

Bill No. CS/HB 2339

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 105, between lines 12 and 13,		
15			
16	insert:		
17	Section 64. 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 facilities and to develop and
13 implement a plan to ensure effective enforcement of state laws
14 relating to such facilities. The workgroup shall report its
15 findings, actions, and recommendations semi-annually to the
16 Director of Health Facility Regulation of the agency.

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

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

31 (b) Any hospital or community mental health center

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1 licensed under chapter 395 or chapter 394 which knowingly
2 discharges a patient or client to an unlicensed facility is
3 subject to sanction by the agency.

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

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

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

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

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

12 Section 65. Subsection (1) of section 415.1034,
 13 Florida Statutes, is amended to read:

14 415.1034 Mandatory reporting of abuse, neglect, or
 15 exploitation of disabled adults or elderly persons; mandatory
 16 reports of death.--

17 (1) MANDATORY REPORTING.--

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

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

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

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

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

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

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

6 ~~7.6.~~ Human rights advocacy committee or long-term care
7 ombudsman council member; or

8 ~~8.7.~~ Bank, savings and loan, or credit union officer,
9 trustee, or employee,

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

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

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

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

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

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

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

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

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

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

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9 (Redesignate subsequent sections.)

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

13 And the title is amended as follows:

14 On page 9, line 16, after the semicolon,

15

16 insert:

17 amending s. 400.408, F.S.; requiring field
18 offices of the Agency for Health Care
19 Administration to establish local coordinating
20 workgroups to identify the operation of
21 unlicensed assisted living facilities and to
22 develop a plan to enforce state laws relating
23 to unlicensed assisted living facilities;
24 requiring a report to the agency of the
25 workgroup's findings and recommendations;
26 requiring health care practitioners to report
27 known operations of unlicensed facilities;
28 prohibiting hospitals and community mental
29 health centers from discharging a patient or
30 client to an unlicensed facility; amending s.
31 415.1034, F.S.; requiring paramedics and

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1 emergency medical technicians to report acts of
2 abuse committed against a disabled adult or
3 elderly person;
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