

Bill No. CS for CS for CS for SB 2154, CS for SB 1900 & SB 282
Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Forman moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 87, between lines 20 and 21,		
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16	insert:		
17	Section 59. Subsections (1) and (2) of section		
18	400.408, Florida Statutes, are amended to read:		
19	400.408 Unlicensed facilities; referral of person for		
20	residency to unlicensed facility; penalties; verification of		
21	licensure status.--		
22	(1)(a) It is unlawful to own, operate, or maintain an		
23	assisted living facility without obtaining a license under		
24	this part.		
25	(b) Except as provided under paragraph (d), any person		
26	who owns, operates, or maintains an unlicensed assisted living		
27	facility commits a felony of the third degree, punishable as		
28	provided in s. 775.082, s. 775.083, or s. 775.084. Each day of		
29	continued operation is a separate offense.		
30	(c) Any person found guilty of violating paragraph (a)		
31	a second or subsequent time commits a felony of the second		

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1 degree, punishable as provided under s. 775.082, s. 775.083,
2 or s. 775.084. Each day of continued operation is a separate
3 offense.

4 (d) Any person who owns, operates, or maintains an
5 unlicensed assisted living facility due to a change in this
6 part or a modification in department rule within 6 months
7 after the effective date of such change and who, within 10
8 working days after receiving notification from the agency,
9 fails to cease operation or apply for a license under this
10 part commits a felony of the third degree, punishable as
11 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
12 continued operation is a separate offense.

13 (e) Any facility that fails to cease operation after
14 agency notification may be fined for each day of noncompliance
15 pursuant to s. 400.419.

16 (f) When a licensee has an interest in more than one
17 assisted living facility, and fails to license any one of
18 these facilities, the agency may revoke the license, impose a
19 moratorium, or impose a fine pursuant to s. 400.419, on any or
20 all of the licensed facilities until such time as the
21 unlicensed facility is licensed or ceases operation.

22 (g) If the agency determines that an owner is
23 operating or maintaining an assisted living facility without
24 obtaining a license and determines that a condition exists in
25 the facility that poses a threat to the health, safety, or
26 welfare of a resident of the facility, the owner is subject to
27 the same actions and fines imposed against a licensed facility
28 as specified in ss. 400.414 and 400.419.

29 (h) Any person aware of the operation of an unlicensed
30 assisted living facility must report that facility to the
31 agency. The agency shall provide to the department's elder

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1 information and referral providers a list, by county, of
2 licensed assisted living facilities, to assist persons who are
3 considering an assisted living facility placement in locating
4 a licensed facility.

5 (i) Each field office of the Agency for Health Care
6 Administration shall establish a local coordinating workgroup
7 which includes representatives of local law enforcement
8 agencies, state attorneys, local fire authorities, the
9 Department of Children and Family Services, the district
10 long-term care ombudsman council, and the district human
11 rights advocacy committee to assist in identifying the
12 operation of unlicensed assisted living facilities and to
13 develop and implement a plan to ensure effective enforcement
14 of state laws relating to such facilities. The workgroup shall
15 report its findings, actions, and recommendations
16 semi-annually to the Director of Health Facility Regulation of
17 the agency.

18 (2) It is unlawful to knowingly refer a person for
19 residency to an unlicensed assisted living facility; to an
20 assisted living facility the license of which is under denial
21 or has been suspended or revoked; or to an assisted living
22 facility that has a moratorium on admissions. Any person who
23 violates this subsection commits a noncriminal violation,
24 punishable by a fine not exceeding \$500 as provided in s.
25 775.083.

26 (a) Any health care practitioner, as defined in s.
27 455.501, which is aware of the operation of an unlicensed
28 assisted living facility shall report that facility to the
29 agency. Failure to report a facility that the practitioner
30 knows or has reasonable cause to suspect is unlicensed shall
31 be reported to the practitioner's licensing board.

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1 (b) Any hospital or community mental health center
2 licensed under chapter 395 or chapter 394 which knowingly
3 discharges a patient or client to an unlicensed assisted
4 living facility is subject to sanction by the agency.

5 ~~(c)(a)~~ Any employee of the agency or department, or
6 the Department of Children and Family Services, who knowingly
7 refers a person for residency to an unlicensed facility; to a
8 facility the license of which is under denial or has been
9 suspended or revoked; or to a facility that has a moratorium
10 on admissions is subject to disciplinary action by the agency
11 or department, or the Department of Children and Family
12 Services.

13 ~~(d)(b)~~ The employer of any person who is under
14 contract with the agency or department, or the Department of
15 Children and Family Services, and who knowingly refers a
16 person for residency to an unlicensed facility; to a facility
17 the license of which is under denial or has been suspended or
18 revoked; or to a facility that has a moratorium on admissions
19 shall be fined and required to prepare a corrective action
20 plan designed to prevent such referrals.

21 ~~(e)(c)~~ The agency shall provide the department and the
22 Department of Children and Family Services with a list of
23 licensed facilities within each county and shall update the
24 list at least quarterly.

25 ~~(f)(d)~~ At least annually, the agency shall notify, in
26 appropriate trade publications, physicians licensed under
27 chapter 458 or chapter 459, hospitals licensed under chapter
28 395, nursing home facilities licensed under part II of this
29 chapter, and employees of the agency or the department, or the
30 Department of Children and Family Services, who are
31 responsible for referring persons for residency, that it is

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1 unlawful to knowingly refer a person for residency to an
2 unlicensed assisted living facility and shall notify them of
3 the penalty for violating such prohibition. The department and
4 the Department of Children and Family Services shall, in turn,
5 notify service providers under contract to the respective
6 departments who have responsibility for resident referrals to
7 facilities. Further, the notice must direct each noticed
8 facility and individual to contact the appropriate agency
9 office in order to verify the licensure status of any facility
10 prior to referring any person for residency. Each notice must
11 include the name, telephone number, and mailing address of the
12 appropriate office to contact.

13 Section 60. Subsection (1) of section 415.1034,
14 Florida Statutes, is amended to read:

15 415.1034 Mandatory reporting of abuse, neglect, or
16 exploitation of disabled adults or elderly persons; mandatory
17 reports of death.--

18 (1) MANDATORY REPORTING.--

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

20 1. Physician, osteopathic physician, medical examiner,
21 chiropractic physician, nurse, paramedic, emergency medical
22 technician, or hospital personnel engaged in the admission,
23 examination, care, or treatment of disabled adults or elderly
24 persons;

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

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

29 4. Nursing home staff; assisted living facility staff;
30 adult day care center staff; adult family-care home staff;
31 social worker; or other professional adult care, residential,

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1 or institutional staff;

2 5. State, county, or municipal criminal justice
3 employee or law enforcement officer;

4 6. An employee of the Department of Business and
5 Professional Regulation conducting inspections of public
6 lodging establishments under s. 509.032;

7 ~~7.6.~~ Human rights advocacy committee or long-term care
8 ombudsman council member; or

9 ~~8.7.~~ Bank, savings and loan, or credit union officer,
10 trustee, or employee,

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

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

21 1. Name, age, race, sex, physical description, and
22 location of each disabled adult or an elderly person alleged
23 to have been abused, neglected, or exploited.

24 2. Names, addresses, and telephone numbers of the
25 disabled adult's or elderly person's family members.

26 3. Name, address, and telephone number of each alleged
27 perpetrator.

28 4. Name, address, and telephone number of the
29 caregiver of the disabled adult or elderly person, if
30 different from the alleged perpetrator.

31 5. Name, address, and telephone number of the person

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1 reporting the alleged abuse, neglect, or exploitation.

2 6. Description of the physical or psychological
3 injuries sustained.

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

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

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10 (Redesignate subsequent sections.)

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13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 On page 7, line 21, after the semicolon,

16

17 insert:

18 amending s. 400.408, F.S.; requiring field
19 offices of the Agency for Health Care
20 Administration to establish local coordinating
21 workgroups to identify the operation of
22 unlicensed assisted living facilities and to
23 develop a plan to enforce state laws relating
24 to unlicensed assisted living facilities;
25 requiring a report to the agency of the
26 workgroup's findings and recommendations;
27 requiring health care practitioners to report
28 known operations of unlicensed facilities;
29 prohibiting hospitals and community mental
30 health centers from discharging a patient or
31 client to an unlicensed facility; amending s.

SENATE AMENDMENT

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1 415.1034, F.S.; requiring paramedics and
2 emergency medical technicians to report acts of
3 abuse committed against a disabled adult or
4 elderly person;
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