, and other housing conditions which will ensure
11 the health, safety, and comfort of residents, including an
12 adequate call system. The agency shall establish standards
13 for facilities and equipment to increase the extent to which
14 new facilities and a new wing or floor added to an existing
15 facility after July 1, 1999, are structurally capable of
16 serving as shelters only for residents, staff, and families of
17 residents and staff, and equipped to be self-supporting during
18 and immediately following disasters. The agency ~~for Health~~
19 ~~Care Administration~~ shall work with facilities licensed under
20 this part and report to the Governor and Legislature by April
21 1, 1999, its recommendations for cost-effective renovation
22 standards to be applied to existing facilities. In making such
23 rules, the agency shall be guided by criteria recommended by
24 nationally recognized reputable professional groups and
25 associations with knowledge of such subject matters. The
26 agency shall update or revise such criteria as the need
27 arises. All nursing homes must comply with those lifesafety
28 code requirements and building code standards applicable at
29 the time of approval of their construction plans. The agency
30 may require alterations to a building if it determines that an
31 existing condition constitutes a distinct hazard to life,

1 health, or safety. The agency shall adopt fair and reasonable
2 rules setting forth conditions under which existing facilities
3 undergoing additions, alterations, conversions, renovations,
4 or repairs shall be required to comply with the most recent
5 updated or revised standards.

6 (b) The number and qualifications of all personnel,
7 including management, medical, nursing, and other professional
8 personnel, and nursing assistants, orderlies, and support
9 personnel, having responsibility for any part of the care
10 given residents.

11 (c) All sanitary conditions within the facility and
12 its surroundings, including water supply, sewage disposal,
13 food handling, and general hygiene which will ensure the
14 health and comfort of residents.

15 (d) The equipment essential to the health and welfare
16 of the residents.

17 (e) A uniform accounting system.

18 (f) The care, treatment, and maintenance of residents
19 and measurement of the quality and adequacy thereof, based on
20 rules developed under this chapter and the Omnibus Budget
21 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
22 1987), Title IV (Medicare, Medicaid, and Other Health-Related
23 Programs), Subtitle C (Nursing Home Reform), as amended.

24 (g) The preparation and annual update of a
25 comprehensive emergency management plan. The agency shall
26 adopt rules establishing minimum criteria for the plan after
27 consultation with the Department of Community Affairs. At a
28 minimum, the rules must provide for plan components that
29 address emergency evacuation transportation; adequate
30 sheltering arrangements; postdisaster activities, including
31 emergency power, food, and water; postdisaster transportation;

1 supplies; staffing; emergency equipment; individual
2 identification of residents and transfer of records; and
3 responding to family inquiries. The comprehensive emergency
4 management plan is subject to review and approval by the local
5 emergency management agency. During its review, the local
6 emergency management agency shall ensure that the following
7 agencies, at a minimum, are given the opportunity to review
8 the plan: the Department of Elderly Affairs, the Department
9 of Health ~~and Rehabilitative Services~~, the Agency for Health
10 Care Administration, and the Department of Community Affairs.
11 Also, appropriate volunteer organizations must be given the
12 opportunity to review the plan. The local emergency
13 management agency shall complete its review within 60 days and
14 either approve the plan or advise the facility of necessary
15 revisions.

16 (3)(a) The agency shall adopt rules providing for the
17 minimum staffing requirements for nursing homes. These
18 requirements shall include, for each nursing home facility, a
19 minimum certified nursing assistant staffing and a minimum
20 licensed nursing staffing per resident per day, including
21 evening and night shifts and weekends. Agency rules shall
22 specify requirements for documentation of compliance with
23 staffing standards, sanctions for violation of such standards,
24 and requirements for daily posting of the names of staff on
25 duty for the benefit of facility residents and the public. The
26 agency shall recognize the use of licensed nurses for
27 compliance with minimum staffing requirements for certified
28 nursing assistants, provided that the facility otherwise meets
29 the minimum staffing requirements for licensed nurses and that
30 the licensed nurses so recognized are performing the duties of
31 a certified nursing assistant.

1 (b) The agency shall adopt rules to allow properly
2 trained staff of a nursing facility, in addition to certified
3 nursing assistants and licensed nurses, to assist residents
4 with eating. The rules shall specify the minimum training
5 requirements and shall specify the physiological conditions or
6 disorders of residents which would necessitate that the eating
7 assistance be provided by nursing personnel of the facility.

8 ~~(4)(3)~~ Rules developed pursuant to this section shall
9 not restrict the use of shared staffing and shared programming
10 in facilities which are part of retirement communities that
11 provide multiple levels of care and otherwise meet the
12 requirement of law or rule.

13 ~~(5)(4)~~ The agency, in collaboration with the Division
14 of Children's Medical Services Program Office of the
15 Department of Health ~~and Rehabilitative Services~~, must, no
16 later than December 31, 1993, adopt rules for minimum
17 standards of care for persons under 21 years of age who reside
18 in nursing home facilities. The rules must include a
19 methodology for reviewing a nursing home facility under ss.
20 408.031-408.045 which serves only persons under 21 years of
21 age.

22 ~~(6)(5)~~ Prior to conducting a survey of the facility,
23 the survey team shall obtain a copy of the district ~~nursing~~
24 ~~home and long-term care facility~~ ombudsman council report on
25 the facility. Problems noted in the report shall be
26 incorporated into and followed up through the agency's
27 inspection process. This procedure does not preclude the
28 district nursing home and long-term care facility ombudsman
29 council from requesting the agency to conduct a followup visit
30 to the facility.

31

1 ~~(6) There is created the Nursing Home Advisory~~
2 ~~Committee, which shall consist of 15 members who are to be~~
3 ~~appointed by and report directly to the director of the~~
4 ~~agency. The membership is to include:~~
5 ~~(a) One researcher from a university center on aging.~~
6 ~~(b) Two representatives from the Florida Health Care~~
7 ~~Association.~~
8 ~~(c) Two representatives from the Florida Association~~
9 ~~of Homes for the Aging.~~
10 ~~(d) One representative from the Department of Elderly~~
11 ~~Affairs.~~
12 ~~(e) Five consumer representatives, at least two of~~
13 ~~whom serve on or are staff members of the state or a district~~
14 ~~nursing home and long-term care facility ombudsman council.~~
15 ~~(f) One representative from the Florida American~~
16 ~~Medical Directors Association.~~
17 ~~(g) One representative from the Florida Association of~~
18 ~~Directors of Nursing Administrators.~~
19 ~~(h) One representative from the Agency for Health Care~~
20 ~~Administration.~~
21 ~~(i) One representative from the nursing home industry~~
22 ~~at large who owns or operates a licensed nursing home facility~~
23 ~~in the state and is not a member of any state nursing home~~
24 ~~association.~~
25
26 ~~At least one member shall be over 60 years of age.~~
27 ~~(7) The committee shall perform the following duties~~
28 ~~to assist the agency in ensuring compliance with the intent of~~
29 ~~the Legislature specified in subsection (1):~~
30 ~~(a) Assist in developing a nursing home rating system~~
31 ~~based on the requirements of rules developed under this~~

1 ~~chapter and the Omnibus Budget Reconciliation Act of 1987~~
2 ~~(Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare,~~
3 ~~Medicaid, and Other Health-Related Programs), Subtitle C~~
4 ~~(Nursing Home Reform), as amended.~~

5 ~~(b) Assist in developing surveyor guidelines and~~
6 ~~training to ensure the equitable application of the nursing~~
7 ~~home rating system.~~

8 ~~(c) Assist in developing guidelines to determine the~~
9 ~~scope and severity of noncompliance.~~

10 ~~(d) Identify burdensome paperwork that is not~~
11 ~~specifically related to resident care.~~

12 ~~(e) Advise the agency of proposed changes in statutes~~
13 ~~and rules necessary to ensure adequate care and services and~~
14 ~~the promotion and protection of residents' rights in long-term~~
15 ~~care facilities.~~

16 (7)(8) The agency shall, at least every 15 months,
17 evaluate all nursing home facilities and make a determination
18 as to the degree of compliance by each licensee with the
19 established rules adopted under this part as a basis for
20 assigning a licensure status rating to that facility. The
21 agency shall base its evaluation on the most recent inspection
22 report, taking into consideration findings from other official
23 reports, surveys, interviews, investigations, and inspections.
24 The agency shall assign a licensure status of standard or
25 conditional ~~one of the following ratings~~ to each nursing home
26 ~~standard, conditional, or superior.~~

27 (a) A standard licensure status rating means that a
28 facility has no class I or class II deficiencies, has
29 corrected all class III deficiencies within the time
30 established by the agency, and is in substantial compliance at
31 the time of the survey with criteria established under this

1 part, with rules adopted by the agency, and, if applicable,
2 with rules adopted under the Omnibus Budget Reconciliation Act
3 of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV
4 (Medicare, Medicaid, and Other Health-Related Programs),
5 Subtitle C (Nursing Home Reform), as amended.

6 (b) A conditional licensure status rating means that a
7 facility, due to the presence of one or more class I or class
8 II deficiencies, or class III deficiencies not corrected
9 within the time established by the agency, is not in
10 substantial compliance at the time of the survey with criteria
11 established under this part, with rules adopted by the agency,
12 or, if applicable, with rules adopted under the Omnibus Budget
13 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
14 1987), Title IV (Medicare, Medicaid, and Other Health-Related
15 Programs), Subtitle C (Nursing Home Reform), as amended. If
16 the facility comes into substantial compliance at the time of
17 the followup survey, a standard licensure status rating may be
18 assigned issued. ~~A facility assigned a conditional rating at~~
19 ~~the time of the relicensure survey may not qualify for~~
20 ~~consideration for a superior rating until the time of the next~~
21 ~~subsequent relicensure survey.~~

22 ~~(c) A superior rating means that a facility has no~~
23 ~~class I or class II deficiencies and has corrected all class~~
24 ~~III deficiencies within the time established by the agency and~~
25 ~~is in substantial compliance with the criteria established~~
26 ~~under this part and the rules adopted by the agency and, if~~
27 ~~applicable, with rules adopted pursuant to the Omnibus Budget~~
28 ~~Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,~~
29 ~~1987), Title IV (Medicare, Medicaid, and Other Health-Related~~
30 ~~Programs), Subtitle C (Nursing Home Reform), as amended; and~~
31

1 ~~the facility exceeds the criteria for a standard rating~~
2 ~~through enhanced programs and services in the following areas:~~

- 3 ~~1. Nursing service.~~
- 4 ~~2. Dietary or nutritional services.~~
- 5 ~~3. Physical environment.~~
- 6 ~~4. Housekeeping and maintenance.~~
- 7 ~~5. Restorative therapies and self-help activities.~~
- 8 ~~6. Social services.~~
- 9 ~~7. Activities and recreational therapy.~~

10 ~~(d) In order to facilitate the development of special~~
11 ~~programs or facilitywide initiatives and promote creativity~~
12 ~~based on the needs and preferences of residents, the areas~~
13 ~~listed in paragraph (c) may be grouped or addressed~~
14 ~~individually by the licensee. However, a facility may not~~
15 ~~qualify for a superior rating if fewer than three programs or~~
16 ~~initiatives are developed to encompass the required areas.~~

17 ~~(c)(e)~~ In determining the rating and evaluating the
18 overall quality of care and services and determining whether
19 the facility will receive a conditional or standard license,
20 the agency shall consider the needs and limitations of
21 residents in the facility and the results of interviews and
22 surveys of a representative sampling of residents, families of
23 residents, ombudsman council members in the district in which
24 the facility is located, guardians of residents, and staff of
25 the nursing home facility.

26 ~~(d)(f)~~ The current licensure status ~~rating~~ of each
27 facility must be indicated in bold print on the face of the
28 license. A list of the deficiencies of the facility shall be
29 posted in a prominent place that is in clear and unobstructed
30 public view at or near the place where residents are being
31 admitted to that facility. Licensees receiving a conditional

1 licensure status ~~rating~~ for a facility shall prepare, within
2 10 working days after receiving notice of deficiencies, a plan
3 for correction of all deficiencies and shall submit the plan
4 to the agency for approval. Correction of all deficiencies,
5 within the period approved by the agency, shall result in
6 termination of the conditional licensure status ~~rating~~.
7 Failure to correct the deficiencies within a reasonable period
8 approved by the agency shall be grounds for the imposition of
9 sanctions pursuant to this part.

10 ~~(e)(g)~~ Each licensee shall post its license in a
11 prominent place that is in clear and unobstructed public view
12 at or near the place where residents are being admitted to the
13 facility. ~~A licensee with a superior rating may advertise its~~
14 ~~rating in any nonpermanent medium and in accordance with rules~~
15 ~~adopted by the agency. A list of the facilities receiving a~~
16 ~~superior rating shall be distributed to the state and district~~
17 ~~ombudsman councils.~~

18 ~~(f)(h)~~ Not later than January 1, 1994, the agency
19 shall adopt rules that:

20 1. Establish uniform procedures for the evaluation of
21 facilities.

22 2. Provide criteria in the areas referenced in
23 paragraph (c).

24 3. Address other areas necessary for carrying out the
25 intent of this section.

26 ~~(i)~~ ~~A license rated superior shall continue until it~~
27 ~~is replaced by a rating based on a later survey. A superior~~
28 ~~rating may be revoked at any time for failure to maintain~~
29 ~~substantial compliance with criteria established under this~~
30 ~~part, with rules adopted by the agency, or, if applicable,~~
31 ~~with rules adopted under the Omnibus Budget Reconciliation Act~~

1 ~~of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV~~
2 ~~(Medicare, Medicaid, and Other Health-Related Programs),~~
3 ~~Subtitle C (Nursing Home Reform), as amended, or for failure~~
4 ~~to exceed the criteria specified for any area as listed in~~
5 ~~paragraph (c).~~

6 ~~(j) A superior rating is not transferable to another~~
7 ~~license, except when an existing facility is being relicensed~~
8 ~~in the name of an entity related to the current licenseholder~~
9 ~~by common ownership or control and there will be no change in~~
10 ~~the management, operation, or programs at the facility as a~~
11 ~~result of the relicensure.~~

12 (8)~~(9)~~ The agency shall adopt rules to provide that,
13 when the criteria established under subsection (2) are not
14 met, such deficiencies shall be classified according to the
15 nature of the deficiency. The agency shall indicate the
16 classification on the face of the notice of deficiencies as
17 follows:

18 (a) Class I deficiencies are those which the agency
19 determines present an imminent danger to the residents or
20 guests of the nursing home facility or a substantial
21 probability that death or serious physical harm would result
22 therefrom. The condition or practice constituting a class I
23 violation shall be abated or eliminated immediately, unless a
24 fixed period of time, as determined by the agency, is required
25 for correction. Notwithstanding s. 400.121(2), a class I
26 deficiency is subject to a civil penalty in an amount not less
27 than \$5,000 and not exceeding \$25,000~~\$10,000~~ for each and
28 every deficiency. A fine may be levied notwithstanding the
29 correction of the deficiency.

30 (b) Class II deficiencies are those which the agency
31 determines have a direct or immediate relationship to the

1 health, safety, or security of the nursing home facility
2 residents, other than class I deficiencies. A class II
3 deficiency is subject to a civil penalty in an amount not less
4 than \$1,000 and not exceeding \$10,000~~\$5,000~~ for each and
5 every deficiency. A citation for a class II deficiency shall
6 specify the time within which the deficiency is required to be
7 corrected. If a class II deficiency is corrected within the
8 time specified, no civil penalty shall be imposed, unless it
9 is a repeated offense.

10 (c) Class III deficiencies are those which the agency
11 determines to have an indirect or potential relationship to
12 the health, safety, or security of the nursing home facility
13 residents, other than class I or class II deficiencies. A
14 class III deficiency shall be subject to a civil penalty of
15 not less than \$500 and not exceeding \$2,500~~\$1,000~~ for each
16 and every deficiency. A citation for a class III deficiency
17 shall specify the time within which the deficiency is required
18 to be corrected. If a class III deficiency is corrected
19 within the time specified, no civil penalty shall be imposed,
20 unless it is a repeated offense.

21 (9)~~(10)~~ Civil penalties paid by any licensee under
22 subsection (8)~~(9)~~ shall be deposited in the Health Care Trust
23 Fund and expended as provided in s. 400.063.

24 ~~(13) This section may not be used to increase the~~
25 ~~total Medicaid funding paid as incentives for facilities~~
26 ~~receiving a superior or standard rating.~~

27 400.232 Review and approval of plans; fees and
28 costs.--

29 (1)~~(11)~~ The agency shall approve or disapprove the
30 plans and specifications within 60 days after receipt of the
31 final plans and specifications. The agency may be granted one

1 15-day extension for the review period, if the director of the
2 agency so approves. If the agency fails to act within the
3 specified time, it shall be deemed to have approved the plans
4 and specifications. When the agency disapproves plans and
5 specifications, it shall set forth in writing the reasons for
6 disapproval. Conferences and consultations may be provided as
7 necessary.

8 ~~(2)~~~~(12)~~ The agency is authorized to charge an initial
9 fee of \$2,000 for review of plans and construction on all
10 projects, no part of which is refundable. The agency may also
11 collect a fee, not to exceed 1 percent of the estimated
12 construction cost or the actual cost of review, whichever is
13 less, for the portion of the review which encompasses initial
14 review through the initial revised construction document
15 review. The agency is further authorized to collect its
16 actual costs on all subsequent portions of the review and
17 construction inspections. Initial fee payment shall accompany
18 the initial submission of plans and specifications. Any
19 subsequent payment that is due is payable upon receipt of the
20 invoice from the agency. Notwithstanding any other provisions
21 of law to the contrary, all money received by the agency
22 pursuant to the provisions of this section shall be deemed to
23 be trust funds, to be held and applied solely for the
24 operations required under this section.

25 Section 15. Section 400.235, Florida Statutes, is
26 created to read:

27 400.235 Nursing home quality and licensure status;
28 Gold Seal Program.--

29 (1) To protect the health and welfare of persons
30 receiving care in nursing facilities, it is the intent of the
31 Legislature to develop a regulatory framework that promotes

1 the stability of the industry and facilitates the physical,
2 social, and emotional well-being of nursing facility
3 residents.

4 (2) The Legislature intends to develop an award and
5 recognition program for nursing facilities that demonstrate
6 excellence in long-term care over a sustained period. This
7 program shall be known as the Gold Seal Program.

8 (3)(a) The Gold Seal Program shall be developed and
9 implemented by the Governor's Panel on Excellence in Long-Term
10 Care which shall operate under the authority of the Executive
11 Office of the Governor. The panel shall be composed of three
12 persons appointed by the Governor, to include a consumer
13 advocate for senior citizens and two persons with expertise in
14 the fields of quality management, service delivery excellence,
15 or public sector accountability; three persons appointed by
16 the Secretary of Elderly Affairs, to include an active member
17 of a nursing facility family and resident care council and a
18 member of the University Consortium on Aging; the State
19 Long-Term Care Ombudsman; one person appointed by the Florida
20 Life Care Residents Association; one person appointed by the
21 Secretary of Health; two persons appointed by the Director of
22 Health Care Administration, to include the Deputy Director for
23 State Health Purchasing; one person appointed by the Florida
24 Association of Homes for the Aging; and one person appointed
25 by the Florida Health Care Association. All members of the
26 panel shall be appointed by October 1, 1999, and the panel
27 shall hold its organizational meeting no later than December
28 10, 1999. Vacancies on the panel shall be filled in the same
29 manner as the original appointments. No member shall serve for
30 more than 4 consecutive years from the date of appointment.

31

1 (b) Members of the Governor's Panel on Excellence in
2 Long-Term Care shall be prohibited from having any ownership
3 interest in a nursing facility. Any member of the panel who is
4 employed by a nursing facility in any capacity shall be
5 prohibited from participating in reviewing or voting on
6 recommendations involving the facility by which the member is
7 employed or any facility under common ownership with that
8 facility.

9 (c) Recommendations to the panel for designation of a
10 nursing facility as a Gold Seal facility may be received by
11 the panel after January 1, 2000. The activities of the panel
12 shall be supported by staff of the Department of Elderly
13 Affairs and the Agency for Health Care Administration.

14 (4) The panel shall consider at least the following
15 resident-based quality indicator domains when evaluating a
16 facility for the Gold Seal Program:

17 (a) Accidents.

18 (b) Behavioral/emotional patterns.

19 (c) Clinical management.

20 (d) Cognitive patterns.

21 (e) Elimination/continence.

22 (f) Infection control.

23 (g) Nutrition and eating.

24 (h) Physical functioning.

25 (i) Psychotropic drug use.

26 (j) Quality of life.

27 (k) Sensory functioning and communication.

28 (l) Skin care.

29 (5) Facilities must meet the following additional
30 criteria for recognition as a Gold Seal Program facility:

31

1 (a) Had no class I or class II deficiencies within the
2 30 months preceding application for the program.

3 (b) Evidence financial soundness and stability
4 according to standards adopted by the agency in administrative
5 rule.

6 (c) Participate consistently in the required consumer
7 satisfaction process as prescribed by the agency, and
8 demonstrate that information is elicited from residents,
9 family members, and guardians about satisfaction with the
10 nursing facility, its environment, the services and care
11 provided, the staff's skills and interactions with residents,
12 attention to resident's needs, and the facility's efforts to
13 act on information gathered from the consumer satisfaction
14 measures.

15 (d) Evidence the involvement of families and members
16 of the community in the facility on a regular basis.

17 (e) Have a stable workforce, as evidenced by a
18 relatively low rate of turnover among certified nursing
19 assistants and registered nurses within the 30 months
20 preceding application for the Gold Seal Program, and
21 demonstrate a continuing effort to maintain a stable workforce
22 and to reduce turnover of licensed nurses and certified
23 nursing assistants.

24 (f) Evidence an outstanding record regarding the
25 number and types of substantiated complaints reported to the
26 State Long-Term Care Ombudsman Council within the 30 months
27 preceding application for the program.

28 (g) Provide targeted inservice training provided to
29 meet training needs identified by internal or external quality
30 assurance efforts.

31

1 (h) Evidence superior levels of clinical outcomes as
2 measured in the Minimum Data Set system of the federal Health
3 Care Financing Administration. Facilities that are not
4 certified for Medicare or Medicaid are not required to
5 complete the Minimum Data Set in order to qualify for the Gold
6 Seal Program. Such facilities may demonstrate superior levels
7 of performance with an alternate assessment as approved by the
8 panel.

9
10 A facility assigned a conditional licensure status may not
11 qualify for consideration for the Gold Seal Program until
12 after it has operated for 30 months with no class I or class
13 II deficiencies and has completed a regularly scheduled
14 relicensure survey.

15 (6) The agency, nursing facility industry
16 organizations, consumers, State Long-Term Care Ombudsman
17 Council, and members of the community may recommend to the
18 Governor facilities that meet the established criteria for
19 consideration for and award of the Gold Seal. The panel shall
20 review nominees and make a recommendation to the Governor for
21 final approval and award. The decision of the Governor is
22 final and is not subject to appeal.

23 (7) A facility must be licensed and operating for 30
24 months before it is eligible to apply for the Gold Seal
25 Program. The agency shall establish by rule the frequency of
26 review for designation as a Gold Seal Program facility and
27 under what circumstances a facility may be denied the
28 privilege of using this designation. The designation of a
29 facility as a Gold Seal Program facility is not transferable
30 to another license, except when an existing facility is being
31 relicensed in the name of an entity related to the current

1 licenseholder by common ownership or control, and there will
2 be no change in the management, operation, or programs at the
3 facility as a result of the relicensure.

4 (8)(a) Facilities awarded the Gold Seal may use the
5 designation in their advertising and marketing.

6 (b) Upon approval by the United States Department of
7 Health and Human Services, the agency shall adopt a revised
8 schedule of survey and relicensure visits for Gold Seal
9 Program facilities. Gold Seal Program facilities may be
10 surveyed for certification and relicensure every 2 years, so
11 long as they maintain the standards associated with retaining
12 the Gold Seal.

13 Section 16. Subsection (3) of section 400.241, Florida
14 Statutes, is renumbered as subsection (4), and a new
15 subsection (3) is added to said section, to read:

16 400.241 Prohibited acts; penalties for violations.--

17 (3) It is unlawful for any person, long-term care
18 facility, or other entity to willfully interfere with the
19 unannounced inspections mandated by s. 400.19(3). Alerting or
20 advising a facility of the actual or approximate date of such
21 inspection shall be a per se violation of this subsection.

22 (4)(3) A violation of any provision of this part or of
23 any minimum standard, rule, or regulation adopted pursuant
24 thereto constitutes a misdemeanor of the second degree,
25 punishable as provided in s. 775.082 or s. 775.083. Each day
26 of a continuing violation shall be considered a separate
27 offense.

28 Section 17. Paragraph (p) is added to subsection (1)
29 of section 408.035, Florida Statutes, to read:

30 408.035 Review criteria.--

31

1 (1) The agency shall determine the reviewability of
2 applications and shall review applications for
3 certificate-of-need determinations for health care facilities
4 and health services in context with the following criteria:

5 (p) The applicant's designation as a Gold Seal Program
6 nursing facility pursuant to s. 400.235, when the applicant is
7 requesting additional nursing home beds at that facility.

8 Section 18. Subsection (1) of section 468.1755,
9 Florida Statutes, 1998 Supplement, is amended to read:

10 468.1755 Disciplinary proceedings.--

11 (1) The following acts shall constitute grounds for
12 which the disciplinary actions in subsection (2) may be taken:

13 (a) Violation of any provision of s. 455.624(1) or s.
14 468.1745(1).

15 (b) Attempting to procure a license to practice
16 nursing home administration by bribery, by fraudulent
17 misrepresentation, or through an error of the department or
18 the board.

19 (c) Having a license to practice nursing home
20 administration revoked, suspended, or otherwise acted against,
21 including the denial of licensure, by the licensing authority
22 of another state, territory, or country.

23 (d) Being convicted or found guilty, regardless of
24 adjudication, of a crime in any jurisdiction which relates to
25 the practice of nursing home administration or the ability to
26 practice nursing home administration. Any plea of nolo
27 contendere shall be considered a conviction for purposes of
28 this part.

29 (e) Making or filing a report or record which the
30 licensee knows to be false, intentionally failing to file a
31 report or record required by state or federal law, willfully

1 impeding or obstructing such filing, or inducing another
2 person to impede or obstruct such filing. Such reports or
3 records shall include only those which are signed in the
4 capacity of a licensed nursing home administrator.

5 (f) Authorizing the discharge or transfer of a
6 resident for a reason other than those provided in ss. 400.022
7 and 400.0255.

8 (g)~~(f)~~ Advertising goods or services in a manner which
9 is fraudulent, false, deceptive, or misleading in form or
10 content.

11 (h)~~(g)~~ Fraud or deceit, negligence, incompetence, or
12 misconduct in the practice of nursing home administration.

13 (i)~~(h)~~ A violation or repeated violations of this
14 part, part II of chapter 455, or any rules promulgated
15 pursuant thereto.

16 (j)~~(i)~~ Violation of a lawful order of the board or
17 department previously entered in a disciplinary hearing or
18 failing to comply with a lawfully issued subpoena of the board
19 or department.

20 (k)~~(j)~~ Practicing with a revoked, suspended, inactive,
21 or delinquent license.

22 (l)~~(k)~~ Repeatedly acting in a manner inconsistent with
23 the health, safety, or welfare of the patients of the facility
24 in which he or she is the administrator.

25 (m)~~(l)~~ Being unable to practice nursing home
26 administration with reasonable skill and safety to patients by
27 reason of illness, drunkenness, use of drugs, narcotics,
28 chemicals, or any other material or substance or as a result
29 of any mental or physical condition. In enforcing this
30 paragraph, upon a finding of the secretary or his or her
31 designee that probable cause exists to believe that the

1 licensee is unable to serve as a nursing home administrator
2 due to the reasons stated in this paragraph, the department
3 shall have the authority to issue an order to compel the
4 licensee to submit to a mental or physical examination by a
5 physician designated by the department. If the licensee
6 refuses to comply with such order, the department's order
7 directing such examination may be enforced by filing a
8 petition for enforcement in the circuit court where the
9 licensee resides or serves as a nursing home administrator.
10 The licensee against whom the petition is filed shall not be
11 named or identified by initials in any public court records or
12 documents and the proceedings shall be closed to the public.
13 The department shall be entitled to the summary procedure
14 provided in s. 51.011. A licensee affected under this
15 paragraph shall have the opportunity, at reasonable intervals,
16 to demonstrate that he or she can resume the competent
17 practice of nursing home administration with reasonable skill
18 and safety to patients.

19 (n)~~(m)~~ ~~Has~~ Willfully or repeatedly violating ~~violated~~
20 any of the provisions of the law, code or rules of the
21 licensing or supervising authority or agency of the state or
22 political subdivision thereof having jurisdiction of the
23 operation and licensing of nursing homes.

24 (o)~~(n)~~ Paying, giving, causing ~~Has paid, given, caused~~
25 to be paid or given, or offering ~~offered~~ to pay or to give to
26 any person a commission or other valuable consideration for
27 the solicitation or procurement, either directly or
28 indirectly, of nursing home usage.

29 (p)~~(o)~~ ~~Has~~ Willfully permitting ~~permitted~~ unauthorized
30 disclosure of information relating to a patient or his or her
31 records.

1 ~~(q)(p)~~ Discriminating with ~~Has discriminated in~~
2 respect to patients, employees, or staff on account of race,
3 religion, color, sex, or national origin.

4 Section 19. Paragraph (b) of subsection (1) of section
5 394.4625, Florida Statutes, is amended to read:

6 394.4625 Voluntary admissions.--

7 (1) AUTHORITY TO RECEIVE PATIENTS.--

8 (b) A mental health overlay program or a mobile crisis
9 response service or a licensed professional who is authorized
10 to initiate an involuntary examination pursuant to s. 394.463
11 and is employed by a community mental health center or clinic
12 must, pursuant to district procedure approved by the
13 respective district administrator, conduct an initial
14 assessment of the ability of the following persons to give
15 express and informed consent to treatment before such persons
16 may be admitted voluntarily:

17 1. A person 60 years of age or older for whom transfer
18 is being sought from a nursing home, assisted living facility,
19 adult day care center, or adult family-care home, when such
20 person has been diagnosed as suffering from dementia.

21 2. A person 60 years of age or older for whom transfer
22 is being sought from a nursing home pursuant to s.
23 400.0255(12)~~s. 400.0255(6)~~.

24 3. A person for whom all decisions concerning medical
25 treatment are currently being lawfully made by the health care
26 surrogate or proxy designated under chapter 765.

27 Section 20. Subsection (1) of section 400.063, Florida
28 Statutes, is amended to read:

29 400.063 Resident Protection Trust Fund.--

30 (1) A Resident Protection Trust Fund shall be
31 established for the purpose of collecting and disbursing funds

1 generated from the license fees and administrative fines as
2 provided for in ss. 393.0673(2), 400.062(3)(b), 400.111(1),
3 400.121(2), and 400.23~~(8)~~~~(9)~~. Such funds shall be for the
4 sole purpose of paying for the appropriate alternate
5 placement, care, and treatment of residents who are removed
6 from a facility licensed under this part or a facility
7 specified in s. 393.0678(1) in which the agency determines
8 that existing conditions or practices constitute an immediate
9 danger to the health, safety, or security of the residents.
10 If the agency determines that it is in the best interest of
11 the health, safety, or security of the residents to provide
12 for an orderly removal of the residents from the facility, the
13 agency may utilize such funds to maintain and care for the
14 residents in the facility pending removal and alternative
15 placement. The maintenance and care of the residents shall be
16 under the direction and control of a receiver appointed
17 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds
18 may be expended in an emergency upon a filing of a petition
19 for a receiver, upon the declaration of a state of local
20 emergency pursuant to s. 252.38(3)(a)5., or upon a duly
21 authorized local order of evacuation of a facility by
22 emergency personnel to protect the health and safety of the
23 residents.

24 Section 21. Section 430.80, Florida Statutes, is
25 created to read:

26 430.80 Implementation of a teaching nursing home pilot
27 project.--

28 (1) As used in this section, the term "teaching
29 nursing home" means a nursing home facility licensed under
30 chapter 400 which contains a minimum of 400 licensed nursing
31 home beds; has access to a resident senior population of

1 sufficient size to support education, training, and research
2 relating to geriatric care; and has a contractual relationship
3 with a federally funded accredited geriatric research center
4 in this state.

5 (2)(a) The Agency for Health Care Administration shall
6 implement a comprehensive multidisciplinary program of
7 geriatric education and research as a pilot project in a
8 nursing home facility designated by the agency as a teaching
9 nursing home. The program shall be established as a pilot
10 project and shall be administered at the nursing home facility
11 and other appropriate settings.

12 (b) The agency shall develop criteria for designating
13 teaching nursing homes in consultation with advocates of the
14 elderly, advocates of persons with disabilities,
15 representatives of the nursing home industry, and
16 representatives of the State University System.

17 (3) To be designated as a teaching nursing home, a
18 nursing home licensee must, at a minimum:

19 (a) Provide a comprehensive program of integrated
20 senior services that include institutional services and
21 community-based services;

22 (b) Participate in a nationally recognized
23 accreditation program and hold a valid accreditation, such as
24 the accreditation awarded by the Joint Commission on
25 Accreditation of Healthcare Organizations;

26 (c) Have been in business in this state for a minimum
27 of 10 consecutive years;

28 (d) Demonstrate an active program in multidisciplinary
29 education and research that relates to gerontology;

30
31

1 (e) Have a formalized contractual relationship with at
2 least one accredited health profession education program
3 located in this state;

4 (f) Have a formalized contractual relationship with an
5 accredited hospital that is designated by law as a teaching
6 hospital; and

7 (g) Have senior staff members who hold formal faculty
8 appointments at universities, which must include at least one
9 accredited health profession education program.

10 (4) A teaching nursing home may be affiliated with a
11 medical school within the state and a federally funded center
12 of excellence in geriatric research and education. The purpose
13 of such affiliations is to foster the development of methods
14 for improving and expanding the capability of health care
15 facilities to respond to the medical, psychological, and
16 social needs of frail and elderly persons by providing the
17 most effective and appropriate services. A teaching nursing
18 home shall serve as a resource for research and for training
19 health care professionals in providing health care services in
20 institutional settings to frail and older persons.

21 (5) The Legislature may provide an annual
22 appropriation to the nursing home facility designated as a
23 teaching nursing home.

24 (6) In order for a nursing home to qualify as a
25 teaching nursing home under this section and to be entitled to
26 the benefits provided under this section, the nursing home
27 must:

28 (a) Be primarily operated and established to offer,
29 afford, and render a comprehensive multidisciplinary program
30 of geriatric education and research to residents of the state;
31 and

1 (b) Certify to the Agency for Health Care
2 Administration each school year the name, address, and
3 educational history of each trainee approved and accepted for
4 enrollment in the institution.

5 (7) A teaching nursing home may not expend any of the
6 funds received under this section for any purpose other than
7 operating and maintaining a teaching nursing home and
8 conducting geriatric research. In addition, a teaching nursing
9 home may not expend any funds received under this section for
10 constructing any building of any kind, nature, or description
11 or for maintaining or operating, in any form or manner, a
12 nursing home or health care facility.

13 Section 22. For purposes of incorporating the
14 amendment to section 468.1755, Florida Statutes, in references
15 thereto, subsection (3) of section 468.1695, Florida Statutes,
16 and section 468.1735, Florida Statutes, are reenacted to read:

17 468.1695 Licensure by examination.--

18 (3) The department shall issue a license to practice
19 nursing home administration to any applicant who successfully
20 completes the examination in accordance with this section and
21 otherwise meets the requirements of this part. The department
22 shall not issue a license to any applicant who is under
23 investigation in this state or another jurisdiction for an
24 offense which would constitute a violation of s. 468.1745 or
25 s. 468.1755. Upon completion of the investigation, the
26 provisions of s. 468.1755 shall apply.

27 468.1735 Provisional license.--The board may establish
28 by rule requirements for issuance of a provisional license. A
29 provisional license shall be issued only to fill a position of
30 nursing home administrator that unexpectedly becomes vacant
31 due to illness, sudden death of the administrator, or

1 abandonment of position and shall be issued for one single
2 period as provided by rule not to exceed 6 months. The
3 department shall not issue a provisional license to any
4 applicant who is under investigation in this state or another
5 jurisdiction for an offense which would constitute a violation
6 of s. 468.1745 or s. 468.1755. Upon completion of the
7 investigation, the provisions of s. 468.1755 shall apply. The
8 provisional license may be issued to a person who does not
9 meet all of the licensing requirements established by this
10 part, but the board shall by rule establish minimal
11 requirements to ensure protection of the public health,
12 safety, and welfare. The provisional license shall be issued
13 to the person who is designated as the responsible person next
14 in command in the event of the administrator's departure. The
15 board may set an application fee not to exceed \$500 for a
16 provisional license.

17 Section 23. Section 468.1756, Florida Statutes, 1998
18 Supplement, is amended to read:

19 468.1756 Statute of limitations.--An administrative
20 complaint may only be filed pursuant to s. 455.621 for an act
21 listed in s. 468.1755(1)(c)-(q)~~paragraphs (1)(c)-(p) of s.~~
22 ~~468.1755~~ within 4 years from the time of the incident giving
23 rise to the complaint, or within 4 years from the time the
24 incident is discovered or should have been discovered.

25 Section 24. Panel on Medicaid reimbursement.--

26 (1) There is created a panel on Medicaid reimbursement
27 to study the state's Medicaid reimbursement plan for nursing
28 home facilities and recommend changes to accomplish the
29 following goals:

30 (a) Increase the rate of employee retention in
31 individual nursing home facilities and in the field of

1 long-term care, and ensure salary enhancements for staff who
2 achieve targets of longevity with a nursing home facility.

3 (b) Create incentives for facilities to renovate and
4 update existing physical plants, when practicable, instead of
5 building new facilities or selling to another entity.

6 (c) Create incentives for facilities to provide more
7 direct-care staff and nurses.

8 (2) The panel shall be administratively attached to
9 and supported by the Agency for Health Care Administration and
10 shall be composed of the following members: the Director for
11 Medicaid of the Agency for Health Care Administration and two
12 agency staff persons competent in the technical and policy
13 aspects of Medicaid reimbursement; one representative from the
14 Governor's Office of Planning and Budgeting; one
15 representative from the Florida Association of Homes for the
16 Aging; one representative from the Florida Health Care
17 Association; one representative from the Department of Elderly
18 Affairs, and one consumer representative appointed by the
19 secretary of that department; and a consumer's advocate for
20 senior citizens and two persons with expertise in the field of
21 quality management, financing, or public sector
22 accountability, appointed by the Governor.

23 (3) The panel shall hold its first meeting by August
24 1, 1999, and shall report its preliminary findings and
25 recommendations to the Legislature no later than December 31,
26 1999, by submitting a copy of its report to the President of
27 the Senate, the Speaker of the House of Representatives, and
28 the majority and minority offices of each chamber. The panel
29 shall report its final findings and recommendations to those
30 persons and offices no later than December 8, 2000. The panel
31

1 shall cease to exist and its operation shall terminate on
2 January 1, 2001.
3 Section 25. Study of certified nursing assistant
4 training, employment, and retention.--The Department of
5 Elderly Affairs, in consultation with the nursing home
6 industry, consumer advocates, the Department of Health, the
7 Agency for Health Care Administration, the Department of Labor
8 and Employment Security, and the Department of Education,
9 shall conduct, or contract for, a study of the major factors
10 affecting the recruitment, training, employment, and retention
11 of qualified certified nursing assistants within the nursing
12 home industry. The Department of Elderly Affairs shall, by
13 January 15, 2000, provide to the Speaker of the House of
14 Representatives and the President of the Senate the results of
15 the study, along with recommendations to improve the quality
16 and availability of certified nursing assistants employed by
17 nursing facilities. The study shall include a one-time review
18 of the performance of certified nursing assistant training
19 programs and shall compare the types of training programs as
20 to admission criteria, program requirements, graduation rates,
21 job placement, and job retention in nursing homes relative to
22 job retention in other health care environments and other job
23 classifications for which certified nursing assistants may
24 qualify. The study shall identify factors likely to improve
25 the rates of employment and retention of certified nursing
26 assistants in nursing homes. The study shall also include an
27 assessment of the extent and impact of certified nursing
28 assistant shortages within the major regional job markets of
29 the state. The study shall include an assessment of the
30 following factors:
31

1 (1) The extent and characteristics of the shortage
2 within the various regions of the state.

3 (2) The causes of the shortage, including, but not
4 restricted to, salary and benefits, working conditions, career
5 development, and the availability of certified nursing
6 assistant training programs.

7 (3) The impact of labor shortages on the ability of
8 nursing homes to hire sufficient staff to meet both the
9 minimum staffing standards required by agency rule and the
10 facility-specific staffing standards based on the needs of
11 residents.

12 (4) The impact of the labor shortage on the increased
13 use of temporary nursing pool agencies by nursing homes; the
14 influences of this trend on the quality and cost of services
15 provided; and the benefits of additional regulation of such
16 nursing pool agencies in light of the shortage.

17 (5) Comparisons of the extent and effect of the
18 shortage of certified nursing assistants in Florida to the
19 experiences of other states and with respect to national
20 trends.

21 (6) The need for and feasibility of various measures
22 to enhance the image of certified nursing assistants,
23 including enhanced recruitment efforts directed towards
24 students at the junior high school and senior high school
25 levels, local education outreach, and job placement programs.

26 (7) The implications of the shortage as it relates to
27 the supply of and need for related paraprofessionals and other
28 health care workers, such as licensed practical nurses.

29 (8) The feasibility of allocating loans, grants, and
30 scholarships for the purpose of providing greater incentive
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1 for and access to certified nursing assistant education, and
2 the probable effects of such efforts.

3 (9) The desirability of demonstration projects to test
4 innovative models and methods for the purpose of addressing
5 the need for more and better-qualified certified nursing
6 assistants in nursing homes.

7 Section 26. Section 400.29, Florida Statutes, is
8 repealed.

9 Section 27. There is hereby appropriated, unless
10 otherwise provided for in the General Appropriations Act, the
11 sum of \$18,422,000 from the General Revenue Fund and the sum
12 of \$23,275,600 from the Medical Care Trust Fund to the Agency
13 for Health Care Administration in order to allow nursing
14 facilities the ability to recruit and retain qualified staff
15 and to provide appropriate care. The Agency for Health Care
16 Administration shall adjust target limitations in the patient
17 care component of the per diem rate to allow these additional
18 funds to be reimbursed through the per diem rate, effective
19 July 1, 1999.

20 Section 28. The sum of \$100,000 is hereby appropriated
21 from the Health Care Trust Fund to the Department of Elderly
22 Affairs for fiscal year 1999-2000 to fund the responsibilities
23 of the Office of State Long-Term Care Ombudsman and establish
24 a statewide toll-free telephone number pursuant to s.
25 400.0078, Florida Statutes, as created by this act.

26 Section 29. Except as otherwise provided herein, this
27 act shall take effect July 1, 1999.

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HOUSE SUMMARY

Revises various provisions of part II of chapter 400,
F.S., relating to nursing home facilities.