

1 A bill to be entitled
2 An act relating to protection of vulnerable
3 persons; creating the Task Force on the
4 Availability and Affordability of Long-term
5 Care; providing for membership and duties;
6 providing for staff and expenses; requiring a
7 report; providing for the expiration of the
8 task force; providing an appropriation;
9 amending s. 400.6065, F.S.; providing
10 employment screening requirements for hospice
11 personnel; providing penalties; renumbering and
12 amending s. 402.48, F.S.; revising the
13 definition of "health care services pool";
14 providing background screening requirements for
15 applicants for registration, managing
16 employees, and financial officers of such
17 entities, and certain others; providing
18 penalties; requiring such entities to obtain a
19 certificate of registration from the Agency for
20 Health Care Administration; providing for
21 injunction; revising application procedures;
22 revising responsibilities regarding temporary
23 employees; increasing a penalty; transferring
24 powers, duties, functions, and appropriations
25 relating to health care services pools from the
26 Department of Health to the Agency for Health
27 Care Administration; amending s. 415.102, F.S.;
28 revising definitions; amending s. 415.103,
29 F.S.; providing for a central abuse hotline to
30 receive reports of abuse, neglect, or
31 exploitation of vulnerable adults; amending s.

1 415.1034, F.S.; conforming provisions relating
2 to mandatory reporting; amending s. 415.1035,
3 F.S.; providing duty of the Department of
4 Children and Family Services to ensure that
5 facilities inform residents of their right to
6 report abuse, neglect, or exploitation;
7 amending s. 415.1036, F.S.; conforming
8 provisions relating to immunity of persons
9 making reports; amending ss. 415.104 and
10 415.1045, F.S.; revising provisions relating to
11 protective investigations; extending the time
12 limit for completion of the department's
13 investigation; providing for access to records
14 and documents; providing for working agreements
15 with law enforcement entities; amending s.
16 415.105, F.S.; authorizing the department to
17 petition the court to enjoin interference with
18 the provision of protective services; amending
19 s. 415.1051, F.S.; providing for enforcement of
20 court-ordered protective services when any
21 person interferes; amending s. 415.1052, F.S.,
22 relating to interference with investigations or
23 provision of services; amending s. 415.1055,
24 F.S.; deleting provisions relating to
25 notification to subjects, reporters, law
26 enforcement, and state attorneys of a report
27 alleging abuse, neglect, or exploitation;
28 amending s. 415.106, F.S., relating to
29 cooperation by criminal justice and other
30 agencies; amending s. 415.107, F.S.; providing
31 certain access to confidential records and

1 reports; providing that information in the
 2 central abuse hotline may not be used for
 3 employment screening; amending s. 415.1102,
 4 F.S.; revising provisions relating to adult
 5 protection teams; amending s. 415.111, F.S.,
 6 relating to criminal penalties; amending s.
 7 415.1111, F.S.; revising provisions relating to
 8 civil penalties; amending s. 415.1113, F.S.,
 9 relating to administrative fines for false
 10 reporting; amending s. 415.113, F.S., relating
 11 to treatment by spiritual means; amending s.
 12 435.03, F.S.; revising provisions relating to
 13 level 1 and level 2 screening standards;
 14 amending s. 435.05, F.S.; revising provisions
 15 relating to screening requirements for covered
 16 employees; amending s. 435.07, F.S., relating
 17 to exemptions; amending s. 435.08, F.S.,
 18 relating to payment for processing records
 19 checks; amending s. 435.09, F.S., relating to
 20 confidentiality of background check
 21 information; creating ss. 435.401, 435.402,
 22 435.403, and 435.405, F.S.; providing special
 23 work history checks for caregivers of
 24 vulnerable adults; providing definitions;
 25 requiring certain organizations that hire,
 26 contract with, or register for referral such
 27 caregivers to obtain service letters regarding
 28 applicants from all previous such organizations
 29 with whom the applicant worked within a
 30 specified period; providing duties of such
 31 applicants and organizations; providing

1 penalties; providing for conditional
 2 employment, contract, or registration for
 3 referral for a specified period; providing for
 4 good faith efforts to perform required duties;
 5 providing for certain burden of proof;
 6 providing penalties for persons or
 7 organizations that knowingly provide certain
 8 false or incomplete information; providing
 9 certain immunity from civil liability;
 10 protecting certain information from discovery
 11 in legal or administrative proceedings;
 12 providing for enforcement by the Agency for
 13 Health Care Administration; providing for
 14 disposition of fines; requiring rules; amending
 15 ss. 20.43, 455.712, and 468.520, F.S.; deleting
 16 references to health care services pools in
 17 provisions relating to the Department of
 18 Health; correcting a cross reference; amending
 19 ss. 39.202, 90.803, 110.1127, 112.0455, 119.07,
 20 232.50, 242.335, 320.0848, 381.0059, 381.60225,
 21 383.305, 390.015, 393.067, 393.0674, 394.459,
 22 394.875, 355.0055, 395.0199, 395.3025, 397.461,
 23 400.022, 400.071, 400.215, 400.414, 400.4174,
 24 400.426, 400.428, 400.462, 400.471, 400.495,
 25 400.506, 400.509, 400.512, 400.5572, 400.628,
 26 400.801, 400.805, 400.906, 400.931, 400.95,
 27 400.953, 400.955, 400.962, 400.964, 402.3025,
 28 402.3125, 402.313, 409.175, 409.912, 430.205,
 29 447.208, 447.401, 464.018, 468.826, 468.828,
 30 483.101, 483.30, 509.032, 744.309, 744.474,
 31 744.7081, 775.21, 916.107, 943.0585, and

1 985.05, F.S.; conforming to the act provisions
2 relating to protection of vulnerable adults and
3 the central abuse hotline; repealing s.
4 415.1065, F.S., relating to management of
5 records of the central abuse registry and
6 tracking system; repealing s. 415.1075, F.S.,
7 relating to amendment of such records, and
8 expunctions, appeals, and exemptions with
9 respect thereto; repealing s. 415.1085, F.S.,
10 relating to photographs and medical
11 examinations pursuant to investigations of
12 abuse or neglect of an elderly person or
13 disabled adult; repealing s. 415.109, F.S.,
14 relating to abrogation of privileged
15 communication in cases involving suspected
16 adult abuse, neglect, or exploitation;
17 providing an appropriation; providing effective
18 dates.

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

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22 Section 1. (1) There is created the Task Force on the
23 Availability and Affordability of Long-term Care, to study
24 issues related to the provision of long-term care to the
25 elderly in nursing homes and alternatives to nursing homes,
26 and to make recommendations to the Governor and the
27 Legislature. The task force shall, at a minimum, study and
28 make recommendations concerning the following:

29 (a) The availability of alternative housing and care
30 settings for the elderly, including the use of rent-subsidized
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1 facilities, assisted living facilities, and adult family care
2 homes.

3 (b) The availability of community-based care
4 arrangements that support elderly individuals to age in place
5 in their own homes and in alternative housing and care
6 settings.

7 (c) The role of family members in caring for elderly
8 relatives and ways in which quality family care can be
9 encouraged.

10 (d) The adequacy of reimbursements for the cost of
11 providing care to the elderly in nursing homes and in
12 alternative housing and care settings.

13 (e) The availability and affordability of
14 long-term-care insurance coverage and the potential for
15 funding long-term care through such coverage.

16 (f) The role of the certificate-of-need process in the
17 development of systems of long-term care for the elderly.

18 (g) The extent to which the quality of care in
19 long-term-care facilities in this state is compromised because
20 of market changes that affect the financial stability of the
21 long-term-care industry.

22 (h) The effect of lawsuits against nursing homes and
23 long-term care facilities on the cost of nursing home care and
24 on the financial stability of the nursing home industry in the
25 state.

26 (i) The kinds of incidents that lead to the filing of
27 lawsuits and the extent to which frivolous lawsuits are filed.

28 (j) The cost of liability insurance coverage for
29 long-term-care providers and the extent to which such costs
30 affect the affordability of care.

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1 (k) The availability of liability insurance coverage
2 for long-term-care providers through Florida insurance
3 companies.

4 (l) The primary causes for recent bankruptcies facing
5 the nursing home industry.

6 (m) The additional costs to Medicaid, Medicare, and
7 the family when a patient suffering from a preventable
8 condition has to be admitted to a hospital.

9 (n) The ways in which other states have promoted the
10 development of alternative and homebased care and what they
11 have learned from these innovations.

12 (o) The difference between the quality of care
13 provided by for-profit skilled nursing facilities and by
14 not-for-profit skilled nursing facilities.

15 (p) An evaluation of how the quality of care in the
16 long-term care facilities of this state compare with the
17 quality of care in such facilities in other states.

18 (2) The task force shall be composed of 19 members, as
19 follows:

20 (a) The Lieutenant Governor, who shall serve as chair
21 of the task force.

22 (b) The Secretary of Elderly Affairs.

23 (c) The director of the state Medicaid program.

24 (d) A member of The Florida Bar, appointed by The
25 Florida Bar.

26 (e) A representative of the Florida Assisted Living
27 Association, appointed by the association.

28 (f) A representative of the Florida Association of
29 Homes for the Aging, appointed by the association.

30 (g) A representative of the insurance industry who has
31 experience in the insurance markets affecting long-term care,

1 appointed by the Governor in consultation with the President
2 of the Senate and the Speaker of the House of Representatives.

3 (h) A member to represent private sponsors of housing
4 for the elderly financed through the United States Department
5 of Housing and Urban Development, appointed by the Secretary
6 of Elderly Affairs.

7 (i) An investment banker who has experience in
8 long-term-care economics, appointed by the Governor in
9 consultation with the President of the Senate and the Speaker
10 of the House of Representatives.

11 (j) An academic gerontologist appointed by the
12 Chancellor of the State University System.

13 (k) A physician whose specialty is geriatrics and who
14 is experienced in treating people with memory-related
15 disorders, appointed by the Florida Medical Association.

16 (l) A member of a Florida chapter of the American
17 Association of Retired Persons who has experience
18 administering a long-term care facility, appointed by the
19 Governor in consultation with the President of the Senate and
20 the Speaker of the House of Representatives.

21 (m) An individual who has experience with periodic
22 review of nursing homes and other long-term care facilities,
23 appointed by the Attorney General.

24 (n) A representative of the Florida Health Care
25 Association, appointed by the association.

26 (o) A local volunteer long-term care ombudsman with at
27 least two years of experience in assisting residents of
28 nursing homes and assisted living facilities, appointed by the
29 State Long-term Care Ombudsman.

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1 (p) Two consumer representatives, one appointed by the
2 President of the Senate and one appointed by the Speaker of
3 the House of Representatives.

4 (q) Two members of the Legislature, one appointed by
5 the President of the Senate and one appointed by the Speaker
6 of the House of Representatives.

7 (3) The task force shall conduct research, hold public
8 meetings, receive testimony, employ consultants, and undertake
9 other activities determined by its members to be necessary to
10 complete its responsibilities.

11 (4) The members of the task force may not delegate
12 their attendance or voting power to designees.

13 (5) The task force shall be located at the University
14 of South Florida for administrative purposes. The Florida
15 Policy Exchange Center on Aging at the University of South
16 Florida shall provide staff and support services to the task
17 force. Members of the task force shall serve without
18 compensation, but are entitled to receive reimbursement for
19 travel and per diem as provided in section 112.061, Florida
20 Statutes.

21 (6) The appointments to the task force must be
22 completed within 30 days after the effective date of this act,
23 and the task force must hold its initial meeting within 45
24 days after the effective date of this act. The task force
25 shall submit a report containing its recommendations by
26 January 1, 2001, to the Governor, the President of the Senate,
27 and the Speaker of the House of Representatives. The
28 recommendations of the task force must include proposed
29 legislation. The task force shall expire on March 1, 2001.

30 Section 2. For the 2000-2001 fiscal year, the
31 nonrecurring sum of \$200,000 is appropriated from the General

1 Revenue Fund to the University of South Florida for the
2 purposes of implementing this act.

3 Section 3. Subsection (3) of section 400.6065, Florida
4 Statutes, is amended, and subsections (4) through (8) are
5 added to said section, to read:

6 400.6065 Background screening.--

7 (3) The agency may grant a provisional license to a
8 hospice applying for an initial license when each individual
9 required by this section to undergo screening has completed
10 the ~~abuse registry and~~ Department of Law Enforcement
11 background check checks, but has not yet received results from
12 the Federal Bureau of Investigation.

13 (4) The agency shall require employment or contractor
14 screening as provided in chapter 435, using the level 1
15 standards for screening set forth in that chapter, for hospice
16 personnel.

17 (5) The agency may grant exemptions from
18 disqualification from employment under this section as
19 provided in s. 435.07.

20 (6) The administration of each hospice must sign an
21 affidavit annually, under penalty of perjury, stating that all
22 personnel employed or contracted with on or after October 1,
23 1998, who provide hospice services in a facility, or who enter
24 the home of a patient in their service capacity, have been
25 screened.

26 (7) Proof of compliance with the screening
27 requirements of chapter 435 shall be accepted in lieu of the
28 requirements of this section if the person has been
29 continuously employed or registered without a breach in
30 service that exceeds 180 days, the proof of compliance is not
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1 more than 2 years old, and the person has been screened, at
2 the discretion of the hospice.

3 (8)(a) It is a misdemeanor of the first degree,
4 punishable under s. 775.082 or s. 775.083, for any person
5 willfully, knowingly, or intentionally to:

6 1. Fail, by false statement, misrepresentation,
7 impersonation, or other fraudulent means, to disclose in any
8 application for voluntary or paid employment a material fact
9 used in making a determination as to such person's
10 qualifications to be employed or contracted with under this
11 section;

12 2. Operate or attempt to operate an entity licensed
13 under this part with persons who do not meet the minimum
14 standards for good moral character as contained in this
15 section; or

16 3. Use information from the criminal records obtained
17 under this section for any purpose other than screening as
18 specified in this section, or release such information to any
19 other person for any purpose other than screening under this
20 section.

21 (b) It is a felony of the third degree, punishable
22 under s. 775.082, s. 775.083, or s. 775.084, for any person
23 willfully, knowingly, or intentionally to use information from
24 the juvenile records of a person obtained under this section
25 for any purpose other than screening for employment under this
26 section.

27 Section 4. Part XII of chapter 400, Florida Statutes,
28 consisting of s. 400.980, Florida Statutes, is created,
29 entitled "Health Care Services Pools."

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1 Section 5. Section 402.48, Florida Statutes, is
2 renumbered as section 400.980, Florida Statutes, and amended
3 to read:

4 400.980~~402.48~~ Health care services pools.--

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

6 (a) "Agency" means the Agency for Health Care
7 Administration.~~"Department" means the Department of Health.~~

8 (b) "Health care services pool" means any person,
9 firm, corporation, partnership, or association engaged for
10 hire in the business of providing temporary employment in
11 health care facilities, residential facilities, and agencies
12 for licensed, certified, or trained health care personnel
13 including, without limitation, nursing assistants, nurses'
14 aides, and orderlies. However, the term does not include
15 nursing registries, a facility licensed under chapter 400, a
16 health care services pool established within a health care
17 facility to provide services only within the confines of such
18 facility, or any individual contractor directly providing
19 temporary services to a health care facility without use or
20 benefit of a contracting agent.

21 (2) Each person who operates a health care services
22 pool must register each separate business location with the
23 agency department. The agency department shall adopt rules
24 and provide forms required for such registration and shall
25 impose a registration fee in an amount sufficient to cover the
26 cost of administering this section. In addition, the
27 registrant must provide the agency department with any change
28 of information contained on the original registration
29 application within 14 days prior to ~~after~~ the change. The
30 agency department may inspect the offices of any health care
31 services pool at any reasonable time for the purpose of

1 determining compliance with this section or the rules adopted
2 under this section.

3 (3) Each application for registration must include:

4 (a) The name and address of any person who has an
5 ownership interest in the business, and, in the case of a
6 corporate owner, copies of the articles of incorporation,
7 bylaws, and names and addresses of all officers and directors
8 of the corporation.

9 (b) Any other information required by the agency
10 department.

11 (4) Each applicant for registration must comply with
12 the following requirements:

13 (a) Upon receipt of a completed, signed, and dated
14 application, the agency shall require background screening, in
15 accordance with the level 1 standards for screening set forth
16 in chapter 435, of every individual who will have contact with
17 patients. The agency shall require background screening of the
18 managing employee or other similarly titled individual who is
19 responsible for the operation of the entity, and of the
20 financial officer or other similarly titled individual who is
21 responsible for the financial operation of the entity,
22 including billings for services in accordance with the level 2
23 standards for background screening as set forth in chapter
24 435.

25 (b) The agency may require background screening of any
26 other individual who is affiliated with the applicant if the
27 agency has a reasonable basis for believing that he or she has
28 been convicted of a crime or has committed any other offense
29 prohibited under the level 2 standards for screening set forth
30 in chapter 435.

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1 (c) Proof of compliance with the level 2 background
2 screening requirements of chapter 435 which has been submitted
3 within the previous 5 years in compliance with any other
4 health care or assisted living licensure requirements of this
5 state is acceptable in fulfillment of paragraph (a).

6 (d) A provisional registration may be granted to an
7 applicant when each individual required by this section to
8 undergo background screening has met the standards for the
9 Department of Law Enforcement background check but the agency
10 has not yet received background screening results from the
11 Federal Bureau of Investigation. A standard registration may
12 be granted to the applicant upon the agency's receipt of a
13 report of the results of the Federal Bureau of Investigation
14 background screening for each individual required by this
15 section to undergo background screening which confirms that
16 all standards have been met, or upon the granting of a
17 disqualification exemption by the agency as set forth in
18 chapter 435. Any other person who is required to undergo level
19 2 background screening may serve in his or her capacity
20 pending the agency's receipt of the report from the Federal
21 Bureau of Investigation. However, the person may not continue
22 to serve if the report indicates any violation of background
23 screening standards and if a disqualification exemption has
24 not been requested of and granted by the agency as set forth
25 in chapter 435.

26 (e) Each applicant must submit to the agency, with its
27 application, a description and explanation of any exclusions,
28 permanent suspensions, or terminations of the applicant from
29 the Medicare or Medicaid programs. Proof of compliance with
30 the requirements for disclosure of ownership and controlling
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1 interests under the Medicaid or Medicare programs may be
2 accepted in lieu of this submission.

3 (f) Each applicant must submit to the agency a
4 description and explanation of any conviction of an offense
5 prohibited under the level 2 standards of chapter 435 which
6 was committed by a member of the board of directors of the
7 applicant, its officers, or any individual owning 5 percent or
8 more of the applicant. This requirement does not apply to a
9 director of a not-for-profit corporation or organization who
10 serves solely in a voluntary capacity for the corporation or
11 organization, does not regularly take part in the day-to-day
12 operational decisions of the corporation or organization,
13 receives no remuneration for his or her services on the
14 corporation's or organization's board of directors, and has no
15 financial interest and no family members having a financial
16 interest in the corporation or organization, if the director
17 and the not-for-profit corporation or organization include in
18 the application a statement affirming that the director's
19 relationship to the corporation satisfies the requirements of
20 this paragraph.

21 (g) A registration may not be granted to an applicant
22 if the applicant or managing employee has been found guilty
23 of, regardless of adjudication, or has entered a plea of nolo
24 contendere or guilty to, any offense prohibited under the
25 level 2 standards for screening set forth in chapter 435,
26 unless an exemption from disqualification has been granted by
27 the agency as set forth in chapter 435.

28 (h) The provisions of this section which require an
29 applicant for registration to undergo background screening
30 shall stand repealed on June 30, 2001, unless reviewed and
31 saved from repeal through reenactment by the Legislature.

1 (i) Failure to provide all required documentation
2 within 30 days after a written request from the agency will
3 result in denial of the application for registration.

4 (j) The agency must take final action on an
5 application for registration within 60 days after receipt of
6 all required documentation.

7 (k) The agency may deny, revoke, or suspend the
8 registration of any applicant or registrant who:

9 1. Has falsely represented a material fact in the
10 application required by paragraph (e) or paragraph (f), or has
11 omitted any material fact from the application required by
12 paragraph (e) or paragraph (f); or

13 2. Has had prior action taken against the applicant
14 under the Medicaid or Medicare program as set forth in
15 paragraph (e).

16 3. Fails to comply with this section or applicable
17 rules.

18 4. Commits an intentional, reckless, or negligent act
19 that materially affects the health or safety of a person
20 receiving services.

21 (5) It is a misdemeanor of the first degree,
22 punishable under s. 775.082 or s. 775.083, for any person
23 willfully, knowingly, or intentionally to:

24 (a) Fail, by false statement, misrepresentation,
25 impersonation, or other fraudulent means, to disclose in any
26 application for voluntary or paid employment a material fact
27 used in making a determination as to an applicant's
28 qualifications to be a contractor under this section;

29 (b) Operate or attempt to operate an entity registered
30 under this part with persons who do not meet the minimum
31 standards of chapter 435 as contained in this section; or

1 (c) Use information from the criminal records obtained
 2 under this section for any purpose other than screening an
 3 applicant for temporary employment as specified in this
 4 section, or release such information to any other person for
 5 any purpose other than screening for employment under this
 6 section.

7 (6) It is a felony of the third degree, punishable
 8 under s. 775.082, s. 775.083, or s. 775.084, for any person
 9 willfully, knowingly, or intentionally to use information from
 10 the juvenile records of a person obtained under this section
 11 for any purpose other than screening for employment under this
 12 section.

13 (7) It is unlawful for a person to offer or advertise
 14 services, as defined by rule, to the public without obtaining
 15 a certificate of registration from the Agency for Health Care
 16 Administration. It is unlawful for any holder of a certificate
 17 of registration to advertise or hold out to the public that he
 18 or she holds a certificate of registration for other than that
 19 for which he or she actually holds a certificate of
 20 registration. Any person who violates this subsection is
 21 subject to injunctive proceedings under s. 400.515.

22 (8)(4) Each registration shall be for a period of 2
 23 years. The application for renewal must be received by the
 24 agency department at least 30 ~~20~~ days before the expiration
 25 date of the registration. An application for a new
 26 registration is required within 30 days prior to ~~upon~~ the sale
 27 of a controlling interest in a health care services pool.

28 (9)(5) A health care services pool may not require an
 29 employee to recruit new employees from persons employed at a
 30 health care facility to which the health care services pool
 31 employee is assigned. Nor shall a health care facility to

1 which employees of a health care services pool are assigned
2 recruit new employees from the health care services pool.

3 (10)~~(6)~~ A health care services pool shall document
4 that each temporary employee provided to a health care
5 facility ~~is licensed and~~ has met the licensing, certification,
6 training, or ~~and~~ continuing education requirements, as
7 established by the appropriate regulatory agency, for the
8 position in which he or she will be working.

9 (11)~~(7)~~ When referring persons for temporary
10 employment in health care facilities, a health care services
11 pool shall comply with all pertinent state and federal laws,
12 rules, and regulations ~~of the appropriate regulatory agency~~
13 relating to health, background screening, and other
14 qualifications required of persons working in a facility of
15 that type of personnel employed in health care facilities.

16 (12)~~(8)~~(a) As a condition of registration and prior to
17 the issuance or renewal of a certificate of registration, a
18 health care services pool applicant must prove financial
19 responsibility to pay claims, and costs ancillary thereto,
20 arising out of the rendering of services or failure to render
21 services by the pool or by its employees in the course of
22 their employment with the pool. The agency ~~department~~ shall
23 promulgate rules establishing minimum financial responsibility
24 coverage amounts which shall be adequate to pay potential
25 claims and costs ancillary thereto.

26 (b) Each health care services pool shall give written
27 notification to the agency ~~department~~ within 20 days after any
28 change in the method of assuring financial responsibility or
29 upon cancellation or nonrenewal of professional liability
30 insurance. Unless the pool demonstrates that it is otherwise
31 in compliance with the requirements of this section, the

1 agency department shall suspend the registration license of
2 the pool pursuant to ss. 120.569 and 120.57. Any suspension
3 under this section shall remain in effect until the pool
4 demonstrates compliance with the requirements of this section.

5 (c) Proof of financial responsibility must be
6 demonstrated to the satisfaction of the agency department,
7 through one of the following methods:

8 1. Establishing and maintaining an escrow account
9 consisting of cash or assets eligible for deposit in
10 accordance with s. 625.52;

11 2. Obtaining and maintaining an unexpired irrevocable
12 letter of credit established pursuant to chapter 675. Such
13 letters of credit shall be nontransferable and nonassignable
14 and shall be issued by any bank or savings association
15 organized and existing under the laws of this state or any
16 bank or savings association organized under the laws of the
17 United States that has its principal place of business in this
18 state or has a branch office which is authorized under the
19 laws of this state or of the United States to receive deposits
20 in this state; or

21 3. Obtaining and maintaining professional liability
22 coverage from one of the following:

23 a. An authorized insurer as defined under s. 624.09;

24 b. An eligible surplus lines insurer as defined under
25 s. 626.918(2);

26 c. A risk retention group or purchasing group as
27 defined under s. 627.942; or

28 d. A plan of self-insurance as provided in s. 627.357.

29 (d) If financial responsibility requirements are met
30 by maintaining an escrow account or letter of credit, as
31 provided in this section, upon the entry of an adverse final

1 judgment arising from a medical malpractice arbitration award
 2 from a claim of medical malpractice either in contract or
 3 tort, or from noncompliance with the terms of a settlement
 4 agreement arising from a claim of medical malpractice either
 5 in contract or tort, the financial institution holding the
 6 escrow account or the letter of credit shall pay directly to
 7 the claimant the entire amount of the judgment together with
 8 all accrued interest or the amount maintained in the escrow
 9 account or letter of credit as required by this section,
 10 whichever is less, within 60 days after the date such judgment
 11 became final and subject to execution, unless otherwise
 12 mutually agreed to in writing by the parties. If timely
 13 payment is not made, the agency ~~department~~ shall suspend the
 14 registration ~~license~~ of the pool pursuant to procedures set
 15 forth by the department through rule. Nothing in this
 16 paragraph shall abrogate a judgment debtor's obligation to
 17 satisfy the entire amount of any judgment.

18 (e) Each health care services pool carrying
 19 claims-made coverage must demonstrate proof of extended
 20 reporting coverage through either tail or nose coverage, in
 21 the event the policy is canceled, replaced, or not renewed.
 22 Such extended coverage shall provide coverage for incidents
 23 that occurred during the claims-made policy period but were
 24 reported after the policy period.

25 (f) The financial responsibility requirements of this
 26 section shall apply to claims for incidents that occur on or
 27 after January 1, 1991, or the initial date of registration in
 28 this state, whichever is later.

29 (g) Meeting the financial responsibility requirements
 30 of this section must be established at the time of issuance or
 31 renewal of a certificate of registration.

1 (13)(9) The agency department shall adopt rules to
2 implement this section, including rules providing for the
3 establishment of:

4 (a) Minimum standards for the operation and
5 administration of health care personnel pools, including
6 procedures for recordkeeping and personnel.

7 (b) Fines for the violation of this section in an
8 amount not to exceed ~~\$1,000~~ \$2,500 and suspension or
9 revocation of registration.

10 (c) Disciplinary sanctions for failure to comply with
11 this section or the rules adopted under this section.

12 Section 6. All powers, duties and functions, rules,
13 records, personnel, property, and unexpended balances of
14 appropriations, allocations, or other funds of the Department
15 of Health relating to the regulation of health care services
16 pools are transferred by a type two transfer, as defined in s.
17 20.06(2), Florida Statutes, from the Department of Health to
18 the Agency for Health Care Administration.

19 Section 7. Section 415.102, Florida Statutes, is
20 amended to read:

21 415.102 Definitions of terms used in ss.
22 415.101-415.113.--As used in ss. 415.101-415.113, the term:

23 (1) "Abuse" means any willful act or threatened act
24 that causes or is likely to cause significant impairment to a
25 vulnerable adult's physical, mental, or emotional health.
26 Abuse includes acts and omissions. ~~"Abuse" means the~~
27 ~~nonaccidental infliction of physical or psychological injury~~
28 ~~or sexual abuse upon a disabled adult or an elderly person by~~
29 ~~a relative, caregiver, or household member, or an action by~~
30 ~~any of those persons which could reasonably be expected to~~
31 ~~result in physical or psychological injury, or sexual abuse of~~

1 ~~a disabled adult or an elderly person by any person. "Abuse"~~
2 ~~also means the active encouragement of any person by a~~
3 ~~relative, caregiver, or household member to commit an act that~~
4 ~~inflicts or could reasonably be expected to result in physical~~
5 ~~or psychological injury to a disabled adult or an elderly~~
6 ~~person.~~

7 (2) "Alleged perpetrator" means a person who has been
8 named by a reporter as the person responsible for abusing,
9 neglecting, or exploiting a vulnerable ~~disabled~~ adult ~~or an~~
10 ~~elderly person.~~ "Alleged perpetrator" ~~also means a person who~~
11 ~~has been named by an adult protective investigator, in a~~
12 ~~report that has been classified as proposed confirmed, as the~~
13 ~~person responsible for abusing, neglecting, or exploiting a~~
14 ~~disabled adult or an elderly person.~~

15 (3) "Capacity to consent" means that a vulnerable
16 ~~disabled~~ adult ~~or elderly person~~ has sufficient understanding
17 to make and communicate responsible decisions regarding the
18 vulnerable ~~disabled~~ adult's ~~or elderly person's~~ person or
19 property, including whether or not to accept protective
20 services offered by the department.

21 (4) "Caregiver" means a person who has been entrusted
22 with or has assumed the responsibility for frequent and
23 regular care of or services to a vulnerable ~~disabled~~ adult ~~or~~
24 ~~an elderly person~~ on a temporary or permanent basis and who
25 has a commitment, agreement, or understanding with that person
26 or that person's guardian that a caregiver role exists.
27 "Caregiver" includes, but is not limited to, relatives,
28 household members, guardians, neighbors, and employees and
29 volunteers of facilities as defined in subsection (8) ~~(13)~~.
30 For the purpose of departmental investigative jurisdiction,
31 the term "caregiver" does not include law enforcement officers

1 or employees of municipal or county detention facilities or
2 the Department of Corrections while acting in an official
3 capacity.

4 ~~(5) "Closed without classification" means the closure~~
5 ~~of a report in which an adult protective investigator~~
6 ~~determines that:~~

7 ~~(a) Some evidence exists that abuse, neglect, or~~
8 ~~exploitation has occurred, but a preponderance of evidence~~
9 ~~cannot be established; or~~

10 ~~(b) A preponderance of the evidence exists that abuse,~~
11 ~~neglect, or exploitation has occurred, but no perpetrator can~~
12 ~~be identified.~~

13 ~~(6) "Confirmed report" means a proposed confirmed~~
14 ~~report that has been determined to be valid after a hearing~~
15 ~~under s. 415.1075(2), a proposed confirmed report for which~~
16 ~~the alleged perpetrator has failed to request amendment or~~
17 ~~expunction within the time allotted for such a request under~~
18 ~~s. 415.1075(1), or a proposed confirmed report for which the~~
19 ~~alleged perpetrator has failed to request an administrative~~
20 ~~hearing within the time allotted by s. 415.1075(2).~~

21 ~~(7) "Criminal justice agency" means any court, any law~~
22 ~~enforcement agency, or any government agency or subunit~~
23 ~~thereof as defined under s. 943.045(10).~~

24 (5)(8) "Deception" means a misrepresentation or
25 concealment of a material fact relating to services rendered,
26 disposition of property, or the use of property intended to
27 benefit a vulnerable disabled adult ~~or an elderly person.~~

28 (6)(9) "Department" means the Department of Children
29 and Family Services.

30 ~~(10) "Disabled adult" means a person 18 years of age~~
31 ~~or older who suffers from a condition of physical or mental~~

1 ~~incapacitation due to a developmental disability, organic~~
2 ~~brain damage, or mental illness, or who has one or more~~
3 ~~physical or mental limitations that substantially restrict the~~
4 ~~ability to perform the normal activities of daily living.~~

5 ~~(11) "Disabled adult in need of services" means a~~
6 ~~disabled adult who has been determined by an adult protective~~
7 ~~services investigator to be suffering from the ill effects of~~
8 ~~neglect not caused by a second party perpetrator and is in~~
9 ~~need of protective services or other services to prevent~~
10 ~~further harm.~~

11 ~~(12) "Elderly person" means a person 60 years of age~~
12 ~~or older who is suffering from the infirmities of aging as~~
13 ~~manifested by advanced age or organic brain damage, or other~~
14 ~~physical, mental, or emotional dysfunctioning to the extent~~
15 ~~that the ability of the person to provide adequately for the~~
16 ~~person's own care or protection is impaired.~~

17 ~~(13) "Elderly person in need of services" means an~~
18 ~~elderly person who has been determined by an adult protective~~
19 ~~services investigator to be suffering from the ill effects of~~
20 ~~neglect not caused by a second party perpetrator and is in~~
21 ~~need of protective services or other services to prevent~~
22 ~~further harm.~~

23 ~~(7)(14)~~(a) "Exploitation" means a person who:

24 1. Stands in a position of trust and confidence with a
25 vulnerable disabled adult ~~or an elderly person~~ and knowingly,
26 by deception or intimidation, obtains or uses, or endeavors to
27 obtain or use, a vulnerable disabled adult's ~~or an elderly~~
28 ~~person's~~ funds, assets, or property with the intent to
29 temporarily or permanently deprive a vulnerable disabled adult
30 ~~or an elderly person~~ of the use, benefit, or possession of the

31

1 funds, assets, or property for the benefit of someone other
2 than the vulnerable ~~disabled~~ adult ~~or elderly person~~; or
3 2. Knows or should know that the vulnerable ~~disabled~~
4 adult ~~or elderly person~~ lacks the capacity to consent, and
5 obtains or uses, or endeavors to obtain or use, the vulnerable
6 ~~disabled~~ adult's ~~or elderly person's~~ funds, assets, or
7 property with the intent to temporarily or permanently deprive
8 the vulnerable ~~disabled~~ adult ~~or elderly person~~ of the use,
9 benefit, or possession of the funds, assets, or property for
10 the benefit of someone other than the vulnerable ~~disabled~~
11 adult ~~or elderly person~~.

12 (b) "Exploitation" may include, but is not limited to:

- 13 1. Breaches of fiduciary relationships, such as the
14 misuse of a power of attorney or the abuse of guardianship
15 duties, resulting in the unauthorized appropriation, sale, or
16 transfer of property;
- 17 2. Unauthorized taking of personal assets;
- 18 3. Misappropriation, misuse, or transfer of moneys
19 belonging to a vulnerable ~~disabled~~ adult ~~or elderly person~~
20 from a personal or joint account; or
- 21 4. Intentional or negligent failure to effectively use
22 a vulnerable ~~disabled~~ adult's ~~or elderly person's~~ income and
23 assets for the necessities required for that person's support
24 and maintenance.

25 ~~(8)(15)~~ "Facility" means any location providing day or
26 residential care or treatment for vulnerable ~~disabled~~ adults
27 ~~or elderly persons~~. The term "facility" may include, but is
28 not limited to, any hospital, ~~training center~~, state
29 institution, nursing home, assisted living facility, adult
30 family-care home, adult day care center, group home, or mental
31 health treatment center.

1 (9)(16) "False report" means a report of abuse,
2 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
3 ~~elderly person~~ to the central abuse hotline registry ~~and~~
4 ~~tracking system~~ which is not true ~~unfounded~~ and is maliciously
5 made for the purpose of:

6 (a) Harassing, embarrassing, or harming another
7 person;

8 (b) Personal financial gain for the reporting person;

9 (c) Acquiring custody of a vulnerable ~~disabled~~ adult
10 ~~or an elderly person~~; or

11 (d) Personal benefit for the reporting person in any
12 other private dispute involving a vulnerable ~~disabled~~ adult ~~or~~
13 ~~an elderly person~~.

14
15 The term "false report" does not include a report of abuse,
16 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
17 ~~elderly person~~ which is made in good faith to the central
18 abuse hotline registry ~~and tracking system~~ and which is
19 ~~classified as unfounded at the conclusion of the~~
20 ~~investigation~~.

21 (10)(17) "Fiduciary relationship" means a relationship
22 based upon the trust and confidence of the vulnerable ~~disabled~~
23 ~~adult or elderly person~~ in the caregiver, relative, household
24 member, or other person entrusted with the use or management
25 of the property or assets of the vulnerable ~~disabled~~ adult ~~or~~
26 ~~elderly person~~. The relationship exists where there is a
27 special confidence reposed in one who in equity and good
28 conscience is bound to act in good faith and with due regard
29 to the interests of the vulnerable ~~disabled~~ adult ~~or elderly~~
30 ~~person~~. For the purposes of this part, a fiduciary
31 relationship may be formed by an informal agreement between

1 the vulnerable ~~disabled~~ adult ~~or elderly person~~ and the other
 2 person and does not require a formal declaration or court
 3 order for its existence. A fiduciary relationship includes,
 4 but is not limited to, court-appointed or voluntary guardians,
 5 trustees, attorneys, or conservators of a vulnerable ~~disabled~~
 6 adult's ~~or an elderly person's~~ assets or property.

7 (11)~~(18)~~ "Guardian" means a person who has been
 8 appointed by a court to act on behalf of a person; a preneed
 9 guardian, as provided in chapter 744; or a health care
 10 surrogate expressly designated ~~by a principal to make health~~
 11 ~~care decisions on behalf of the principal upon the principal's~~
 12 ~~incapacity~~, as provided in chapter 765.

13 (12)~~(19)~~ "In-home services" means the provision of
 14 nursing, personal care, supervision, or other services to
 15 vulnerable ~~disabled~~ adults ~~or elderly persons~~ in their own
 16 homes.

17 (13)~~(20)~~ "Intimidation" means the communication by
 18 word or act to a vulnerable ~~disabled~~ adult ~~or an elderly~~
 19 ~~person~~ that that person will be deprived of food, nutrition,
 20 clothing, shelter, supervision, medicine, medical services,
 21 money, or financial support or will suffer physical violence.

22 (14)~~(21)~~ "Lacks capacity to consent" means a mental
 23 impairment that causes a vulnerable ~~disabled~~ adult ~~or an~~
 24 ~~elderly person~~ to lack sufficient understanding or capacity to
 25 make or communicate responsible decisions concerning ~~the~~
 26 ~~disabled adult's or elderly person's~~ person or property,
 27 including whether or not to accept protective services ~~offered~~
 28 ~~by the department~~.

29 (15)~~(22)~~ "Neglect" means the failure or omission on
 30 the part of the caregiver ~~or disabled adult or elderly person~~
 31 to provide the care, supervision, and services necessary to

1 maintain the physical and mental health of the vulnerable
2 ~~disabled adult or elderly person~~, including, but not limited
3 to, food, clothing, medicine, shelter, supervision, and
4 medical services, that a prudent person would consider
5 essential for the well-being of a vulnerable ~~disabled adult or~~
6 ~~an elderly person~~. The term "neglect" also means the failure
7 of a caregiver to make a reasonable effort to protect a
8 vulnerable ~~disabled adult or an elderly person~~ from abuse,
9 neglect, or exploitation by others. "Neglect" is repeated
10 conduct or a single incident of carelessness which produces or
11 could reasonably be expected to result in serious physical or
12 psychological injury or a substantial risk of death.

13 ~~(23) "No jurisdiction" means the disposition of a~~
14 ~~report that the department does not investigate because the~~
15 ~~report does not meet the criteria specified in ss.~~
16 ~~415.101-415.113.~~

17 ~~(16)(24)~~ "Obtains or uses" means any manner of:

18 (a) Taking or exercising control over property; ~~or~~
19 (b) Making any use, disposition, or transfer of
20 property;

21 (c) Obtaining property by fraud, willful
22 misrepresentation of a future act, or false promise; or

23 (d)1. Conduct otherwise known as stealing; larceny;
24 purloining; abstracting; embezzlement; misapplication;
25 misappropriation; conversion; or obtaining money or property
26 by false pretenses, fraud, or deception; or

27 2. Other conduct similar in nature.

28 ~~(25) "Perpetrator" means the person who has been named~~
29 ~~as causing abuse, neglect, or exploitation of a disabled adult~~
30 ~~or an elderly person in a report that has been classified as~~
31 ~~confirmed.~~

1 ~~(17)(26)~~ "Position of trust and confidence" with
2 respect to a vulnerable disabled adult ~~or an elderly person~~
3 means the position of a person who:

4 (a) Is a parent, spouse, adult child, or other
5 relative by blood or marriage ~~of the disabled adult or elderly~~
6 ~~person;~~

7 (b) Is a joint tenant or tenant in common ~~with the~~
8 ~~disabled adult or elderly person;~~

9 (c) Has a legal or fiduciary relationship ~~with the~~
10 ~~disabled adult or elderly person~~, including, but not limited
11 to, a court-appointed or voluntary guardian, trustee,
12 attorney, or conservator; or

13 (d) Is a caregiver ~~of the disabled adult or elderly~~
14 ~~person~~ or any other person who has been entrusted with or has
15 assumed responsibility for the use or management of the
16 vulnerable elderly person's or disabled adult's funds, assets,
17 or property.

18 (18) "Protective investigation" means acceptance of a
19 report from the central abuse hotline alleging abuse, neglect,
20 or exploitation as defined in this section; investigation of
21 the report; determination as to whether action by the court is
22 warranted; and referral of the vulnerable adult to another
23 public or private agency when appropriate.

24 ~~(27) "Property" means anything of value, and includes:~~

25 ~~(a) Real property, including things growing on,~~
26 ~~affixed to, and found in land.~~

27 ~~(b) Tangible personal property, including, but not~~
28 ~~limited to, furniture, jewelry, or clothing and intangible~~
29 ~~personal property, including rights, privileges, interests,~~
30 ~~and claims.~~

1 ~~(28) "Proposed confirmed report" means a report of~~
2 ~~abuse, neglect, or exploitation which is made pursuant to s.~~
3 ~~415.1034 when an adult protective investigation alleges that~~
4 ~~there is a preponderance of evidence that abuse, neglect, or~~
5 ~~exploitation occurred and which identifies the alleged~~
6 ~~perpetrator.~~

7 (19)~~(29)~~ "Protective investigator" means an authorized
8 agent of the department who receives and investigates reports
9 of abuse, neglect, or exploitation of vulnerable adults.

10 ~~"Protective investigator" means an employee of the department~~
11 ~~responsible for:~~

12 ~~(a) The onsite investigation, classification, and~~
13 ~~disposition of all reports alleging abuse, neglect, or~~
14 ~~exploitation of a disabled adult or an elderly person;~~

15 ~~(b) The determination of immediate risk to a disabled~~
16 ~~adult or an elderly person, which determination must include~~
17 ~~the provision of emergency services and the arrangement for~~
18 ~~immediate in-home and nonemergency services to prevent the~~
19 ~~recurrence of further abuse, neglect, or exploitation; and~~

20 ~~(c) The evaluation of the need for and referrals to~~
21 ~~ongoing protective services for a disabled adult or an elderly~~
22 ~~person.~~

23 (20)~~(30)~~ "Protective services" means ~~the provision or~~
24 ~~arrangement of services to protect a vulnerable disabled adult~~
25 ~~or an elderly person from further occurrences of abuse,~~
26 ~~neglect, or exploitation. Such services may include, but are~~
27 ~~not limited to, protective supervision, placement, and in-home~~
28 ~~and community-based services.~~

29 (21)~~(31)~~ "Protective supervision" means those services
30 arranged for or implemented by the department to protect
31 vulnerable disabled adults ~~or elderly persons~~ from further

1 occurrences of abuse, neglect, or exploitation ~~during an~~
 2 ~~investigation or following a report that has been classified~~
 3 ~~as proposed confirmed or confirmed, or has been closed without~~
 4 ~~classification.~~

5 ~~(22)(32)~~ "Psychological injury" means an injury to the
 6 intellectual functioning or emotional state of a vulnerable
 7 ~~disabled~~ adult ~~or an elderly person~~ as evidenced by an
 8 observable or measurable reduction in the vulnerable ~~disabled~~
 9 adult's ~~or elderly person's~~ ability to function within that
 10 person's customary range of performance and that person's
 11 behavior.

12 ~~(23)(33)~~ "Records" means all documents, papers,
 13 letters, maps, books, tapes, photographs, films, sound
 14 recordings, videotapes, or other material, regardless of
 15 physical form or characteristics, made or received pursuant to
 16 a ~~an~~ adult protective investigation.

17 ~~(24)(34)~~ "Sexual abuse" means acts of a sexual nature
 18 ~~committed for the sexual gratification of the abuser and in~~
 19 the presence of a vulnerable ~~disabled~~ adult ~~or an elderly~~
 20 ~~person~~ without that person's informed consent. "Sexual abuse"
 21 includes, but is not limited to, the acts defined in s.
 22 794.011(1)(h), fondling, exposure of a vulnerable ~~disabled~~
 23 adult's ~~or elderly person's~~ sexual organs, or the use of a
 24 vulnerable ~~disabled~~ adult ~~or an elderly person~~ to solicit for
 25 or engage in prostitution or sexual performance. "Sexual
 26 abuse" does not include any act intended for a valid medical
 27 purpose or any act that may reasonably be construed to be
 28 normal caregiving action or appropriate display of affection.

29 ~~(35)~~ ~~"Specified medical personnel" means licensed or~~
 30 ~~certified physicians, osteopathic physicians, nurses,~~
 31 ~~paramedics, advanced registered nurse practitioners,~~

1 ~~psychologists, psychiatrists, mental health professionals, or~~
2 ~~any other licensed or certified medical personnel.~~

3 ~~(36) "Unfounded report" means a report made pursuant~~
4 ~~to s. 415.1034 in which the department determines that no~~
5 ~~evidence of abuse, neglect, or exploitation exists.~~

6 ~~(25)(37) "Victim" means any vulnerable ~~disabled~~ adult~~
7 ~~or elderly person named in a report of abuse, neglect, or~~
8 ~~exploitation.~~

9 ~~(26) "Vulnerable adult" means a person 18 years of age~~
10 ~~or older whose ability to perform the normal activities of~~
11 ~~daily living or to provide for his or her own care or~~
12 ~~protection is impaired due to a mental, emotional, physical,~~
13 ~~or developmental disability or dysfunctioning, or brain~~
14 ~~damage, or the infirmities of aging.~~

15 ~~(27) "Vulnerable adult in need of services" means a~~
16 ~~vulnerable adult who has been determined by a protective~~
17 ~~investigator to be suffering from the ill effects of neglect~~
18 ~~not caused by a second party perpetrator and is in need of~~
19 ~~protective services or other services to prevent further harm.~~

20 Section 8. Section 415.103, Florida Statutes, is
21 amended to read:

22 415.103 Central abuse hotline ~~registry and tracking~~
23 ~~system.--~~

24 (1) The department shall establish and maintain a
25 central abuse hotline ~~registry and tracking system~~ that
26 receives all reports made pursuant to s. 415.1034 in writing
27 or through a single statewide toll-free telephone number. Any
28 person may use the statewide toll-free telephone number to
29 report known or suspected abuse, neglect, or exploitation of a
30 vulnerable ~~disabled~~ adult ~~or an elderly person~~ at any hour of
31 the day or night, any day of the week. The central abuse

1 ~~hotline registry and tracking system~~ must be operated in such
2 a manner as to enable the department to:

3 (a) Accept reports for investigation when there is a
4 reasonable cause to suspect that a vulnerable ~~disabled~~ adult
5 ~~or an elderly person~~ has been or is being abused, neglected,
6 or exploited.

7 (b) Determine whether the allegations made by the
8 reporter require an immediate, 24-hour, or next-working-day
9 response priority.

10 (c) When appropriate, refer calls that do not allege
11 the abuse, neglect, or exploitation of a vulnerable ~~disabled~~
12 ~~adult or an elderly person~~ to other organizations that might
13 better resolve the reporter's concerns.

14 (d) Immediately identify and locate prior reports of
15 abuse, neglect, or exploitation through the central abuse
16 hotline registry and tracking system.

17 (e) Track critical steps in the investigative process
18 to ensure compliance with all requirements for all reports.

19 (f) Maintain data to facilitate the production of
20 aggregate statistical reports for monitoring patterns of
21 abuse, neglect, or exploitation of ~~disabled adults or elderly~~
22 ~~persons~~.

23 (g) Serve as a resource for the evaluation,
24 management, and planning of preventive and remedial services
25 for vulnerable ~~disabled~~ adults ~~or elderly persons~~ who have
26 been subject to abuse, neglect, or exploitation.

27 (2) Upon receiving an oral or written report of known
28 or suspected abuse, neglect, or exploitation of a vulnerable
29 ~~disabled~~ adult ~~or an elderly person~~, the central abuse hotline
30 ~~registry and tracking system~~ must determine if the report
31 requires an immediate onsite protective investigation. For

1 reports requiring an immediate onsite protective
2 investigation, the central abuse hotline ~~registry and tracking~~
3 ~~system~~ must immediately notify the department's designated
4 ~~adult~~ protective investigative district staff responsible for
5 protective investigations to ensure prompt initiation of an
6 onsite investigation. For reports not requiring an immediate
7 onsite protective investigation, the central abuse hotline
8 ~~registry and tracking system~~ must notify the department's
9 designated ~~adult~~ protective investigative district staff
10 responsible for protective investigations in sufficient time
11 to allow for an investigation to be commenced within 24 hours.
12 At the time of notification of district staff with respect to
13 the report, the central abuse hotline ~~registry and tracking~~
14 ~~system~~ must also provide any known information on any previous
15 report concerning a subject of the present report or any
16 pertinent information relative to the present report or any
17 noted earlier reports.

18 (3) The department shall set standards, priorities,
19 and policies to maximize the efficiency and effectiveness of
20 the central abuse hotline ~~registry and tracking system~~.

21 Section 9. Section 415.1034, Florida Statutes, is
22 amended to read:

23 415.1034 Mandatory reporting of abuse, neglect, or
24 exploitation of vulnerable ~~disabled~~ adults or ~~elderly persons~~;
25 mandatory reports of death.--

26 (1) MANDATORY REPORTING.--

27 (a) Any person, including, but not limited to, any:

28 1. Physician, osteopathic physician, medical examiner,
29 chiropractic physician, nurse, or hospital personnel engaged
30 in the admission, examination, care, or treatment of
31 vulnerable ~~disabled~~ adults or ~~elderly persons~~;

1 2. Health professional or mental health professional
2 other than one listed in subparagraph 1.;

3 3. Practitioner who relies solely on spiritual means
4 for healing;

5 4. Nursing home staff; assisted living facility staff;
6 adult day care center staff; adult family-care home staff;
7 social worker; or other professional adult care, residential,
8 or institutional staff;

9 5. State, county, or municipal criminal justice
10 employee or law enforcement officer;

11 6. Human rights advocacy committee or long-term care
12 ombudsman council member; or

13 7. Bank, savings and loan, or credit union officer,
14 trustee, or employee,

15
16 who knows, or has reasonable cause to suspect, that a
17 vulnerable ~~disabled adult or an elderly person~~ has been or is
18 being abused, neglected, or exploited shall immediately report
19 such knowledge or suspicion to the central abuse hotline
20 ~~registry and tracking system on the single statewide toll-free~~
21 ~~telephone number.~~

22 (b) To the extent possible, a report made pursuant to
23 paragraph (a) must contain, but need not be limited to, the
24 following information:

25 1. Name, age, race, sex, physical description, and
26 location of each victim ~~disabled adult or an elderly person~~
27 alleged to have been abused, neglected, or exploited.

28 2. Names, addresses, and telephone numbers of the
29 victim's ~~disabled adult's or elderly person's~~ family members.

30 3. Name, address, and telephone number of each alleged
31 perpetrator.

1 4. Name, address, and telephone number of the
2 caregiver of the victim ~~disabled adult or elderly person~~, if
3 different from the alleged perpetrator.

4 5. Name, address, and telephone number of the person
5 reporting the alleged abuse, neglect, or exploitation.

6 6. Description of the physical or psychological
7 injuries sustained.

8 7. Actions taken by the reporter, if any, such as
9 notification of the criminal justice agency.

10 8. Any other information available to the reporting
11 person which may establish the cause of abuse, neglect, or
12 exploitation that occurred or is occurring.

13 (2) MANDATORY REPORTS OF DEATH.--Any person who is
14 required to investigate reports of abuse, neglect, or
15 exploitation and who has reasonable cause to suspect that a
16 vulnerable ~~disabled~~ adult ~~or an elderly person~~ died as a
17 result of abuse, neglect, or exploitation shall immediately
18 report the suspicion to the appropriate medical examiner, to
19 the appropriate criminal justice agency, and to the
20 department, notwithstanding the existence of a death
21 certificate signed by a practicing physician. The medical
22 examiner shall accept the report for investigation pursuant to
23 s. 406.11 and shall report the findings of the investigation,
24 in writing, to the appropriate local criminal justice agency,
25 the appropriate state attorney, and the department. Autopsy
26 reports maintained by the medical examiner are not subject to
27 the confidentiality requirements provided for in s. 415.107.

28 Section 10. Section 415.1035, Florida Statutes, is
29 amended to read:

30 415.1035 Facility's duty to inform residents of their
31 right to report abusive, neglectful, or exploitive

1 practices.--The department shall work cooperatively with the
2 Agency for Health Care Administration and the Department of
3 Elderly Affairs to ensure that every facility that serves
4 vulnerable adults informs residents of their right to report
5 abusive, neglectful, or exploitive practices. Each facility
6 must establish appropriate policies and procedures to
7 facilitate such reporting.

8 ~~(1) Every facility that serves disabled adults or~~
9 ~~elderly persons must inform residents of their right to report~~
10 ~~abusive, neglectful, or exploitive practices and must~~
11 ~~establish appropriate policies and procedures to facilitate~~
12 ~~such reporting.~~

13 ~~(2) The statewide toll-free telephone number for the~~
14 ~~central abuse registry and tracking system must be posted in~~
15 ~~all facilities operated by, under contract with, or licensed~~
16 ~~by the department or the Agency for Health Care Administration~~
17 ~~which provide services to disabled adults or elderly persons.~~
18 ~~Such posting must be clearly visible and in a prominent place~~
19 ~~within the facility and must be accompanied by the words, "To~~
20 ~~Report the Abuse, Neglect, or Exploitation of a Disabled Adult~~
21 ~~or an Elderly Person, Please Call:....."~~

22 Section 11. Subsection (1) of section 415.1036,
23 Florida Statutes, is amended to read:

24 415.1036 Immunity.--

25 (1) Any person who participates in making a report
26 under s. 415.1034 or participates in a judicial proceeding
27 resulting therefrom is presumed to be acting in good faith
28 and, unless lack of good faith is shown by clear and
29 convincing evidence, is immune from any liability, civil or
30 criminal, that otherwise might be incurred or imposed. This
31 section does not grant immunity, civil or criminal, to any

1 person who is suspected of having abused, neglected, or
 2 exploited, or committed any illegal act upon or against, a
 3 vulnerable disabled adult ~~or an elderly person~~. Further, a
 4 resident or employee of a facility that serves vulnerable
 5 ~~disabled~~ adults ~~or elderly persons~~ may not be subjected to
 6 reprisal or discharge because of the resident's or employee's
 7 actions in reporting abuse, neglect, or exploitation pursuant
 8 to s. 415.1034.

9 Section 12. Section 415.104, Florida Statutes, is
 10 amended to read:

11 415.104 Protective ~~services~~ investigations of cases of
 12 abuse, neglect, or exploitation of vulnerable aged persons ~~or~~
 13 ~~disabled~~ adults; transmittal of records to state attorney.--

14 (1) The department shall, upon receipt of a report
 15 alleging abuse, neglect, or exploitation of a vulnerable an
 16 ~~aged person or disabled~~ adult, begin ~~commence~~, or ~~cause to be~~
 17 ~~commenced~~ within 24 hours, a protective ~~services~~ investigation
 18 of the facts alleged therein. ~~If, upon arrival of the~~
 19 ~~protective investigator at the scene of the incident,~~ a
 20 caregiver refuses to allow the department to begin a
 21 protective ~~services~~ investigation or interferes with the
 22 ~~department's ability to conduct of~~ of such an investigation, the
 23 appropriate law enforcement agency shall be contacted for
 24 assistance ~~to assist the department in commencing the~~
 25 ~~protective services investigation~~. If, during the course of
 26 the investigation, the department has reason to believe that
 27 the abuse, neglect, or exploitation is perpetrated by a second
 28 party, the appropriate law enforcement ~~criminal justice~~ agency
 29 and state attorney shall be orally notified. The department
 30 and the law enforcement agency shall cooperate to allow the
 31 criminal investigation to proceed concurrently with, and not

1 ~~be hindered by, the protective investigation.~~~~in order that~~
 2 ~~such agencies may begin a criminal investigation concurrent~~
 3 ~~with the protective services investigation of the department.~~
 4 ~~In an institutional investigation, the alleged perpetrator may~~
 5 ~~be represented by an attorney, at his or her own expense, or~~
 6 ~~accompanied by another person, if the person or the attorney~~
 7 ~~executes an affidavit of understanding with the department and~~
 8 ~~agrees to comply with the confidentiality provisions of s.~~
 9 ~~415.107. The absence of an attorney or other person does not~~
 10 ~~prevent the department from proceeding with other aspects of~~
 11 ~~the investigation, including interviews with other persons.~~
 12 The department shall make a preliminary written report to the
 13 law enforcement ~~criminal justice~~ agencies within 5 working
 14 days after the oral report. The department shall, within 24
 15 hours after receipt of the report, notify the appropriate
 16 human rights advocacy committee, or long-term care ombudsman
 17 council, when appropriate, that an alleged abuse, neglect, or
 18 exploitation perpetrated by a second party has occurred.
 19 Notice to the human rights advocacy committee or long-term
 20 care ombudsman council may be accomplished orally or in
 21 writing and shall include the name and location of the
 22 vulnerable ~~aged person or disabled~~ adult alleged to have been
 23 abused, neglected, or exploited and the nature of the report.
 24 (2) Upon commencing an investigation, the protective
 25 investigator shall inform all of the vulnerable adults and
 26 alleged perpetrators named in the report of the following:
 27 (a) The names of the investigators and identifying
 28 credentials from the department.
 29 (b) The purpose of the investigation.
 30 (c) That the victim, the victim's guardian, the
 31 victim's caregiver, and the alleged perpetrator, and legal

1 counsel for any of those persons, have a right to a copy of
2 the report at the conclusion of the investigation.

3 (d) The name and telephone number of the protective
4 investigator's supervisor available to answer questions.

5 (e) That each person has the right to obtain his or
6 her own attorney.

7
8 Any person being interviewed by a protective investigator may
9 be represented by an attorney, at the person's own expense, or
10 may choose to have another person present. The other person
11 present may not be an alleged perpetrator in any report
12 currently under investigation. Before participating in such
13 interview, the other person present shall execute an agreement
14 to comply with the confidentiality requirements of ss.
15 415.101-415.113. The absence of an attorney or other person
16 does not prevent the department from proceeding with other
17 aspects of the investigation, including interviews with other
18 persons. In an investigative interview with a vulnerable
19 adult, the protective investigator may conduct the interview
20 with no other person present.

21 (3) For each report it receives, the department shall
22 perform an onsite investigation to:

23 (a) Determine that the person is a vulnerable ~~an aged~~
24 person or disabled adult as defined in s. 415.102.

25 (b) Determine whether the person is a vulnerable adult
26 in need of services, as defined in s. 415.102.

27 (c)~~(b)~~ Determine the composition of the family or
28 household, including the name, address, date of birth, social
29 security number, sex, and race of each ~~aged~~ person in the
30 household ~~or disabled adult named in the report; any others in~~
31 the household or in the care of the caregiver, or any other

1 ~~persons responsible for the aged person's or disabled adult's~~
2 ~~welfare; and any other adults in the same household.~~

3 (d)~~(c)~~ Determine whether there is an indication that a
4 vulnerable ~~any aged person or disabled adult~~ is abused,
5 neglected, or exploited., ~~including a determination of harm or~~
6 ~~threatened harm to any aged person or disabled adult;~~

7 (e) Determine the nature and extent of present or
8 prior injuries, abuse, or neglect, and any evidence thereof.

9 (f) Determine, if possible, ~~and a determination as to~~
10 the person or persons apparently responsible for the abuse,
11 neglect, or exploitation, including the name, address, date of
12 birth, social security number, sex, and race of ~~each person to~~
13 ~~be classified as an alleged perpetrator in a proposed~~
14 ~~confirmed report. An alleged perpetrator named in a proposed~~
15 ~~confirmed report of abuse, neglect, or exploitation shall~~
16 ~~cooperate in the provision of the required data for the~~
17 ~~central abuse registry and tracking system to the fullest~~
18 ~~extent possible.~~

19 (g)~~(d)~~ Determine the immediate and long-term risk to
20 each vulnerable ~~aged person or disabled adult~~ through
21 utilization of standardized risk assessment instruments.

22 (h)~~(e)~~ Determine the protective, treatment, and
23 ameliorative services necessary to safeguard and ensure the
24 vulnerable ~~aged person's or disabled adult's~~ well-being and
25 cause the delivery of those services ~~through the early~~
26 ~~intervention of the departmental worker responsible for~~
27 ~~service provision and management of identified services.~~

28 (4)~~(2)~~ No later than 60 ~~30~~ days after receiving the
29 initial report, the designated protective investigative adult
30 ~~services~~ staff of the department shall complete the its
31 investigation and ~~classify the report as proposed confirmed or~~

1 ~~unfounded or close the report without classification and~~
 2 ~~notify the guardian of the vulnerable aged person or disabled~~
 3 ~~adult, the vulnerable aged person or disabled adult, and the~~
 4 ~~caregiver of any recommendations of services to be provided to~~
 5 ~~ameliorate the causes or effects of abuse, neglect, or~~
 6 ~~exploitation alleged perpetrator. These findings must be~~
 7 ~~reported to the department's central abuse registry and~~
 8 ~~tracking system. For proposed confirmed reports, after~~
 9 ~~receiving the final administrative order rendered in a hearing~~
 10 ~~requested pursuant to s. 415.103(3)(d) or after the 30-day~~
 11 ~~period during which an alleged perpetrator may request such a~~
 12 ~~hearing has expired, the department shall classify the report~~
 13 ~~of abuse, neglect, or exploitation as confirmed or unfounded~~
 14 ~~and shall report its findings to the department's central~~
 15 ~~abuse registry and tracking system, and must do so in~~
 16 ~~accordance with the final order if a hearing was held.~~

17 ~~(5)(3)~~ Whenever the law enforcement ~~criminal justice~~
 18 agency and the department have conducted independent
 19 investigations, the law enforcement ~~criminal justice~~ agency
 20 shall, within 5 working days after concluding its
 21 investigation, report its findings ~~from its investigation~~ to
 22 the state attorney and to the department.

23 ~~(6)(4)~~ Upon receipt of a report which alleges that an
 24 employee or agent of the department acting in an official
 25 capacity has committed an act of abuse, neglect, or
 26 exploitation, the department shall commence, or cause to be
 27 commenced ~~within 24 hours~~, a protective ~~services~~ investigation
 28 and shall notify the state attorney in whose circuit the
 29 alleged abuse, neglect, or exploitation occurred.

30 ~~(7)(5)~~ With respect to any case of reported abuse,
 31 neglect, or exploitation of a vulnerable ~~an aged person or~~

1 ~~disabled~~ adult, the department, when appropriate, shall
2 transmit all relevant reports ~~received by it which pertain to~~
3 ~~the investigation~~ to the state attorney of the circuit where
4 the incident occurred.

5 (8)~~(6)~~ Within 15 days after ~~of~~ completion of the state
6 attorney's investigation of a case reported to him or her
7 pursuant to this section, the state attorney shall report his
8 or her findings to the department and shall include a
9 determination of whether or not prosecution is justified and
10 appropriate in view of the circumstances of the specific case.

11 (9)~~(7)~~ The department shall not use a warning,
12 reprimand, or disciplinary action against an employee found
13 in that employee's personnel records, as the sole basis for a
14 finding of abuse, neglect, or exploitation.

15 Section 13. Section 415.1045, Florida Statutes, is
16 amended to read:

17 415.1045 ~~Protective investigations; onsite~~
18 ~~investigations; Photographs, videotapes, and medical~~
19 ~~examinations; abrogation of privileged communications;~~
20 ~~confidential records and documents; classification or closure~~
21 ~~of records.--~~

22 ~~(1) PROTECTIVE INVESTIGATIONS.--~~

23 ~~(a) The department shall, upon receipt of a report~~
24 ~~alleging abuse or neglect of a disabled adult or an elderly~~
25 ~~person, commence, or cause to be commenced within 24 hours, a~~
26 ~~protective investigation of the facts alleged therein. The~~
27 ~~department shall, upon receipt of a report alleging only the~~
28 ~~exploitation of a disabled adult or an elderly person,~~
29 ~~commence, or cause to be commenced within 24 hours, excluding~~
30 ~~Saturdays, Sundays, and legal holidays, a protective~~
31 ~~investigation of the facts alleged therein.~~

1 ~~(b) Upon commencing an investigation, the adult~~
2 ~~protective investigator shall inform all disabled adults and~~
3 ~~elderly persons and alleged perpetrators named in the report~~
4 ~~of the following:~~

5 ~~1. The names of the investigators and identifying~~
6 ~~credentials from the department.~~

7 ~~2. The purpose of the investigation.~~

8 ~~3. The possible consequences of the investigation.~~

9 ~~4. That the victim, the victim's guardian, the~~
10 ~~victim's caregiver, and the alleged perpetrator, and legal~~
11 ~~counsel for any of those persons, have a right to a copy of~~
12 ~~the report at the conclusion of the investigation.~~

13 ~~5. That appeal rights may exist and that such rights~~
14 ~~will be explained in writing when appropriate and necessary at~~
15 ~~the conclusion of the investigation.~~

16 ~~6. The name and telephone number of the adult~~
17 ~~protective investigator's supervisor available to answer~~
18 ~~questions.~~

19 ~~(c) Except as provided in paragraph (d), in an~~
20 ~~investigative interview, any person being interviewed may be~~
21 ~~represented by an attorney, at the person's own expense, or~~
22 ~~may choose to have another person present. The other person~~
23 ~~present may not be an alleged perpetrator in any report~~
24 ~~currently under investigation. Before participating in such~~
25 ~~interview, the other person present shall execute an agreement~~
26 ~~to comply with the confidentiality requirements of ss.~~
27 ~~415.101-415.113. The absence of an attorney or other person~~
28 ~~does not prevent the department from proceeding with other~~
29 ~~aspects of the investigation, including interviews with other~~
30 ~~persons.~~

31

1 ~~(d) In an investigative interview with the disabled~~
2 ~~adult or an elderly person, the protective investigator may~~
3 ~~conduct the interview with no other person present.~~

4 ~~(2) ONSITE INVESTIGATIONS.--For each report it~~
5 ~~receives, the department shall perform an onsite investigation~~
6 ~~to:~~

7 ~~(a) Determine whether the person is a disabled adult~~
8 ~~or an elderly person as defined in s. 415.102.~~

9 ~~(b) Determine whether the person is a disabled adult~~
10 ~~in need of services or an elderly person in need of services,~~
11 ~~as defined in s. 415.102.~~

12 ~~(c) Determine whether there is an indication that any~~
13 ~~disabled adult or elderly person has been or is being abused,~~
14 ~~neglected, or exploited, including a determination of the~~
15 ~~immediate and long-term risk; the nature and extent of present~~
16 ~~or prior injuries; and the nature and extent of any abuse,~~
17 ~~neglect, or exploitation, and any evidence thereof.~~

18 ~~(d) Determine whether protective and ameliorative~~
19 ~~services are necessary to safeguard and ensure the disabled~~
20 ~~adult's or elderly person's well-being and cause the delivery~~
21 ~~of those services.~~

22 ~~(e) Determine the person or persons apparently~~
23 ~~responsible for the abuse, neglect, or exploitation.~~

24 ~~(f) Determine the composition of the family or~~
25 ~~household, including all disabled adults and elderly persons~~
26 ~~named in the report, all persons in the care of the caregiver,~~
27 ~~any other persons responsible for the disabled adult's or~~
28 ~~elderly person's welfare, and any other adults or children in~~
29 ~~the same household.~~

30 ~~(g) Gather appropriate demographic data. Each person~~
31 ~~must cooperate to the fullest extent possible by providing the~~

1 ~~person's name, address, date of birth, social security number,~~
2 ~~sex, and race to the department's representative.~~

3 (1)~~(3)~~ PHOTOGRAPHS AND VIDEOTAPES.--

4 (a) The ~~adult~~ protective investigator, while
5 investigating a report of abuse, neglect, or exploitation, may
6 take or cause to be taken photographs and videotapes of the
7 vulnerable disabled ~~adult or elderly person~~, and of his or her
8 ~~the disabled adult's or elderly person's~~ environment, which
9 are relevant to the investigation. All photographs and
10 videotapes taken during the course of the protective
11 investigation are confidential and exempt from public
12 disclosure as provided in s. 415.107.

13 (b) Any photographs or videotapes made pursuant to
14 this subsection, or copies thereof, must be sent to the
15 department as soon as possible.

16 (2)~~(4)~~ MEDICAL EXAMINATIONS.--

17 (a) With the consent of the vulnerable disabled ~~adult~~
18 ~~or elderly person~~ who has the capacity to consent or the
19 vulnerable disabled ~~adult's or elderly person's~~ guardian, or
20 pursuant to s. 415.1051, the department may cause the
21 vulnerable disabled ~~adult or elderly person~~ to be referred to
22 a licensed physician or any emergency department in a hospital
23 or health care facility for medical examination, diagnosis, or
24 treatment if any of the following circumstances exist:

25 1. The areas of trauma visible on the vulnerable
26 ~~disabled~~ ~~adult or elderly person~~ indicate a need for medical
27 examination;

28 2. The vulnerable disabled ~~adult or elderly person~~
29 verbally complains or otherwise exhibits signs or symptoms
30 indicating a need for medical attention as a consequence of
31 suspected abuse, neglect, or exploitation; or

1 3. The vulnerable ~~disabled~~ adult ~~or elderly person~~ is
2 alleged to have been sexually abused.

3 (b) Upon admission to a hospital or health care
4 facility, with the consent of the vulnerable ~~disabled~~ adult ~~or~~
5 ~~elderly person~~ who has capacity to consent or that person's
6 guardian, or pursuant to s. 415.1051, the medical staff of the
7 facility may examine, diagnose, or treat the vulnerable
8 ~~disabled~~ adult ~~or elderly person~~. If a person who has legal
9 authority to give consent for the provision of medical
10 treatment to a vulnerable ~~disabled~~ adult ~~or elderly person~~ has
11 not given or has refused to give such consent, examination and
12 treatment must be limited to reasonable examination of the
13 patient to determine the medical condition of the patient and
14 treatment reasonably necessary to alleviate the medical
15 condition or to stabilize the patient pending a determination
16 by the court of the department's petition authorizing
17 protective services. Any person may seek an expedited
18 judicial intervention under rule 5.900 of the Florida Probate
19 Rules concerning medical treatment procedures.

20 (c) Medical examination, diagnosis, and treatment
21 provided under this subsection must be paid for by third-party
22 reimbursement, if available, or by the vulnerable ~~disabled~~
23 adult, if he or she is ~~or elderly person or that person's~~
24 ~~guardian from the disabled adult's or elderly person's assets,~~
25 ~~if the disabled adult or elderly person is determined to be~~
26 ~~financially~~ able to pay; or, if he or she ~~the disabled adult~~
27 ~~or elderly person~~ is unable to pay, the department shall pay
28 the costs within available emergency services funds.

29 (d) Reports of examination, diagnosis, and treatment
30 made under this subsection, or copies thereof, must be sent to
31 the department as soon as possible.

1 (e) This subsection does not obligate the department
2 to pay for any treatment other than that necessary to
3 alleviate the immediate presenting problems.

4 (3)~~(5)~~ ABROGATION OF PRIVILEGED COMMUNICATIONS.--The
5 privileged quality of communication between husband and wife
6 and between any professional and the professional's patient or
7 client, and any other privileged communication except that
8 between attorney and client or clergy and person, as such
9 communication relates to both the competency of the witness
10 and to the exclusion of confidential communications, does not
11 apply to any situation involving known or suspected abuse,
12 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
13 ~~elderly person~~ and does not constitute grounds for failure to
14 report as required by s. 415.1034, for failure to cooperate
15 with the department in its activities under ss.

16 415.101-415.113, or for failure to give evidence in any
17 judicial or administrative proceeding relating to abuse,
18 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
19 ~~elderly person~~.

20 (4)~~(6)~~ MEDICAL, SOCIAL, OR FINANCIAL RECORDS OR
21 DOCUMENTS.--

22 (a) The ~~adult~~ protective investigator, while
23 investigating a report of abuse, neglect, or exploitation,
24 must have access to, inspect, and copy all medical, social, or
25 financial records or documents in the possession of any
26 person, caregiver, guardian, or facility which are relevant to
27 the allegations under investigation, unless specifically
28 prohibited by the vulnerable ~~disabled~~ adult ~~or elderly person~~
29 who has capacity to consent.

30
31

1 (b) The confidentiality of any medical, social, or
2 financial record or document that is confidential under state
3 law does not constitute grounds for failure to:

- 4 1. Report as required by s. 415.1034;
- 5 2. Cooperate with the department in its activities
6 under ss. 415.101-415.113;
- 7 3. Give access to such records or documents; or
- 8 4. Give evidence in any judicial or administrative
9 proceeding relating to abuse, neglect, or exploitation of a
10 vulnerable disabled adult or an elderly person.

11 (5) ACCESS TO RECORDS AND DOCUMENTS.--If any person
12 refuses to allow the protective investigator to have access
13 to, inspect, or copy any medical, social, or financial record
14 or document in the possession of any person, caregiver,
15 guardian, or facility which is relevant to the allegations
16 under investigation, the department may petition the court for
17 an order requiring the person to allow access to the record or
18 document. The petition must allege specific facts sufficient
19 to show that the record or document is relevant to the
20 allegations under investigation and that the person refuses to
21 allow access to such record or document. If the court finds
22 by a preponderance of the evidence that the record or document
23 is relevant to the allegations under investigation, the court
24 may order the person to allow access to and permit the
25 inspection or copying of the medical, social, or financial
26 record or document.

27 (6) WORKING AGREEMENTS.--The department shall enter
28 into working agreements with the jurisdictionally responsible
29 county sheriffs' office or local police department that will
30 be the lead agency when conducting any criminal investigation
31 arising from an allegation of abuse, neglect, or exploitation

1 of a vulnerable adult. The working agreement must specify how
 2 the requirements of this chapter will be met. For the purposes
 3 of such agreement, the jurisdictionally responsible law
 4 enforcement entity is authorized to share Florida criminal
 5 history and local criminal history information that is not
 6 otherwise exempt from s. 119.07(1) with the district
 7 personnel. A law enforcement entity entering into such
 8 agreement must comply with s. 943.0525. Criminal justice
 9 information provided by such law enforcement entity shall be
 10 used only for the purposes specified in the agreement and
 11 shall be provided at no charge. Notwithstanding any other
 12 provision of law, the Department of Law Enforcement shall
 13 provide to the department electronic access to Florida
 14 criminal justice information which is lawfully available and
 15 not exempt from s. 119.07(1), only for the purpose of
 16 protective investigations and emergency placement. As a
 17 condition of access to such information, the department shall
 18 be required to execute an appropriate user agreement
 19 addressing the access, use, dissemination, and destruction of
 20 such information and to comply with all applicable laws and
 21 rules of the Department of Law Enforcement.

22 ~~(7) CLASSIFICATIONS AND CLOSURES.--No later than 45~~
 23 ~~days after receiving an initial report in which the department~~
 24 ~~has jurisdiction, the adult protective investigator shall~~
 25 ~~complete the investigation and classify the report as proposed~~
 26 ~~confirmed or unfounded, or close the report without~~
 27 ~~classification. The adult protective investigator must~~
 28 ~~document the details of the investigation, close the report,~~
 29 ~~and enter the data into the central abuse registry and~~
 30 ~~tracking system no later than 60 days after receiving the~~
 31 ~~initial report.~~

1 Section 14. Section 415.105, Florida Statutes, is
2 amended to read:

3 415.105 Provision of protective services with consent;
4 withdrawal of consent; interference.--

5 (1) PROTECTIVE SERVICES WITH CONSENT.--If the
6 department determines through its investigation that a
7 vulnerable ~~disabled~~ adult ~~or an elderly person~~ demonstrates a
8 need for protective services or protective supervision, the
9 department shall immediately provide, or arrange for the
10 provision of, protective services or protective supervision,
11 including in-home services, provided that the vulnerable
12 ~~disabled~~ adult ~~or elderly person~~ consents. A vulnerable adult
13 ~~disabled person~~ in need of services as defined in s. 415.102
14 shall be referred to the community care for disabled adults
15 program, ~~or. An elderly person in need of services as defined~~
16 ~~in s. 415.102 shall be referred~~ to the community care for the
17 elderly program administered by the Department of Elderly
18 Affairs.

19 (2) WITHDRAWAL OF CONSENT.--If the vulnerable ~~disabled~~
20 adult ~~or elderly person~~ withdraws consent to the receipt of
21 protective services or protective supervision, the services
22 may not be provided, except pursuant to s. 415.1051.

23 (3) INTERFERENCE WITH THE PROVISION OF PROTECTIVE
24 SERVICES.--When any person refuses to allow the provision of
25 protective services to a vulnerable adult who has the capacity
26 to consent to services, the department shall petition the
27 court for an order enjoining the person from interfering with
28 the provision of protective services. The petition must
29 allege specific facts sufficient to show that the vulnerable
30 adult is in need of protective services and that the person
31 refuses to allow the provision of such services. If the court

1 finds by clear and convincing evidence that the vulnerable
2 adult is in need of protective services and that the person
3 refuses to allow the provision of such services, the court may
4 issue an order enjoining the person from interfering with the
5 provision of protective services to the vulnerable adult.

6 Section 15. Section 415.1051, Florida Statutes, is
7 amended to read:

8 415.1051 Protective services interventions when
9 capacity to consent is lacking; nonemergencies; emergencies;
10 orders; limitations.--

11 (1) NONEMERGENCY PROTECTIVE SERVICES
12 INTERVENTIONS.--If the department has reasonable cause to
13 believe that a vulnerable ~~disabled~~ adult ~~or elderly person~~ is
14 being abused, neglected, or exploited and is in need of
15 protective services but lacks the capacity to consent to
16 protective services, the department shall petition the court
17 for an order authorizing the provision of protective services.

18 (a) Nonemergency protective services petition.--The
19 petition must state the name, age, and address of the
20 vulnerable ~~disabled~~ adult ~~or elderly person~~, allege specific
21 facts sufficient to show that the vulnerable ~~disabled~~ adult ~~or~~
22 ~~elderly person~~ is in need of protective services and lacks the
23 capacity to consent to them, and indicate the services needed.

24 (b) Notice.--Notice of the filing of the petition and
25 a copy of the petition must be given to the vulnerable
26 ~~disabled~~ adult ~~or elderly person~~, to that person's spouse,
27 guardian, and legal counsel, and, when known, to the adult
28 children or next of kin of the vulnerable ~~disabled~~ adult ~~or~~
29 ~~elderly person~~. Such notice must be given at least 5 days
30 before the hearing.

31 (c) Hearing.--

1 1. The court shall set the case for hearing within 14
2 days after the filing of the petition. The vulnerable
3 ~~disabled adult or elderly person~~ and any person given notice
4 of the filing of the petition have the right to be present at
5 the hearing. The department must make reasonable efforts to
6 ensure the presence of the vulnerable ~~disabled adult or~~
7 ~~elderly person~~ at the hearing.

8 2. The vulnerable ~~disabled adult or elderly person~~ has
9 the right to be represented by legal counsel at the hearing.
10 The court shall appoint legal counsel to represent a
11 vulnerable ~~disabled adult or elderly person~~ who is without
12 legal representation.

13 3. The court shall determine whether:

14 a. Protective services, including in-home services,
15 are necessary ~~for the disabled adult or elderly person;~~ and

16 b. The vulnerable ~~disabled adult or elderly person~~
17 lacks the capacity to consent to the provision of such
18 services.

19 (d) Hearing findings.--If at the hearing the court
20 finds by clear and convincing evidence that the vulnerable
21 ~~disabled adult or elderly person~~ is in need of protective
22 services and lacks the capacity to consent ~~to protective~~
23 ~~services~~, the court may issue an order authorizing the
24 provision of protective services. If an order for protective
25 services is issued, it must include a statement of the
26 services to be provided and designate an individual or agency
27 to be responsible for performing or obtaining the essential
28 services on behalf of the vulnerable ~~disabled adult or elderly~~
29 ~~person~~ or otherwise consenting to protective services on
30 behalf of the vulnerable ~~disabled adult or elderly person~~.

31 (e) Continued protective services.--

1 1. No more than 60 days after the date of the order
2 authorizing the provision of protective services, the
3 department shall petition the court to determine whether:

4 a. Protective services will be continued with the
5 consent of the vulnerable ~~disabled~~ adult ~~or elderly person~~
6 pursuant to subsection (1);

7 b. Protective services will be continued for the
8 vulnerable ~~disabled~~ adult ~~or elderly person~~ who lacks
9 capacity;

10 c. Protective services will be discontinued; or

11 d. A petition for guardianship should be filed
12 pursuant to chapter 744.

13 2. If the court determines that a petition for
14 guardianship should be filed pursuant to chapter 744, the
15 court, for good cause shown, may order continued protective
16 services until it makes a determination regarding ~~the disabled~~
17 ~~adult's or elderly person's~~ capacity.

18 (f) Costs.--The costs of services ordered under this
19 section must be paid by the perpetrator if the perpetrator is
20 financially able to do so; or by third-party reimbursement, if
21 available. If the vulnerable ~~disabled~~ adult ~~or elderly person~~
22 is unable to pay for guardianship, application may be made to
23 the public guardian for public guardianship services, if
24 available.

25 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If
26 the department has reasonable cause to believe that a
27 vulnerable ~~disabled~~ adult ~~or an elderly person~~ is suffering
28 from abuse or neglect that presents a risk of death or serious
29 physical injury to the vulnerable ~~disabled~~ adult ~~or elderly~~
30 ~~person~~ and that the vulnerable ~~disabled~~ adult ~~or elderly~~
31 ~~person~~ lacks the capacity to consent to emergency protective

1 services, the department may take action under this
 2 subsection. If the vulnerable disabled adult ~~or elderly~~
 3 ~~person~~ has the capacity to consent and refuses consent to
 4 emergency protective services, emergency protective services
 5 may not be provided.

6 (a) Emergency entry of premises.--If, upon arrival at
 7 the scene of the incident, consent is not obtained for access
 8 to the alleged victim for purposes of conducting a protective
 9 investigation under this subsection and the department has
 10 reason to believe that the situation presents a risk of death
 11 or serious physical injury, a representative of the department
 12 and a law enforcement officer may forcibly enter the premises.
 13 If, after obtaining access to the alleged victim, it is
 14 determined through a personal assessment of the situation that
 15 no emergency exists and there is no basis for emergency
 16 protective services intervention under this subsection, the
 17 department shall terminate the emergency entry ~~and may provide~~
 18 ~~protective services with the consent of the disabled adult or~~
 19 ~~elderly person or may petition the court to provide~~
 20 ~~nonemergency protective services or protective supervision~~
 21 ~~pursuant to subsection (1).~~

22 (b) Emergency removal from premises.--If it appears
 23 that the vulnerable disabled adult ~~or elderly person~~ lacks the
 24 capacity to consent to emergency protective services and that
 25 the vulnerable disabled adult ~~or elderly person~~, from the
 26 personal observations of the representative of the department
 27 and specified medical personnel or law enforcement officers,
 28 is likely to incur a risk of death or serious physical injury
 29 if such person is not immediately removed from the premises,
 30 then the representative of the department shall transport or
 31 arrange for the transportation of the vulnerable disabled

1 adult ~~or elderly person~~ to an appropriate medical or
2 protective services facility in order to provide emergency
3 protective services. Law enforcement personnel have a duty to
4 transport when medical transportation is not available or
5 needed and the vulnerable disabled adult ~~or elderly person~~
6 presents a threat of injury to self or others. If the
7 vulnerable disabled adult's ~~or elderly person's~~ caregiver or
8 guardian is present, the ~~adult~~ protective investigator must
9 seek the caregiver's or guardian's consent pursuant to
10 subsection (4) before the vulnerable disabled adult ~~or elderly~~
11 ~~person~~ may be removed from the premises, unless the ~~adult~~
12 protective investigator suspects that the vulnerable disabled
13 adult's ~~or elderly person's~~ caregiver or guardian has caused
14 the abuse, neglect, or exploitation ~~to the disabled adult or~~
15 ~~elderly person~~. The department shall, within 24 hours after
16 providing or arranging for emergency removal of the vulnerable
17 disabled adult ~~or elderly person~~, excluding Saturdays,
18 Sundays, and legal holidays, petition the court for an order
19 authorizing emergency protective services.

20 (c) Emergency medical treatment.--If, upon admission
21 to a medical facility, it is the opinion of the medical staff
22 that immediate medical treatment is necessary to prevent
23 serious physical injury or death, and that such treatment does
24 not violate a known health care advance directive prepared by
25 the vulnerable disabled adult ~~or elderly person~~, the medical
26 facility may proceed with treatment to the vulnerable disabled
27 adult ~~or elderly person~~. If a person with legal authority to
28 give consent for the provision of medical treatment to a
29 vulnerable disabled adult ~~or an elderly person~~ has not given
30 or has refused to give such consent, examination and treatment
31 must be limited to reasonable examination of the patient to

1 determine the medical condition of the patient and treatment
2 reasonably necessary to alleviate the emergency medical
3 condition or to stabilize the patient pending court
4 determination of the department's petition authorizing
5 emergency protective services. Any person may seek an
6 expedited judicial intervention under rule 5.900 of the
7 Florida Probate Rules concerning medical treatment procedures.

8 (d) Emergency protective services petition.--A
9 petition filed under this subsection must state the name, age,
10 and address of the vulnerable ~~disabled~~ adult ~~or elderly person~~
11 and allege the facts constituting the emergency protective
12 services intervention and subsequent removal of the vulnerable
13 ~~disabled~~ adult ~~or elderly person~~ or provision of in-home
14 services, the facts relating to the capacity of the vulnerable
15 ~~disabled~~ adult ~~or elderly person~~ to consent to services, the
16 efforts of the department to obtain consent, and the services
17 needed or delivered.

18 (e) Notice.--Notice of the filing of the emergency
19 protective services petition and a copy of the petition must
20 be given to the vulnerable ~~disabled~~ adult ~~or elderly person~~,
21 to that person's spouse, to that person's guardian, if any, to
22 legal counsel representing the vulnerable ~~disabled~~ adult ~~or~~
23 ~~elderly person~~, and, when known, to adult children or next of
24 kin of the vulnerable ~~disabled~~ adult ~~or elderly person~~. Such
25 notice must be given at least 24 hours before any hearing on
26 the petition for emergency protective services.

27 (f) Hearing.--When emergency removal has occurred
28 under this subsection, a hearing must be held within 4 days
29 after the filing of the emergency protective services
30 petition, excluding Saturday, Sunday, and legal holidays, to
31

1 establish reasonable cause for grounds to continue emergency
2 protective services.

3 1. The court shall determine, by clear and convincing
4 evidence, whether an emergency existed which justified the
5 emergency protective services intervention, whether the
6 vulnerable ~~disabled~~ adult ~~or elderly person~~ is in need of
7 emergency protective services, whether the vulnerable ~~disabled~~
8 adult ~~or elderly person~~ lacks the capacity to consent to
9 emergency protective services, and whether:

10 a. Emergency protective services will continue with
11 the consent of the vulnerable ~~disabled~~ adult ~~or elderly person~~
12 ~~pursuant to s. 415.105(1);~~

13 b. Emergency protective services will continue without
14 the consent of the vulnerable ~~disabled~~ adult ~~or elderly person~~
15 ~~pursuant to subsection (2); or~~

16 c. Emergency protective services will be discontinued.

17 2. The vulnerable ~~disabled~~ adult ~~or elderly person~~ has
18 the right to be represented by legal counsel at the hearing.
19 The court shall appoint legal counsel to represent a
20 vulnerable ~~disabled~~ adult ~~or an elderly person~~ who is without
21 legal representation.

22 3. The department must make reasonable efforts to
23 ensure the presence of the vulnerable ~~disabled~~ adult ~~or~~
24 ~~elderly person~~ at the hearing.

25 4. If an order to continue emergency protective
26 services is issued, it must state the services to be provided
27 and designate an individual or agency to be responsible for
28 performing or obtaining the essential services ~~on behalf of~~
29 ~~the disabled adult or elderly person~~, or otherwise consenting
30 to protective services on behalf of the vulnerable ~~disabled~~
31 adult ~~or elderly person~~.

- 1 (g) Continued emergency protective services.--
2 1. Not more than 60 days after the date of the order
3 authorizing the provision of emergency protective services,
4 the department shall petition the court to determine whether:
5 a. Emergency protective services will be continued
6 with the consent of the vulnerable ~~disabled~~ adult ~~or elderly~~
7 ~~person pursuant to subsection (1);~~
8 b. Emergency protective services will be continued for
9 the vulnerable ~~disabled~~ adult ~~or elderly person~~ who lacks
10 capacity;
11 c. Emergency protective services will be discontinued;
12 or
13 d. A petition should be filed under chapter 744.
14 2. If it is decided to file a petition under chapter
15 744, for good cause shown, the court may order continued
16 emergency protective services until a determination is made by
17 the court ~~regarding the disabled adult's or elderly person's~~
18 ~~capacity.~~
19 (h) Costs.--The costs of services ordered under this
20 section must be paid by the perpetrator if the perpetrator is
21 financially able to do so, or by third-party reimbursement, if
22 available. ~~If the disabled adult or elderly person is unable~~
23 ~~to pay for guardianship, application may be made to the public~~
24 ~~guardian for public guardianship services, if available.~~
25 (3) PROTECTIVE SERVICES ORDER.--In ordering any
26 protective services under this section, the court shall adhere
27 to the following limitations:
28 (a) Only such protective services as are necessary to
29 ameliorate the conditions creating the abuse, neglect, or
30 exploitation may be ordered, and the court shall specifically
31 designate the approved services in the order of the court.

1 (b) Protective services ordered may not include a
2 change of residence, unless the court specifically finds such
3 action is necessary to ameliorate the conditions creating the
4 abuse, neglect, or exploitation and the court gives specific
5 approval for such action in the order. Placement may be made
6 to such facilities as adult family-care homes, assisted living
7 facilities, or nursing homes, or to other appropriate
8 facilities. Placement may not be made to facilities for the
9 acutely mentally ill, except as provided in chapter 394.

10 (c) If an order to continue emergency protective
11 services is issued, it must include the designation of an
12 individual or agency to be responsible for performing or
13 obtaining the essential services on behalf of the vulnerable
14 ~~disabled adult or elderly person~~ or otherwise consenting to
15 protective services on behalf of the vulnerable ~~disabled adult~~
16 ~~or elderly person~~.

17 (4) PROTECTIVE SERVICES INTERVENTIONS WITH CAREGIVER
18 OR GUARDIAN PRESENT.--

19 (a) When a vulnerable ~~disabled adult or an elderly~~
20 ~~person~~ who lacks the capacity to consent has been identified
21 ~~in a report as the victim of abuse, neglect, or exploitation~~
22 ~~and evidences a need for emergency or nonemergency protective~~
23 ~~services or protective supervision, and a caregiver or~~
24 ~~guardian who is responsible for the care of the disabled adult~~
25 ~~or elderly person is present, the adult protective~~
26 investigator must first request consent from the caregiver or
27 guardian, if present, before providing protective services or
28 protective supervision, unless the ~~adult~~ protective
29 investigator suspects that the ~~disabled adult's or elderly~~
30 ~~person's~~ caregiver or guardian has caused the abuse, neglect,
31 or exploitation ~~of the disabled adult or elderly person~~.

1 (b) If the caregiver or guardian agrees to engage or
2 provide services designed to prevent further abuse, neglect,
3 or exploitation, the department may provide protective
4 supervision ~~for the disabled adult or elderly person.~~

5 (c) If the caregiver or guardian refuses to give
6 consent or later withdraws consent to agreed-upon services, or
7 otherwise fails to provide needed care and supervision, the
8 department may provide emergency protective services as
9 provided in subsection (2). If emergency protective services
10 are so provided, the department must then petition the court
11 for an order to provide emergency protective services under
12 subsection (3).

13 (5) INTERFERENCE WITH COURT-ORDERED PROTECTIVE
14 SERVICES.--When a court order exists authorizing protective
15 services for a vulnerable adult who lacks capacity to consent
16 and any person interferes with the provision of such
17 court-ordered protective services, the appropriate law
18 enforcement agency shall enforce the order of the court.

19 (6)(5) LIMITATIONS.--This section does not limit in
20 any way the authority of the court or a criminal justice
21 officer, or any other duly appointed official, to intervene in
22 emergency circumstances under existing statutes. This section
23 does not limit the authority of any person to file a petition
24 for guardianship under chapter 744.

25 Section 16. Section 415.1052, Florida Statutes, is
26 amended to read:

27 415.1052 Interference with investigation or with the
28 provision of protective services.--

29 (1) If, upon arrival of the ~~adult~~ protective
30 investigator, any person refuses to allow the department to
31 begin a protective investigation, interferes with the

1 department's ability to conduct such an investigation, or
 2 refuses to give access to the vulnerable ~~disabled~~ adult or
 3 ~~elderly person~~, the appropriate law enforcement agency must be
 4 contacted to assist the department in commencing the
 5 protective investigation.

6 ~~(2) If any person refuses to allow the adult~~
 7 ~~protective investigator to have access to, inspect, or copy~~
 8 ~~any medical, social, or financial record or document in the~~
 9 ~~possession of any person, caregiver, guardian, or facility~~
 10 ~~which is relevant to the allegations under investigation, the~~
 11 ~~department may petition the court for an order requiring the~~
 12 ~~person to give access to the record or document. The petition~~
 13 ~~must allege specific facts sufficient to show that the record~~
 14 ~~or document is relevant to the allegations under investigation~~
 15 ~~and that the person refuses to give access to such record or~~
 16 ~~document. If the court finds by a preponderance of the~~
 17 ~~evidence that the record or document is relevant to the~~
 18 ~~allegations under investigation, the court may order the~~
 19 ~~person to give access to and permit the inspection or copying~~
 20 ~~of the medical, social, or financial record or document.~~

21 (2)~~(3)~~ When any person refuses to allow the provision
 22 of protective services to the vulnerable ~~disabled~~ adult or
 23 ~~elderly person~~ who has the capacity to consent to services,
 24 the department shall petition the court for an order enjoining
 25 the person from interfering with the provision of protective
 26 services. The petition must allege specific facts sufficient
 27 to show that the vulnerable ~~disabled~~ adult or ~~elderly person~~
 28 is in need of protective services and that the person refuses
 29 to allow the provision of such services. If the court finds
 30 by clear and convincing evidence that the vulnerable ~~disabled~~
 31 adult or ~~elderly person~~ is in need of protective services and

1 that the person refuses to allow the provision of such
2 services, the court may issue an order enjoining the person
3 from interfering with the provision of protective services to
4 the vulnerable disabled adult or elderly person.

5 ~~(4) When a court order exists authorizing protective~~
6 ~~services for a disabled adult or an elderly person who lacks~~
7 ~~capacity to consent and any person interferes with the~~
8 ~~provision of such court-ordered protective services to the~~
9 ~~disabled adult or elderly person, the appropriate law~~
10 ~~enforcement agency shall enforce the order of the court.~~

11 Section 17. Section 415.1055, Florida Statutes, is
12 amended to read:

13 415.1055 Notification to administrative entities,
14 subjects, and reporters; notification to law enforcement and
15 state attorneys.--

16 ~~(1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--~~

17 ~~(a) The department shall, within 24 hours after~~
18 ~~receipt of a report of abuse, neglect, or exploitation of a~~
19 ~~disabled adult or an elderly person within a facility,~~
20 ~~excluding Saturdays, Sundays, and legal holidays, notify the~~
21 ~~appropriate human rights advocacy committee and the long-term~~
22 ~~care ombudsman council, in writing, that the department has~~
23 ~~reasonable cause to believe that a disabled adult or an~~
24 ~~elderly person has been abused, neglected, or exploited at the~~
25 ~~facility.~~

26 (1)(b) Upon receipt of a report that alleges that an
27 employee or agent of the department or the Department of
28 Elderly Affairs, acting in an official capacity, has committed
29 an act of abuse, neglect, or exploitation, the department
30 shall notify the state attorney in whose circuit the abuse,
31

1 neglect, or exploitation occurred. This notification may be
2 oral or written.

3 (2)~~(c)~~ If at any time during a protective
4 investigation the department has reasonable cause to believe
5 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
6 abused, neglected, or exploited by another person, the state
7 attorney having jurisdiction in the county in which the abuse,
8 neglect, or exploitation occurred shall be notified
9 immediately, either orally or in writing.

10 (3)~~(d)~~ If at any time during a protective
11 investigation the department has reasonable cause to believe
12 that a vulnerable ~~disabled~~ adult ~~or an elderly person~~ has been
13 abused, neglected, or exploited by another person, the
14 appropriate law enforcement agency shall be immediately
15 notified. Such agency may begin a criminal investigation
16 concurrent with or independent of the protective investigation
17 of the department. This notification may be oral or written.

18 (4)~~(e)~~ If at any time during a protective
19 investigation the department has reasonable cause to believe
20 that abuse, neglect, or exploitation of a vulnerable ~~disabled~~
21 adult ~~or an elderly person~~ has occurred within a facility that
22 receives Medicaid funds, the department shall notify the
23 Medicaid Fraud Control Unit within the Department of Legal
24 Affairs, Office of the Attorney General, in order that it may
25 begin an investigation concurrent with the protective
26 investigation of the department. This notification may be oral
27 or written.

28 (5)~~(f)~~ If at any time during a protective
29 investigation the department has reasonable cause to believe
30 that an employee of a facility, as defined in s. 415.102~~(13)~~,
31 is the alleged perpetrator of abuse, neglect, or exploitation

1 of a vulnerable ~~disabled~~ adult ~~or an elderly person~~, the
2 department shall notify the Agency for Health Care
3 Administration, Division of Health Quality Assurance, in
4 writing.

5 (6)(g) If at any time during a protective
6 investigation the department has reasonable cause to believe
7 that professional licensure violations have occurred, the
8 department shall notify the Division of Medical Quality
9 Assurance within the Department of Health. This notification
10 must be in writing.

11 (7)(h) ~~When a report has been classified as proposed~~
12 ~~confirmed,~~The department shall notify the state attorney
13 having jurisdiction in the county in which the abuse, neglect,
14 or exploitation occurred. ~~The department may submit a report~~
15 ~~that has been closed without classification~~ if evidence
16 indicates that further criminal investigation is warranted.
17 This notification must be in writing.

18 (8)(i) At the conclusion of a protective investigation
19 at a facility, the department shall notify either the human
20 rights advocacy committee or long-term care ombudsman council
21 of the results of the investigation. This notification must
22 be in writing.

23 ~~(j) At the conclusion of a protective investigation,~~
24 ~~the department shall notify the Agency for Health Care~~
25 ~~Administration when a licensee or a certified nursing~~
26 ~~assistant has been named as perpetrator in a report that has~~
27 ~~been classified as proposed confirmed or confirmed. This~~
28 ~~notification must be in writing.~~

29 (9)(k) When a report ~~has been classified as proposed~~
30 ~~confirmed in cases~~ involving a guardian of the person or
31 property, or both, is received, the department shall notify

1 the probate court having jurisdiction over the guardianship,
2 of the ~~proposed confirmed report~~. This notification must be in
3 writing.

4 (10) When a report has been received and the
5 department has reason to believe that a vulnerable adult
6 resident of a facility licensed by the Agency for Health Care
7 Administration has been the victim of abuse, neglect, or
8 exploitation, the department shall provide a copy of its
9 investigation to the agency. If the investigation determines
10 that a health professional licensed or certified under the
11 Department of Health may have abused, neglected, or exploited
12 a vulnerable adult, the department shall also provide a copy
13 to the Department of Health.

14 ~~(2) NOTIFICATION TO OTHER PERSONS.--~~

15 ~~(a) In the case of a report that has been classified~~
16 ~~as unfounded, notice of the classification must be given to~~
17 ~~the disabled adult or elderly person, the guardian of that~~
18 ~~person, the caregiver of that person, and the person who had~~
19 ~~been named as the alleged perpetrator. The notice must be~~
20 ~~sent by regular mail and must advise the recipient that the~~
21 ~~report will be expunged in 1 year.~~

22 ~~(b) If a report has been classified as proposed~~
23 ~~confirmed, notice of the classification must be given to the~~
24 ~~disabled adult or elderly person, the guardian of that person,~~
25 ~~the caregiver of that person, and the alleged perpetrator, and~~
26 ~~legal counsel, if known, for those persons.~~

27 ~~1. The notice must state the nature of the alleged~~
28 ~~abuse, neglect, or exploitation and the facts that are alleged~~
29 ~~to support the proposed confirmed classification.~~

1 ~~2. The notice must advise the recipient of the~~
2 ~~recipient's right to request a copy of the report within 60~~
3 ~~days after receipt of the notice.~~

4 ~~3. The notice must clearly advise the alleged~~
5 ~~perpetrator that the alleged perpetrator has the right to~~
6 ~~request amendment or expunction of the report within 60 days~~
7 ~~after receipt of the notice, and that failure to request~~
8 ~~amendment or expunction within 60 days means that the report~~
9 ~~will be reclassified as confirmed at the expiration of the 60~~
10 ~~days and that the alleged perpetrator agrees not to contest~~
11 ~~the classification of the report. No further administrative or~~
12 ~~judicial proceedings in the matter are allowed.~~

13 ~~4. The notice must state that, if the report becomes~~
14 ~~confirmed, the alleged perpetrator may be disqualified from~~
15 ~~working with children, the developmentally disabled, disabled~~
16 ~~adults, and elderly persons.~~

17 ~~5. Notice of a proposed confirmed report must be~~
18 ~~personally served upon the alleged perpetrator in this state~~
19 ~~by an adult protective investigator, a sheriff, or a private~~
20 ~~process server in the district in which the alleged~~
21 ~~perpetrator resides, works, or can be found. Proof of service~~
22 ~~of the notice must be by affidavit prepared by the individual~~
23 ~~serving the notice upon the alleged perpetrator. The~~
24 ~~affidavit must state the name of the person serving the~~
25 ~~notice, the name of the alleged perpetrator served, the~~
26 ~~location at which the alleged perpetrator was served, and the~~
27 ~~time the notice was served. If the notice of a proposed~~
28 ~~confirmed report cannot be personally served upon the alleged~~
29 ~~perpetrator in this state or if the alleged perpetrator does~~
30 ~~not reside in this state, the notice of the proposed confirmed~~
31 ~~report must be sent by certified mail, return receipt~~

1 ~~requested, forwarding and address correction requested, to the~~
2 ~~last known address of the alleged perpetrator. If an alleged~~
3 ~~perpetrator cannot be served either by personal service or by~~
4 ~~certified mail, the record of the proposed confirmed report~~
5 ~~must be maintained pursuant to s. 415.1065.~~

6 ~~6. Notice to other named persons may be sent by~~
7 ~~regular mail, with the department giving notice to the~~
8 ~~caregiver, the guardian, legal counsel for all parties, and~~
9 ~~the disabled adult or elderly person.~~

10 ~~7. If a proposed confirmed report becomes confirmed~~
11 ~~because the alleged perpetrator fails to make a timely request~~
12 ~~to amend or expunge the proposed confirmed report, the~~
13 ~~department must give notice of the confirmed classification to~~
14 ~~the perpetrator and the perpetrator's legal counsel.~~

15 ~~a. Notice of the confirmed classification must inform~~
16 ~~the perpetrator that the perpetrator may be disqualified from~~
17 ~~working with children, the developmentally disabled, disabled~~
18 ~~adults, and elderly persons.~~

19 ~~b. The notice must inform the perpetrator that further~~
20 ~~departmental proceedings in the matter are not allowed.~~

21 ~~c. The notice of the confirmed classification must be~~
22 ~~sent by certified mail, return receipt requested.~~

23 ~~(c) If a report is closed without classification,~~
24 ~~notice must be given to the guardian of the disabled adult or~~
25 ~~elderly person, the disabled adult or elderly person, the~~
26 ~~caregiver of that person, any person or facility named in the~~
27 ~~report, and the person who had been named as the alleged~~
28 ~~perpetrator. The notice must be sent by regular mail and must~~
29 ~~advise the recipient that:~~

30 ~~1. The report will be retained for 7 years.~~

31

1 ~~2. The recipient has a right to request a copy of this~~
2 ~~report.~~

3 ~~3. Any person or facility named in a report classified~~
4 ~~as closed without classification has the right to request~~
5 ~~amendment or expunction of the report within 60 days after the~~
6 ~~receipt of the notice, and that failure to request amendment~~
7 ~~or expunction within 60 days means that the report will remain~~
8 ~~classified as closed without classification and that the~~
9 ~~person agrees not to contest the classification of the report.~~
10 ~~No further proceeding will be allowed in this matter.~~

11 ~~(d) In the case of a report that has been determined~~
12 ~~by an adult protective services investigator to be either a~~
13 ~~disabled adult in need of services or an elderly person in~~
14 ~~need of services, as defined in s. 415.102, no classification~~
15 ~~of the report shall be made and no notification shall be~~
16 ~~required.~~

17 ~~(e) The department shall adopt rules prescribing the~~
18 ~~content of the notices to be provided and requiring uniformity~~
19 ~~of content and appearance of each notice of classification or~~
20 ~~closure without classification.~~

21 ~~(3) NOTIFICATION BY LAW ENFORCEMENT AND STATE~~
22 ~~ATTORNEYS.~~

23 ~~(a) Whenever the law enforcement agency and the~~
24 ~~department have conducted independent investigations, the law~~
25 ~~enforcement agency shall, within 5 working days after~~
26 ~~concluding its investigation, report its findings to the~~
27 ~~department and to the state attorney.~~

28 ~~(b) Within 15 days after completion of an~~
29 ~~investigation of a case reported to the state attorney under~~
30 ~~this section, the state attorney shall report the findings to~~
31 ~~the department and shall include a determination of whether or~~

1 ~~not prosecution is justified and appropriate in view of the~~
2 ~~circumstances of the specific case.~~

3 Section 18. Subsections (2) and (3) of section
4 415.106, Florida Statutes, are amended to read:

5 415.106 Cooperation by the department and criminal
6 justice and other agencies.--

7 (2) To ensure coordination, communication, and
8 cooperation with the investigation of abuse, neglect, or
9 exploitation of vulnerable ~~disabled~~ adults ~~or elderly persons~~,
10 the department shall develop and maintain interprogram
11 agreements or operational procedures among appropriate
12 departmental programs and the State Long-Term Care Ombudsman
13 Council, the Statewide Human Rights Advocacy Committee, and
14 other agencies that provide services to vulnerable ~~disabled~~
15 adults ~~or elderly persons~~. These agreements or procedures must
16 cover such subjects as the appropriate roles and
17 responsibilities of the department in identifying and
18 responding to reports of abuse, neglect, or exploitation of
19 vulnerable ~~disabled~~ adults ~~or elderly persons~~; the provision
20 of services; and related coordinated activities.

21 (3) To the fullest extent possible, the department
22 shall cooperate with and seek cooperation from all appropriate
23 public and private agencies, including health agencies,
24 educational agencies, social service agencies, courts,
25 organizations, or programs providing or concerned with human
26 services related to the prevention, identification, or
27 treatment of abuse, neglect, or exploitation of vulnerable
28 ~~disabled~~ adults ~~and elderly persons~~.

29 Section 19. Section 415.107, Florida Statutes, is
30 amended to read:

31 415.107 Confidentiality of reports and records.--

1 (1) In order to protect the rights of the individual
2 or other persons responsible for the welfare of a vulnerable
3 ~~disabled adult or an elderly person~~, all records concerning
4 reports of abuse, neglect, or exploitation of the vulnerable
5 ~~disabled adult or elderly person~~, including reports made to
6 the central abuse hotline registry and tracking system, and
7 all records generated as a result of such reports shall be
8 confidential and exempt from s. 119.07(1) and may not be
9 disclosed except as specifically authorized by ss.
10 415.101-415.113.

11 (2) Upon the request of the committee chairperson,
12 access to all records shall be granted to staff of the
13 legislative committees with jurisdiction over issues and
14 services related to vulnerable adults, or over the department.
15 All confidentiality provisions that apply to the Department of
16 Children and Family Services continue to apply to the records
17 made available to legislative staff under this subsection.

18 ~~(3)(2)~~ Access to all records, excluding the name of
19 the reporter which shall be released only as provided in
20 subsection (6), shall be granted only to the following
21 persons, officials, and agencies:

22 (a) Employees or agents of the department, of the
23 Agency for Health Care Administration, or of the Department of
24 Elderly Affairs who are responsible for carrying out ~~adult~~
25 protective investigations, ongoing ~~adult~~ protective services,
26 or licensure or approval of nursing homes, assisted living
27 facilities, adult day care centers, adult family-care homes,
28 home care for the elderly, hospices, or other facilities used
29 for the placement of vulnerable disabled adults ~~or elderly~~
30 ~~persons~~.

1 (b) A criminal justice agency investigating a report
2 of known or suspected abuse, neglect, or exploitation of a
3 vulnerable ~~disabled~~ adult ~~or an elderly person~~.

4 (c) The state attorney of the judicial circuit in
5 which the vulnerable ~~disabled~~ adult ~~or elderly person~~ resides
6 or in which the alleged abuse, neglect, or exploitation
7 occurred.

8 (d) Any victim, the victim's ~~person who is the subject~~
9 ~~of a report or the subject's~~ guardian, caregiver, or legal
10 counsel, and any person who the department has determined
11 might be abusing, neglecting, or exploiting the victim.

12 (e) A court, by subpoena, upon its finding that access
13 to such records may be necessary for the determination of an
14 issue before the court; however, such access must be limited
15 to inspection in camera, unless the court determines that
16 public disclosure of the information contained in such records
17 is necessary for the resolution of an issue then pending
18 before it.

19 (f) A grand jury, by subpoena, upon its determination
20 that access to such records is necessary in the conduct of its
21 official business.

22 (g) Any appropriate official of the human rights
23 advocacy committee or long-term care ombudsman council
24 investigating a report of known or suspected abuse, neglect,
25 or exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
26 ~~person~~.

27 (h) Any appropriate official of the department, of the
28 Agency for Health Care Administration, or of the Department of
29 Elderly Affairs who is responsible for:

30 1. Administration or supervision of the programs for
31 the prevention, investigation, or treatment of ~~adult~~ abuse,

1 neglect, or exploitation of vulnerable adults when carrying
2 out an official function; or

3 2. Taking appropriate administrative action concerning
4 an employee alleged to have perpetrated ~~institutional~~ abuse,
5 neglect, or exploitation of a vulnerable ~~disabled~~ adult in an
6 institution ~~or an elderly person~~.

7 (i) Any person engaged in bona fide research or
8 auditing. However, information identifying the subjects of the
9 report must not be made available to the researcher.

10 (j) Employees or agents of an agency of another state
11 that has jurisdiction comparable to the jurisdiction described
12 in paragraph (a).

13 (k) The Public Employees Relations Commission for the
14 sole purpose of obtaining evidence for appeals filed pursuant
15 to s. 447.207. Records may be released only after deletion of
16 all information that specifically identifies persons other
17 than the employee.

18 (l) Any person in the event of the death of a
19 vulnerable ~~disabled~~ adult ~~or elderly person~~ determined to be a
20 result of abuse, neglect, or exploitation. Information
21 identifying the person reporting abuse, neglect, or
22 exploitation shall not be released. Any information otherwise
23 made confidential or exempt by law shall not be released
24 pursuant to this paragraph.

25 ~~(3) The Division of Administrative Hearings may have~~
26 ~~access to a proposed confirmed or a confirmed report,~~
27 ~~excluding the name of the reporter, for purposes of any~~
28 ~~administrative challenge relating to a proposed confirmed or~~
29 ~~confirmed report.~~

30 (4) The Department of Health, the Department of
31 Business and Professional Regulation, and the Agency for

1 Health Care Administration may have access to a ~~confirmed~~
2 report, excluding the name of the reporter, when considering
3 ~~taking~~ disciplinary action against a licensee or certified
4 nursing assistant pursuant to allegations ~~for actions that~~
5 ~~resulted in a confirmed report~~ of abuse, neglect, or
6 exploitation ~~which has been upheld following a chapter 120~~
7 ~~hearing or a waiver of such proceedings.~~

8 (5) The department may release to any professional
9 person such information as is necessary for the diagnosis and
10 treatment of, and service delivery to, a vulnerable disabled
11 ~~adult or an elderly person~~ or the person perpetrating the
12 abuse, neglect, or exploitation.

13 (6) The identity of any person reporting ~~adult~~ abuse,
14 neglect, or exploitation of a vulnerable adult may not be
15 released, without that person's written consent, to any person
16 other than employees of the department responsible for ~~adult~~
17 protective services, the central abuse hotline registry and
18 ~~tracking system~~, or the appropriate state attorney or law
19 enforcement agency. This subsection grants protection only
20 for the person who reported the ~~adult~~ abuse, neglect, or
21 exploitation and protects only the fact that the person is the
22 reporter. This subsection does not prohibit the subpoena of a
23 person reporting the ~~adult~~ abuse, neglect, or exploitation
24 when deemed necessary by the state attorney or the department
25 to protect a vulnerable disabled ~~adult or an elderly person~~
26 who is the subject of a report, if the fact that the person
27 made the report is not disclosed.

28 (7) For the purposes of this section, the term
29 "access" means a visual inspection or copy of the hard-copy
30 record maintained in the district.

31

1 (8) Information in the central abuse hotline may not
2 be used for employment screening.

3 ~~(8) The department, upon receipt of the applicable~~
4 ~~fee, shall search its central abuse registry and tracking~~
5 ~~system records pursuant to the requirements of ss. 110.1127,~~
6 ~~393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,~~
7 ~~402.305(1), 402.3055, 402.313, 409.175, 409.176, and 985.407~~
8 ~~for the existence of a confirmed report made on the personnel~~
9 ~~as defined in the foregoing provisions. The department shall~~
10 ~~report the existence of any confirmed report and advise the~~
11 ~~authorized licensing agency, applicant for licensure, or other~~
12 ~~authorized agency or person of the results of the search and~~
13 ~~the date of the report. Prior to a search being conducted, the~~
14 ~~department or its designee shall notify such person that an~~
15 ~~inquiry will be made. The department shall notify each person~~
16 ~~for whom a search is conducted of the results of the search~~
17 ~~upon request.~~

18 ~~(9) Upon receipt of the applicable fee and with the~~
19 ~~written consent of a person applying to work with disabled~~
20 ~~adults or elderly persons, the department shall search its~~
21 ~~central abuse registry and tracking system for the existence~~
22 ~~of a confirmed report. The department shall advise the~~
23 ~~employer and the person of any such report found and the~~
24 ~~results of the investigation.~~

25 ~~(10) The department may charge a user fee to an~~
26 ~~employer or the agency in charge of a volunteer, whichever is~~
27 ~~applicable, for a search of the central abuse registry and~~
28 ~~tracking system of up to one-third of the actual cost of the~~
29 ~~screening process. All fees received by the department under~~
30 ~~this section shall be deposited in an administrative trust~~

31

1 ~~fund of the department and may be expended only for the~~
2 ~~caregiver screening program.~~

3 Section 20. Section 415.1102, Florida Statutes, is
4 amended to read:

5 415.1102 Adult protection teams; services; eligible
6 cases.--Subject to an appropriation, the department may
7 develop, maintain, and coordinate the services of one or more
8 multidisciplinary adult protection teams in each of the
9 districts of the department. Such teams may be composed of,
10 but need not be limited to, representatives of appropriate
11 health, mental health, social service, legal service, and law
12 enforcement agencies.

13 ~~(1)~~ The department shall utilize and convene the teams
14 to supplement the protective services activities of the ~~adult~~
15 protective services program of the department. This section
16 does not prevent a person from reporting under s. 415.1034 all
17 suspected or known cases of abuse, neglect, or exploitation of
18 a vulnerable disabled adult ~~or an elderly person~~. The role of
19 the teams is to support activities of the ~~adult~~ protective
20 services program and to provide services deemed by the teams
21 to be necessary and appropriate to abused, neglected, and
22 exploited vulnerable disabled adults ~~or elderly persons~~ upon
23 referral. Services must be provided with the consent of the
24 vulnerable disabled adult, ~~or elderly person~~ or that person's
25 guardian, or through court order. ~~The specialized diagnostic~~
26 ~~assessment, evaluation, coordination, and other supportive~~
27 ~~services that an adult protection team must be capable of~~
28 ~~providing include, but are not limited to:~~

29 ~~(a) Medical diagnosis and evaluation services,~~
30 ~~including provision or interpretation of X rays and laboratory~~
31

1 ~~tests, and related services, as needed, and documentation of~~
2 ~~findings relative thereto.~~

3 ~~(b) Telephone consultation services in emergencies and~~
4 ~~in other situations.~~

5 ~~(c) Medical evaluation related to abuse, neglect, or~~
6 ~~exploitation as defined by department policy or rule.~~

7 ~~(d) Psychological and psychiatric diagnosis and~~
8 ~~evaluation services for the disabled adult or elderly person.~~

9 ~~(e) Short-term psychological treatment. It is the~~
10 ~~intent of the Legislature that short-term psychological~~
11 ~~treatment be limited to no more than 6 months' duration after~~
12 ~~treatment is initiated.~~

13 ~~(f) Expert medical, psychological, and related~~
14 ~~professional testimony in court cases.~~

15 ~~(g) Case staffings to develop, implement, and monitor~~
16 ~~treatment plans for disabled adults and elderly persons whose~~
17 ~~cases have been referred to the team. An adult protection~~
18 ~~team may provide consultation with respect to a disabled adult~~
19 ~~or elderly person who has not been referred to the team. The~~
20 ~~consultation must be provided at the request of a~~
21 ~~representative of the adult protective services program or at~~
22 ~~the request of any other professional involved with the~~
23 ~~disabled adult or elderly person or that person's guardian or~~
24 ~~other caregivers. In every such adult protection team case~~
25 ~~staffing consultation or staff activity involving a disabled~~
26 ~~adult or elderly person, an adult protective services program~~
27 ~~representative shall attend and participate.~~

28 ~~(h) Service coordination and assistance, including the~~
29 ~~location of services available from other public and private~~
30 ~~agencies in the community.~~

31

1 ~~(i) Such training services for program and other~~
2 ~~department employees as is deemed appropriate to enable them~~
3 ~~to develop and maintain their professional skills and~~
4 ~~abilities in handling adult abuse, neglect, or exploitation~~
5 ~~cases.~~

6 ~~(j) Education and community awareness campaigns on~~
7 ~~adult abuse, neglect, or exploitation in an effort to enable~~
8 ~~citizens to prevent, identify, and treat adult abuse, neglect,~~
9 ~~and exploitation in the community more successfully.~~

10 ~~(2) The adult abuse, neglect, or exploitation cases~~
11 ~~that are appropriate for referral by the adult protective~~
12 ~~services program to adult protection teams for supportive~~
13 ~~services include, but are not limited to, cases involving:~~

14 ~~(a) Unexplained or implausibly explained bruises,~~
15 ~~burns, fractures, or other injuries in a disabled adult or an~~
16 ~~elderly person.~~

17 ~~(b) Sexual abuse or molestation, or sexual~~
18 ~~exploitation, of a disabled adult or elderly person.~~

19 ~~(c) Reported medical, physical, or emotional neglect~~
20 ~~of a disabled adult or an elderly person.~~

21 ~~(d) Reported financial exploitation of a disabled~~
22 ~~adult or elderly person.~~

23
24 In all instances in which an adult protection team is
25 providing certain services to abused, neglected, or exploited
26 vulnerable disabled adults or elderly persons, other offices
27 and units of the department shall avoid duplicating the
28 provisions of those services.

29 Section 21. Section 415.111, Florida Statutes, is
30 amended to read:

31 415.111 Criminal penalties.--

1 (1) A person who knowingly and willfully fails to
2 report a case of known or suspected abuse, neglect, or
3 exploitation of a vulnerable disabled adult ~~or an elderly~~
4 ~~person~~, or who knowingly and willfully prevents another person
5 from doing so, commits a misdemeanor of the second degree,
6 punishable as provided in s. 775.082 or s. 775.083.

7 (2) A person who knowingly and willfully makes public
8 or discloses any confidential information contained in the
9 central abuse hotline ~~registry and tracking system~~, or in
10 other computer systems, or in the records of any case of
11 abuse, neglect, or exploitation of a vulnerable disabled adult
12 ~~or elderly person~~, except as provided in ss. 415.101-415.113,
13 commits a misdemeanor of the second degree, punishable as
14 provided in s. 775.082 or s. 775.083.

15 (3) A person who has custody of records and documents
16 the confidentiality of which is abrogated under s.
17 415.1045(3)~~(5)~~ and who refuses to grant access to such records
18 commits a misdemeanor of the second degree, punishable as
19 provided in s. 775.082 or s. 775.083.

20 (4) If the department or its authorized agent has
21 determined after its investigation that a report is false, the
22 department shall, with the consent of the alleged perpetrator,
23 refer the reports to the local law enforcement agency having
24 jurisdiction for an investigation to determine whether
25 sufficient evidence exists to refer the case for prosecution
26 for filing a false report as defined in s. 415.102. During the
27 pendency of the investigation by the local law enforcement
28 agency, the department must notify the local law enforcement
29 agency of, and the local law enforcement agency must respond
30 to, all subsequent reports concerning the same vulnerable
31 ~~disabled~~ adult ~~or elderly person~~ in accordance with s. 415.104

1 or s. 415.1045. If the law enforcement agency believes that
2 there are indicators of abuse, neglect, or exploitation, it
3 must immediately notify the department, which must assure the
4 safety of the vulnerable ~~disabled~~ adult ~~or elderly person~~. If
5 the law enforcement agency finds sufficient evidence for
6 prosecution for filing a false report, it must refer the case
7 to the appropriate state attorney for prosecution.

8 (5) A person who knowingly and willfully makes a false
9 report of abuse, neglect, or exploitation of a vulnerable
10 ~~disabled~~ adult ~~or an elderly person~~, or a person who advises
11 another to make a false report, commits a felony of the third
12 degree, punishable as provided in s. 775.082 or s. 775.083.

13 (a) The department shall establish procedures for
14 determining whether a false report of abuse, neglect, or
15 exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
16 ~~person~~ has been made and for submitting all identifying
17 information relating to such a false report to the local law
18 enforcement agency as provided in this subsection and shall
19 report annually to the Legislature the number of reports
20 referred.

21 (b) Anyone making a report who is acting in good faith
22 is immune from any liability under this subsection.

23 (6) Each state attorney shall establish and publish
24 procedures to facilitate the prosecution of persons under this
25 section and shall report to the Legislature annually the
26 number of complaints that have resulted in the filing of an
27 information or indictment under this section.

28 Section 22. Section 415.1111, Florida Statutes, is
29 amended to read:

30 415.1111 Civil penalties.--
31

1 ~~(1) A person who is named as a perpetrator in a~~
2 ~~confirmed report of abuse, neglect, or exploitation of a~~
3 ~~disabled adult or an elderly person is subject to civil~~
4 ~~penalties as follows:~~

5 ~~(a) For the first offense, a penalty of \$250.~~

6 ~~(b) For the second offense, a penalty of \$500.~~

7 ~~(c) For the third and subsequent offenses, a penalty~~
8 ~~of \$1,000 per occurrence.~~

9
10 ~~Second and subsequent offenses may be for the same type of~~
11 ~~abuse, neglect, or exploitation or for a different type, and~~
12 ~~may be perpetrated upon the same or a different disabled adult~~
13 ~~or elderly person.~~

14 ~~(2) All fines received by the department under this~~
15 ~~section must be deposited in the Operations and Maintenance~~
16 ~~Trust Fund within the department. The Legislature shall~~
17 ~~annually appropriate from the fund an amount that is no less~~
18 ~~than the amount deposited under this section, to be expended~~
19 ~~only for the adult protective services program.~~

20 ~~(1)(3)~~ A vulnerable adult who has been abused,
21 neglected, or exploited disabled adult or an elderly person
22 who has been named as a victim in a confirmed report of abuse,
23 neglect, or exploitation as specified in this chapter part has
24 a cause of action against any perpetrator named in the
25 confirmed report and may recover actual and punitive damages
26 for such abuse, neglect, or exploitation. The action may be
27 brought by the vulnerable disabled adult or elderly person, or
28 that person's guardian, by a person or organization acting on
29 behalf of the vulnerable disabled adult or elderly person with
30 the consent of that person or that person's guardian, or by
31 the personal representative of the estate of a deceased victim

1 ~~disabled adult or elderly person~~ without regard to whether the
2 cause of death resulted from the abuse, neglect, or
3 exploitation. The action may be brought in any court of
4 competent jurisdiction to enforce such action and to recover
5 actual and punitive damages for any deprivation of or
6 infringement on the rights of a vulnerable ~~disabled~~ adult ~~or~~
7 ~~an elderly person~~. A party who prevails in any such action
8 may be entitled to recover reasonable attorney's fees, costs
9 of the action, and damages. The remedies provided in this
10 section are in addition to and cumulative with other legal and
11 administrative remedies available to a vulnerable ~~disabled~~
12 adult ~~or an elderly person~~.

13 Section 23. Subsections (1), (2), and (5) of section
14 415.1113, Florida Statutes, are amended to read:

15 415.1113 Administrative fines for false report of
16 abuse, neglect, or exploitation of a vulnerable ~~disabled~~ adult
17 ~~or an elderly person~~.--

18 (1) In addition to any other penalty authorized by
19 this section, chapter 120, or other law, the department may
20 impose a fine, not to exceed \$10,000 for each violation, upon
21 a person who knowingly and willfully makes a false report of
22 abuse, neglect, or exploitation of a vulnerable ~~disabled~~ adult
23 ~~or an elderly person~~, or a person who counsels another to make
24 a false report.

25 (2) If the department alleges that a person has
26 knowingly and willfully filed a false report with the central
27 abuse hotline registry and tracking system, the department
28 must file a notice of intent that alleges the name, age, and
29 address of the individual; the facts constituting the
30 allegation that the individual made a false report; and the
31 administrative fine that the department proposes to impose on

1 the person. Each time that a false report is made constitutes
2 a separate violation.

3 (5) At the hearing, the department must prove by clear
4 and convincing evidence that the person knowingly and
5 willfully filed a false report with the central abuse hotline
6 ~~registry and tracking system~~. The person has the right to be
7 represented by legal counsel at the hearing.

8 Section 24. Section 415.113, Florida Statutes, is
9 amended to read:

10 415.113 Statutory construction; treatment by spiritual
11 means.--Nothing in ss. 415.101-415.112 shall be construed to
12 mean a person is abused, neglected, or in need of emergency or
13 protective services for the sole reason that the person relies
14 upon and is, therefore, being furnished treatment by spiritual
15 means through prayer alone in accordance with the tenets and
16 practices of a well-recognized ~~recognized~~ church or religious
17 denomination or organization; nor shall anything in such
18 sections be construed to authorize, permit, or require any
19 medical care or treatment in contravention of the stated or
20 implied objection of such person. Such construction does not:

- 21 (1) Eliminate the requirement that such a case be
22 reported to the department;
- 23 (2) Prevent the department from investigating such a
24 case; or
- 25 (3) Preclude a court from ordering, when the health of
26 the individual requires it, the provision of medical services
27 by a licensed physician or treatment by a duly accredited
28 practitioner who relies solely on spiritual means for healing
29 in accordance with the tenets and practices of a
30 well-recognized church or religious denomination or
31 organization.

1 Section 25. Sections 435.01, 435.02, 435.03, 435.04,
2 435.045, 435.05, 435.06, 435.07, 435.08, 435.09, 435.10, and
3 435.11, Florida Statutes, are designated as part I of chapter
4 435, Florida Statutes.

5 Section 26. Paragraph (a) of subsection (2) and
6 paragraph (a) of subsection (3) of section 435.03, Florida
7 Statutes, are amended to read:

8 435.03 Level 1 screening standards.--

9 (2) Any person for whom employment screening is
10 required by statute must not have been found guilty of,
11 regardless of adjudication, or entered a plea of nolo
12 contendere or guilty to, any offense prohibited under any of
13 the following provisions of the Florida Statutes or under any
14 similar statute of another jurisdiction:

15 (a) Section 415.111, relating to ~~adult~~ abuse, neglect,
16 or exploitation of a vulnerable adult ~~aged persons or disabled~~
17 ~~adults~~.

18 (3) Standards must also ensure that the person:

19 (a) For employees and employers licensed or registered
20 pursuant to chapter 400, and for employees and employers of
21 developmental services institutions as defined in s. 393.063,
22 intermediate care facilities for the developmentally disabled
23 as defined in s. 393.063, and mental health treatment
24 facilities as defined in s. 394.455, meets the requirements of
25 part II ~~does not have a confirmed report of abuse, neglect, or~~
26 ~~exploitation as defined in s. 415.102(5), which has been~~
27 ~~uncontested or upheld under s. 415.103.~~

28 Section 27. Paragraphs (b) and (c) of subsection (1)
29 and subsection (2) of section 435.05, Florida Statutes, are
30 amended to read:

31

1 435.05 Requirements for covered employees.--Except as
2 otherwise provided by law, the following requirements shall
3 apply to covered employees:

4 (1)

5 (b) For level 1 screening, the employer must submit
6 the information necessary for screening to the Florida
7 Department of Law Enforcement within 5 working days after
8 receiving it. The Florida Department of Law Enforcement will
9 conduct a search of its ~~When required, the employer must at~~
10 ~~the same time submit sufficient information to the Department~~
11 ~~of Children and Family Services to complete a check of its~~
12 ~~records relating to the abuse, neglect, and exploitation of~~
13 ~~vulnerable adults. The Florida Department of Law Enforcement~~
14 ~~and the Department of Children and Family Services will~~
15 ~~conduct searches of their records and will respond to the~~
16 employer agency. The employer will inform the employee
17 whether screening has revealed any disqualifying information.

18 (c) For level 2 screening, the employer or licensing
19 agency must submit the information necessary for screening to
20 the Florida Department of Law Enforcement within 5 working
21 days after receiving it. ~~When required, the employer or~~
22 ~~licensing agency must also submit sufficient information to~~
23 ~~the Department of Children and Family Services to complete a~~
24 ~~check of its records.~~The Florida Department of Law
25 Enforcement will conduct a search of its criminal and juvenile
26 records and will request that the Federal Bureau of
27 Investigation conduct a search of its records for each
28 employee for whom the request is made. The Florida Department
29 of Law Enforcement ~~and the Department of Children and Family~~
30 ~~Services~~ will respond to the employer or licensing agency, and
31

1 the employer or licensing agency will inform the employee
2 whether screening has revealed disqualifying information.

3 (2) Unless otherwise prohibited by state or federal
4 law, new employees may be placed on probationary status
5 pending a determination of compliance with minimum standards
6 set forth in this part ~~chapter~~.

7 Section 28. Subsection (1) of section 435.07, Florida
8 Statutes, is amended to read:

9 435.07 Exemptions from disqualification.--Unless
10 otherwise provided by law, the provisions of this section
11 shall apply to exemptions from disqualification.

12 (1) The appropriate licensing agency may grant to any
13 employee otherwise disqualified from employment an exemption
14 from disqualification for:

15 (a) Felonies committed more than 3 years prior to the
16 date of disqualification;

17 (b) Misdemeanors prohibited under any of the Florida
18 Statutes cited in this chapter or under similar statutes of
19 other jurisdictions;

20 (c) Offenses that were felonies when committed but are
21 now misdemeanors;

22 (d) Findings of delinquency; or

23 (e) Commissions of acts of domestic violence as
24 defined in s. 741.30. ~~or~~

25 ~~(f) Confirmed reports of abuse, neglect, or~~
26 ~~exploitation of a vulnerable adult.~~

27
28 For the purposes of this subsection, the term "felonies" means
29 both felonies prohibited under any of the Florida Statutes
30 cited in this part ~~chapter~~ or under similar statutes of other
31 jurisdictions.

1 Section 29. Section 435.08, Florida Statutes, is
2 amended to read:

3 435.08 Payment for processing of fingerprints and,
4 state criminal records checks, ~~and abuse hotline~~
5 ~~checks.~~--Either the employer or the employee is responsible
6 for paying the costs of screening. Payment shall be submitted
7 to the Florida Department of Law Enforcement with the request
8 for screening. ~~When a search of the central abuse hotline is~~
9 ~~required, payment shall be submitted by separate check to the~~
10 ~~Department of Children and Family Services with the request~~
11 ~~for screening.~~

12 Section 30. Section 435.09, Florida Statutes, is
13 amended to read:

14 435.09 Confidentiality of personnel background check
15 information.--No criminal or, ~~juvenile, or abuse hotline~~
16 information obtained under this section may be used for any
17 purpose other than determining whether persons meet the
18 minimum standards for employment or for an owner or director
19 of a covered service provider. The criminal records and
20 juvenile records obtained by the department or by an employer
21 are exempt from s. 119.07(1).

22 Section 31. Sections 435.401, 435.402, 435.403, and
23 435.405, Florida Statutes, are designated as part II of
24 chapter 435, Florida Statutes.

25 Section 32. Effective January 1, 2001, section
26 435.401, Florida Statutes, is created to read:

27 435.401 Caregivers of vulnerable adults; special
28 employment, contractual, or referral work history checks;
29 definitions.--For purposes of this part:

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

1 (2) "Covered organization" means any residential
2 facility or agency licensed pursuant to chapter 400 by the
3 agency where health, nutritional, or personal care is provided
4 or arranged for vulnerable adults, including nursing homes,
5 assisted living facilities, adult day care facilities, adult
6 family-care homes, hospices, home health care agencies, nurse
7 registries, and intermediate care facilities for
8 developmentally disabled persons. Covered organization shall
9 also mean developmental services institutions and mental
10 health institutions. Covered organization includes any
11 temporary agency as defined in this section.

12 (3) "Direct access employee or contractor" means a
13 caregiver hired by or contracted with a covered organization
14 after January 1, 2001, whose primary job duties require direct
15 access or contact with persons receiving care, access to the
16 living areas of such persons, or access to the funds or
17 property of such persons. The term does not include caregivers
18 whose primary job duties do not include or require direct
19 access or contact with persons receiving care, but whose
20 duties may result in occasional contact with such persons. Not
21 included are maintenance personnel, office or clerical
22 workers, and nonlicensed personnel whose essential functions
23 do not include the care of or direct access to persons
24 receiving care.

25 (4) "Service letter" means the employment or work
26 history form provided to covered organizations by the agency.

27 (5) "Temporary agency" means an agency responsible for
28 providing temporary employees or contractors to covered
29 organizations, including health care service pools as defined
30 in s. 400.980.

31

1 Section 33. Effective January 1, 2001, section
2 435.402, Florida Statutes, is created to read:

3 435.402 Service letters; requirements; penalties.--

4 (1) No covered organization shall hire, contract with,
5 or register for referral any person seeking employment or
6 engagements that require direct access to patients or clients
7 without obtaining service letters regarding that person from
8 at least two covered organizations the person has been
9 employed by, contracted with, or registered with during the
10 past 3 years. If the applicant has been employed by,
11 contracted with, or registered with fewer than two covered
12 organizations during the past 3 years, then all covered
13 organizations must be contacted. If the person seeking
14 employment has not been previously employed by, contracted
15 with, or registered with a covered organization within the
16 past 3 years or was self-employed, then the prospective
17 covered organization must require the person to provide
18 letters of reference from at least two adults who are familiar
19 with the person, but who are not relatives of the person.
20 Nothing in this subsection shall prohibit or discourage
21 prospective covered organizations from performing more work
22 history checks than are required in this subsection.

23 (2) The required service letter shall be a form
24 provided by the agency. The form shall be signed by the
25 current or previous covered organizations, as requested, and
26 shall contain information about the type of work performed by
27 the person who has been employed by, contracted with, or
28 registered with the covered organization, the duration of the
29 employment, contract, or registration period, the nature of
30 the person's separation from the covered organization, and any
31 substantiated incidents toward any other person involving

1 violence, threat of violence, abuse, neglect, exploitation, or
 2 misappropriation of property by the person, including any
 3 disciplinary action taken as a result of such conduct and the
 4 date of such action. Covered organizations that contract with
 5 caregivers or register caregivers for referral, when receiving
 6 a service letter from another covered organization, shall
 7 report on the return service letter any substantiated
 8 incidents toward any other person involving violence, threat
 9 of violence, abuse, neglect, exploitation, or misappropriation
 10 of property by the person which resulted in the termination of
 11 the person's contract or removal of the person from the
 12 referral registry.

13 (3) Any covered organization that is required to
 14 obtain service letters shall obtain a statement signed by the
 15 applicant authorizing a full release to the covered
 16 organization of any and all information pertaining to the
 17 facts of the applicant's current or previous work history.

18 (4)(a) Any covered organization, including a temporary
 19 agency, that is required to obtain a service letter shall
 20 obtain a statement signed by the applicant attesting that the
 21 information given in the application represents a full and
 22 complete disclosure of the applicant's current and previous
 23 work history, and that all information contained in the
 24 application is true and complete to the best of the knowledge
 25 and belief of the applicant. In addition, the application
 26 shall contain a written acknowledgment by the applicant that
 27 he or she understands that failure to provide a full and
 28 complete disclosure of all information required under this
 29 section is a violation of this section and that such failure
 30 may result in first or second degree misdemeanor charges, or
 31 termination of employment, contract, or registration for

1 referral. Full and complete disclosure by an applicant
2 includes listing all current and previous covered
3 organizations, as defined in s. 435.401, for the previous 3
4 years. An applicant who has worked for one or more temporary
5 agencies during the previous 3 years shall list on the
6 application all such temporary agencies.

7 (b) Any covered organization that does not obtain the
8 applicant's signed attestation for a person hired, contracted
9 with, or registered for referral after January 1, 2001, may be
10 issued a notice of noncompliance. A violation that is not
11 corrected within the specified timeframe or is a repeat
12 violation becomes a finable violation. The covered
13 organization is subject to an administrative penalty of \$500
14 for the first finable violation, \$1,000 for the second finable
15 violation, and \$2,500 for the third and any subsequent finable
16 violation.

17 (5) Any covered organization, including a temporary
18 agency, that receives a written request for a service letter
19 from any other covered organization, as required by this
20 section, shall complete and send that service letter to the
21 requesting covered organization within 10 business days after
22 the date the request is received. Any written response,
23 including a response by regular mail, facsimile, electronic
24 transmission, or other clearly documented delivery, which
25 provides the information required by this section on the form
26 provided by the agency shall constitute compliance with this
27 subsection. Any covered organization that does not provide
28 such service letters for a person seeking employment may be
29 issued a notice of noncompliance. A violation that is not
30 corrected within the specified timeframe or is a repeat
31 violation becomes a finable violation. The covered

1 organization is subject to an administrative penalty of \$500
 2 for the first finable violation, \$1,000 for the second finable
 3 violation, and \$2,500 for the third and any subsequent finable
 4 violation.

5 (6) Notwithstanding the provisions of subsection (1),
 6 the covered organization may conditionally employ, contract
 7 with, or register for referral an applicant for up to 30 days
 8 on a conditional basis, pending receipt of the required
 9 service letters. An applicant conditionally employed,
 10 contracted with, or registered for referral pursuant to this
 11 subsection shall be informed, in writing, and shall
 12 acknowledge, in writing, that his or her continued employment,
 13 contract, or registration is contingent upon receipt of the
 14 required service letters. A covered organization may allow a
 15 person to continue working after the 30 days on a conditional
 16 basis without the required service letters if the covered
 17 organization has demonstrated a good faith attempt to obtain
 18 the service letters, as evidenced by requesting the necessary
 19 service letters prior to the applicant's first day of work, by
 20 regular mail, facsimile, electronic transmission, or other
 21 clearly documented delivery, and at least two documented
 22 attempts to contact the covered organizations from which the
 23 information was requested when the service letters were not
 24 returned within 10 business days. Any covered organization
 25 that has not demonstrated such good faith effort may be issued
 26 a notice of noncompliance. A violation that is not corrected
 27 within the specified timeframe or is a repeat violation
 28 becomes a finable violation. The covered organization is
 29 subject to an administrative penalty of \$500 for the first
 30 finable violation, \$1,000 for the second finable violation,
 31 and \$2,500 for the third and any subsequent finable violation.

1 (7) A covered organization shall make a good faith
 2 attempt to locate an applicant's previous covered
 3 organizations as identified in the application and to obtain
 4 the service letters from each current or previous covered
 5 organization. The burden of proof shall rest with the covered
 6 organization to demonstrate a good faith attempt to comply
 7 with this section, as evidenced by requesting the necessary
 8 service letters prior to the applicant's first day of work, by
 9 regular mail, facsimile, electronic transmission, or other
 10 clearly documented delivery, and at least two documented
 11 attempts to contact the covered organizations from which the
 12 information was requested when the service letters were not
 13 returned within 10 business days. Any covered organization
 14 that does not obtain the required service letters for a person
 15 seeking employment may be issued a notice of noncompliance. A
 16 violation that is not corrected within the specified timeframe
 17 or is a repeat violation becomes a finable violation. The
 18 covered organization is subject to an administrative penalty
 19 of \$500 for the first finable violation, \$1,000 for the second
 20 finable violation, and \$2,500 for the third and any subsequent
 21 finable violation.

22 (8) Any covered organization that knowingly and with
 23 intent to deceive provides information that is a materially
 24 inaccurate or incomplete disclosure of past work history
 25 information on a service letter is subject to an
 26 administrative penalty of \$500 for the first violation, \$1,000
 27 for the second violation, and \$2,500 for the third and any
 28 subsequent violation.

29 (9) Any person who knowingly and with intent to
 30 deceive provides information that is a materially inaccurate
 31 or incomplete disclosure of past work history information on

1 an application in violation of the requirements of subsection
 2 (4) may be terminated from employment, contract, or
 3 registration for referral, and commits a misdemeanor of the
 4 second degree, punishable as provided in s. 775.082 or s.
 5 775.083. Any person who commits a second or subsequent
 6 violation commits a misdemeanor of the first degree,
 7 punishable as provided in s. 775.082 or s. 775.083.

8 (10) Any covered organization, or any person authorized
 9 to act on behalf of the covered organization, that discloses
 10 information to a covered organization as required by
 11 subsection (5) is presumed to be acting in good faith, and,
 12 unless lack of good faith is shown, is immune from civil
 13 liability under this part and pursuant to s. 768.095 for such
 14 disclosure and its consequences and may not be made the
 15 subject of any legal action for libel, slander, or defamation
 16 by an applicant's current or former covered organization. For
 17 purposes of this section, the presumption of good faith may be
 18 rebutted upon a showing that the information disclosed by such
 19 covered organization was knowingly false, was deliberately
 20 misleading, or was rendered with malicious purpose.

21 (11) Any information received from an applicant's
 22 current or previous covered organization by the applicant's
 23 prospective covered organization, pursuant to this section,
 24 which could in any way identify the current or previous
 25 covered organization that provided the information shall be
 26 protected from discovery in any legal or administrative
 27 proceedings. The applicant who is the subject of the
 28 information provided by his or her current or previous covered
 29 organization shall have a right to obtain such information
 30 from the current or previous covered organization that

31

1 provided the information to the prospective covered
2 organization.

3 (12) The agency shall be the only party with authority
4 to impose and seek enforcement of an administrative penalty
5 under this part.

6 (13) The background screening database operated by the
7 agency pursuant to s. 400.215 shall be accessible to all
8 covered organizations. The agency shall maintain in the
9 database, for all health care professionals licensed or
10 certified by the Department of Health, the current status of
11 any disciplinary action taken by the Department of Health or
12 by any professional board against an applicant or employee, in
13 addition to any criminal history information about an
14 applicant or employee.

15 Section 34. Effective January 1, 2001, section
16 435.403, Florida Statutes, is created to read:

17 435.403 Enforcement; penalties.--

18 (1) The agency shall monitor covered organizations for
19 compliance with the provisions of s. 435.402. Such monitoring
20 shall be carried out through routine inspections and surveys
21 or other regulatory activities and through investigations of
22 complaints reported by any person to the agency alleging
23 noncompliance with the provisions of s. 435.402.

24 (2) Funds collected through payment of administrative
25 penalties to the agency shall be deposited in the Health Care
26 Trust Fund to support enforcement of the requirements of this
27 part and the improvement of quality of care for vulnerable
28 adults who are residents or clients of covered organizations.

29 Section 35. Effective January 1, 2001, section
30 435.405, Florida Statutes, is created to read:

31

1 435.405 Rules.--The agency shall adopt rules to
2 implement the provisions of this part. The rules shall include
3 the forms for service letters, provisions for accepting the
4 service letter forms by facsimile or electronic transmission
5 in addition to printed form, standards for documentation of a
6 good faith effort to perform the actions required under this
7 part, and standards for monitoring the compliance of covered
8 organizations.

9 Section 36. Paragraph (g) of subsection (3) of section
10 20.43, Florida Statutes, is amended to read:

11 20.43 Department of Health.--There is created a
12 Department of Health.

13 (3) The following divisions of the Department of
14 Health are established:

15 (g) Division of Medical Quality Assurance, which is
16 responsible for the following boards and professions
17 established within the division:

18 1. Nursing assistants, as provided under s. 400.211.

19 ~~2. Health care services pools, as provided under s.~~
20 ~~402.48.~~

21 ~~2.3.~~ The Board of Acupuncture, created under chapter
22 457.

23 ~~3.4.~~ The Board of Medicine, created under chapter 458.

24 ~~4.5.~~ The Board of Osteopathic Medicine, created under
25 chapter 459.

26 ~~5.6.~~ The Board of Chiropractic Medicine, created under
27 chapter 460.

28 ~~6.7.~~ The Board of Podiatric Medicine, created under
29 chapter 461.

30 ~~7.8.~~ Naturopathy, as provided under chapter 462.

31

1 ~~8.9.~~ The Board of Optometry, created under chapter
2 463.
3 ~~9.10.~~ The Board of Nursing, created under chapter 464.
4 ~~10.11.~~ The Board of Pharmacy, created under chapter
5 465.
6 ~~11.12.~~ The Board of Dentistry, created under chapter
7 466.
8 ~~12.13.~~ Midwifery, as provided under chapter 467.
9 ~~13.14.~~ The Board of Speech-Language Pathology and
10 Audiology, created under part I of chapter 468.
11 ~~14.15.~~ The Board of Nursing Home Administrators,
12 created under part II of chapter 468.
13 ~~15.16.~~ The Board of Occupational Therapy, created
14 under part III of chapter 468.
15 ~~16.17.~~ Respiratory therapy, as provided under part V
16 of chapter 468.
17 ~~17.18.~~ Dietetics and nutrition practice, as provided
18 under part X of chapter 468.
19 ~~18.19.~~ The Board of Athletic Training, created under
20 part XIII of chapter 468.
21 ~~19.20.~~ The Board of Orthotists and Prosthetists,
22 created under part XIV of chapter 468.
23 ~~20.21.~~ Electrolysis, as provided under chapter 478.
24 ~~21.22.~~ The Board of Massage Therapy, created under
25 chapter 480.
26 ~~22.23.~~ The Board of Clinical Laboratory Personnel,
27 created under part III of chapter 483.
28 ~~23.24.~~ Medical physicists, as provided under part IV
29 of chapter 483.
30 ~~24.25.~~ The Board of Opticianry, created under part I
31 of chapter 484.

1 ~~25.26.~~ The Board of Hearing Aid Specialists, created
2 under part II of chapter 484.

3 ~~26.27.~~ The Board of Physical Therapy Practice, created
4 under chapter 486.

5 ~~27.28.~~ The Board of Psychology, created under chapter
6 490.

7 ~~28.29.~~ School psychologists, as provided under chapter
8 490.

9 ~~29.30.~~ The Board of Clinical Social Work, Marriage and
10 Family Therapy, and Mental Health Counseling, created under
11 chapter 491.

12
13 The department may contract with the Agency for Health Care
14 Administration who shall provide consumer complaint,
15 investigative, and prosecutorial services required by the
16 Division of Medical Quality Assurance, councils, or boards, as
17 appropriate.

18 Section 37. Paragraph (h) of subsection (2) of section
19 39.202, Florida Statutes, is amended to read:

20 39.202 Confidentiality of reports and records in cases
21 of child abuse or neglect.--

22 (2) Access to such records, excluding the name of the
23 reporter which shall be released only as provided in
24 subsection (4), shall be granted only to the following
25 persons, officials, and agencies:

26 (h) Any appropriate official of the department
27 responsible for:

28 1. Administration or supervision of the department's
29 program for the prevention, investigation, or treatment of
30 child abuse, abandonment, or neglect, or abuse, neglect, or
31

1 exploitation of a vulnerable ~~disabled~~ adult ~~or elderly person~~,
2 when carrying out his or her official function;

3 2. Taking appropriate administrative action concerning
4 an employee of the department alleged to have perpetrated
5 child abuse, abandonment, or neglect, or abuse, neglect, or
6 exploitation of a vulnerable ~~disabled~~ adult ~~or elderly person~~;
7 or

8 3. Employing and continuing employment of personnel of
9 the department.

10 Section 38. Paragraphs (a) and (b) of subsection (3)
11 of section 110.1127, Florida Statutes, are amended to read:

12 110.1127 Employee security checks.--

13 (3)(a) All positions in programs providing care to
14 children, the developmentally disabled, or vulnerable adults
15 ~~disabled adults, or elderly persons~~ for 15 hours or more per
16 week; all permanent and temporary employee positions of the
17 central abuse hotline; and all persons working under contract
18 who have access to abuse records are deemed to be persons and
19 positions of special trust or responsibility, and require
20 employment screening pursuant to chapter 435, using the level
21 2 standards set forth in that chapter.

22 (b) The employing agency may grant exemptions from
23 disqualification from working with children, the
24 developmentally disabled, or vulnerable adults ~~disabled~~
25 ~~adults, or elderly persons~~ as provided in s. 435.07.

26 Section 39. Paragraph (a) of subsection (12) of
27 section 112.0455, Florida Statutes, is amended to read:

28 112.0455 Drug-Free Workplace Act.--

29 (12) DRUG-TESTING STANDARDS; LABORATORIES.--

30 (a) A laboratory may analyze initial or confirmation
31 drug specimens only if:

1 1. The laboratory is licensed and approved by the
2 Agency for Health Care Administration using criteria
3 established by the United States Department of Health and
4 Human Services as general guidelines for modeling the state
5 drug testing program. Each applicant for licensure must comply
6 with the following requirements:

7 a. Upon receipt of a completed, signed, and dated
8 application, the agency shall require background screening, in
9 accordance with the level 2 standards for screening set forth
10 in chapter 435, of the managing employee, or other similarly
11 titled individual responsible for the daily operation of the
12 laboratory, and of the financial officer, or other similarly
13 titled individual who is responsible for the financial
14 operation of the laboratory, including billings for services.
15 The applicant must comply with the procedures for level 2
16 background screening as set forth in chapter 435, as well as
17 the requirements of s. 435.03(3).

18 b. The agency may require background screening of any
19 other individual who is an applicant if the agency has
20 probable cause to believe that he or she has been convicted of
21 an offense prohibited under the level 2 standards for
22 screening set forth in chapter 435.

23 c. Proof of compliance with the level 2 background
24 screening requirements of chapter 435 which has been submitted
25 within the previous 5 years in compliance with any other
26 health care licensure requirements of this state is acceptable
27 in fulfillment of screening requirements.

28 d. A provisional license may be granted to an
29 applicant when each individual required by this section to
30 undergo background screening has met the standards for ~~the~~
31 ~~abuse registry background check and~~ the Department of Law

1 Enforcement background check, but the agency has not yet
2 received background screening results from the Federal Bureau
3 of Investigation, or a request for a disqualification
4 exemption has been submitted to the agency as set forth in
5 chapter 435, but a response has not yet been issued. A license
6 may be granted to the applicant upon the agency's receipt of a
7 report of the results of the Federal Bureau of Investigation
8 background screening for each individual required by this
9 section to undergo background screening which confirms that
10 all standards have been met, or upon the granting of a
11 disqualification exemption by the agency as set forth in
12 chapter 435. Any other person who is required to undergo level
13 2 background screening may serve in his or her capacity
14 pending the agency's receipt of the report from the Federal
15 Bureau of Investigation. However, the person may not continue
16 to serve if the report indicates any violation of background
17 screening standards and a disqualification exemption has not
18 been requested of and granted by the agency as set forth in
19 chapter 435.

20 e. Each applicant must submit to the agency, with its
21 application, a description and explanation of any exclusions,
22 permanent suspensions, or terminations of the applicant from
23 the Medicare or Medicaid programs. Proof of compliance with
24 the requirements for disclosure of ownership and control
25 interests under the Medicaid or Medicare programs shall be
26 accepted in lieu of this submission.

27 f. Each applicant must submit to the agency a
28 description and explanation of any conviction of an offense
29 prohibited under the level 2 standards of chapter 435 by a
30 member of the board of directors of the applicant, its
31 officers, or any individual owning 5 percent or more of the

1 applicant. This requirement does not apply to a director of a
2 not-for-profit corporation or organization if the director
3 serves solely in a voluntary capacity for the corporation or
4 organization, does not regularly take part in the day-to-day
5 operational decisions of the corporation or organization,
6 receives no remuneration for his or her services on the
7 corporation or organization's board of directors, and has no
8 financial interest and has no family members with a financial
9 interest in the corporation or organization, provided that the
10 director and the not-for-profit corporation or organization
11 include in the application a statement affirming that the
12 director's relationship to the corporation satisfies the
13 requirements of this sub-subparagraph.

14 g. A license may not be granted to any applicant if
15 the applicant or managing employee has been found guilty of,
16 regardless of adjudication, or has entered a plea of nolo
17 contendere or guilty to, any offense prohibited under the
18 level 2 standards for screening set forth in chapter 435,
19 unless an exemption from disqualification has been granted by
20 the agency as set forth in chapter 435.

21 h. The agency may deny or revoke licensure if the
22 applicant:

23 (I) Has falsely represented a material fact in the
24 application required by sub-subparagraph e. or
25 sub-subparagraph f., or has omitted any material fact from the
26 application required by sub-subparagraph e. or
27 sub-subparagraph f.; or

28 (II) Has had prior action taken against the applicant
29 under the Medicaid or Medicare program as set forth in
30 sub-subparagraph e.

31

1 i. An application for license renewal must contain the
2 information required under sub-subparagraphs e. and f.

3 2. The laboratory has written procedures to ensure
4 chain of custody.

5 3. The laboratory follows proper quality control
6 procedures, including, but not limited to:

7 a. The use of internal quality controls including the
8 use of samples of known concentrations which are used to check
9 the performance and calibration of testing equipment, and
10 periodic use of blind samples for overall accuracy.

11 b. An internal review and certification process for
12 drug test results, conducted by a person qualified to perform
13 that function in the testing laboratory.

14 c. Security measures implemented by the testing
15 laboratory to preclude adulteration of specimens and drug test
16 results.

17 d. Other necessary and proper actions taken to ensure
18 reliable and accurate drug test results.

19 Section 40. Paragraphs (a), (b), and (c) of subsection
20 (7) of section 119.07, Florida Statutes, are amended to read:

21 119.07 Inspection, examination, and duplication of
22 records; exemptions.--

23 (7)(a) Any person or organization, including the
24 Department of Children and Family Services, may petition the
25 court for an order making public the records of the Department
26 of Children and Family Services that pertain to investigations
27 of alleged abuse, neglect, abandonment, or exploitation of a
28 child or a vulnerable, ~~a disabled adult, or an elderly person.~~
29 The court shall determine if good cause exists for public
30 access to the records sought or a portion thereof. In making
31 this determination, the court shall balance the best interest

1 of the vulnerable ~~disabled~~ adult, ~~elderly person~~, or child who
2 is the focus of the investigation, and in the case of the
3 child, the interest of that child's siblings, together with
4 the privacy right of other persons identified in the reports
5 against the public interest. The public interest in access to
6 such records is reflected in s. 119.01(1), and includes the
7 need for citizens to know of and adequately evaluate the
8 actions of the Department of Children and Family Services and
9 the court system in providing vulnerable ~~disabled~~ adults,
10 ~~elderly persons~~, and children of this state with the
11 protections enumerated in ss. 39.001 and 415.101. However,
12 this subsection does not contravene ss. 39.202 and 415.107,
13 which protect the name of any person reporting the abuse,
14 neglect, or exploitation of a child or a vulnerable, ~~a~~
15 ~~disabled~~ adult, ~~or an elderly person~~.

16 (b) In cases involving serious bodily injury to a
17 child or a vulnerable, ~~a disabled~~ adult ~~or an elderly person~~,
18 the Department of Children and Family Services may petition
19 the court for an order for the immediate public release of
20 records of the department which pertain to the protective
21 ~~investigation of abuse, neglect, abandonment, or exploitation~~
22 ~~of the child, disabled adult, or elderly person who suffered~~
23 ~~serious bodily injury~~. The petition must be personally served
24 upon the child or vulnerable, ~~disabled~~ adult, ~~or elderly~~
25 ~~person~~, the child's parents or guardian, the legal guardian of
26 that person, if any, and any person named as an alleged
27 perpetrator in the report of abuse, neglect, abandonment, or
28 exploitation. The court must determine if good cause exists
29 for the public release of the records sought no later than 24
30 hours, excluding Saturdays, Sundays, and legal holidays, after
31 the date the department filed the petition with the court. If

1 the court has neither granted nor denied the petition within
2 the 24-hour time period, the department may release to the
3 public summary information including:

4 1. A confirmation that an investigation has been
5 conducted concerning the alleged victim.

6 2. The dates and brief description of procedural
7 activities undertaken during the department's investigation.

8 3. The date of each judicial proceeding, a summary of
9 each participant's recommendations made at the judicial
10 proceedings, and the rulings of the court.

11
12 The summary information may not include the name of, or other
13 identifying information with respect to, any person identified
14 in any investigation. In making a determination to release
15 confidential information, the court shall balance the best
16 interests of the vulnerable ~~disabled~~ adult or ~~elderly~~ person
17 or child who is the focus of the investigation and, in the
18 case of the child, the interests of that child's siblings,
19 together with the privacy rights of other persons identified
20 in the reports against the public interest for access to
21 public records. However, this paragraph does not contravene
22 ss. 39.202 and 415.107, which protect the name of any person
23 reporting abuse, neglect, or exploitation of a child or a
24 vulnerable, ~~a disabled~~ adult, ~~or an elderly~~ person.

25 (c) When the court determines that good cause for
26 public access exists, the court shall direct that the
27 department redact the name of and other identifying
28 information with respect to any person identified in any
29 protective investigation report ~~unfounded report or proposed~~
30 ~~confirmed report or report closed without classification, or~~
31 ~~in any report that has not yet been classified pursuant to s.~~

1 ~~415.1045(7)~~, until such time as the court finds that there is
2 probable cause to believe that the person identified committed
3 an act of alleged abuse, neglect, or abandonment.

4 Section 41. Subsection (1) of section 232.50, Florida
5 Statutes, is amended to read:

6 232.50 Child abuse, abandonment, and neglect
7 policy.--Every school board shall by March 1, 1985:

8 (1) Post in a prominent place in each school a notice
9 that, pursuant to chapter 39, all employees or agents of the
10 district school board have an affirmative duty to report all
11 actual or suspected cases of child abuse, abandonment, or
12 neglect, have immunity from liability if they report such
13 cases in good faith, and have a duty to comply with child
14 protective investigations and all other provisions of law
15 relating to child abuse, abandonment, and neglect. The notice
16 shall also include the statewide toll-free telephone number of
17 the central state abuse hotline registry.

18 Section 42. Subsection (4) and paragraph (b) of
19 subsection (5) of section 242.335, Florida Statutes, are
20 amended to read:

21 242.335 Personnel screening; Florida School for the
22 Deaf and the Blind.--

23 (4) The Florida School for the Deaf and the Blind may
24 not use the criminal records, ~~abuse registry information,~~
25 private investigator findings, or information reference checks
26 obtained by the school pursuant to this section for any
27 purpose other than determining if a person meets the minimum
28 standards for good moral character for personnel employed by
29 the school. The criminal records, ~~abuse registry information,~~
30 private investigator findings, and information from reference
31 checks obtained by the Florida School for the Deaf and the

1 Blind for determining the moral character of employees of the
2 school are confidential and exempt from the provisions of s.
3 119.07(1) and s. 24(a), Art. I of the State Constitution.

4 (5) It is a misdemeanor of the first degree,
5 punishable as provided in s. 775.082 or s. 775.083, for any
6 person willfully, knowingly, or intentionally to:

7 (b) Use the criminal records, ~~abuse registry~~
8 ~~information~~, private investigator findings, or information
9 from reference checks obtained under this section or
10 information obtained from such records or findings for
11 purposes other than screening for employment or release such
12 information or records to persons for purposes other than
13 screening for employment.

14 Section 43. Paragraph (a) of subsection (8) of section
15 320.0848, Florida Statutes, is amended to read:

16 320.0848 Persons who have disabilities; issuance of
17 disabled parking permits; temporary permits; permits for
18 certain providers of transportation services to persons who
19 have disabilities.--

20 (8) A law enforcement officer may confiscate the
21 disabled parking permit from any person who fraudulently
22 obtains or unlawfully uses such a permit. A law enforcement
23 officer may confiscate any disabled parking permit that is
24 expired, reported as lost or stolen, or defaced, or that does
25 not display a personal identification number.

26 (a) Beginning April 1, 1999, the permit number of each
27 confiscated permit must be submitted to the Department of
28 Highway Safety and Motor Vehicles, and the fact that the
29 permit has been confiscated must be noted on the
30 permitholder's record. If two permits issued to the same
31 person have been confiscated, the Department of Highway Safety

1 and Motor Vehicles shall refer the information to the central
2 ~~Florida~~ abuse hotline of the Department of Children and Family
3 Services for an investigation of potential abuse, neglect, or
4 exploitation of the permit owner.

5 Section 44. Paragraph (c) of subsection (1) of section
6 381.0059, Florida Statutes, is amended to read:

7 381.0059 Background screening requirements for school
8 health services personnel.--

9 (1)

10 (c) The person subject to the required background
11 screening or his or her employer must pay the fees required to
12 obtain the background screening. Payment for the screening ~~and~~
13 ~~the abuse registry check~~ must be submitted to the Department
14 of Health. The Florida Department of Law Enforcement shall
15 charge the Department of Health for a level 2 screening at a
16 rate sufficient to cover the costs of such screening pursuant
17 to s. 943.053(3). The Department of Health shall establish a
18 schedule of fees to cover the costs of the level 2 screening
19 ~~and the abuse registry check~~. The applicant or his or her
20 employer who pays for the required screening may be reimbursed
21 by the Department of Health from funds designated for this
22 purpose.

23 Section 45. Paragraph (d) of subsection (1) of section
24 381.60225, Florida Statutes, is amended to read:

25 381.60225 Background screening.--

26 (1) Each applicant for certification must comply with
27 the following requirements:

28 (d) A provisional certification may be granted to the
29 organization, agency, or entity when each individual required
30 by this section to undergo background screening has met the
31 standards for ~~the abuse registry background check and the~~

1 Department of Law Enforcement background check, but the agency
 2 has not yet received background screening results from the
 3 Federal Bureau of Investigation, or a request for a
 4 disqualification exemption has been submitted to the agency as
 5 set forth in chapter 435, but a response has not yet been
 6 issued. A standard certification may be granted to the
 7 organization, agency, or entity upon the agency's receipt of a
 8 report of the results of the Federal Bureau of Investigation
 9 background screening for each individual required by this
 10 section to undergo background screening which confirms that
 11 all standards have been met, or upon the granting of a
 12 disqualification exemption by the agency as set forth in
 13 chapter 435. Any other person who is required to undergo level
 14 2 background screening may serve in his or her capacity
 15 pending the agency's receipt of the report from the Federal
 16 Bureau of Investigation. However, the person may not continue
 17 to serve if the report indicates any violation of background
 18 screening standards and a disqualification exemption has not
 19 been requested of and granted by the agency as set forth in
 20 chapter 435.

21 Section 46. Paragraph (d) of subsection (7) of section
 22 383.305, Florida Statutes, is amended to read:

23 383.305 Licensure; issuance, renewal, denial,
 24 suspension, revocation; fees; background screening.--

25 (7) Each applicant for licensure must comply with the
 26 following requirements:

27 (d) A provisional license may be granted to an
 28 applicant when each individual required by this section to
 29 undergo background screening has met the standards for ~~the~~
 30 ~~abuse registry background check~~ and the Department of Law
 31 Enforcement background check, but the agency has not yet

1 received background screening results from the Federal Bureau
 2 of Investigation, or a request for a disqualification
 3 exemption has been submitted to the agency as set forth in
 4 chapter 435 but a response has not yet been issued. A standard
 5 license may be granted to the applicant upon the agency's
 6 receipt of a report of the results of the Federal Bureau of
 7 Investigation background screening for each individual
 8 required by this section to undergo background screening which
 9 confirms that all standards have been met, or upon the
 10 granting of a disqualification exemption by the agency as set
 11 forth in chapter 435. Any other person who is required to
 12 undergo level 2 background screening may serve in his or her
 13 capacity pending the agency's receipt of the report from the
 14 Federal Bureau of Investigation. However, the person may not
 15 continue to serve if the report indicates any violation of
 16 background screening standards and a disqualification
 17 exemption has not been requested of and granted by the agency
 18 as set forth in chapter 435.

19 Section 47. Paragraph (d) of subsection (3) of section
 20 390.015, Florida Statutes, is amended to read:

21 390.015 Application for license.--

22 (3) Each applicant for licensure must comply with the
 23 following requirements:

24 (d) A provisional license may be granted to an
 25 applicant when each individual required by this section to
 26 undergo background screening has met the standards for ~~the~~
 27 ~~abuse registry background check~~ and the Department of Law
 28 Enforcement background check, but the agency has not yet
 29 received background screening results from the Federal Bureau
 30 of Investigation, or a request for a disqualification
 31 exemption has been submitted to the agency as set forth in

1 chapter 435 but a response has not yet been issued. A standard
 2 license may be granted to the applicant upon the agency's
 3 receipt of a report of the results of the Federal Bureau of
 4 Investigation background screening for each individual
 5 required by this section to undergo background screening which
 6 confirms that all standards have been met, or upon the
 7 granting of a disqualification exemption by the agency as set
 8 forth in chapter 435. Any other person who is required to
 9 undergo level 2 background screening may serve in his or her
 10 capacity pending the agency's receipt of the report from the
 11 Federal Bureau of Investigation. However, the person may not
 12 continue to serve if the report indicates any violation of
 13 background screening standards and a disqualification
 14 exemption has not been requested of and granted by the agency
 15 as set forth in chapter 435.

16 Section 48. Paragraph (c) of subsection (5) and
 17 paragraph (d) of subsection (6) of section 393.067, Florida
 18 Statutes, are amended to read:

19 393.067 Licensure of residential facilities and
 20 comprehensive transitional education programs.--

21 (5) The applicant shall submit evidence which
 22 establishes the good moral character of the manager or
 23 supervisor of the facility or program and the direct service
 24 providers in the facility or program and its component centers
 25 or units. A license may be issued if all the screening
 26 materials have been timely submitted; however, a license may
 27 not be issued or renewed if any of the direct service
 28 providers have failed the screening required by s. 393.0655.

29 (c) The department or a residential facility or
 30 comprehensive transitional education program may not use the
 31 criminal records or, juvenile records, ~~or abuse registry~~

1 ~~information~~ of a person obtained under this subsection for any
 2 purpose other than determining if that person meets the
 3 minimum standards for good moral character for a manager or
 4 supervisor of, or direct service provider in, such a facility
 5 or program. The criminal records or, juvenile records, ~~or~~
 6 ~~abuse registry information~~ obtained by the department or a
 7 residential facility or comprehensive transitional education
 8 program for determining the moral character of a manager,
 9 supervisor, or direct service provider are exempt from s.
 10 119.07(1).

11 (6) Each applicant for licensure as an intermediate
 12 care facility for the developmentally disabled must comply
 13 with the following requirements:

14 (d) A provisional license may be granted to an
 15 applicant when each individual required by this section to
 16 undergo background screening has met the standards for ~~the~~
 17 ~~abuse registry background check~~ and the Department of Law
 18 Enforcement background check, but the agency has not yet
 19 received background screening results from the Federal Bureau
 20 of Investigation, or a request for a disqualification
 21 exemption has been submitted to the agency as set forth in
 22 chapter 435, but a response has not yet been issued. A
 23 standard license may be granted to the applicant upon the
 24 agency's receipt of a report of the results of the Federal
 25 Bureau of Investigation background screening for each
 26 individual required by this section to undergo background
 27 screening which confirms that all standards have been met, or
 28 upon the granting of a disqualification exemption by the
 29 agency as set forth in chapter 435. Any other person who is
 30 required to undergo level 2 background screening may serve in
 31 his or her capacity pending the agency's receipt of the report

1 from the Federal Bureau of Investigation. However, the person
2 may not continue to serve if the report indicates any
3 violation of background screening standards and a
4 disqualification exemption has not been requested of and
5 granted by the agency as set forth in chapter 435.

6 Section 49. Paragraph (c) of subsection (1) of section
7 393.0674, Florida Statutes, is amended to read:

8 393.0674 Penalties.--

9 (1) It is a misdemeanor of the first degree,
10 punishable as provided in s. 775.082 or s. 775.083, for any
11 person willfully, knowingly, or intentionally to:

12 (c) Use information from the criminal records or
13 central abuse hotline registry obtained under s. 393.0655, s.
14 393.066, or s. 393.067 for any purpose other than screening
15 that person for employment as specified in those sections or
16 release such information to any other person for any purpose
17 other than screening for employment as specified in those
18 sections.

19 Section 50. Paragraph (e) of subsection (5) of section
20 394.459, Florida Statutes, is amended to read:

21 394.459 Rights of patients.--

22 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

23 (e) Each patient receiving mental health treatment in
24 any facility shall have ready access to a telephone in order
25 to report an alleged abuse. The facility staff shall orally
26 and in writing inform each patient of the procedure for
27 reporting abuse and shall make every reasonable effort to
28 present the information in a language the patient understands.
29 A written copy of that procedure, including the telephone
30 number of the central abuse hotline registry and reporting
31 forms, shall be posted in plain view.

1 Section 51. Paragraph (d) of subsection (12) of
2 section 394.875, Florida Statutes, is amended to read:

3 394.875 Crisis stabilization units and residential
4 treatment facilities; authorized services; license required;
5 penalties.--

6 (12) Each applicant for licensure must comply with the
7 following requirements:

8 (d) A provisional license may be granted to an
9 applicant when each individual required by this section to
10 undergo background screening has met the standards for ~~the~~
11 ~~abuse registry background check~~ and the Department of Law
12 Enforcement background check, but the agency has not yet
13 received background screening results from the Federal Bureau
14 of Investigation, or a request for a disqualification
15 exemption has been submitted to the agency as set forth in
16 chapter 435, but a response has not yet been issued. A
17 standard license may be granted to the applicant upon the
18 agency's receipt of a report of the results of the Federal
19 Bureau of Investigation background screening for each
20 individual required by this section to undergo background
21 screening which confirms that all standards have been met, or
22 upon the granting of a disqualification exemption by the
23 agency as set forth in chapter 435. Any other person who is
24 required to undergo level 2 background screening may serve in
25 his or her capacity pending the agency's receipt of the report
26 from the Federal Bureau of Investigation. However, the person
27 may not continue to serve if the report indicates any
28 violation of background screening standards and a
29 disqualification exemption has not been requested of and
30 granted by the agency as set forth in chapter 435.

31

1 Section 52. Subsection (4) of section 395.0055,
2 Florida Statutes, is amended to read:

3 395.0055 Background screening.--Each applicant for
4 licensure must comply with the following requirements:

5 (4) A provisional license may be granted to an
6 applicant when each individual required by this section to
7 undergo background screening has met the standards for ~~the~~
8 ~~abuse registry background check~~ and the Department of Law
9 Enforcement background check, but the agency has not yet
10 received background screening results from the Federal Bureau
11 of Investigation, or a request for a disqualification
12 exemption has been submitted to the agency as set forth in
13 chapter 435 but a response has not yet been issued. A
14 standard license may be granted to the applicant upon the
15 agency's receipt of a report of the results of the Federal
16 Bureau of Investigation background screening for each
17 individual required by this section to undergo background
18 screening which confirms that all standards have been met, or
19 upon the granting of a disqualification exemption by the
20 agency as set forth in chapter 435. Any other person who is
21 required to undergo level 2 background screening may serve in
22 his or her capacity pending the agency's receipt of the report
23 from the Federal Bureau of Investigation; however, the person
24 may not continue to serve if the report indicates any
25 violation of background screening standards and a
26 disqualification exemption has not been requested of and
27 granted by the agency as set forth in chapter 435.

28 Section 53. Paragraph (d) of subsection (4) of section
29 395.0199, Florida Statutes, is amended to read:

30 395.0199 Private utilization review.--

31

1 (4) Each applicant for registration must comply with
2 the following requirements:

3 (d) A provisional registration may be granted to an
4 applicant when each individual required by this section to
5 undergo background screening has met the standards for ~~the~~
6 ~~abuse registry background check and~~ the Department of Law
7 Enforcement background check, but the agency has not yet
8 received background screening results from the Federal Bureau
9 of Investigation, or a request for a disqualification
10 exemption has been submitted to the agency as set forth in
11 chapter 435 but a response has not yet been issued. A standard
12 registration may be granted to the applicant upon the agency's
13 receipt of a report of the results of the Federal Bureau of
14 Investigation background screening for each individual
15 required by this section to undergo background screening which
16 confirms that all standards have been met, or upon the
17 granting of a disqualification exemption by the agency as set
18 forth in chapter 435. Any other person who is required to
19 undergo level 2 background screening may serve in his or her
20 capacity pending the agency's receipt of the report from the
21 Federal Bureau of Investigation. However, the person may not
22 continue to serve if the report indicates any violation of
23 background screening standards and a disqualification
24 exemption has not been requested of and granted by the agency
25 as set forth in chapter 435.

26 Section 54. Paragraph (g) of subsection (4) of section
27 395.3025, Florida Statutes, is amended to read:

28 395.3025 Patient and personnel records; copies;
29 examination.--

30 (4) Patient records are confidential and must not be
31 disclosed without the consent of the person to whom they

1 pertain, but appropriate disclosure may be made without such
2 consent to:

3 (g) The Department of Children and Family Services or
4 its agent, for the purpose of investigations of cases of
5 abuse, neglect, or exploitation of children or vulnerable
6 ~~disabled adults or elderly persons~~.

7 Section 55. Subsection (3) of section 397.461, Florida
8 Statutes, is amended to read:

9 397.461 Unlawful activities relating to personnel;
10 penalties.--It is a misdemeanor of the first degree,
11 punishable as provided in s. 775.082 or s. 775.083, for any
12 person willfully, knowingly, or intentionally to:

13 (3) Use or release any criminal or juvenile ~~or central~~
14 ~~abuse registry~~ information obtained under this chapter for any
15 purpose other than background checks of personnel for
16 employment.

17 Section 56. Subsection (2) of section 400.022, Florida
18 Statutes, is amended to read:

19 400.022 Residents' rights.--

20 (2) The licensee for each nursing home shall orally
21 inform the resident of the resident's rights and provide a
22 copy of the statement required by subsection (1) to each
23 resident or the resident's legal representative at or before
24 the resident's admission to a facility. The licensee shall
25 provide a copy of the resident's rights to each staff member
26 of the facility. Each such licensee shall prepare a written
27 plan and provide appropriate staff training to implement the
28 provisions of this section. The written statement of rights
29 must include a statement that a resident may file a complaint
30 with the agency or district ombudsman council. The statement
31 must be in boldfaced type and shall include the name, address,

1 and telephone numbers of the district ombudsman council and
2 central ~~adult~~ abuse hotline ~~registry~~ where complaints may be
3 lodged.

4 Section 57. Paragraph (d) of subsection (4) of section
5 400.071, Florida Statutes, is amended to read:

6 400.071 Application for license.--

7 (4) Each applicant for licensure must comply with the
8 following requirements:

9 (d) A provisional license may be granted to an
10 applicant when each individual required by this section to
11 undergo background screening has met the standards for ~~the~~
12 ~~abuse registry background check~~ and the Department of Law
13 Enforcement background check, but the agency has not yet
14 received background screening results from the Federal Bureau
15 of Investigation, or a request for a disqualification
16 exemption has been submitted to the agency as set forth in
17 chapter 435, but a response has not yet been issued. A
18 license may be granted to the applicant upon the agency's
19 receipt of a report of the results of the Federal Bureau of
20 Investigation background screening for each individual
21 required by this section to undergo background screening which
22 confirms that all standards have been met, or upon the
23 granting of a disqualification exemption by the agency as set
24 forth in chapter 435. Any other person who is required to
25 undergo level 2 background screening may serve in his or her
26 capacity pending the agency's receipt of the report from the
27 Federal Bureau of Investigation; however, the person may not
28 continue to serve if the report indicates any violation of
29 background screening standards and a disqualification
30 exemption has not been requested of and granted by the agency
31 as set forth in chapter 435.

1 Section 58. Paragraphs (a), (c), and (e) of subsection
2 (2) and subsections (3) and (8) of section 400.215, Florida
3 Statutes, are amended to read:

4 400.215 Personnel screening requirement.--

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

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

26 (c) The agency shall establish and maintain a database
27 of background screening information which shall include the
28 results of both level 1 and level 2 screening ~~and central~~
29 ~~abuse registry and tracking system checks~~. The Department of
30 Law Enforcement shall timely provide to the agency,
31 electronically, the results of each statewide screening for

1 incorporation into the database. ~~The Department of Children~~
2 ~~and Family Services shall provide the agency with electronic~~
3 ~~access to the central abuse registry and tracking system. The~~
4 ~~agency shall search the registry to identify any confirmed~~
5 ~~report and shall access such report for incorporation into the~~
6 ~~database.~~The agency shall, upon request from any facility,
7 agency, or program required by or authorized by law to screen
8 its employees or applicants, notify the administrator of the
9 facility, agency, or program of the qualifying or
10 disqualifying status of the employee or applicant named in the
11 request.

12 (e) ~~Notwithstanding the confidentiality provisions of~~
13 ~~s. 415.107, the agency shall provide no later than 45 days~~
14 ~~after the effective date of this paragraph, a direct-access~~
15 ~~electronic screening capability to all enrolled facilities or~~
16 ~~agencies required by law to restrict employment to only an~~
17 ~~applicant who does not have a disqualifying report in the~~
18 ~~central abuse registry and tracking system. The agency shall,~~
19 ~~upon request, provide to such facility or agency a user code~~
20 ~~by which the facility or agency may query the listing of all~~
21 ~~persons disqualified because of a confirmed classification.~~
22 ~~The direct-access screening system shall allow for the~~
23 ~~electronic matching of an applicant's identifying information,~~
24 ~~including name, date of birth, race, sex, and social security~~
25 ~~number, against the listing of disqualified persons. The~~
26 ~~agency may charge a fee for issuing the user code sufficient~~
27 ~~to cover the cost of establishing and maintaining the~~
28 ~~direct-access screening system. The direct-access screening~~
29 ~~system shall provide immediately to the user only the~~
30 ~~electronic notification of applicant clearance or~~
31 ~~disqualification. The system shall also maintain for~~

1 ~~appropriate entry into the agency screening database an~~
2 ~~electronic record of the inquiry on behalf of the applicant.~~

3 (3) The applicant is responsible for paying the fees
4 associated with obtaining the required screening. Payment for
5 the screening ~~and the abuse registry check~~ shall be submitted
6 to the agency. The agency shall establish a schedule of fees
7 to cover the costs of level 1 and level 2 screening ~~and the~~
8 ~~abuse registry check~~. Facilities may reimburse employees for
9 these costs. The Department of Law Enforcement shall charge
10 the agency for a level 1 or level 2 screening a rate
11 sufficient to cover the costs of such screening pursuant to s.
12 943.053(3). The agency shall, as allowable, reimburse nursing
13 facilities for the cost of conducting background screening as
14 required by this section. This reimbursement will not be
15 subject to any rate ceilings or payment targets in the
16 Medicaid Reimbursement plan.

17 (8) There is no monetary or unemployment liability on
18 the part of, and no cause of action for damages arising
19 against an employer that, upon notice of a disqualifying
20 offense listed under chapter 435 ~~or a confirmed report of~~
21 ~~abuse, neglect, or exploitation~~ or an act of domestic
22 violence, terminates the employee against whom the report was
23 issued, whether or not the employee has filed for an exemption
24 with the Department of Health or the Agency for Health Care
25 Administration.

26 Section 59. Paragraph (g) of subsection (1) of section
27 400.414, Florida Statutes, is amended to read:

28 400.414 Denial, revocation, or suspension of license;
29 imposition of administrative fine; grounds.--

30 (1) The agency may deny, revoke, or suspend any
31 license issued under this part, or impose an administrative

1 fine in the manner provided in chapter 120, for any of the
2 following actions by an assisted living facility, any person
3 subject to level 2 background screening under s. 400.4174, or
4 any facility employee:

5 (g) A determination that ~~confirmed report of adult~~
6 ~~abuse, neglect, or exploitation, as defined in s. 415.102,~~
7 ~~which has been upheld following a chapter 120 hearing or a~~
8 ~~waiver of such proceedings where the perpetrator is an~~
9 ~~employee, volunteer, administrator, or owner, or~~ person who
10 otherwise has access to the residents of a facility does not
11 meet the criteria specified in s. 435.03(2), and the owner or
12 administrator has not taken action to remove the person
13 ~~perpetrator~~. Exemptions from disqualification may be granted
14 as set forth in s. 435.07. No administrative action may be
15 taken against the facility if the person ~~perpetrator~~ is
16 granted an exemption.

17 Section 60. Paragraph (c) of subsection (1) and
18 subsection (3) of section 400.4174, Florida Statutes, are
19 amended to read:

20 400.4174 Background screening; exemptions; ~~reports of~~
21 ~~abuse in facilities.--~~

22 (1)

23 (c) The agency may grant a provisional license to a
24 facility applying for an initial license when each individual
25 required by this subsection to undergo screening has completed
26 the ~~abuse registry and~~ Department of Law Enforcement
27 background checks, but has not yet received results from the
28 Federal Bureau of Investigation, or when a request for an
29 exemption from disqualification has been submitted to the
30 agency pursuant to s. 435.07, but a response has not been
31 issued.

1 ~~(3) When an employee, volunteer, administrator, or~~
2 ~~owner of a facility is the subject of a confirmed report of~~
3 ~~adult abuse, neglect, or exploitation, as defined in s.~~
4 ~~415.102, and the protective investigator knows that the~~
5 ~~individual is an employee, volunteer, administrator, or owner~~
6 ~~of a facility, the agency shall be notified of the confirmed~~
7 ~~report.~~

8 Section 61. Subsection (4) of section 400.426, Florida
9 Statutes, is amended to read:

10 400.426 Appropriateness of placements; examinations of
11 residents.--

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

27 Section 62. Subsection (2) of section 400.428, Florida
28 Statutes, is amended to read:

29 400.428 Resident bill of rights.--

30 (2) The administrator of a facility shall ensure that
31 a written notice of the rights, obligations, and prohibitions

1 set forth in this part is posted in a prominent place in each
2 facility and read or explained to residents who cannot read.
3 This notice shall include the name, address, and telephone
4 numbers of the district ombudsman council and central adult
5 abuse hotline registry and, when applicable, the Advocacy
6 Center for Persons with Disabilities, Inc., and the district
7 human rights advocacy committee, where complaints may be
8 lodged. The facility must ensure a resident's access to a
9 telephone to call the district ombudsman council, central
10 adult abuse hotline registry, Advocacy Center for Persons with
11 Disabilities, Inc., and district human rights advocacy
12 committee.

13 Section 63. Subsection (20) of section 400.462,
14 Florida Statutes, is amended to read:

15 400.462 Definitions.--As used in this part, the term:

16 (20) "Screening" means the assessment of the
17 background of home health agency personnel, nurse registry
18 personnel, and persons registered under s. 400.509 and
19 includes employment or contractual history checks, ~~records~~
20 ~~checks of the department's central abuse hotline under chapter~~
21 ~~415 relating to vulnerable adults,~~ and statewide criminal
22 records correspondence checks through the Department of Law
23 Enforcement.

24 Section 64. Paragraph (d) of subsection (4) of section
25 400.471, Florida Statutes, is amended to read:

26 400.471 Application for license; fee; provisional
27 license; temporary permit.--

28 (4) Each applicant for licensure must comply with the
29 following requirements:

30 (d) A provisional license may be granted to an
31 applicant when each individual required by this section to

1 undergo background screening has met the standards for ~~the~~
 2 ~~abuse registry background check~~ and the Department of Law
 3 Enforcement background check, but the agency has not yet
 4 received background screening results from the Federal Bureau
 5 of Investigation. A standard license may be granted to the
 6 licensee upon the agency's receipt of a report of the results
 7 of the Federal Bureau of Investigation background screening
 8 for each individual required by this section to undergo
 9 background screening which confirms that all standards have
 10 been met, or upon the granting of a disqualification exemption
 11 by the agency as set forth in chapter 435. Any other person
 12 who is required to undergo level 2 background screening may
 13 serve in his or her capacity pending the agency's receipt of
 14 the report from the Federal Bureau of Investigation. However,
 15 the person may not continue to serve if the report indicates
 16 any violation of background screening standards and a
 17 disqualification exemption has not been requested of and
 18 granted by the agency as set forth in chapter 435.

19 Section 65. Section 400.495, Florida Statutes, is
 20 amended to read:

21 400.495 Notice of toll-free telephone number for
 22 central abuse hotline ~~registry~~.--On or before the first day
 23 home health services are provided to a patient, any home
 24 health agency or nurse registry licensed under this part must
 25 inform the patient and his or her immediate family, if
 26 appropriate, of the right to report abusive, neglectful, or
 27 exploitative practices. The statewide toll-free telephone
 28 number for the central abuse hotline ~~registry~~ must be provided
 29 to patients in a manner that is clearly legible and must
 30 include the words: "To report abuse, neglect, or exploitation,
 31 please call toll-free ...(phone number)...." The Agency for

1 Health Care Administration shall adopt rules that provide for
2 90 days' advance notice of a change in the toll-free telephone
3 number and that outline due process procedures, as provided
4 under chapter 120, for home health agency personnel and nurse
5 registry personnel who are reported to the central abuse
6 hotline ~~registry~~. Home health agencies and nurse registries
7 shall establish appropriate policies and procedures for
8 providing such notice to patients.

9 Section 66. Paragraph (d) of subsection (2) of section
10 400.506, Florida Statutes, is amended to read:

11 400.506 Licensure of nurse registries; requirements;
12 penalties.--

13 (2) Each applicant for licensure must comply with the
14 following requirements:

15 (d) A provisional license may be granted to an
16 applicant when each individual required by this section to
17 undergo background screening has met the standards for ~~the~~
18 ~~abuse registry background check~~ and the Department of Law
19 Enforcement background check but the agency has not yet
20 received background screening results from the Federal Bureau
21 of Investigation. A standard license may be granted to the
22 applicant upon the agency's receipt of a report of the results
23 of the Federal Bureau of Investigation background screening
24 for each individual required by this section to undergo
25 background screening which confirms that all standards have
26 been met, or upon the granting of a disqualification exemption
27 by the agency as set forth in chapter 435. Any other person
28 who is required to undergo level 2 background screening may
29 serve in his or her capacity pending the agency's receipt of
30 the report from the Federal Bureau of Investigation. However,
31 the person may not continue to serve if the report indicates

1 any violation of background screening standards and a
2 disqualification exemption has not been requested of and
3 granted by the agency as set forth in chapter 435.

4 Section 67. Subsection (6) of section 400.509, Florida
5 Statutes, is amended to read:

6 400.509 Registration of particular service providers
7 exempt from licensure; certificate of registration; regulation
8 of registrants.--

9 (6) On or before the first day on which services are
10 provided to a patient or client, any registrant under this
11 part must inform the patient or client and his or her
12 immediate family, if appropriate, of the right to report
13 abusive, neglectful, or exploitative practices. The statewide
14 toll-free telephone number for the central abuse hotline
15 ~~registry~~ must be provided to patients or clients in a manner
16 that is clearly legible and must include the words: "To report
17 abuse, neglect, or exploitation, please call toll-free
18 ...(phone number)...." Registrants must establish appropriate
19 policies and procedures for providing such notice to patients
20 or clients.

21 Section 68. Subsections (3), (4), (5), and (6) and
22 paragraph (a) of subsection (7) of section 400.512, Florida
23 Statutes, are amended to read:

24 400.512 Screening of home health agency personnel;
25 nurse registry personnel; and companions and homemakers.--The
26 agency shall require employment or contractor screening as
27 provided in chapter 435, using the level 1 standards for
28 screening set forth in that chapter, for home health agency
29 personnel; persons referred for employment by nurse
30 registries; and persons employed by companion or homemaker
31 services registered under s. 400.509.

1 (3) As a prerequisite to operating as a home health
 2 agency, nurse registry, or companion or homemaker service
 3 under s. 400.509, the administrator or managing employee,
 4 respectively, must submit to the agency his or her name and
 5 any other information necessary to conduct a complete
 6 screening according to this section. The agency shall submit
 7 the information to the Department of Law Enforcement ~~and the~~
 8 ~~department's abuse hotline~~ for state processing. The agency
 9 shall review the record of the administrator or manager with
 10 respect to the offenses specified in this section and shall
 11 notify the owner of its findings. If disposition information
 12 is missing on a criminal record, the administrator or manager,
 13 upon request of the agency, must obtain and supply within 30
 14 days the missing disposition information to the agency.
 15 Failure to supply missing information within 30 days or to
 16 show reasonable efforts to obtain such information will result
 17 in automatic disqualification.

18 (4) Proof of compliance with the screening
 19 requirements of chapter 435 shall be accepted in lieu of the
 20 requirements of this section if the person has been
 21 continuously employed or registered without a breach in
 22 service that exceeds 180 days, the proof of compliance is not
 23 more than 2 years old, and the person has been screened
 24 ~~through the central abuse registry and tracking system of the~~
 25 ~~department~~ and by the Department of Law Enforcement. A home
 26 health agency, nurse registry, or companion or homemaker
 27 service registered under s. 400.509 shall directly provide
 28 proof of compliance to another home health agency, nurse
 29 registry, or companion or homemaker service registered under
 30 s. 400.509. The recipient home health agency, nurse registry,
 31 or companion or homemaker service registered under s. 400.509

1 may not accept any proof of compliance directly from the
2 person who requires screening. Proof of compliance with the
3 screening requirements of this section shall be provided upon
4 request to the person screened by the home health agencies;
5 nurse registries; or companion or homemaker services
6 registered under s. 400.509.

7 (5) There is no monetary liability on the part of, and
8 no cause of action for damages arises against, a licensed home
9 health agency, licensed nurse registry, or companion or
10 homemaker service registered under s. 400.509, that, upon
11 notice that the employee or contractor has been found guilty
12 of, regardless of adjudication, or entered a plea of nolo
13 contendere or guilty to, any offense prohibited under s.
14 435.03 or under any similar statute of another jurisdiction of
15 ~~a confirmed report of adult abuse, neglect, or exploitation,~~
16 terminates the employee or contractor ~~against whom the report~~
17 ~~was issued~~, whether or not the employee or contractor has
18 filed for an exemption with the agency in accordance with
19 chapter 435 and whether or not the time for filing has
20 expired.

21 (6) The costs of processing the statewide
22 correspondence criminal records checks ~~and the search of the~~
23 ~~department's central abuse hotline~~ must be borne by the home
24 health agency; the nurse registry; or the companion or
25 homemaker service registered under s. 400.509, or by the
26 person being screened, at the discretion of the home health
27 agency, nurse registry, or s. 400.509 registrant.

28 (7)(a) It is a misdemeanor of the first degree,
29 punishable under s. 775.082 or s. 775.083, for any person
30 willfully, knowingly, or intentionally to:

31

1 1. Fail, by false statement, misrepresentation,
2 impersonation, or other fraudulent means, to disclose in any
3 application for voluntary or paid employment a material fact
4 used in making a determination as to such person's
5 qualifications to be an employee under this section;

6 2. Operate or attempt to operate an entity licensed or
7 registered under this part with persons who do not meet the
8 minimum standards for good moral character as contained in
9 this section; or

10 3. Use information from the criminal records ~~or~~
11 ~~central abuse hotline~~ obtained under this section for any
12 purpose other than screening that person for employment as
13 specified in this section or release such information to any
14 other person for any purpose other than screening for
15 employment under this section.

16 Section 69. Paragraph (c) of subsection (1) and
17 subsection (3) of section 400.5572, Florida Statutes, are
18 amended to read:

19 400.5572 Background screening.--

20 (1)

21 (c) The agency may grant a provisional license to an
22 adult day care center applying for an initial license when
23 each individual required by this subsection to undergo
24 screening has completed the ~~abuse registry and~~ Department of
25 Law Enforcement background check ~~checks~~, but has not yet
26 received results from the Federal Bureau of Investigation, or
27 when a request for an exemption from disqualification has been
28 submitted to the agency pursuant to s. 435.07, but a response
29 has not been issued.

30 ~~(3) When an employee, volunteer, operator, or owner of~~
31 ~~an adult day care center is the subject of a confirmed report~~

1 ~~of adult abuse, neglect, or exploitation, as defined in s.~~
2 ~~415.102, and the protective investigator knows that the~~
3 ~~individual is an employee, volunteer, operator, or owner of a~~
4 ~~center, the agency shall be notified of the confirmed report.~~

5 Section 70. Subsection (2) of section 400.628, Florida
6 Statutes, is amended to read:

7 400.628 Residents' bill of rights.--

8 (2) The provider shall ensure that residents and their
9 legal representatives are made aware of the rights,
10 obligations, and prohibitions set forth in this part.
11 Residents must also be given the names, addresses, and
12 telephone numbers of the district ombudsman council and the
13 central adult abuse hotline registry where they may lodge
14 complaints.

15 Section 71. Paragraph (d) of subsection (4) of section
16 400.801, Florida Statutes, is amended to read:

17 400.801 Homes for special services.--

18 (4) Each applicant for licensure must comply with the
19 following requirements:

20 (d) A provisional license may be granted to an
21 applicant when each individual required by this section to
22 undergo background screening has met the standards for ~~the~~
23 ~~abuse registry background check~~ and the Department of Law
24 Enforcement background check, but the agency has not yet
25 received background screening results from the Federal Bureau
26 of Investigation, or a request for a disqualification
27 exemption has been submitted to the agency as set forth in
28 chapter 435, but a response has not yet been issued. A
29 standard license may be granted to the applicant upon the
30 agency's receipt of a report of the results of the Federal
31 Bureau of Investigation background screening for each

1 individual required by this section to undergo background
2 screening which confirms that all standards have been met, or
3 upon the granting of a disqualification exemption by the
4 agency as set forth in chapter 435. Any other person who is
5 required to undergo level 2 background screening may serve in
6 his or her capacity pending the agency's receipt of the report
7 from the Federal Bureau of Investigation. However, the person
8 may not continue to serve if the report indicates any
9 violation of background screening standards and a
10 disqualification exemption has not been requested of and
11 granted by the agency as set forth in chapter 435.

12 Section 72. Paragraph (d) of subsection (3) of section
13 400.805, Florida Statutes, is amended to read:

14 400.805 Transitional living facilities.--

15 (3) Each applicant for licensure must comply with the
16 following requirements:

17 (d) A provisional license may be granted to an
18 applicant when each individual required by this section to
19 undergo background screening has met the standards for ~~the~~
20 ~~abuse registry background check~~ and the Department of Law
21 Enforcement background check, but the agency has not yet
22 received background screening results from the Federal Bureau
23 of Investigation, or a request for a disqualification
24 exemption has been submitted to the agency as set forth in
25 chapter 435, but a response has not yet been issued. A
26 standard license may be granted to the applicant upon the
27 agency's receipt of a report of the results of the Federal
28 Bureau of Investigation background screening for each
29 individual required by this section to undergo background
30 screening which confirms that all standards have been met, or
31 upon the granting of a disqualification exemption by the

1 agency as set forth in chapter 435. Any other person who is
2 required to undergo level 2 background screening may serve in
3 his or her capacity pending the agency's receipt of the report
4 from the Federal Bureau of Investigation. However, the person
5 may not continue to serve if the report indicates any
6 violation of background screening standards and a
7 disqualification exemption has not been requested of and
8 granted by the agency as set forth in chapter 435.

9 Section 73. Paragraph (d) of subsection (5) of section
10 400.906, Florida Statutes, is amended to read:

11 400.906 Initial application for license.--

12 (5) Each applicant for licensure must comply with the
13 following requirements:

14 (d) A provisional license may be granted to an
15 applicant when each individual required by this section to
16 undergo background screening has met the standards for ~~the~~
17 ~~abuse registry background check~~ and the Department of Law
18 Enforcement background check, but the agency has not yet
19 received background screening results from the Federal Bureau
20 of Investigation, or a request for a disqualification
21 exemption has been submitted to the agency as set forth in
22 chapter 435, but a response has not yet been issued. A
23 standard license may be granted to the applicant upon the
24 agency's receipt of a report of the results of the Federal
25 Bureau of Investigation background screening for each
26 individual required by this section to undergo background
27 screening which confirms that all standards have been met, or
28 upon the granting of a disqualification exemption by the
29 agency as set forth in chapter 435. Any other person who is
30 required to undergo level 2 background screening may serve in
31 his or her capacity pending the agency's receipt of the report

1 from the Federal Bureau of Investigation. However, the person
2 may not continue to serve if the report indicates any
3 violation of background screening standards and a
4 disqualification exemption has not been requested of and
5 granted by the agency as set forth in chapter 435.

6 Section 74. Subsection (10) of section 400.931,
7 Florida Statutes, is amended to read:

8 400.931 Application for license; fee; provisional
9 license; temporary permit.--

10 (10) When a change of the general manager of a home
11 medical equipment provider occurs, the licensee must notify
12 the agency of the change within 45 days thereof and must
13 provide evidence of compliance with the background screening
14 requirements in subsection (5); except that a general manager
15 who has met the standards for ~~the abuse registry background~~
16 ~~check~~ and the Department of Law Enforcement background check,
17 but for whom background screening results from the Federal
18 Bureau of Investigation have not yet been received, may be
19 employed pending receipt of the Federal Bureau of
20 Investigation background screening report. An individual may
21 not continue to serve as general manager if the Federal Bureau
22 of Investigation background screening report indicates any
23 violation of background screening standards.

24 Section 75. Section 400.95, Florida Statutes, is
25 amended to read:

26 400.95 Notice of toll-free telephone number for
27 central abuse hotline ~~registry~~.--On or before the first day
28 home medical equipment is delivered to the patient's home, any
29 home medical equipment provider licensed under this part must
30 inform the consumer and his or her immediate family, if
31 appropriate, of the right to report abusive, neglectful, or

1 exploitative practices. The statewide toll-free telephone
 2 number for the central abuse hotline registry must be provided
 3 to consumers in a manner that is clearly legible and must
 4 include the words: "To report abuse, neglect, or
 5 exploitation, please call toll-free 1-800-962-2873." Home
 6 medical equipment providers shall establish appropriate
 7 policies and procedures for providing such notice to
 8 consumers.

9 Section 76. Subsections (3), (4), (5), and (6) and
 10 paragraph (a) of subsection (7) of section 400.953, Florida
 11 Statutes, are amended to read:

12 400.953 Background screening of home medical equipment
 13 provider personnel.--The agency shall require employment
 14 screening as provided in chapter 435, using the level 1
 15 standards for screening set forth in that chapter, for home
 16 medical equipment provider personnel.

17 (3) Proof of compliance with the screening
 18 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.
 19 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.
 20 985.407 or this part must be accepted in lieu of the
 21 requirements of this section if the person has been
 22 continuously employed in the same type of occupation for which
 23 he or she is seeking employment without a breach in service
 24 that exceeds 180 days, the proof of compliance is not more
 25 than 2 years old, and the person has been screened ~~through the~~
 26 ~~central abuse registry and tracking system of the department~~
 27 ~~and~~ by the Department of Law Enforcement. An employer or
 28 contractor shall directly provide proof of compliance to
 29 another employer or contractor, and a potential employer or
 30 contractor may not accept any proof of compliance directly
 31 from the person requiring screening. Proof of compliance with

1 the screening requirements of this section shall be provided,
2 upon request, to the person screened by the home medical
3 equipment provider.

4 (4) There is no monetary liability on the part of, and
5 no cause of action for damages arising against, a licensed
6 home medical equipment provider that, upon notice that an
7 employee has been found guilty of, regardless of adjudication,
8 or entered a plea of nolo contendere or guilty to, any offense
9 prohibited under s. 435.03 or under any similar statute of
10 another jurisdiction of a confirmed report of adult abuse,
11 ~~neglect, or exploitation under chapter 415,~~ terminates the
12 employee ~~against whom the report was issued,~~ whether or not
13 the employee has filed for an exemption with the agency and
14 whether or not the time for filing has expired.

15 (5) The costs of processing the statewide
16 correspondence criminal records checks ~~and the search of the~~
17 ~~department's central abuse registry~~ must be borne by the home
18 medical equipment provider or by the person being screened, at
19 the discretion of the home medical equipment provider.

20 (6) Neither the agency nor the home medical equipment
21 provider may use the criminal records ~~or~~ or juvenile records, ~~or~~
22 ~~central abuse registry information~~ of a person for any purpose
23 other than determining whether that person meets minimum
24 standards of good moral character for home medical equipment
25 provider personnel.

26 (7)(a) It is a misdemeanor of the first degree,
27 punishable as provided in s. 775.082 or s. 775.083, for any
28 person willfully, knowingly, or intentionally to:

29 1. Fail, by false statement, misrepresentation,
30 impersonation, or other fraudulent means, to disclose in any
31 application for paid employment a material fact used in making

1 a determination as to the person's qualifications to be an
2 employee under this section;

3 2. Operate or attempt to operate an entity licensed
4 under this part with persons who do not meet the minimum
5 standards for good moral character as contained in this
6 section; or

7 3. Use information from the criminal records ~~or~~
8 ~~central abuse registry~~ obtained under this section for any
9 purpose other than screening that person for employment as
10 specified in this section, or release such information to any
11 other person for any purpose other than screening for
12 employment under this section.

13 Section 77. Subsection (1) of section 400.955, Florida
14 Statutes, is amended to read:

15 400.955 Procedures for screening of home medical
16 equipment provider personnel.--

17 (1) A person employed by a home medical equipment
18 provider shall, within 5 working days after starting to work,
19 submit to the home medical equipment provider a complete set
20 of information necessary to conduct a screening under this
21 section. The person must sign an affidavit stating whether he
22 or she meets the minimum standards for good moral character
23 under this section. The home medical equipment provider shall
24 submit the information to the Department of Law Enforcement
25 ~~and to the department's central abuse registry and tracking~~
26 ~~system~~ for processing. If disposition information is missing
27 on a criminal record, it is the responsibility of the person
28 being screened to obtain and supply the missing information
29 within 30 days. Failure to supply the missing information or
30 to show reasonable efforts to obtain such information will
31 result in automatic disqualification for employment.

1 Section 78. Paragraph (d) of subsection (10) of
2 section 400.962, Florida Statutes, is amended to read:

3 400.962 License required; license application.--

4 (10)

5 (d) A provisional license may be granted to an
6 applicant when each individual required by this section to
7 undergo background screening has met the standards for ~~the~~
8 ~~abuse registry background check and~~ the Department of Law
9 Enforcement background check, but the agency has not yet
10 received background screening results from the Federal Bureau
11 of Investigation, or a request for a disqualification
12 exemption has been submitted to the agency as set forth in
13 chapter 435, but a response has not yet been issued. A license
14 may be granted to the applicant upon the agency's receipt of a
15 report of the results of the Federal Bureau of Investigation
16 background screening for each individual required by this
17 section to undergo background screening which confirms that
18 all standards have been met, or upon the granting of a
19 disqualification exemption by the agency as set forth in
20 chapter 435. Any other person who is required to undergo level
21 2 background screening may serve in his or her capacity
22 pending the agency's receipt of the report from the Federal
23 Bureau of Investigation; however, the person may not continue
24 to serve if the report indicates any violation of background
25 screening standards and a disqualification exemption has not
26 been granted by the agency as set forth in chapter 435.

27 Section 79. Subsections (4) and (8) of section
28 400.964, Florida Statutes, are amended to read:

29 400.964 Personnel screening requirement.--

30 (4) The applicant is responsible for paying the fees
31 associated with obtaining the required screening. Payment for

1 the screening ~~and the abuse registry check~~ must be submitted
2 to the agency as prescribed by the agency.

3 (8) There is no monetary or unemployment liability on
4 the part of, and no cause of action for damages arises against
5 an employer that, upon notice of a disqualifying offense
6 listed under chapter 435 ~~or a confirmed report of abuse,~~
7 ~~neglect, or exploitation~~ or an act of domestic violence,
8 terminates the employee ~~against whom the report was issued,~~
9 whether or not the employee has filed for an exemption with
10 the Department of Health or the Agency for Health Care
11 Administration.

12 Section 80. Paragraph (d) of subsection (2) of section
13 402.3025, Florida Statutes, is amended to read:

14 402.3025 Public and nonpublic schools.--For the
15 purposes of ss. 402.301-402.319, the following shall apply:

16 (2) NONPUBLIC SCHOOLS.--

17 (d)1. Programs for children who are at least 3 years
18 of age, but under 5 years of age, which are not licensed under
19 ss. 402.301-402.319 shall substantially comply with the
20 minimum child care standards promulgated pursuant to ss.
21 402.305-402.3057.

22 2. The department or local licensing agency shall
23 enforce compliance with such standards, where possible, to
24 eliminate or minimize duplicative inspections or visits by
25 staff enforcing the minimum child care standards and staff
26 enforcing other standards under the jurisdiction of the
27 department.

28 3. The department or local licensing agency may
29 commence and maintain all proper and necessary actions and
30 proceedings for any or all of the following purposes:
31

1 a. To protect the health, sanitation, safety, and
2 well-being of all children under care.

3 b. To enforce its rules and regulations.

4 c. To use corrective action plans, whenever possible,
5 to attain compliance prior to the use of more restrictive
6 enforcement measures.

7 d. To make application for injunction to the proper
8 circuit court, and the judge of that court shall have
9 jurisdiction upon hearing and for cause shown to grant a
10 temporary or permanent injunction, or both, restraining any
11 person from violating or continuing to violate any of the
12 provisions of ss. 402.301-402.319. Any violation of this
13 section or of the standards applied under ss. 402.305-402.3057
14 which threatens harm to any child in the school's programs for
15 children who are at least 3 years of age, but are under 5
16 years of age, or repeated violations of this section or the
17 standards under ss. 402.305-402.3057, shall be grounds to seek
18 an injunction to close a program in a school.

19 e. To impose an administrative fine, not to exceed
20 \$100, for each violation of the minimum child care standards
21 promulgated pursuant to ss. 402.305-402.3057.

22 4. It is a misdemeanor of the first degree, punishable
23 as provided in s. 775.082 or s. 775.083, for any person
24 willfully, knowingly, or intentionally to:

25 a. Fail, by false statement, misrepresentation,
26 impersonation, or other fraudulent means, to disclose in any
27 required written documentation for exclusion from licensure
28 pursuant to this section a material fact used in making a
29 determination as to such exclusion; or

30 b. Use information from the criminal records ~~or~~
31 ~~central abuse registry~~ obtained under s. 402.305 or s.

1 402.3055 for any purpose other than screening that person for
2 employment as specified in those sections or release such
3 information to any other person for any purpose other than
4 screening for employment as specified in those sections.

5 5. It is a felony of the third degree, punishable as
6 provided in s. 775.082, s. 775.083, or s. 775.084, for any
7 person willfully, knowingly, or intentionally to use
8 information from the juvenile records of any person obtained
9 under s. 402.305 or s. 402.3055 for any purpose other than
10 screening for employment as specified in those sections or to
11 release information from such records to any other person for
12 any purpose other than screening for employment as specified
13 in those sections.

14 Section 81. Paragraph (c) of subsection (5) of section
15 402.3125, Florida Statutes, is amended to read:

16 402.3125 Display and appearance of license; posting of
17 violations; information to be provided to parents.--

18 (5) The department shall develop a model brochure for
19 distribution by the department and by local licensing agencies
20 to every child care facility in the state. Pursuant thereto:

21 (c) The brochure shall, at a minimum, contain the
22 following information:

23 1. A statement that the facility is licensed and has
24 met state standards for licensure as established by s. 402.305
25 or that the facility is licensed by a local licensing agency
26 and has met or exceeded the state standards, pursuant to ss.
27 402.306 and 402.307. Such statement shall include a listing of
28 specific standards that licensed facilities must meet pursuant
29 to s. 402.305.

30 2. A statement indicating that information about the
31 licensure status of the child care facility can be obtained by

1 telephoning the department office or the office of the local
2 licensing agency issuing the license at a telephone number or
3 numbers which shall be printed upon or otherwise affixed to
4 the brochure.

5 3. The statewide toll-free telephone number of the
6 central Florida abuse hotline Registry, together with a notice
7 that reports of suspected and actual cases of child physical
8 abuse, sexual abuse, and neglect are received and referred for
9 investigation by the hotline registry.

10 4. The date that the current license for the facility
11 was issued and the date of its scheduled expiration if it is
12 not renewed.

13 5. Any other information relating to competent child
14 care that the department deems would be helpful to parents and
15 other caretakers in their selection of a child care facility.

16 Section 82. Paragraph (d) of subsection (6) of section
17 402.313, Florida Statutes, is amended to read:

18 402.313 Family day care homes.--

19 (6) The department shall prepare a brochure on family
20 day care for distribution by the department and by local
21 licensing agencies, if appropriate, to family day care homes
22 for distribution to parents utilizing such child care, and to
23 all interested persons, including physicians and other health
24 professionals; mental health professionals; school teachers or
25 other school personnel; social workers or other professional
26 child care, foster care, residential, or institutional
27 workers; and law enforcement officers. The brochure shall, at
28 a minimum, contain the following information:

29 (d) The statewide toll-free telephone number of the
30 central Florida abuse hotline Registry, together with a notice
31 that reports of suspected and actual child physical abuse,

1 sexual abuse, and neglect are received and referred for
2 investigation by the hotline registry.

3 Section 83. Paragraph (b) of subsection (11) of
4 section 409.175, Florida Statutes, is amended to read:

5 409.175 Licensure of family foster homes, residential
6 child-caring agencies, and child-placing agencies.--

7 (11)

8 (b) It is unlawful for any person, agency, summer day
9 camp, or summer 24-hour camp providing care for children to:

10 1. Willfully or intentionally fail to comply with the
11 requirements for the screening of personnel or the dismissal
12 of personnel found not to be in compliance with the
13 requirements for good moral character as specified in
14 paragraph (4)(a).

15 2. Use information from the criminal records ~~or~~
16 ~~central abuse registry~~ obtained under this section for any
17 purpose other than screening a person for employment as
18 specified in this section or to release such information to
19 any other person for any purpose other than screening for
20 employment as specified in this section.

21 Section 84. Subsection (29) of section 409.912,
22 Florida Statutes, is amended to read:

23 409.912 Cost-effective purchasing of health care.--The
24 agency shall purchase goods and services for Medicaid
25 recipients in the most cost-effective manner consistent with
26 the delivery of quality medical care. The agency shall
27 maximize the use of prepaid per capita and prepaid aggregate
28 fixed-sum basis services when appropriate and other
29 alternative service delivery and reimbursement methodologies,
30 including competitive bidding pursuant to s. 287.057, designed
31 to facilitate the cost-effective purchase of a case-managed

1 continuum of care. The agency shall also require providers to
2 minimize the exposure of recipients to the need for acute
3 inpatient, custodial, and other institutional care and the
4 inappropriate or unnecessary use of high-cost services.

5 (29) Each managed care plan that is under contract
6 with the agency to provide health care services to Medicaid
7 recipients shall annually conduct a background check with the
8 Florida Department of Law Enforcement of all persons with
9 ownership interest of 5 percent or more or executive
10 management responsibility for the managed care plan and shall
11 submit to the agency information concerning any such person
12 who has been found guilty of, regardless of adjudication, or
13 has entered a plea of nolo contendere or guilty to, any of the
14 offenses listed in s. 435.03 ~~or has a confirmed report of~~
15 ~~abuse, neglect, or exploitation pursuant to chapter 415.~~

16 Section 85. Subsection (5) of section 430.205, Florida
17 Statutes, is amended to read:

18 430.205 Community care service system.--

19 (5) Any person who has been classified as a
20 functionally impaired elderly person is eligible to receive
21 community-care-for-the-elderly core services. Those elderly
22 persons who are determined by ~~adult~~ protective investigations
23 ~~services~~ to be vulnerable adults ~~elderly persons~~ in need of
24 services, pursuant to s. 415.104(3)(b) ~~415.1045(2)(b)~~, or to
25 be victims of abuse, neglect, or exploitation who are in need
26 of immediate services to prevent further harm and are referred
27 by the adult protective services program, shall be given
28 primary consideration for receiving
29 community-care-for-the-elderly services. As used in this
30 subsection, "primary consideration" means that an assessment
31 and services must commence within 72 hours after referral to

1 the department or as established in accordance with department
2 contracts by local protocols developed between department
3 service providers and the adult protective services program.

4 Section 86. Subsection (1) of section 447.208, Florida
5 Statutes, is amended to read:

6 447.208 Procedure with respect to certain appeals
7 under s. 447.207.--

8 (1) Any person filing an appeal pursuant to subsection
9 (8) or subsection (9) of s. 447.207 shall be entitled to a
10 hearing pursuant to subsections (4) and (5) of s. 447.503 and
11 in accordance with chapter 120; however, the hearing shall be
12 conducted within 30 days of the filing of an appeal with the
13 commission, unless an extension of time is granted by the
14 commission for good cause ~~or unless the basis for the appeal~~
15 ~~is an allegation of abuse or neglect under s. 415.1075, in~~
16 ~~which case the hearing by the Public Employees Relations~~
17 ~~Commission may not be held until the confirmed report of abuse~~
18 ~~or neglect has been upheld pursuant to the procedures for~~
19 ~~appeal in s. 415.1075.~~ Discovery may be granted only upon a
20 showing of extraordinary circumstances. A party requesting
21 discovery shall demonstrate a substantial need for the
22 information requested and an inability to obtain relevant
23 information by other means. To the extent that chapter 120 is
24 inconsistent with these provisions, the procedures contained
25 in this section shall govern.

26 Section 87. Section 447.401, Florida Statutes, is
27 amended to read:

28 447.401 Grievance procedures.--Each public employer
29 and bargaining agent shall negotiate a grievance procedure to
30 be used for the settlement of disputes between employer and
31 employee, or group of employees, involving the interpretation

1 or application of a collective bargaining agreement. Such
 2 grievance procedure shall have as its terminal step a final
 3 and binding disposition by an impartial neutral, mutually
 4 selected by the parties; however, when the issue under appeal
 5 is an allegation of abuse, abandonment, or neglect by an
 6 employee under s. 39.201 or s. 415.1034 ~~s. 415.1075~~, the
 7 grievance may not be decided until the abuse, abandonment, or
 8 neglect of a child has been judicially determined ~~or until a~~
 9 ~~confirmed report of abuse or neglect of a disabled adult or~~
 10 ~~elderly person has been upheld pursuant to the procedures for~~
 11 ~~appeal in s. 415.1075~~. However, an arbiter or other neutral
 12 shall not have the power to add to, subtract from, modify, or
 13 alter the terms of a collective bargaining agreement. If an
 14 employee organization is certified as the bargaining agent of
 15 a unit, the grievance procedure then in existence may be the
 16 subject of collective bargaining, and any agreement which is
 17 reached shall supersede the previously existing procedure.
 18 All public employees shall have the right to a fair and
 19 equitable grievance procedure administered without regard to
 20 membership or nonmembership in any organization, except that
 21 certified employee organizations shall not be required to
 22 process grievances for employees who are not members of the
 23 organization. A career service employee shall have the option
 24 of utilizing the civil service appeal procedure, an unfair
 25 labor practice procedure, or a grievance procedure established
 26 under this section, but such employee is precluded from
 27 availing himself or herself to more than one of these
 28 procedures.

29 Section 88. Subsection (5) of section 455.712, Florida
 30 Statutes, is amended to read:

31

1 455.712 Business establishments; requirements for
2 active status licenses.--

3 (5) This section applies to any business establishment
4 registered, permitted, or licensed by the department to do
5 business. Business establishments include, but are not limited
6 to, dental laboratories, electrology facilities, massage
7 establishments, and pharmacies, ~~and health care services~~
8 ~~pools~~.

9 Section 89. Paragraph (e) of subsection (1) of section
10 464.018, Florida Statutes, is amended to read:

11 464.018 Disciplinary actions.--

12 (1) The following acts shall be grounds for
13 disciplinary action set forth in this section:

14 (e) Having been found guilty of, regardless of
15 adjudication, or entered a plea of nolo contendere or guilty
16 to, any offense prohibited under s. 435.03 or under any
17 similar statute of another jurisdiction ~~a confirmed report of~~
18 ~~abuse, neglect, or exploitation as defined in s. 415.102(6)~~
19 ~~which has been uncontested or upheld under the procedures of~~
20 ~~s. 415.1075; or having committed an act which constitutes~~
21 domestic violence as defined in s. 741.28.

22 Section 90. Paragraph (f) of subsection (4) of section
23 468.520, Florida Statutes, is amended to read:

24 468.520 Definitions.--As used in this part:

25 (4) "Employee leasing" means an arrangement whereby a
26 leasing company assigns its employees to a client and
27 allocates the direction of and control over the leased
28 employees between the leasing company and the client. The term
29 does not include the following:

1 (f) A health care services pool licensed under s.
2 400.980 ~~402.48~~, unless otherwise engaged in business as an
3 employee leasing company.

4 Section 91. Section 468.826, Florida Statutes, is
5 amended to read:

6 468.826 Exemption from liability.--If an employer
7 terminates or denies employment to a certified nursing
8 assistant whose certification is inactive as shown on the
9 certified nursing assistant registry or whose name appears ~~on~~
10 ~~the central abuse registry and tracking system of the~~
11 ~~Department of Children and Family Services~~ or on a criminal
12 screening report of the Department of Law Enforcement, the
13 employer is not civilly liable for such termination and a
14 cause of action may not be brought against the employer for
15 damages, regardless of whether the employee has filed for an
16 exemption from the department under s. 468.824(1). There may
17 not be any monetary liability on the part of, and a cause of
18 action for damages may not arise against, any licensed
19 facility, its governing board or members thereof, medical
20 staff, disciplinary board, agents, investigators, witnesses,
21 employees, or any other person for any action taken in good
22 faith without intentional fraud in carrying out this section.

23 Section 92. Subsections (1) and (2) of section
24 468.828, Florida Statutes, are amended to read:

25 468.828 Background screening information; rulemaking
26 authority.--

27 (1) The Agency for Health Care Administration shall
28 allow the department to electronically access its background
29 screening database and records, ~~and the Department of Children~~
30 ~~and Family Services shall allow the department to~~

31

1 ~~electronically access its central abuse registry and tracking~~
2 ~~system under chapter 415.~~

3 (2) An employer, or an agent thereof, may not use
4 criminal records or, juvenile records, ~~or information obtained~~
5 ~~from the central abuse hotline under chapter 415~~ for any
6 purpose other than determining if the person meets the
7 requirements of this part. Such records and information
8 obtained by the department shall remain confidential and
9 exempt from s. 119.07(1).

10 Section 93. Paragraph (d) of subsection (2) of section
11 483.101, Florida Statutes, is amended to read:

12 483.101 Application for clinical laboratory license.--

13 (2) Each applicant for licensure must comply with the
14 following requirements:

15 (d) A provisional license may be granted to an
16 applicant when each individual required by this section to
17 undergo background screening has met the standards for ~~the~~
18 ~~abuse registry background check~~ and the Department of Law
19 Enforcement background check but the agency has not yet
20 received background screening results from the Federal Bureau
21 of Investigation, or a request for a disqualification
22 exemption has been submitted to the agency as set forth in
23 chapter 435 but a response has not yet been issued. A license
24 may be granted to the applicant upon the agency's receipt of a
25 report of the results of the Federal Bureau of Investigation
26 background screening for each individual required by this
27 section to undergo background screening which confirms that
28 all standards have been met, or upon the granting of a
29 disqualification exemption by the agency as set forth in
30 chapter 435. Any other person who is required to undergo level
31 2 background screening may serve in his or her capacity

1 pending the agency's receipt of the report from the Federal
2 Bureau of Investigation. However, the person may not continue
3 to serve if the report indicates any violation of background
4 screening standards and a disqualification exemption has not
5 been requested of and granted by the agency as set forth in
6 chapter 435.

7 Section 94. Paragraph (d) of subsection (2) of section
8 483.30, Florida Statutes, is amended to read:

9 483.30 Licensing of centers.--

10 (2) Each applicant for licensure must comply with the
11 following requirements:

12 (d) A provisional license may be granted to an
13 applicant when each individual required by this section to
14 undergo background screening has met the standards for ~~the~~
15 ~~abuse registry background check~~ and the Department of Law
16 Enforcement background check, but the agency has not yet
17 received background screening results from the Federal Bureau
18 of Investigation, or a request for a disqualification
19 exemption has been submitted to the agency as set forth in
20 chapter 435 but a response has not yet been issued. A license
21 may be granted to the applicant upon the agency's receipt of a
22 report of the results of the Federal Bureau of Investigation
23 background screening for each individual required by this
24 section to undergo background screening which confirms that
25 all standards have been met, or upon the granting of a
26 disqualification exemption by the agency as set forth in
27 chapter 435. Any other person who is required to undergo level
28 2 background screening may serve in his or her capacity
29 pending the agency's receipt of the report from the Federal
30 Bureau of Investigation. However, the person may not continue
31 to serve if the report indicates any violation of background

1 screening standards and a disqualification exemption has not
2 been requested of and granted by the agency as set forth in
3 chapter 435.

4 Section 95. Paragraph (a) of subsection (2) of section
5 509.032, Florida Statutes, is amended to read:

6 509.032 Duties.--

7 (2) INSPECTION OF PREMISES.--

8 (a) The division has responsibility and jurisdiction
9 for all inspections required by this chapter. The division
10 has responsibility for quality assurance. Each licensed
11 establishment shall be inspected at least biannually and at
12 such other times as the division determines is necessary to
13 ensure the public's health, safety, and welfare. The division
14 shall establish a system to determine inspection frequency.
15 Public lodging units classified as resort condominiums or
16 resort dwellings are not subject to this requirement, but
17 shall be made available to the division upon request. If,
18 during the inspection of a public lodging establishment
19 classified for renting to transient or nontransient tenants,
20 an inspector identifies vulnerable ~~disabled~~ adults ~~or elderly~~
21 ~~persons~~ who appear to be victims of neglect, as defined in s.
22 415.102, or, in the case of a building that is not equipped
23 with automatic sprinkler systems, tenants or clients who may
24 be unable to self-preserve in an emergency, the division shall
25 convene meetings with the following agencies as appropriate to
26 the individual situation: the Department of Health, the
27 Department of Elderly Affairs, the area agency on aging, the
28 local fire marshal, the landlord and affected tenants and
29 clients, and other relevant organizations, to develop a plan
30 which improves the prospects for safety of affected residents
31 and, if necessary, identifies alternative living arrangements

1 such as facilities licensed under part II or part III of
2 chapter 400.

3 Section 96. Subsection (3) of section 744.309, Florida
4 Statutes, is amended to read:

5 744.309 Who may be appointed guardian of a resident
6 ward.--

7 (3) DISQUALIFIED PERSONS.--No person who has been
8 convicted of a felony or who, from any incapacity or illness,
9 is incapable of discharging the duties of a guardian, or who
10 is otherwise unsuitable to perform the duties of a guardian,
11 shall be appointed to act as guardian. Further, no person who
12 has been judicially determined to have committed abuse,
13 abandonment, or neglect against a child as defined in s. 39.01
14 or s. 984.03(1),(2),and (39), or who has been found guilty
15 of, regardless of adjudication, or entered a plea of nolo
16 contendere or guilty to, any offense prohibited under s.
17 435.03 or under any similar statute of another jurisdiction,~~a~~
18 ~~confirmed report of abuse, neglect, or exploitation which has~~
19 ~~been uncontested or upheld pursuant to the provisions of ss.~~
20 ~~415.104 and 415.1075~~ shall be appointed to act as a guardian.
21 Except as provided in subsection (5) or subsection (6), a
22 person who provides substantial services to the proposed ward
23 in a professional or business capacity, or a creditor of the
24 proposed ward, may not be appointed guardian and retain that
25 previous professional or business relationship. A person may
26 not be appointed a guardian if he or she is in the employ of
27 any person, agency, government, or corporation that provides
28 service to the proposed ward in a professional or business
29 capacity, except that a person so employed may be appointed if
30 he or she is the spouse, adult child, parent, or sibling of
31 the proposed ward or the court determines that the potential

1 conflict of interest is insubstantial and that the appointment
2 would clearly be in the proposed ward's best interest. The
3 court may not appoint a guardian in any other circumstance in
4 which a conflict of interest may occur.

5 Section 97. Subsection (12) of section 744.474,
6 Florida Statutes, is amended to read:

7 744.474 Reasons for removal of guardian.--A guardian
8 may be removed for any of the following reasons, and the
9 removal shall be in addition to any other penalties prescribed
10 by law:

11 (12) Having been found guilty of, regardless of
12 adjudication, or entered a plea of nolo contendere or guilty
13 to, any offense prohibited under s. 435.03 or under any
14 similar statute of another jurisdiction ~~A confirmed report~~
15 ~~pursuant to a protective investigation made by the Department~~
16 ~~of Children and Family Services, which has been uncontested or~~
17 ~~has been upheld, in accordance with s. 415.1075, that the~~
18 ~~guardian has abused, neglected, or exploited the ward.~~

19 Section 98. Section 744.7081, Florida Statutes, is
20 amended to read:

21 744.7081 Access to records by Statewide Public
22 Guardianship Office; confidentiality.--Notwithstanding any
23 other provision of law to the contrary, any medical,
24 financial, or mental health records held by an agency, or the
25 court and its agencies, which are necessary to evaluate the
26 public guardianship system, to assess the need for additional
27 public guardianship, or to develop required reports, shall be
28 provided to the Statewide Public Guardianship Office upon that
29 office's request. Any confidential or exempt information
30 provided to the Statewide Public Guardianship Office shall
31 continue to be held confidential or exempt as otherwise

1 provided by law. All records held by the Statewide Public
2 Guardianship Office relating to the medical, financial, or
3 mental health of vulnerable ~~citizens who are elderly persons~~
4 ~~or disabled~~ adults as defined in chapter 415, persons with a
5 developmental disability as defined in chapter 393, or persons
6 with a mental illness as defined in chapter 394, shall be
7 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
8 of the State Constitution. This section is subject to the Open
9 Government Sunset Review Act of 1995 in accordance with s.
10 119.15, and shall stand repealed on October 2, 2004, unless
11 reviewed and saved from repeal through reenactment by the
12 Legislature.

13 Section 99. Paragraph (a) of subsection (6) of section
14 775.21, Florida Statutes, is amended to read:

15 775.21 The Florida Sexual Predators Act; definitions;
16 legislative findings, purpose, and intent; criteria;
17 designation; registration; community and public notification;
18 immunity; penalties.--

19 (6) REGISTRATION.--

20 (a) A sexual predator must register with the
21 department by providing the following information to the
22 department:

23 1. Name, social security number, age, race, sex, date
24 of birth, height, weight, hair and eye color, photograph,
25 address of legal residence and address of any current
26 temporary residence, including a rural route address and a
27 post office box, date and place of any employment, date and
28 place of each conviction, fingerprints, and a brief
29 description of the crime or crimes committed by the offender.
30 A post office box shall not be provided in lieu of a physical
31 residential address. If the sexual predator's place of

1 residence is a motor vehicle, trailer, mobile home, or
2 manufactured home, as defined in chapter 320, the sexual
3 predator shall also provide to the department written notice
4 of the vehicle identification number; the license tag number;
5 the registration number; and a description, including color
6 scheme, of the motor vehicle, trailer, mobile home, or
7 manufactured home. If a sexual predator's place of residence
8 is a vessel, live-aboard vessel, or houseboat, as defined in
9 chapter 327, the sexual predator shall also provide to the
10 department written notice of the hull identification number;
11 the manufacturer's serial number; the name of the vessel,
12 live-aboard vessel, or houseboat; the registration number; and
13 a description, including color scheme, of the vessel,
14 live-aboard vessel, or houseboat.

15 2. Any other information determined necessary by the
16 department, including criminal and corrections records;
17 nonprivileged personnel ~~and treatment, and abuse registry~~
18 records; and evidentiary genetic markers when available.

19 Section 100. Paragraph (e) of subsection (5) of
20 section 916.107, Florida Statutes, is amended to read:

21 916.107 Rights of forensic clients.--

22 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

23 (e) Each client committed pursuant to this chapter
24 shall have ready access to a telephone in order to report an
25 alleged abuse. The facility or program staff shall orally and
26 in writing inform each client of the procedure for reporting
27 abuse and shall present the information in a language the
28 client understands. A written copy of that procedure,
29 including the telephone number of the central abuse hotline
30 ~~registry~~ and reporting forms, shall be posted in plain view.

31

1 Section 101. Paragraph (a) of subsection (4) of
 2 section 943.0585, Florida Statutes, is amended to read:
 3 943.0585 Court-ordered expunction of criminal history
 4 records.--The courts of this state have jurisdiction over
 5 their own procedures, including the maintenance, expunction,
 6 and correction of judicial records containing criminal history
 7 information to the extent such procedures are not inconsistent
 8 with the conditions, responsibilities, and duties established
 9 by this section. Any court of competent jurisdiction may
 10 order a criminal justice agency to expunge the criminal
 11 history record of a minor or an adult who complies with the
 12 requirements of this section. The court shall not order a
 13 criminal justice agency to expunge a criminal history record
 14 until the person seeking to expunge a criminal history record
 15 has applied for and received a certificate of eligibility for
 16 expunction pursuant to subsection (2). A criminal history
 17 record that relates to a violation of chapter 794, s. 800.04,
 18 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
 19 violation enumerated in s. 907.041 may not be expunged,
 20 without regard to whether adjudication was withheld, if the
 21 defendant was found guilty of or pled guilty or nolo
 22 contendere to the offense, or if the defendant, as a minor,
 23 was found to have committed, or pled guilty or nolo contendere
 24 to committing, the offense as a delinquent act. The court may
 25 only order expunction of a criminal history record pertaining
 26 to one arrest or one incident of alleged criminal activity,
 27 except as provided in this section. The court may, at its sole
 28 discretion, order the expunction of a criminal history record
 29 pertaining to more than one arrest if the additional arrests
 30 directly relate to the original arrest. If the court intends
 31 to order the expunction of records pertaining to such

1 additional arrests, such intent must be specified in the
2 order. A criminal justice agency may not expunge any record
3 pertaining to such additional arrests if the order to expunge
4 does not articulate the intention of the court to expunge a
5 record pertaining to more than one arrest. This section does
6 not prevent the court from ordering the expunction of only a
7 portion of a criminal history record pertaining to one arrest
8 or one incident of alleged criminal activity. Notwithstanding
9 any law to the contrary, a criminal justice agency may comply
10 with laws, court orders, and official requests of other
11 jurisdictions relating to expunction, correction, or
12 confidential handling of criminal history records or
13 information derived therefrom. This section does not confer
14 any right to the expunction of any criminal history record,
15 and any request for expunction of a criminal history record
16 may be denied at the sole discretion of the court.

17 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
18 criminal history record of a minor or an adult which is
19 ordered expunged by a court of competent jurisdiction pursuant
20 to this section must be physically destroyed or obliterated by
21 any criminal justice agency having custody of such record;
22 except that any criminal history record in the custody of the
23 department must be retained in all cases. A criminal history
24 record ordered expunged that is retained by the department is
25 confidential and exempt from the provisions of s. 119.07(1)
26 and s. 24(a), Art. I of the State Constitution and not
27 available to any person or entity except upon order of a court
28 of competent jurisdiction. A criminal justice agency may
29 retain a notation indicating compliance with an order to
30 expunge.

31

1 (a) The person who is the subject of a criminal
2 history record that is expunged under this section or under
3 other provisions of law, including former s. 893.14, former s.
4 901.33, and former s. 943.058, may lawfully deny or fail to
5 acknowledge the arrests covered by the expunged record, except
6 when the subject of the record:

7 1. Is a candidate for employment with a criminal
8 justice agency;

9 2. Is a defendant in a criminal prosecution;

10 3. Concurrently or subsequently petitions for relief
11 under this section or s. 943.059;

12 4. Is a candidate for admission to The Florida Bar;

13 5. Is seeking to be employed or licensed by or to
14 contract with the Department of Children and Family Services
15 or the Department of Juvenile Justice or to be employed or
16 used by such contractor or licensee in a sensitive position
17 having direct contact with children, the developmentally
18 disabled, the aged, or the elderly as provided in s.

19 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
20 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), ~~s.~~
21 ~~415.1075(4)~~, s. 985.407, or chapter 400; or

22 6. Is seeking to be employed or licensed by the Office
23 of Teacher Education, Certification, Staff Development, and
24 Professional Practices of the Department of Education, any
25 district school board, or any local governmental entity that
26 licenses child care facilities.

27 Section 102. Paragraph (e) of subsection (4) of
28 section 985.05, Florida Statutes, is amended to read:

29 985.05 Court records.--
30
31

1 (4) A court record of proceedings under this part is
2 not admissible in evidence in any other civil or criminal
3 proceeding, except that:

4 (e) Records of proceedings under this part may be used
5 to prove disqualification pursuant to ss. 110.1127, 393.0655,
6 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and
7 985.407, ~~and for proof in a chapter 120 proceeding pursuant to~~
8 ~~s. 415.1075.~~

9 Section 103. Sections 415.1065, 415.1075, 415.1085,
10 and 415.109, Florida Statutes, are repealed.

11 Section 104. There is hereby appropriated from the
12 Health Care Trust Fund to the Agency for Health Care
13 Administration one full-time equivalent position and \$60,000
14 to implement the provisions of s. 400.980, Florida Statutes,
15 relating to the regulation of health care services pools, as
16 provided for in this act.

17 Section 105. Except as otherwise provided herein, this
18 act shall take effect upon becoming a law.

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