

1
2 An act relating to long-term care; amending s.
3 394.455, F.S.; redefining the term "mental
4 illness" for purposes of part I of ch. 394,
5 F.S.; amending s. 394.492, F.S.; redefining the
6 term "child or adolescent who is experiencing
7 an acute mental or emotional crisis" for
8 purposes of part III of ch. 394, F.S.; amending
9 s. 394.493, F.S.; revising the income standard
10 that is the basis for a sliding fee scale
11 adopted by the Department of Children and
12 Family Services for mental health services
13 provided to children and adolescents; amending
14 s. 394.65, F.S.; redesignating part IV of ch.
15 394, F.S., as "The Community Substance Abuse
16 and Mental Health Services Act"; amending s.
17 394.66, F.S.; providing legislative intent with
18 respect to substance abuse and mental health
19 services; amending s. 394.67, F.S.; revising
20 definitions; creating s. 394.674, F.S.;
21 providing clinical eligibility for substance
22 abuse and mental health services funded by the
23 Department of Children and Family Services;
24 providing fee collection requirements;
25 providing for availability of crisis services,
26 substance abuse services, and mental health
27 services; requiring that the Department of
28 Children and Family Services adopt rules;
29 requiring contracting service providers to
30 establish a sliding fee scale; providing for
31 copayments; amending s. 394.675, F.S.; revising

1 the types of services provided by the
2 department under the substance abuse and mental
3 health service system; creating s. 394.676,
4 F.S.; authorizing the Department of Children
5 and Family Services to establish an indigent
6 psychiatric medication program; requiring the
7 department to adopt rules; providing for
8 certain continued treatment of persons
9 discharged from facilities; amending s. 394.74,
10 F.S.; conforming provisions relating to
11 contracts for substance abuse and mental health
12 programs to changes made by the act; amending
13 s. 394.75, F.S.; providing for a state master
14 plan for financing and delivery of
15 community-based substance abuse and mental
16 health services; providing plan requirements;
17 providing for annual update and submission to
18 the Legislature; requiring district health and
19 human services boards, rather than planning
20 councils, to prepare district substance abuse
21 and mental health plans; providing plan
22 requirements; revising the population groups to
23 be addressed in the plans to conform to changes
24 made by the act; amending ss. 394.4574, 394.76,
25 394.77, 394.78, 394.908, and 397.321, F.S.,
26 relating to department responsibilities for
27 mental health residents who reside in certain
28 assisted living facilities, the financing of
29 district programs and services, uniform
30 information and reporting systems, procedures
31 for audits and dispute resolution, distribution

1 of appropriations, and development of a
2 district plan for substance abuse services;
3 conforming provisions to changes made by the
4 act; requiring the department to submit a
5 report to the Legislature which describes the
6 compliance of providers with performance
7 outcome standards; directing the Commission on
8 Mental Health and Substance Abuse to conduct a
9 study and make certain recommendations to the
10 Legislature; including certain older adults in
11 the target groups for substance abuse and
12 mental health services of the Department of
13 Children and Family Services; requiring the
14 department to track and report on providers of
15 such services to older adults; repealing s.
16 394.79, F.S., relating to a state alcohol, drug
17 abuse, and mental health plan; amending s.
18 400.6065, F.S.; providing employment screening
19 requirements for hospice personnel; providing
20 penalties; renumbering and amending s. 402.48,
21 F.S.; revising the definition of "health care
22 services pool"; providing background screening
23 requirements for applicants for registration,
24 managing employees, and financial officers of
25 such entities, and certain others; providing
26 penalties; requiring such entities to obtain a
27 certificate of registration from the Agency for
28 Health Care Administration; providing for
29 injunction; revising application procedures;
30 revising responsibilities regarding temporary
31 employees; increasing a penalty; transferring

1 powers, duties, functions, and appropriations
2 relating to health care services pools from the
3 Department of Health to the Agency for Health
4 Care Administration; amending s. 415.102, F.S.;
5 revising definitions; amending s. 415.103,
6 F.S.; providing for a central abuse hotline to
7 receive reports of abuse, neglect, or
8 exploitation of vulnerable adults; amending s.
9 415.1034, F.S.; conforming provisions relating
10 to mandatory reporting; amending s. 415.1035,
11 F.S.; providing duty of the Department of
12 Children and Family Services to ensure that
13 facilities inform residents of their right to
14 report abuse, neglect, or exploitation;
15 amending s. 415.1036, F.S.; conforming
16 provisions relating to immunity of persons
17 making reports; amending ss. 415.104 and
18 415.1045, F.S.; revising provisions relating to
19 protective investigations; extending the time
20 limit for completion of the department's
21 investigation; providing for access to records
22 and documents; providing for working agreements
23 with law enforcement entities; amending s.
24 415.105, F.S.; authorizing the department to
25 petition the court to enjoin interference with
26 the provision of protective services; amending
27 s. 415.1051, F.S.; providing for enforcement of
28 court-ordered protective services when any
29 person interferes; amending s. 415.1052, F.S.,
30 relating to interference with investigations or
31 provision of services; amending s. 415.1055,

1 F.S.; deleting provisions relating to
2 notification to subjects, reporters, law
3 enforcement, and state attorneys of a report
4 alleging abuse, neglect, or exploitation;
5 amending s. 415.106, F.S., relating to
6 cooperation by criminal justice and other
7 agencies; amending s. 415.107, F.S.; providing
8 certain access to confidential records and
9 reports; providing that information in the
10 central abuse hotline may not be used for
11 employment screening; amending s. 415.1102,
12 F.S.; revising provisions relating to adult
13 protection teams; amending s. 415.111, F.S.,
14 relating to criminal penalties; amending s.
15 415.1111, F.S.; revising provisions relating to
16 civil penalties; amending s. 415.1113, F.S.,
17 relating to administrative fines for false
18 reporting; amending s. 415.113, F.S., relating
19 to treatment by spiritual means; amending s.
20 435.03, F.S.; revising provisions relating to
21 level 1 and level 2 screening standards;
22 amending s. 435.05, F.S.; revising provisions
23 relating to screening requirements for covered
24 employees; amending s. 435.07, F.S., relating
25 to exemptions; amending s. 435.08, F.S.,
26 relating to payment for processing records
27 checks; amending s. 435.09, F.S., relating to
28 confidentiality of background check
29 information; amending ss. 20.43, 455.712, and
30 468.520, F.S.; deleting references to health
31 care services pools in provisions relating to

1 the Department of Health; correcting a
2 cross-reference; amending ss. 39.202, 90.803,
3 110.1127, 112.0455, 119.07, 232.50, 242.335,
4 320.0848, 381.0059, 381.60225, 383.305,
5 390.015, 393.067, 393.0674, 394.459, 394.875,
6 355.0055, 395.0199, 395.3025, 397.461, 400.022,
7 400.071, 400.215, 400.414, 400.4174, 400.426,
8 400.428, 400.462, 400.471, 400.495, 400.506,
9 400.509, 400.512, 400.5572, 400.628, 400.801,
10 400.805, 400.906, 400.931, 400.95, 400.953,
11 400.955, 400.962, 400.964, 402.3025, 402.3125,
12 402.313, 409.175, 409.912, 430.205, 447.208,
13 447.401, 464.018, 468.826, 468.828, 483.101,
14 483.30, 509.032, 744.309, 744.474, 744.7081,
15 775.21, 916.107, 943.0585, and 985.05, F.S.;
16 conforming to the act provisions relating to
17 protection of vulnerable adults and the central
18 abuse hotline; repealing s. 415.1065, F.S.,
19 relating to management of records of the
20 central abuse registry and tracking system;
21 repealing s. 415.1075, F.S., relating to
22 amendment of such records, and expunctions,
23 appeals, and exemptions with respect thereto;
24 repealing s. 415.1085, F.S., relating to
25 photographs and medical examinations pursuant
26 to investigations of abuse or neglect of an
27 elderly person or disabled adult; repealing s.
28 415.109, F.S., relating to abrogation of
29 privileged communication in cases involving
30 suspected adult abuse, neglect, or
31 exploitation; providing an appropriation;

1 amending s. 400.0065, F.S.; providing duty of
2 the State Long-Term Care Ombudsman to prepare
3 and submit annual budget requests; providing
4 duty to enter into a cooperative agreement
5 relating to investigation of Medicaid fraud;
6 providing for consultation on rulemaking by the
7 Department of Elderly Affairs relating to
8 conflict of interest; deleting provisions
9 relating to governmental interference with
10 duties of the Office of State Long-Term Care
11 Ombudsman; creating s. 400.0066, F.S.;
12 providing relationship between the office and
13 departments of state government; providing
14 responsibility of the Department of Elderly
15 Affairs for administrative support and costs
16 for the program; amending ss. 400.0067 and
17 400.0069, F.S.; revising provisions relating to
18 appointment and terms of service of members of
19 the state and local ombudsman councils;
20 amending s. 400.0077, F.S.; providing authority
21 of the office to adopt rules relating to
22 disclosure of files maintained by the program;
23 deleting such rulemaking authority of the
24 department; amending ss. 20.41, 395.3025,
25 400.0063, 400.0071, 400.0073, 400.0075,
26 400.0079, 400.0081, 400.0083, 400.0087,
27 400.0089, 400.0091, 400.021, 400.022, 400.0255,
28 400.19, 400.191, 400.23, 400.419, 400.428,
29 400.434, 400.435, 400.4415, 400.619, and
30 400.628, F.S.; clarifying and conforming
31 references and cross references; providing

1 appropriations; amending s. 39.407, F.S.;

2 revising provisions governing the medical,

3 psychiatric, and psychological examination and

4 treatment of children; prescribing procedures

5 for the admission of children or adolescents to

6 residential treatment centers for residential

7 mental health treatment; amending s. 394.4785,

8 F.S.; prohibiting children and adolescents from

9 admission to state mental health treatment

10 facilities; requiring residential treatment

11 centers for children and adolescents to adhere

12 to certain standards; amending s. 394.67, F.S.;

13 defining the term "residential treatment center

14 for children and adolescents"; amending s.

15 394.875, F.S.; requiring the licensure of

16 residential treatment centers for children and

17 adolescents; requiring the Department of

18 Children and Family Services to adopt rules;

19 amending s. 409.175, F.S.; specifying that

20 residential child-caring agencies do not

21 include residential treatment centers for

22 children and adolescents; providing effective

23 dates.

24

25 Be It Enacted by the Legislature of the State of Florida:

26

27 Section 1. Subsection (18) of section 394.455, Florida

28 Statutes, is amended to read:

29 394.455 Definitions.--As used in this part, unless the

30 context clearly requires otherwise, the term:

31

1 (18) "Mental illness" means an impairment of the
2 mental or emotional processes that exercise conscious control
3 of one's actions or of the ability to perceive or understand
4 reality, which impairment substantially interferes with a
5 person's ability to meet the ordinary demands of living,
6 regardless of etiology. For the purposes of this part, the
7 term does not include retardation or developmental disability
8 as defined in chapter 393, intoxication, or conditions
9 manifested only by antisocial behavior or substance abuse
10 impairment.

11 Section 2. Subsection (7) of section 394.492, Florida
12 Statutes, is amended to read:

13 394.492 Definitions.--As used in ss. 394.490-394.497,
14 the term:

15 (7) "Child or adolescent who is experiencing an acute
16 mental or emotional crisis" means a child or adolescent who
17 experiences a psychotic episode or a high level of mental or
18 emotional distress which may be precipitated by a traumatic
19 event or a perceived life problem for which the individual's
20 typical coping strategies are inadequate. The term ~~an acute~~
21 ~~mental or emotional problem~~ and includes a child or adolescent
22 who meets the criteria for involuntary examination specified
23 in s. 394.463(1).

24 Section 3. Subsections (2) and (3) of section 394.493,
25 Florida Statutes, are amended to read:

26 394.493 Target populations for child and adolescent
27 mental health services funded through the department.--

28 (2) Each mental health provider under contract with
29 the department to provide mental health services to the target
30 population shall collect fees from the parent or legal
31 guardian of the child or adolescent receiving services. The

1 fees shall be based on a sliding fee scale for families whose
2 net family income is at or above 150 ~~between 100 percent and~~
3 ~~200 percent~~ of the Federal Poverty Income Guidelines. The
4 department shall adopt, by rule, a sliding fee scale for
5 statewide implementation. ~~A family whose net family income is~~
6 ~~200 percent or more above the Federal Poverty Income~~
7 ~~Guidelines is responsible for paying the cost of services.~~
8 Fees collected from families shall be retained in the service
9 district and used for expanding child and adolescent mental
10 health treatment services.

11 (3) Each child or adolescent who meets the target
12 population criteria of this section shall be served to the
13 extent possible within available resources and consistent with
14 the portion of the district substance ~~alcohol, drug~~ abuse, and
15 mental health plan specified in s. 394.75 which pertains to
16 child and adolescent mental health services.

17 Section 4. Section 394.65, Florida Statutes, is
18 amended to read:

19 394.65 Short title.--This part may be cited ~~shall be~~
20 ~~known~~ as "The Community Substance ~~Alcohol, Drug~~ Abuse, and
21 Mental Health Services Act."

22 Section 5. Section 394.66, Florida Statutes, is
23 amended to read:

24 394.66 Legislative intent with respect to substance
25 ~~alcohol, drug~~ abuse, and mental health services.--It is the
26 intent of the Legislature to:

27 (1) Recognize that mental illness and substance abuse
28 impairment are diseases that are responsive to medical and
29 psychological interventions and management that integrate
30 treatment, rehabilitative, and support services to achieve
31

1 quality and cost-efficient outcomes for clients and for
2 community-based treatment systems.

3 (2)(1) Promote and improve the mental health of the
4 citizens of the state by making substance abuse and mental
5 health treatment and support services available to those
6 persons who are most in need and least able to pay, through a
7 community-based system of care comprehensive, coordinated
8 alcohol, drug abuse, and mental health services.

9 (3)(2) Involve local citizens in the planning of
10 substance alcohol, drug abuse, and mental health services in
11 their communities.

12 (4) Ensure that the department and the Agency for
13 Health Care Administration work cooperatively in planning and
14 designing comprehensive community-based substance abuse and
15 mental health programs that focus on the individual needs of
16 clients.

17 (5)(3) Ensure that all activities of the Department of
18 Children and Family Services and the Agency for Health Care
19 Administration, and their respective contract providers,
20 involved in the delivery of substance its contractors are
21 directed toward the coordination of planning efforts in
22 alcohol, drug abuse, and mental health treatment and
23 prevention services are coordinated and integrated with other
24 local systems and groups, public and private, such as juvenile
25 justice, criminal justice, child protection, and public health
26 organizations; school districts; and local groups or
27 organizations that focus on services to older adults.

28 (6)(4) Provide access to crisis services to all
29 residents of the state with priority of attention being given
30 to individuals exhibiting symptoms of acute ~~or chronic~~ mental
31 illness, ~~alcohol abuse,~~ or substance drug abuse.

1 (7) Ensure that services provided to persons with
2 co-occurring mental illness and substance abuse problems be
3 integrated across treatment systems.

4 ~~(8)(5)~~ Ensure continuity of care, consistent with
5 minimum standards, for persons who are released from a state
6 treatment facility into the community.

7 ~~(9)(6)~~ Provide accountability for service provision
8 through statewide standards for treatment and support
9 services, and statewide standards for management, monitoring,
10 and reporting of information.

11 ~~(10)(7)~~ Include substance ~~alcohol, drug~~ abuse, and
12 mental health services as a component of the integrated
13 service delivery system of the Department of Children and
14 Family Services.

15 ~~(11)(8)~~ Ensure that the districts of the department
16 are the focal point of all substance ~~alcohol, drug~~ abuse, and
17 mental health planning activities, including budget
18 submissions, grant applications, contracts, and other
19 arrangements that can be effected at the district level.

20 ~~(12)(9)~~ Organize and finance community substance
21 ~~alcohol, drug~~ abuse, and mental health services in local
22 communities throughout the state through locally administered
23 service delivery programs that are based on client outcomes,
24 are programmatically effective, and are financially efficient,
25 and that maximize the involvement of local citizens.

26 Section 6. Section 394.67, Florida Statutes, is
27 amended to read:

28 394.67 Definitions.--As used in this part, the term:

29 ~~(1) "Advisory council" means a district advisory~~
30 ~~council.~~

31

1 ~~(1)(2)~~ "Agency" means the Agency for Health Care
2 Administration.

3 ~~(2)(3)~~ "Applicant" means an individual applicant, or
4 any officer, director, agent, managing employee, or affiliated
5 person, or any partner or shareholder having an ownership
6 interest equal to a 5-percent or greater interest in the
7 corporation, partnership, or other business entity.

8 ~~(3)(4)~~ "Client" means any individual receiving
9 services in any substance ~~alcohol, drug~~ abuse, or mental
10 health facility, program, or service, which facility, program,
11 or service is operated, funded, or regulated by the agency and
12 the department or regulated by the agency.

13 (4) "Crisis services" means short-term evaluation,
14 stabilization, and brief intervention services provided to a
15 person who is experiencing an acute mental or emotional
16 crisis, as defined in subsection (22), or an acute substance
17 abuse crisis, as defined in subsection (23), to prevent
18 further deterioration of the person's mental health. Crisis
19 services are provided in settings such as a crisis
20 stabilization unit, an inpatient unit, a short-term
21 residential treatment program, a detoxification facility, or
22 an addictions receiving facility; at the site of the crisis by
23 a mobile crisis response team; or at a hospital on an
24 outpatient basis.

25 (5) "Crisis stabilization unit" means a program that
26 provides an alternative to inpatient hospitalization and that
27 provides brief, intensive services 24 hours a day, 7 days a
28 week, for mentally ill individuals who are in an acutely
29 disturbed state.

30 (6) "Department" means the Department of Children and
31 Family Services.

1 (7) "Director" means any member of the official board
2 of directors reported in the organization's annual corporate
3 report to the Florida Department of State, or, if no such
4 report is made, any member of the operating board of
5 directors. The term excludes members of separate, restricted
6 boards that serve only in an advisory capacity to the
7 operating board.

8 (8) "District administrator" means the person
9 appointed by the Secretary of Children and Family Services for
10 the purpose of administering a department service district as
11 set forth in s. 20.19.

12 (9) "District plan" or "plan" means the combined
13 district substance ~~alcohol, drug~~ abuse, and mental health plan
14 approved by the district administrator and governing bodies in
15 accordance with this part.

16 (10) "Federal funds" means funds from federal sources
17 for substance ~~alcohol, drug~~ abuse, or mental health facilities
18 and programs, exclusive of federal funds that are deemed
19 eligible by the Federal Government, and are eligible through
20 state regulation, for matching purposes.

21 (11) "Governing body" means the chief legislative body
22 of a county, a board of county commissioners, or boards of
23 county commissioners in counties acting jointly, or their
24 counterparts in a charter government.

25 (12) "Health and human services board" or "board"
26 means the board within a district or subdistrict of the
27 department which is established in accordance with s. 20.19
28 and designated in this part for the purpose of assessing the
29 substance abuse and mental health needs of the community and
30 developing a plan to address those needs.

31

1 ~~(13)(12)~~ "Licensed facility" means a facility licensed
2 in accordance with this chapter.

3 ~~(14)(13)~~ "Local matching funds" means funds received
4 from governing bodies of local government, including city
5 commissions, county commissions, district school boards,
6 special tax districts, private hospital funds, private gifts,
7 both individual and corporate, and bequests and funds received
8 from community drives or any other sources.

9 ~~(15)(14)~~ "Managing employee" means the administrator
10 or other similarly titled individual who is responsible for
11 the daily operation of the facility.

12 ~~(16)~~ "Mental health services" means those therapeutic
13 interventions and activities that help to eliminate, reduce,
14 or manage symptoms or distress for persons who have severe
15 emotional distress or a mental illness and to effectively
16 manage the disability that often accompanies a mental illness
17 so that the person can recover from the mental illness, become
18 appropriately self-sufficient for his or her age, and live in
19 a stable family or in the community. The term also includes
20 those preventive interventions and activities that reduce the
21 risk for or delay the onset of mental disorders. The term
22 includes the following types of services:

23 ~~(a)~~ Treatment services, such as psychiatric
24 medications and supportive psychotherapies, which are intended
25 to reduce or ameliorate the symptoms of severe distress or
26 mental illness.

27 ~~(b)~~ Rehabilitative services, which are intended to
28 reduce or eliminate the disability that is associated with
29 mental illness. Rehabilitative services may include assessment
30 of personal goals and strengths, readiness preparation,
31 specific skill training, and assistance in designing

1 environments that enable individuals to maximize their
2 functioning and community participation.

3 (c) Support services, which include services that
4 assist individuals in living successfully in environments of
5 their choice. Such services may include income supports,
6 social supports, housing supports, vocational supports, or
7 accommodations related to the symptoms or disabilities
8 associated with mental illness.

9 (d) Case management services, which are intended to
10 assist individuals in obtaining the formal and informal
11 resources that they need to successfully cope with the
12 consequences of their illness. Resources may include treatment
13 or rehabilitative or supportive interventions by both formal
14 and informal providers. Case management may include an
15 assessment of client needs; intervention planning with the
16 client, his or her family, and service providers; linking the
17 client to needed services; monitoring service delivery;
18 evaluating the effect of services and supports; and advocating
19 on behalf of the client.

20
21 Mental health services may be delivered in a variety of
22 settings, such as inpatient, residential, partial hospital,
23 day treatment, outpatient, club house, or a drop-in or
24 self-help center, as well as in other community settings, such
25 as the client's residence or workplace. The types and
26 intensity of services provided shall be based on the client's
27 clinical status and goals, community resources, and
28 preferences. Services such as assertive community treatment
29 involve all four types of services which are delivered by a
30 multidisciplinary treatment team that is responsible for
31 identified individuals who have a serious mental illness.

1 ~~(17)~~~~(15)~~ "Patient fees" means compensation received by
2 a community substance ~~alcohol, drug~~ abuse, or mental health
3 facility for services rendered to a specific client ~~clients~~
4 from any source of funds, including city, county, state,
5 federal, and private sources.

6 (18) "Person who is experiencing an acute mental or
7 emotional crisis" means a child, adolescent, or adult who is
8 experiencing a psychotic episode or a high level of mental or
9 emotional distress which may be precipitated by a traumatic
10 event or a perceived life problem for which the individual's
11 typical coping strategies are inadequate. The term includes an
12 individual who meets the criteria for involuntary examination
13 specified in s. 394.463(1).

14 (19) "Person who is experiencing an acute substance
15 abuse crisis" means a child, adolescent, or adult who is
16 experiencing a medical or emotional crisis because of the use
17 of alcoholic beverages or any psychoactive or mood-altering
18 substance. The term includes an individual who meets the
19 criteria for involuntary admission specified in s. 397.675.

20 ~~(20)~~~~(16)~~ "Premises" means those buildings, beds, and
21 facilities located at the main address of the licensee and all
22 other buildings, beds, and facilities for the provision of
23 acute or residential care which are located in such reasonable
24 proximity to the main address of the licensee as to appear to
25 the public to be under the dominion and control of the
26 licensee.

27 ~~(21)~~~~(17)~~ "Program office" means the Alcohol, Drug
28 Abuse, and Mental Health Program Office of the Department of
29 Children and Family Services.

30 (22) "Sliding fee scale" means a schedule of fees for
31 identified services delivered by a service provider which are

1 based on a uniform schedule of discounts deducted from the
2 service provider's usual and customary charges. These charges
3 must be consistent with the prevailing market rates in the
4 community for comparable services.

5 (23) "Substance abuse services" means services
6 designed to prevent or remediate the consequences of substance
7 abuse, improve an individual's quality of life and
8 self-sufficiency, and support long-term recovery. The term
9 includes the following service categories:

10 (a) Prevention services, which include information
11 dissemination; education regarding the consequences of
12 substance abuse; alternative drug-free activities; problem
13 identification; referral of persons to appropriate prevention
14 programs; community-based programs that involve members of
15 local communities in prevention activities; and environmental
16 strategies to review, change, and enforce laws that control
17 the availability of controlled and illegal substances.

18 (b) Assessment services, which includes the evaluation
19 of individuals and families in order to identify their
20 strengths and determine their required level of care,
21 motivation, and need for treatment and ancillary services.

22 (c) Intervention services, which include early
23 identification, short-term counseling and referral, and
24 outreach.

25 (d) Rehabilitation services, which include
26 residential, outpatient, day or night, case management,
27 in-home, psychiatric, and medical treatment, and methadone or
28 medication management.

29 (e) Ancillary services, which include self-help and
30 other support groups and activities; aftercare provided in a
31 structured, therapeutic environment; supported housing;

1 supported employment; vocational services; and educational
2 services.

3 (24)~~(18)~~ "Residential treatment facility" means a
4 facility providing residential care and treatment to
5 individuals exhibiting symptoms of mental illness who are in
6 need of a 24-hour-per-day, 7-day-a-week structured living
7 environment, respite care, or long-term community placement.

8 ~~(19) "Service district" means a community service~~
9 ~~district as established by the department under s. 20.19 for~~
10 ~~the purpose of providing community alcohol, drug abuse, and~~
11 ~~mental health services.~~

12 ~~(20) "Service provider" means any agency in which all~~
13 ~~or any portion of the programs or services set forth in s.~~
14 ~~394.675 are carried out.~~

15 Section 7. Section 394.674, Florida Statutes, is
16 created to read:

17 394.674 Clinical eligibility for publicly funded
18 substance abuse and mental health services; fee collection
19 requirements.--

20 (1) To be eligible to receive substance abuse and
21 mental health services funded by the department, a person must
22 be a member of one of the department's target groups approved
23 by the Legislature, pursuant to s. 216.0166.

24 (2) Crisis services, as defined in s. 394.67, must,
25 within the limitations of available state and local matching
26 resources, be available to each person who is eligible for
27 services under subsection (1), regardless of the person's
28 ability to pay for such services. A person who is experiencing
29 a mental health crisis and who does not meet the criteria for
30 involuntary examination under s. 394.463(1), or a person who
31 is experiencing a substance abuse crisis and who does not meet

1 the involuntary admission criteria in s. 397.675, must
2 contribute to the cost of his or her care and treatment
3 pursuant to the sliding fee scale developed under subsection
4 (4), unless charging a fee is contraindicated because of the
5 crisis situation.

6 (3) Mental health services, substance abuse services,
7 and crisis services, as defined in s. 394.67, must, within the
8 limitations of available state and local matching resources,
9 be available to each person who is eligible for services under
10 subsection (1). Such person must contribute to the cost of his
11 or her care and treatment pursuant to the sliding fee scale
12 developed under subsection (4).

13 (4) The department shall adopt rules to implement the
14 clinical eligibility and fee collection requirements for
15 publicly funded substance abuse and mental health services.
16 The rules must require that each provider under contract with
17 the department develop a sliding fee scale for persons who
18 have a net family income at or above 150 percent of the
19 Federal Poverty Income Guidelines, unless otherwise required
20 by state or federal law. The sliding fee scale must use the
21 uniform schedule of discounts by which a provider under
22 contract with the department discounts its established client
23 charges for services supported with state, federal, or local
24 funds, using, at a minimum, factors such as family income,
25 financial assets, and family size as declared by the person or
26 the person's guardian. The rules must include uniform criteria
27 to be used by all service providers in developing the schedule
28 of discounts for the sliding fee scale. The rules must address
29 the most expensive types of treatment, such as residential and
30 inpatient treatment, in order to make it possible for a client
31 to responsibly contribute to his or her mental health or

1 substance abuse care without jeopardizing the family's
2 financial stability. A person who is not eligible for Medicaid
3 and whose net family income is less than 150 percent of the
4 Federal Poverty Income Guidelines must pay a portion of his or
5 her treatment costs which is comparable to the copayment
6 amount required by the Medicaid program for Medicaid clients
7 pursuant to s. 409.9081. The rules must require that persons
8 who receive financial assistance from the Federal Government
9 because of a disability and are in long-term residential
10 treatment settings contribute to their board and care costs
11 and treatment costs and must be consistent with the provisions
12 in s. 409.212.

13 (5) A person who meets the eligibility criteria in
14 subsection (1) shall be served in accordance with the
15 appropriate district substance abuse and mental health
16 services plan specified in s. 394.75 and within available
17 resources.

18 Section 8. Section 394.675, Florida Statutes, is
19 amended to read:

20 394.675 Substance Alcohol, drug abuse, and mental
21 health service system.--

22 (1) A community-based system of comprehensive
23 substance alcohol, drug abuse, and mental health services
24 shall be established and shall include as follows:

25 (a) Crisis services.

26 (b) Substance abuse services.

27 (c) Mental health services.

28 ~~(a) "Primary care services" are those services which,~~
29 ~~at a minimum, must be made available in each service district~~
30 ~~to persons who have acute or chronic mental illnesses, who are~~
31 ~~acute or chronic drug dependents, and who are acute or chronic~~

1 ~~alcohol abusers to provide them with immediate care and~~
2 ~~treatment in crisis situations and to prevent further~~
3 ~~deterioration or exacerbation of their conditions. These~~
4 ~~services include, but are not limited to,~~
5 ~~emergency stabilization services, detoxification services,~~
6 ~~inpatient services, residential services, and case management~~
7 ~~services.~~

8 ~~(b) "Rehabilitative services" are those services which~~
9 ~~are made available to the general population at risk of~~
10 ~~serious mental health problems or substance abuse problems or~~
11 ~~which are provided as part of a rehabilitative program. These~~
12 ~~services are designed to prepare or train persons to function~~
13 ~~within the limits of their disabilities, to restore previous~~
14 ~~levels of functioning, or to improve current levels of~~
15 ~~inadequate functioning. Rehabilitative services include, but~~
16 ~~are not limited to, outpatient services, day treatment~~
17 ~~services, and partial hospitalization services.~~

18 ~~(c) "Preventive services" are those services which are~~
19 ~~made available to the general population for the purpose of~~
20 ~~preventing or ameliorating the effects of alcohol abuse, drug~~
21 ~~abuse, or mental illness. These services emphasize the~~
22 ~~reduction of the occurrence of emotional disorders, mental~~
23 ~~disorders, and substance abuse through public education, early~~
24 ~~detection, and timely intervention. Preventive services~~
25 ~~include consultation, public education, and prevention~~
26 ~~services which have been determined through the district~~
27 ~~planning process to be necessary to complete a continuum of~~
28 ~~services as required by this part and which are included in~~
29 ~~the district plan.~~

30 (2) Notwithstanding the provisions of this part, funds
31 that ~~which~~ are provided through state and federal sources for

1 specific services or for specific populations shall be used
2 for those purposes.

3 Section 9. Section 394.676, Florida Statutes, is
4 created to read:

5 394.676 Indigent psychiatric medication program.--

6 (1) Within legislative appropriations, the department
7 may establish the indigent psychiatric medication program to
8 purchase psychiatric medications for persons as defined in s.
9 394.492(5) or (6) or pursuant to s. 394.674(1), who do not
10 reside in a state mental health treatment facility or an
11 inpatient unit.

12 (2) The department must adopt rules to administer the
13 indigent psychiatric medication program. The rules must
14 prescribe the clinical and financial eligibility of clients
15 who may receive services under the indigent psychiatric
16 medication program, the requirements that community-based
17 mental health providers must meet to participate in the
18 program, and the sanctions to be applied for failure to meet
19 those requirements.

20 (3) To the extent possible within existing
21 appropriations, the department must ensure that
22 non-Medicaid-eligible indigent individuals discharged from
23 mental health treatment facilities continue to receive the
24 medications which effectively stabilized their mental illness
25 in the treatment facility, or newer medications, without
26 substitution by a service provider unless such substitution is
27 clinically indicated as determined by the licensed physician
28 responsible for such individual's psychiatric care.

29 Section 10. Section 394.74, Florida Statutes, is
30 amended to read:

31

1 394.74 Contracts for provision of local substance
2 ~~alcohol, drug~~ abuse, and mental health programs.--

3 (1) The department, when funds are available for such
4 purposes, is authorized to contract for the establishment and
5 operation of local substance ~~alcohol, drug~~ abuse, and mental
6 health programs with any hospital, clinic, laboratory,
7 institution, or other appropriate service provider.

8 (2)(a) Contracts for service shall be consistent with
9 the approved district plan ~~and the service priorities~~
10 ~~established in s. 394.75(4).~~

11 (b) Notwithstanding s. 394.76(3)(a) and (c), the
12 department may use unit cost methods of payment in contracts
13 for purchasing mental health and substance abuse services. The
14 unit cost contracting system must account for those patient
15 fees that are paid on behalf of a specific client and those
16 that are earned and used by the provider for those services
17 funded in whole or in part by the department.

18 (c) The department may reimburse actual expenditures
19 for startup contracts and fixed capital outlay contracts in
20 accordance with contract specifications.

21 (3) Contracts shall include, but are not limited to:

22 (a) A provision that, within the limits of available
23 resources, substance ~~primary care alcohol, drug~~ abuse, and
24 mental health crisis services, as defined in s. 394.67(4),
25 shall be available to any individual residing or employed
26 within the service area, regardless of ability to pay for such
27 services, current or past health condition, or any other
28 factor;

29 (b) A provision that such services be available with
30 priority of attention being given to individuals who exhibit
31 symptoms of chronic or acute substance ~~alcoholism, drug~~ abuse,

1 or mental illness and who are unable to pay the cost of
2 receiving such services;

3 (c) A provision that every reasonable effort to
4 collect appropriate reimbursement for the cost of providing
5 substance ~~alcohol, drug~~ abuse, and mental health services to
6 persons able to pay for services, including first-party
7 payments and third-party payments, shall be made by facilities
8 providing services pursuant to this act;

9 (d) A program description and line-item operating
10 budget by program service component for substance ~~alcohol,~~
11 ~~drug~~ abuse, and mental health services, provided the entire
12 proposed operating budget for the service provider will be
13 displayed; and

14 (e) A requirement that the contractor must conform to
15 department rules and the priorities established thereunder.

16 (4) The department shall develop standard contract
17 forms for use between the district administrator and community
18 substance ~~alcohol, drug~~ abuse, and mental health service
19 providers.

20 (5) ~~Nothing in This part does not prevent~~ ~~prevents~~ any
21 municipality ~~city~~ or county, or combination of municipalities
22 ~~cities~~ and counties, from owning, financing, and operating a
23 substance ~~an alcohol, drug~~ abuse, or mental health program by
24 entering into an arrangement with the district to provide, and
25 be reimbursed for, services provided as part of the district
26 plan.

27 Section 11. Section 394.75, Florida Statutes, is
28 amended to read:

29 394.75 State and district substance ~~alcohol, drug~~
30 abuse, and mental health plans.--

31

1 (1)(a) Every 3 years, beginning in 2001, the
2 department, in consultation with the Medicaid program in the
3 Agency for Health Care Administration, shall prepare a state
4 master plan for the delivery and financing of a system of
5 publicly funded, community-based substance abuse and mental
6 health services throughout the state.

7 (b) The initial plan must include an assessment of the
8 clinical practice guidelines and standards for community-based
9 mental health and substance abuse services delivered by
10 persons or agencies under contract with the Department of
11 Children and Family Services. The assessment must include an
12 inventory of current clinical guidelines and standards used by
13 persons and agencies under contract with the department, and
14 by nationally recognized accreditation organizations, to
15 address the quality of care and must specify additional
16 clinical practice standards and guidelines for new or existing
17 services and programs.

18 (c) The plan must propose changes in department policy
19 or statutory revisions to strengthen the quality of mental
20 health and substance abuse treatment and support services.

21 (d) The plan must identify strategies for meeting the
22 treatment and support needs of children, adolescents, adults,
23 and older adults who have, or are at risk of having, mental,
24 emotional, or substance abuse problems as defined in chapter
25 394 or chapter 397.

26 (e) The plan must include input from persons who
27 represent local communities; local government entities that
28 contribute funds to the local substance abuse and mental
29 health treatment systems; consumers of publicly funded
30 substance abuse and mental health services, and their
31 families; and stakeholders interested in mental health and

1 substance abuse services. The plan must describe the means by
2 which this local input occurred. The plan shall be updated
3 annually.

4 (f) The plan must include statewide policies and
5 planning parameters that will be used by the health and human
6 services boards in preparing the district substance abuse and
7 mental health plans.

8 (g) The district plans shall be one component of the
9 state master plan.

10 (2) The state master plan shall also include:

11 (a) A proposal for the development of a data system
12 that will evaluate the effectiveness of programs and services
13 provided to clients of the substance abuse and mental health
14 service system.

15 (b) A proposal to resolve the funding discrepancies
16 between districts.

17 (c) A methodology for the allocation of resources
18 available from federal, state, and local sources and a
19 description of the current level of funding available from
20 each source.

21 (d) A description of the statewide priorities for
22 clients and services, and each district's priorities for
23 clients and services.

24 (e) Recommendations for methods of enhancing local
25 participation in the planning, organization, and financing of
26 substance abuse and mental health services.

27 (f) A description of the current methods of
28 contracting for services, an assessment of the efficiency of
29 these methods in providing accountability for contracted
30 funds, and recommendations for improvements to the system of
31 contracting.

1 (g) Recommendations for improving access to services
2 by clients and their families.

3 (h) Guidelines and formats for the development of
4 district plans.

5 (i) Recommendations for future directions for the
6 substance abuse and mental health service delivery system.

7
8 A schedule, format, and procedure for development and review
9 of the state master plan shall be adopted by the department by
10 June of each year. The plan and annual updates must be
11 submitted to the President of the Senate and the Speaker of
12 the House of Representatives by January 1 of each year,
13 beginning January 1, 2001.

14 (3) The district health and human services board shall
15 prepare an integrated district substance abuse and mental
16 health plan. The plan shall be prepared and updated on a
17 schedule established by the Alcohol, Drug Abuse, and Mental
18 Health Program Office. The plan shall reflect the needs and
19 program priorities established by the department and the needs
20 of the district established under ss. 394.674 and 394.675. The
21 plan must list in order of priority the mental health and the
22 substance abuse treatment needs of the district and must rank
23 each program separately. The plan shall include:

24 (a) A record of the total amount of money available in
25 the district for mental health and substance abuse services.

26 (b) A description of each service that will be
27 purchased with state funds.

28 (c) A record of the amount of money allocated for each
29 service identified in the plan as being purchased with state
30 funds.

31

1 (d) A record of the total funds allocated to each
2 provider.

3 (e) A record of the total funds allocated to each
4 provider by type of service to be purchased with state funds.

5 (f) Input from community-based persons, organizations,
6 and agencies interested in substance abuse and mental health
7 treatment services; local government entities that contribute
8 funds to the public substance abuse and mental health
9 treatment systems; and consumers of publicly funded substance
10 abuse and mental health services, and their family members.
11 The plan must describe the means by which this local input
12 occurred.

13 ~~(1)(a) The district planning council shall prepare a~~
14 ~~combined district alcohol, drug abuse, and mental health plan.~~
15 ~~The plan shall be prepared on a biennial basis and shall be~~
16 ~~reviewed annually and shall reflect both the program~~
17 ~~priorities established by the department and the needs of the~~
18 ~~district. The plan shall include a program description and~~
19 ~~line-item budget by program service component for alcohol,~~
20 ~~drug abuse, and mental health service providers that will~~
21 ~~receive state funds. The entire proposed operating budget for~~
22 ~~each service provider shall be displayed. A schedule, format,~~
23 ~~and procedure for development and review of the plan shall be~~
24 ~~promulgated by the department.~~

25
26 ~~(b)~~ The plan shall be submitted by the district board
27 ~~planning council~~ to the district administrator and to the
28 governing bodies for review, comment, and approval, ~~as~~
29 ~~provided in subsection (9).~~

30 ~~(4)(2)~~ The district plan shall:
31

1 (a) Describe the publicly funded, community-based
2 substance abuse and mental health system of care, and identify
3 statutorily defined populations, their service needs, and the
4 resources available and required to meet their needs.

5 (b) Provide the means for meeting the needs of the
6 district's eligible clients, specified in ss. 394.674 and
7 394.675, for substance abuse and mental health services.

8 (c) Provide a process for coordinating the delivery of
9 services within a community-based system of care to eligible
10 clients. Such process must involve service providers, clients,
11 and other stakeholders. The process must also provide a means
12 by which providers will coordinate and cooperate to strengthen
13 linkages, achieve maximum integration of services, foster
14 efficiencies in service delivery and administration, and
15 designate responsibility for outcomes for eligible clients.

16 (d)~~(a)~~ Provide a projection of district program and
17 fiscal needs for the next fiscal year ~~biennium~~, provide for
18 the orderly and economical development of needed services, and
19 indicate priorities and resources for each population served,
20 performance outcomes, and anticipated expenditures and
21 revenues.

22 (e)~~(b)~~ Include a summary budget request for the total
23 district substance ~~alcohol, drug~~ abuse, and mental health
24 program, which must ~~shall~~ include the funding priorities
25 established by the district planning process.

26 (f)~~(c)~~ Provide a basis for the district legislative
27 budget request.

28 (g)~~(d)~~ Include a policy and procedure for allocation
29 of funds.
30
31

1 ~~(h)(e)~~ Include a procedure for securing local matching
2 funds. Such a procedure shall be developed in consultation
3 with governing bodies and service providers.

4 ~~(i)(f)~~ Provide for the integration of substance
5 ~~alcohol, drug~~ abuse, and mental health services with the other
6 departmental programs and with the criminal justice, juvenile
7 justice, child protection, school, and health care systems
8 ~~system~~ within the district.

9 ~~(j)(g)~~ Provide a plan for the coordination of services
10 in such manner as to ensure effectiveness and avoid
11 duplication, fragmentation of services, and unnecessary
12 expenditures.

13 ~~(k)(h)~~ Provide for continuity of client care between
14 state treatment facilities and community programs to assure
15 that discharge planning results in the rapid application for
16 all benefits for which a client is eligible, including
17 Medicaid coverage for persons leaving state treatment
18 facilities and returning to community-based programs.

19 ~~(l)(i)~~ Provide for the most appropriate and economical
20 use of all existing public and private agencies and personnel.

21 ~~(m)(j)~~ Provide for the fullest possible and most
22 appropriate participation by existing programs; state
23 hospitals and other hospitals; city, county, and state health
24 and family service agencies; drug abuse and alcoholism
25 programs; probation departments; physicians; psychologists;
26 social workers; marriage and family therapists; mental health
27 counselors; clinical social workers; public health nurses;
28 school systems; and all other public and private agencies and
29 personnel that ~~which~~ are required to, or may agree to,
30 participate in the plan.

31

1 ~~(n)(k)~~ Include an inventory of all public and private
2 substance alcohol, drug abuse, and mental health resources
3 within the district, including consumer advocacy groups and
4 self-help groups known to ~~registered with~~ the department.

5 ~~(5)(3)~~ The district plan shall address how substance
6 abuse and mental health ~~primary care~~ services will be provided
7 and how a system of care for target populations ~~continuum of~~
8 ~~services~~ will be provided given the resources available in the
9 service district. The plan must include provisions for
10 maximizing client access to the most recently developed
11 psychiatric medications approved by the United States Food and
12 Drug Administration, for developing independent housing units
13 through participation in the Section 811 program operated by
14 the United States Department of Housing and Urban Development,
15 for developing supported employment services through the
16 Division of Vocational Rehabilitation of the Department of
17 Labor and Employment Security, for providing treatment
18 services to persons with co-occurring mental illness and
19 substance abuse problems which are integrated across treatment
20 systems, and for providing services to adults who have a
21 serious mental illness, as defined in s. 394.67, and who
22 reside in assisted-living facilities.

23 ~~(6)(4)~~ The district plan shall provide the means by
24 which the needs of the ~~following~~ population groups specified
25 pursuant to s. 394.674 ~~having priority~~ will be addressed in
26 the district.†

27 ~~(a) Chronic public inebriates†~~

28 ~~(b) Marginally functional alcoholics†~~

29 ~~(c) Chronic opiate abusers†~~

30 ~~(d) Poly-drug abusers†~~

31 ~~(e) Chronically mentally ill individuals†~~

1 ~~(f) Acutely mentally ill individuals;~~

2 ~~(g) Severely emotionally disturbed children and~~
3 ~~adolescents;~~

4 ~~(h) Elderly persons at high risk of~~
5 ~~institutionalization; and~~

6 ~~(i) Individuals returned to the community from a state~~
7 ~~mental health treatment facility.~~

8 (7)(5) In developing the district plan, optimum use
9 shall be made of any federal, state, and local funds that may
10 be available for substance alcohol, drug abuse, and mental
11 health service planning. However, the department must provide
12 these services within legislative appropriations.

13 (8)(6) The district health and human services board
14 ~~planning council~~ shall establish a subcommittee to prepare the
15 portion of the district plan relating to children and
16 adolescents. The subcommittee shall include representative
17 membership of any committee organized or established by the
18 district to review placement of children and adolescents in
19 residential treatment programs. The board shall establish a
20 subcommittee to prepare the portion of the district plan which
21 relates to adult mental health and substance abuse. The
22 subcommittee must include representatives from the community
23 who have an interest in mental health and substance abuse
24 treatment for adults.

25 (9)(7) All departments of state government and all
26 local public agencies shall cooperate with officials to assist
27 them in service planning. Each district administrator shall,
28 upon request and the availability of staff, provide
29 consultative services to the local agency directors and
30 governing bodies.

31

1 ~~(10)(8)~~ The district administrator shall ensure that
2 the district plan:

3 (a) Conforms to the priorities in the state plan, the
4 requirements of this part, and the standards adopted under
5 this part;

6 (b) Ensures that the most effective and economical use
7 will be made of available public and private substance
8 ~~alcohol, drug~~ abuse, and mental health resources in the
9 service district; and

10 (c) Has adequate provisions made for review and
11 evaluation of the services provided in the service district.

12 ~~(11)(9)~~ The district administrator shall require such
13 modifications in the district plan as he or she deems
14 necessary to bring the plan into conformance with the
15 provisions of this part. If the district board ~~planning~~
16 ~~council~~ and the district administrator cannot agree on the
17 plan, including the projected budget, the issues under dispute
18 shall be submitted directly to the secretary of the department
19 for immediate resolution.

20 ~~(12)(10)~~ Each governing body that provides local funds
21 has the authority to require necessary modification to only
22 that portion of the district plan which affects substance
23 ~~alcohol, drug~~ abuse, and mental health programs and services
24 within the jurisdiction of that governing body.

25 ~~(13)(11)~~ The district administrator shall report
26 annually to the district board ~~planning council~~ the status of
27 funding for priorities established in the district plan. Each
28 report must include:

29 (a) A description of the district plan priorities that
30 were included in the district legislative budget request.†
31

1 (b) A description of the district plan priorities that
2 were included in the departmental budget request prepared
3 under s. 20.19.~~7~~

4 (c) A description of the programs and services
5 included in the district plan priorities that were
6 appropriated funds by the Legislature in the legislative
7 session that preceded the report.

8 Section 12. Subsection (3) of section 394.4574,
9 Florida Statutes, is amended to read:

10 394.4574 Department responsibilities for a mental
11 health resident who resides in an assisted living facility
12 that holds a limited mental health license.--

13 (3) The Secretary of Children and Family Services, in
14 consultation with the Agency for Health Care Administration,
15 shall annually require each district administrator to develop,
16 with community input, detailed plans that demonstrate how the
17 district will ensure the provision of state-funded mental
18 health and substance abuse treatment services to residents of
19 assisted living facilities that hold a limited mental health
20 license. These plans must be consistent with the substance
21 ~~alcohol, drug~~ abuse, and mental health district plan developed
22 pursuant to s. 394.75 and must address case management
23 services; access to consumer-operated drop-in centers; access
24 to services during evenings, weekends, and holidays;
25 supervision of the clinical needs of the residents; and access
26 to emergency psychiatric care.

27 Section 13. Subsections (3), (4), (8), (9), (10), and
28 (11) of section 394.76, Florida Statutes, are amended to read:

29 394.76 Financing of district programs and
30 services.--If the local match funding level is not provided in
31 the General Appropriations Act or the substantive bill

1 implementing the General Appropriations Act, such funding
2 level shall be provided as follows:

3 (3) The state share of financial participation shall
4 be determined by the following formula:

5 (a) The state share of approved program costs shall be
6 a percentage of the net balance determined by deducting from
7 the total operating cost of services and programs, as
8 specified in s. 394.675(1), those expenditures which are
9 ineligible for state participation as provided in subsection
10 (7) and those ineligible expenditures established by rule of
11 the department pursuant to s. 394.78.

12 (b) Residential and case management services which are
13 funded as part of a deinstitutionalization project shall not
14 require local matching funds and shall not be used as local
15 matching funds. The state and federal financial participation
16 portions of Medicaid earnings pursuant to Title XIX of the
17 Social Security Act, except for the amount of general revenue
18 equal to the amount appropriated in 1985-1986 plus all other
19 general revenue that is shifted from any other alcohol, drug
20 abuse, and mental health appropriation category after fiscal
21 year 1986-1987 or substance abuse and mental health
22 appropriation category after fiscal year 2000-2001, shall not
23 require local matching funds and shall not be used as local
24 matching funds. Local matching funds are not required for
25 general revenue transferred by the department into substance
26 alcohol, drug abuse, and mental health appropriations
27 categories during a fiscal year to match federal funds earned
28 from Medicaid services provided for mental health clients in
29 excess of the amounts initially appropriated. Funds for
30 children's services which were provided through the Children,
31 Youth, and Families Services budget which did not require

1 local match prior to being transferred to the Substance
2 ~~Alcohol, Drug Abuse, and Mental Health Services~~ budget shall
3 be exempt from local matching requirements. All other
4 contracted community alcohol and mental health services and
5 programs, except as identified in s. 394.457(3), shall require
6 local participation on a 75-to-25 state-to-local ratio.

7 (c) The expenditure of 100 percent of all third-party
8 payments and fees shall be considered as eligible for state
9 financial participation if such expenditures are in accordance
10 with subsection (7) and the approved district plan.

11 (d) Fees generated by residential and case management
12 services which are funded as part of a deinstitutionalization
13 program and do not require local matching funds shall be used
14 to support program costs approved in the district plan.

15 (e) Any earnings pursuant to Title XIX of the Social
16 Security Act in excess of the amount appropriated shall be
17 used to support program costs approved in the district plan.

18 (4) Notwithstanding the provisions of subsection (3),
19 the department is authorized to develop and demonstrate
20 alternative financing systems for substance ~~alcohol, drug~~
21 ~~abuse, and mental health services~~. Proposals for
22 demonstration projects conducted pursuant to this subsection
23 shall be reviewed by the substantive and appropriations
24 committees of the Senate and the House of Representatives
25 prior to implementation of the projects.

26 (8) Expenditures for capital improvements relating to
27 construction of, addition to, purchase of, or renovation of a
28 community substance ~~alcohol, drug~~ abuse, or mental health
29 facility may be made by the state, provided such expenditures
30 or capital improvements are part and parcel of an approved
31 district plan. Nothing shall prohibit the use of such

1 expenditures for the construction of, addition to, renovation
2 of, or purchase of facilities owned by a county, city, or
3 other governmental agency of the state or a nonprofit entity.
4 Such expenditures are subject to the provisions of subsection
5 (6).

6 (9)(a) State funds for community alcohol and mental
7 health services shall be matched by local matching funds as
8 provided in paragraph (3)(b). The governing bodies within a
9 district or subdistrict shall be required to participate in
10 the funding of alcohol and mental health services under the
11 jurisdiction of such governing bodies. The amount of the
12 participation shall be at least that amount which, when added
13 to other available local matching funds, is necessary to match
14 state funds.

15 (b) The provisions of paragraph (a) to the contrary
16 notwithstanding, no additional matching funds may be required
17 solely due to the addition in the General Appropriations Act
18 of Substance Alcohol, Drug Abuse, and Mental Health Block
19 Grant Funds for local community mental health centers and
20 alcohol project grants.

21 (10) A local governing body is authorized to
22 appropriate moneys, in lump sum or otherwise, from its public
23 funds for the purpose of carrying out the provisions of this
24 part. In addition to the payment of claims upon submission of
25 proper vouchers, such moneys may also, at the option of the
26 governing body, be disbursed in the form of a lump-sum or
27 advance payment for services for expenditure, in turn, by the
28 recipient of the disbursement without prior audit by the
29 auditor of the governing body. Such funds shall be expended
30 only for substance alcohol, drug abuse, or mental health
31 purposes as provided in the approved district plan. Each

1 governing body appropriating and disbursing moneys pursuant to
2 this subsection shall require the expenditure of such moneys
3 by the recipient of the disbursement to be audited annually
4 either in conjunction with an audit of other expenditures or
5 by a separate audit. Such annual audits shall be furnished to
6 the governing bodies of each participating county and
7 municipality for their examination.

8 (11) No additional local matching funds shall be
9 required solely due to the addition in the General
10 Appropriations Act of substance ~~alcohol, drug~~ abuse, and
11 mental health block grant funds for local community mental
12 health centers, drug abuse programs, and alcohol project
13 grants.

14 Section 14. Subsection (1) of section 394.77, Florida
15 Statutes, is amended to read:

16 394.77 Uniform management information, accounting, and
17 reporting systems for providers.--The department shall
18 establish, for the purposes of control of costs:

19 (1) A uniform management information system and fiscal
20 accounting system for use by providers of community substance
21 ~~alcohol, drug~~ abuse, and mental health services.

22 Section 15. Subsections (2), (3), (4), and (5) of
23 section 394.78, Florida Statutes, are amended to read:

24 394.78 Operation and administration; personnel
25 standards; procedures for audit and monitoring of service
26 providers; resolution of disputes.--

27 (2) The department shall, by rule, establish standards
28 of education and experience for professional and technical
29 personnel employed in substance ~~alcohol, drug~~ abuse, and
30 mental health programs.

31

1 (3) The department shall establish, to the extent
2 possible, a standardized auditing procedure for substance
3 ~~alcohol, drug~~ abuse, and mental health service providers; and
4 audits of service providers shall be conducted pursuant to
5 such procedure and the applicable department rules. Such
6 procedure shall be supplied to all current and prospective
7 contractors and subcontractors prior to the signing of any
8 contracts.

9 (4) The department shall monitor service providers for
10 compliance with contracts and applicable state and federal
11 regulations. A representative of the district health and
12 human services board ~~planning council~~ shall be represented on
13 the monitoring team.

14 (5) In unresolved disputes regarding this part or
15 rules established pursuant to this part, providers and
16 district health and human services boards ~~planning councils~~
17 shall adhere to formal procedures specified under s.
18 20.19(8)(n) ~~as provided by the rules established by the~~
19 ~~department.~~

20 Section 16. Section 394.908, Florida Statutes, is
21 amended to read:

22 394.908 Substance ~~Alcohol, drug~~ abuse, and mental
23 health funding equity; distribution of appropriations.--In
24 recognition of the historical inequity among service districts
25 of the former Department of Health and Rehabilitative Services
26 in the funding of substance ~~alcohol, drug~~ abuse, and mental
27 health services, and in order to rectify this inequity and
28 provide for equitable funding in the future throughout the
29 state, the following funding process shall be adhered to,
30 ~~beginning with the 1997-1998 fiscal year:~~

31

1 (1) Funding thresholds for substance ~~alcohol, drug~~
2 abuse, and mental health services in each of the current
3 districts, statewide, shall be established based on the
4 current number of persons in need per district of substance
5 ~~for alcohol and drug~~ abuse, and ~~for~~ mental health services,
6 respectively.

7 (2) "Persons in need" means those persons who fit the
8 profile of the respective target populations and require
9 mental health or substance abuse services.

10 (3) Seventy-five ~~Beginning July 1, 1997,~~ 75 percent of
11 any additional funding beyond the 1996-1997 fiscal year base
12 appropriation for alcohol, drug abuse, and mental health
13 services shall be allocated to districts for substance abuse
14 and mental health services based on:

15 (a) Epidemiological estimates of disabilities which
16 apply to the respective target populations.

17 (b) A pro rata share distribution that ensures
18 districts below the statewide average funding level per person
19 in each target population of "persons in need" receive funding
20 necessary to achieve equity.

21 (4) The remaining 25 percent shall be allocated based
22 on the number of persons in need of substance ~~alcohol, drug~~
23 abuse, and mental health services per district without regard
24 to current funding levels.

25 (5) Target populations for persons in need shall be
26 displayed for each district and distributed concurrently with
27 the approved operating budget. The display by target
28 population shall show: The annual number of persons served
29 based on prior year actual numbers, the annual cost per person
30 served, the number of persons served by service cost center,
31

1 and the estimated number of the total target population for
2 persons in need.

3 (6) The annual cost per person served shall be defined
4 as the total actual funding for each target population divided
5 by the number of persons served in the target population for
6 that year.

7 (7) Commencing on July 1, 1998, all additional funding
8 pursuant to this section shall be performance-based.

9 Section 17. Subsection (2) of section 397.321, Florida
10 Statutes, is amended to read:

11 397.321 Duties of the department.--The department
12 shall:

13 (2) Ensure that a plan for substance abuse services is
14 developed at the district level in accordance with the
15 provisions of part IV of chapter 394, ~~and the state plan~~
16 ~~pursuant to s. 394.79.~~

17 Section 18. By November 1 of each year, the Department
18 of Children and Family Services shall submit a report to the
19 President of the Senate and the Speaker of the House of
20 Representatives which describes the compliance of providers
21 that provide substance abuse treatment programs and mental
22 health services under contract with the Department of Children
23 and Family Services. The report must describe the status of
24 compliance with the annual performance outcome standards
25 established by the Legislature and must address the providers
26 that meet or exceed performance standards, the providers that
27 did not achieve performance standards for which corrective
28 action measures were developed, and the providers whose
29 contracts were terminated due to failure to meet the
30 requirements of the corrective plan.

31

1 Section 19. The Commission on Mental Health and
2 Substance Abuse is directed to study and make recommendations
3 regarding who should receive publicly funded mental health and
4 substance abuse services. The commission shall submit its
5 recommendations to the President of the Senate, the Speaker of
6 the House of Representatives, and the majority and minority
7 leaders of each chamber no later than December 1, 2000.

8 Section 20. Target groups.--The Department of Children
9 and Family Services shall revise its target groups for
10 substance abuse and mental health services approved pursuant
11 to s. 216.0166, Florida Statutes, to include "older adults in
12 crisis," "older adults who are at risk of being placed in a
13 more restrictive environment because of their mental illness
14 or substance abuse," "older adults with severe and persistent
15 mental illness," and "older adults in need of substance abuse
16 treatment." The department shall track and report specifically
17 on substance abuse and mental health services provided to
18 older adults.

19 Section 21. Section 394.79, Florida Statutes, is
20 repealed.

21 Section 22. Subsection (3) of section 400.6065,
22 Florida Statutes, is amended, and subsections (4) through (8)
23 are added to said section, to read:

24 400.6065 Background screening.--

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

31

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

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

8 (6) The administration of each hospice must sign an
9 affidavit annually, under penalty of perjury, stating that all
10 personnel employed or contracted with on or after October 1,
11 1998, who provide hospice services in a facility, or who enter
12 the home of a patient in their service capacity, have been
13 screened.

14 (7) Proof of compliance with the screening
15 requirements of chapter 435 shall be accepted in lieu of the
16 requirements of this section if the person has been
17 continuously employed or registered without a breach in
18 service that exceeds 180 days, the proof of compliance is not
19 more than 2 years old, and the person has been screened, at
20 the discretion of the hospice.

21 (8)(a) 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 1. 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 such person's
28 qualifications to be employed or contracted with under this
29 section;

30 2. Operate or attempt to operate an entity licensed
31 under this part with persons who do not meet the minimum

1 standards for good moral character as contained in this
2 section; or

3 3. Use information from the criminal records obtained
4 under this section for any purpose other than screening as
5 specified in this section, or release such information to any
6 other person for any purpose other than screening under this
7 section.

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

14 Section 23. Part XII of chapter 400, Florida Statutes,
15 consisting of s. 400.980, Florida Statutes, is created,
16 entitled "Health Care Services Pools."

17 Section 24. Section 402.48, Florida Statutes, is
18 renumbered as section 400.980, Florida Statutes, and amended
19 to read:

20 400.980~~402.48~~ Health care services pools.--

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

22 (a) "Agency" means the Agency for Health Care
23 Administration.~~"Department" means the Department of Health.~~

24 (b) "Health care services pool" means any person,
25 firm, corporation, partnership, or association engaged for
26 hire in the business of providing temporary employment in
27 health care facilities, residential facilities, and agencies
28 for licensed, certified, or trained health care personnel
29 including, without limitation, nursing assistants, nurses'
30 aides, and orderlies. However, the term does not include
31 nursing registries, a facility licensed under chapter 400, a

1 health care services pool established within a health care
2 facility to provide services only within the confines of such
3 facility, or any individual contractor directly providing
4 temporary services to a health care facility without use or
5 benefit of a contracting agent.

6 (2) Each person who operates a health care services
7 pool must register each separate business location with the
8 agency ~~department~~. The agency ~~department~~ shall adopt rules
9 and provide forms required for such registration and shall
10 impose a registration fee in an amount sufficient to cover the
11 cost of administering this section. In addition, the
12 registrant must provide the agency ~~department~~ with any change
13 of information contained on the original registration
14 application within 14 days prior to ~~after~~ the change. The
15 agency ~~department~~ may inspect the offices of any health care
16 services pool at any reasonable time for the purpose of
17 determining compliance with this section or the rules adopted
18 under this section.

19 (3) Each application for registration must include:

20 (a) The name and address of any person who has an
21 ownership interest in the business, and, in the case of a
22 corporate owner, copies of the articles of incorporation,
23 bylaws, and names and addresses of all officers and directors
24 of the corporation.

25 (b) Any other information required by the agency
26 ~~department~~.

27 (4) Each applicant for registration must comply with
28 the following requirements:

29 (a) Upon receipt of a completed, signed, and dated
30 application, the agency shall require background screening, in
31 accordance with the level 1 standards for screening set forth

1 in chapter 435, of every individual who will have contact with
2 patients. The agency shall require background screening of the
3 managing employee or other similarly titled individual who is
4 responsible for the operation of the entity, and of the
5 financial officer or other similarly titled individual who is
6 responsible for the financial operation of the entity,
7 including billings for services in accordance with the level 2
8 standards for background screening as set forth in chapter
9 435.

10 (b) The agency may require background screening of any
11 other individual who is affiliated with the applicant if the
12 agency has a reasonable basis for believing that he or she has
13 been convicted of a crime or has committed any other offense
14 prohibited under the level 2 standards for screening set forth
15 in chapter 435.

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

21 (d) A provisional registration may be granted to an
22 applicant when each individual required by this section to
23 undergo background screening has met the standards for the
24 Department of Law Enforcement background check but the agency
25 has not yet received background screening results from the
26 Federal Bureau of Investigation. A standard registration may
27 be granted to the applicant upon the agency's receipt of a
28 report of the results of the Federal Bureau of Investigation
29 background screening for each individual required by this
30 section to undergo background screening which confirms that
31 all standards have been met, or upon the granting of a

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

10 (e) Each applicant must submit to the agency, with its
11 application, a description and explanation of any exclusions,
12 permanent suspensions, or terminations of the applicant from
13 the Medicare or Medicaid programs. Proof of compliance with
14 the requirements for disclosure of ownership and controlling
15 interests under the Medicaid or Medicare programs may be
16 accepted in lieu of this submission.

17 (f) Each applicant must submit to the agency a
18 description and explanation of any conviction of an offense
19 prohibited under the level 2 standards of chapter 435 which
20 was committed by a member of the board of directors of the
21 applicant, its officers, or any individual owning 5 percent or
22 more of the applicant. This requirement does not apply to a
23 director of a not-for-profit corporation or organization who
24 serves solely in a voluntary capacity for the corporation or
25 organization, does not regularly take part in the day-to-day
26 operational decisions of the corporation or organization,
27 receives no remuneration for his or her services on the
28 corporation's or organization's board of directors, and has no
29 financial interest and no family members having a financial
30 interest in the corporation or organization, if the director
31 and the not-for-profit corporation or organization include in

1 the application a statement affirming that the director's
2 relationship to the corporation satisfies the requirements of
3 this paragraph.

4 (g) A registration may not be granted to an applicant
5 if the applicant or managing employee has been found guilty
6 of, regardless of adjudication, or has entered a plea of nolo
7 contendere or guilty to, any offense prohibited under the
8 level 2 standards for screening set forth in chapter 435,
9 unless an exemption from disqualification has been granted by
10 the agency as set forth in chapter 435.

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

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

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

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

23 1. Has falsely represented a material fact in the
24 application required by paragraph (e) or paragraph (f), or has
25 omitted any material fact from the application required by
26 paragraph (e) or paragraph (f); or

27 2. Has had prior action taken against the applicant
28 under the Medicaid or Medicare program as set forth in
29 paragraph (e).

30 3. Fails to comply with this section or applicable
31 rules.

1 4. Commits an intentional, reckless, or negligent act
2 that materially affects the health or safety of a person
3 receiving services.

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

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

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

15 (c) Use information from the criminal records obtained
16 under this section for any purpose other than screening an
17 applicant for temporary employment as specified in this
18 section, or release such information to any other person for
19 any purpose other than screening for employment under this
20 section.

21 (6) 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 (7) It is unlawful for a person to offer or advertise
28 services, as defined by rule, to the public without obtaining
29 a certificate of registration from the Agency for Health Care
30 Administration. It is unlawful for any holder of a certificate
31 of registration to advertise or hold out to the public that he

1 or she holds a certificate of registration for other than that
2 for which he or she actually holds a certificate of
3 registration. Any person who violates this subsection is
4 subject to injunctive proceedings under s. 400.515.

5 (8)(4) Each registration shall be for a period of 2
6 years. The application for renewal must be received by the
7 agency department at least 30 ~~20~~ days before the expiration
8 date of the registration. An application for a new
9 registration is required within 30 days prior to ~~upon~~ the sale
10 of a controlling interest in a health care services pool.

11 (9)(5) A health care services pool may not require an
12 employee to recruit new employees from persons employed at a
13 health care facility to which the health care services pool
14 employee is assigned. Nor shall a health care facility to
15 which employees of a health care services pool are assigned
16 recruit new employees from the health care services pool.

17 (10)(6) A health care services pool shall document
18 that each temporary employee provided to a health care
19 facility ~~is licensed and~~ has met the licensing, certification,
20 training, or ~~and~~ continuing education requirements, as
21 established by the appropriate regulatory agency, for the
22 position in which he or she will be working.

23 (11)(7) When referring persons for temporary
24 employment in health care facilities, a health care services
25 pool shall comply with all pertinent state and federal laws,
26 rules, and regulations of the appropriate regulatory agency
27 relating to health, background screening, and other
28 qualifications required of persons working in a facility of
29 that type of personnel employed in health care facilities.

30 (12)(8)(a) As a condition of registration and prior to
31 the issuance or renewal of a certificate of registration, a

1 health care services pool applicant must prove financial
2 responsibility to pay claims, and costs ancillary thereto,
3 arising out of the rendering of services or failure to render
4 services by the pool or by its employees in the course of
5 their employment with the pool. The agency ~~department~~ shall
6 promulgate rules establishing minimum financial responsibility
7 coverage amounts which shall be adequate to pay potential
8 claims and costs ancillary thereto.

9 (b) Each health care services pool shall give written
10 notification to the agency ~~department~~ within 20 days after any
11 change in the method of assuring financial responsibility or
12 upon cancellation or nonrenewal of professional liability
13 insurance. Unless the pool demonstrates that it is otherwise
14 in compliance with the requirements of this section, the
15 agency ~~department~~ shall suspend the registration license of
16 the pool pursuant to ss. 120.569 and 120.57. Any suspension
17 under this section shall remain in effect until the pool
18 demonstrates compliance with the requirements of this section.

19 (c) Proof of financial responsibility must be
20 demonstrated to the satisfaction of the agency ~~department~~,
21 through one of the following methods:

22 1. Establishing and maintaining an escrow account
23 consisting of cash or assets eligible for deposit in
24 accordance with s. 625.52;

25 2. Obtaining and maintaining an unexpired irrevocable
26 letter of credit established pursuant to chapter 675. Such
27 letters of credit shall be nontransferable and nonassignable
28 and shall be issued by any bank or savings association
29 organized and existing under the laws of this state or any
30 bank or savings association organized under the laws of the
31 United States that has its principal place of business in this

1 state or has a branch office which is authorized under the
2 laws of this state or of the United States to receive deposits
3 in this state; or
4 3. Obtaining and maintaining professional liability
5 coverage from one of the following:
6 a. An authorized insurer as defined under s. 624.09;
7 b. An eligible surplus lines insurer as defined under
8 s. 626.918(2);
9 c. A risk retention group or purchasing group as
10 defined under s. 627.942; or
11 d. A plan of self-insurance as provided in s. 627.357.
12 (d) If financial responsibility requirements are met
13 by maintaining an escrow account or letter of credit, as
14 provided in this section, upon the entry of an adverse final
15 judgment arising from a medical malpractice arbitration award
16 from a claim of medical malpractice either in contract or
17 tort, or from noncompliance with the terms of a settlement
18 agreement arising from a claim of medical malpractice either
19 in contract or tort, the financial institution holding the
20 escrow account or the letter of credit shall pay directly to
21 the claimant the entire amount of the judgment together with
22 all accrued interest or the amount maintained in the escrow
23 account or letter of credit as required by this section,
24 whichever is less, within 60 days after the date such judgment
25 became final and subject to execution, unless otherwise
26 mutually agreed to in writing by the parties. If timely
27 payment is not made, the agency ~~department~~ shall suspend the
28 registration license of the pool pursuant to procedures set
29 forth by the department through rule. Nothing in this
30 paragraph shall abrogate a judgment debtor's obligation to
31 satisfy the entire amount of any judgment.

1 (e) Each health care services pool carrying
2 claims-made coverage must demonstrate proof of extended
3 reporting coverage through either tail or nose coverage, in
4 the event the policy is canceled, replaced, or not renewed.
5 Such extended coverage shall provide coverage for incidents
6 that occurred during the claims-made policy period but were
7 reported after the policy period.

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

12 (g) Meeting the financial responsibility requirements
13 of this section must be established at the time of issuance or
14 renewal of a certificate of registration.

15 ~~(13)(9)~~ The agency department shall adopt rules to
16 implement this section, including rules providing for the
17 establishment of:

18 (a) Minimum standards for the operation and
19 administration of health care personnel pools, including
20 procedures for recordkeeping and personnel.

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

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

26 Section 25. All powers, duties and functions, rules,
27 records, personnel, property, and unexpended balances of
28 appropriations, allocations, or other funds of the Department
29 of Health relating to the regulation of health care services
30 pools are transferred by a type two transfer, as defined in s.

31

1 20.06(2), Florida Statutes, from the Department of Health to
2 the Agency for Health Care Administration.

3 Section 26. Section 415.102, Florida Statutes, is
4 amended to read:

5 415.102 Definitions of terms used in ss.
6 415.101-415.113.--As used in ss. 415.101-415.113, the term:

7 (1) "Abuse" means any willful act or threatened act
8 that causes or is likely to cause significant impairment to a
9 vulnerable adult's physical, mental, or emotional health.

10 Abuse includes acts and omissions.~~"Abuse" means the~~
11 ~~nonaccidental infliction of physical or psychological injury~~
12 ~~or sexual abuse upon a disabled adult or an elderly person by~~
13 ~~a relative, caregiver, or household member, or an action by~~
14 ~~any of those persons which could reasonably be expected to~~
15 ~~result in physical or psychological injury, or sexual abuse of~~
16 ~~a disabled adult or an elderly person by any person. "Abuse"~~
17 ~~also means the active encouragement of any person by a~~
18 ~~relative, caregiver, or household member to commit an act that~~
19 ~~inflicts or could reasonably be expected to result in physical~~
20 ~~or psychological injury to a disabled adult or an elderly~~
21 ~~person.~~

22 (2) "Alleged perpetrator" means a person who has been
23 named by a reporter as the person responsible for abusing,
24 neglecting, or exploiting a vulnerable ~~disabled~~ adult or an
25 elderly person.~~"Alleged perpetrator" also means a person who~~
26 ~~has been named by an adult protective investigator, in a~~
27 ~~report that has been classified as proposed confirmed, as the~~
28 ~~person responsible for abusing, neglecting, or exploiting a~~
29 ~~disabled adult or an elderly person.~~

30 (3) "Capacity to consent" means that a vulnerable
31 ~~disabled~~ adult or elderly person has sufficient understanding

1 to make and communicate responsible decisions regarding the
2 vulnerable disabled adult's ~~or elderly person's~~ person or
3 property, including whether or not to accept protective
4 services offered by the department.

5 (4) "Caregiver" means a person who has been entrusted
6 with or has assumed the responsibility for frequent and
7 regular care of or services to a vulnerable disabled adult ~~or~~
8 ~~an elderly person~~ on a temporary or permanent basis and who
9 has a commitment, agreement, or understanding with that person
10 or that person's guardian that a caregiver role exists.

11 "Caregiver" includes, but is not limited to, relatives,
12 household members, guardians, neighbors, and employees and
13 volunteers of facilities as defined in subsection ~~(8)~~ (8).
14 For the purpose of departmental investigative jurisdiction,
15 the term "caregiver" does not include law enforcement officers
16 or employees of municipal or county detention facilities or
17 the Department of Corrections while acting in an official
18 capacity.

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

22 ~~(a) Some evidence exists that abuse, neglect, or~~
23 ~~exploitation has occurred, but a preponderance of evidence~~
24 ~~cannot be established; or~~

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

28 ~~(6) "Confirmed report" means a proposed confirmed~~
29 ~~report that has been determined to be valid after a hearing~~
30 ~~under s. 415.1075(2), a proposed confirmed report for which~~
31 ~~the alleged perpetrator has failed to request amendment or~~

1 ~~expunction within the time allotted for such a request under~~
2 ~~s. 415.1075(1), or a proposed confirmed report for which the~~
3 ~~alleged perpetrator has failed to request an administrative~~
4 ~~hearing within the time allotted by s. 415.1075(2).~~

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

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

12 ~~(6)(9)~~ "Department" means the Department of Children
13 and Family Services.

14 ~~(10)~~ "Disabled adult" means a person 18 years of age
15 or older who suffers from a condition of physical or mental
16 incapacitation due to a developmental disability, organic
17 brain damage, or mental illness, or who has one or more
18 physical or mental limitations that substantially restrict the
19 ability to perform the normal activities of daily living.

20 ~~(11)~~ "Disabled adult in need of services" means a
21 disabled adult who has been determined by an adult protective
22 services investigator to be suffering from the ill effects of
23 neglect not caused by a second party perpetrator and is in
24 need of protective services or other services to prevent
25 further harm.

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

1 ~~(13) "Elderly person in need of services" means an~~
2 ~~elderly person who has been determined by an adult protective~~
3 ~~services investigator to be suffering from the ill effects of~~
4 ~~neglect not caused by a second party perpetrator and is in~~
5 ~~need of protective services or other services to prevent~~
6 ~~further harm.~~

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

8 1. Stands in a position of trust and confidence with a
9 vulnerable disabled adult ~~or an elderly person~~ and knowingly,
10 by deception or intimidation, obtains or uses, or endeavors to
11 obtain or use, a vulnerable disabled adult's ~~or an elderly~~
12 ~~person's~~ funds, assets, or property with the intent to
13 temporarily or permanently deprive a vulnerable disabled adult
14 ~~or an elderly person~~ of the use, benefit, or possession of the
15 funds, assets, or property for the benefit of someone other
16 than the vulnerable disabled adult ~~or elderly person~~; or

17 2. Knows or should know that the vulnerable disabled
18 ~~adult or elderly person~~ lacks the capacity to consent, and
19 obtains or uses, or endeavors to obtain or use, the vulnerable
20 ~~disabled~~ adult's ~~or elderly person's~~ funds, assets, or
21 property with the intent to temporarily or permanently deprive
22 the vulnerable disabled adult ~~or elderly person~~ of the use,
23 benefit, or possession of the funds, assets, or property for
24 the benefit of someone other than the vulnerable disabled
25 ~~adult or elderly person~~.

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

27 1. Breaches of fiduciary relationships, such as the
28 misuse of a power of attorney or the abuse of guardianship
29 duties, resulting in the unauthorized appropriation, sale, or
30 transfer of property;

31 2. Unauthorized taking of personal assets;

1 3. Misappropriation, misuse, or transfer of moneys
2 belonging to a vulnerable ~~disabled~~ adult ~~or elderly person~~
3 from a personal or joint account; or

4 4. Intentional or negligent failure to effectively use
5 a vulnerable ~~disabled~~ adult's ~~or elderly person's~~ income and
6 assets for the necessities required for that person's support
7 and maintenance.

8 ~~(8)(15)~~ "Facility" means any location providing day or
9 residential care or treatment for vulnerable ~~disabled~~ adults
10 ~~or elderly persons~~. The term "facility" may include, but is
11 not limited to, any hospital, ~~training center,~~ state
12 institution, nursing home, assisted living facility, adult
13 family-care home, adult day care center, group home, or mental
14 health treatment center.

15 ~~(9)(16)~~ "False report" means a report of abuse,
16 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
17 ~~elderly person~~ to the central abuse hotline registry and
18 ~~tracking system~~ which is not true ~~unfounded~~ and is maliciously
19 made for the purpose of:

- 20 (a) Harassing, embarrassing, or harming another
21 person;
22 (b) Personal financial gain for the reporting person;
23 (c) Acquiring custody of a vulnerable ~~disabled~~ adult
24 ~~or an elderly person~~; or
25 (d) Personal benefit for the reporting person in any
26 other private dispute involving a vulnerable ~~disabled~~ adult ~~or~~
27 ~~an elderly person~~.

28
29 The term "false report" does not include a report of abuse,
30 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
31 ~~elderly person~~ which is made in good faith to the central

1 ~~abuse hotline registry and tracking system and which is~~
2 ~~classified as unfounded at the conclusion of the~~
3 ~~investigation.~~

4 (10)~~(17)~~ "Fiduciary relationship" means a relationship
5 based upon the trust and confidence of the vulnerable disabled
6 ~~adult or elderly person~~ in the caregiver, relative, household
7 member, or other person entrusted with the use or management
8 of the property or assets of the vulnerable disabled ~~adult or~~
9 ~~elderly person~~. The relationship exists where there is a
10 special confidence reposed in one who in equity and good
11 conscience is bound to act in good faith and with due regard
12 to the interests of the vulnerable disabled ~~adult or elderly~~
13 ~~person~~. For the purposes of this part, a fiduciary
14 relationship may be formed by an informal agreement between
15 the vulnerable disabled ~~adult or elderly person~~ and the other
16 person and does not require a formal declaration or court
17 order for its existence. A fiduciary relationship includes,
18 but is not limited to, court-appointed or voluntary guardians,
19 trustees, attorneys, or conservators of a vulnerable disabled
20 ~~adult's or an elderly person's~~ assets or property.

21 (11)~~(18)~~ "Guardian" means a person who has been
22 appointed by a court to act on behalf of a person; a preneed
23 guardian, as provided in chapter 744; or a health care
24 surrogate expressly designated ~~by a principal to make health~~
25 ~~care decisions on behalf of the principal upon the principal's~~
26 ~~incapacity~~, as provided in chapter 765.

27 (12)~~(19)~~ "In-home services" means the provision of
28 nursing, personal care, supervision, or other services to
29 vulnerable disabled ~~adults or elderly persons~~ in their own
30 homes.

31

1 ~~(13)(20)~~ "Intimidation" means the communication by
2 word or act to a vulnerable ~~disabled~~ adult ~~or an elderly~~
3 ~~person~~ that that person will be deprived of food, nutrition,
4 clothing, shelter, supervision, medicine, medical services,
5 money, or financial support or will suffer physical violence.

6 ~~(14)(21)~~ "Lacks capacity to consent" means a mental
7 impairment that causes a vulnerable ~~disabled~~ adult ~~or an~~
8 ~~elderly person~~ to lack sufficient understanding or capacity to
9 make or communicate responsible decisions concerning ~~the~~
10 ~~disabled adult's or elderly person's~~ person or property,
11 including whether or not to accept protective services ~~offered~~
12 ~~by the department~~.

13 ~~(15)(22)~~ "Neglect" means the failure or omission on
14 the part of the caregiver ~~or disabled adult or elderly person~~
15 to provide the care, supervision, and services necessary to
16 maintain the physical and mental health of the vulnerable
17 ~~disabled~~ adult ~~or elderly person~~, including, but not limited
18 to, food, clothing, medicine, shelter, supervision, and
19 medical services, that a prudent person would consider
20 essential for the well-being of a vulnerable ~~disabled~~ adult ~~or~~
21 ~~an elderly person~~. The term "neglect" also means the failure
22 of a caregiver to make a reasonable effort to protect a
23 vulnerable ~~disabled~~ adult ~~or an elderly person~~ from abuse,
24 neglect, or exploitation by others. "Neglect" is repeated
25 conduct or a single incident of carelessness which produces or
26 could reasonably be expected to result in serious physical or
27 psychological injury or a substantial risk of death.

28 ~~(23)~~ ~~"No jurisdiction" means the disposition of a~~
29 ~~report that the department does not investigate because the~~
30 ~~report does not meet the criteria specified in ss.~~
31 ~~415.101-415.113.~~

- 1 ~~(16)(24)~~ "Obtains or uses" means any manner of:
- 2 (a) Taking or exercising control over property; ~~or~~
- 3 (b) Making any use, disposition, or transfer of
- 4 property;~~:-~~
- 5 (c) Obtaining property by fraud, willful
- 6 misrepresentation of a future act, or false promise; or
- 7 (d)1. Conduct otherwise known as stealing; larceny;
- 8 purloining; abstracting; embezzlement; misapplication;
- 9 misappropriation; conversion; or obtaining money or property
- 10 by false pretenses, fraud, or deception; or
- 11 2. Other conduct similar in nature.
- 12 ~~(25)~~ "Perpetrator" ~~means the person who has been named~~
- 13 ~~as causing abuse, neglect, or exploitation of a disabled adult~~
- 14 ~~or an elderly person in a report that has been classified as~~
- 15 ~~confirmed.~~
- 16 ~~(17)(26)~~ "Position of trust and confidence" with
- 17 respect to a vulnerable disabled adult ~~or an elderly person~~
- 18 means the position of a person who:
- 19 (a) Is a parent, spouse, adult child, or other
- 20 relative by blood or marriage ~~of the disabled adult or elderly~~
- 21 ~~person;~~
- 22 (b) Is a joint tenant or tenant in common ~~with the~~
- 23 ~~disabled adult or elderly person;~~
- 24 (c) Has a legal or fiduciary relationship ~~with the~~
- 25 ~~disabled adult or elderly person~~, including, but not limited
- 26 to, a court-appointed or voluntary guardian, trustee,
- 27 attorney, or conservator; or
- 28 (d) Is a caregiver ~~of the disabled adult or elderly~~
- 29 ~~person~~ or any other person who has been entrusted with or has
- 30 assumed responsibility for the use or management of the
- 31

1 ~~vulnerable elderly person's or disabled~~ adult's funds, assets,
2 or property.

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

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

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

12 ~~(b) Tangible personal property, including, but not~~
13 ~~limited to, furniture, jewelry, or clothing and intangible~~
14 ~~personal property, including rights, privileges, interests,~~
15 ~~and claims.~~

16 ~~(28) "Proposed confirmed report" means a report of~~
17 ~~abuse, neglect, or exploitation which is made pursuant to s.~~
18 ~~415.1034 when an adult protective investigation alleges that~~
19 ~~there is a preponderance of evidence that abuse, neglect, or~~
20 ~~exploitation occurred and which identifies the alleged~~
21 ~~perpetrator.~~

22 (19)(29) "Protective investigator" means an authorized
23 agent of the department who receives and investigates reports
24 of abuse, neglect, or exploitation of vulnerable adults.

25 ~~"Protective investigator" means an employee of the department~~
26 ~~responsible for:~~

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

30 ~~(b) The determination of immediate risk to a disabled~~
31 ~~adult or an elderly person, which determination must include~~

1 ~~the provision of emergency services and the arrangement for~~
2 ~~immediate in-home and nonemergency services to prevent the~~
3 ~~recurrence of further abuse, neglect, or exploitation; and~~

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

7 (20)~~(30)~~ "Protective services" means ~~the provision or~~
8 ~~arrangement of~~ services to protect a vulnerable disabled adult
9 ~~or an elderly person~~ from further occurrences of abuse,
10 neglect, or exploitation. Such services may include, but are
11 not limited to, protective supervision, placement, and in-home
12 and community-based services.

13 (21)~~(31)~~ "Protective supervision" means those services
14 arranged for or implemented by the department to protect
15 vulnerable disabled adults ~~or elderly persons~~ from further
16 occurrences of abuse, neglect, or exploitation ~~during an~~
17 ~~investigation or following a report that has been classified~~
18 ~~as proposed confirmed or confirmed, or has been closed without~~
19 ~~classification.~~

20 (22)~~(32)~~ "Psychological injury" means an injury to the
21 intellectual functioning or emotional state of a vulnerable
22 ~~disabled~~ adult ~~or an elderly person~~ as evidenced by an
23 observable or measurable reduction in the vulnerable disabled
24 ~~adult's or elderly person's~~ ability to function within that
25 person's customary range of performance and that person's
26 behavior.

27 (23)~~(33)~~ "Records" means all documents, papers,
28 letters, maps, books, tapes, photographs, films, sound
29 recordings, videotapes, or other material, regardless of
30 physical form or characteristics, made or received pursuant to
31 a ~~an~~ adult protective investigation.

1 ~~(24)(34)~~ "Sexual abuse" means acts of a sexual nature
2 committed ~~for the sexual gratification of the abuser and in~~
3 the presence of a vulnerable disabled adult ~~or an elderly~~
4 ~~person~~ without that person's informed consent. "Sexual abuse"
5 includes, but is not limited to, the acts defined in s.
6 794.011(1)(h), fondling, exposure of a vulnerable disabled
7 adult's ~~or elderly person's~~ sexual organs, or the use of a
8 vulnerable disabled adult ~~or an elderly person~~ to solicit for
9 or engage in prostitution or sexual performance. "Sexual
10 abuse" does not include any act intended for a valid medical
11 purpose or any act that may reasonably be construed to be
12 normal caregiving action or appropriate display of affection.

13 ~~(35)~~ "Specified medical personnel" means licensed or
14 certified physicians, osteopathic physicians, nurses,
15 paramedics, advanced registered nurse practitioners,
16 psychologists, psychiatrists, mental health professionals, or
17 any other licensed or certified medical personnel.

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

21 ~~(25)(37)~~ "Victim" means any vulnerable disabled adult
22 ~~or elderly person~~ named in a report of abuse, neglect, or
23 exploitation.

24 (26) "Vulnerable adult" means a person 18 years of age
25 or older whose ability to perform the normal activities of
26 daily living or to provide for his or her own care or
27 protection is impaired due to a mental, emotional, physical,
28 or developmental disability or dysfunctioning, or brain
29 damage, or the infirmities of aging.

30 (27) "Vulnerable adult in need of services" means a
31 vulnerable adult who has been determined by a protective

1 investigator to be suffering from the ill effects of neglect
2 not caused by a second party perpetrator and is in need of
3 protective services or other services to prevent further harm.

4 Section 27. Section 415.103, Florida Statutes, is
5 amended to read:

6 415.103 Central abuse hotline ~~registry and tracking~~
7 ~~system.~~--

8 (1) The department shall establish and maintain a
9 central abuse hotline ~~registry and tracking system~~ that
10 receives all reports made pursuant to s. 415.1034 in writing
11 or through a single statewide toll-free telephone number. Any
12 person may use the statewide toll-free telephone number to
13 report known or suspected abuse, neglect, or exploitation of a
14 vulnerable disabled ~~adult or an elderly person~~ at any hour of
15 the day or night, any day of the week. The central abuse
16 hotline ~~registry and tracking system~~ must be operated in such
17 a manner as to enable the department to:

18 (a) Accept reports for investigation when there is a
19 reasonable cause to suspect that a vulnerable disabled
20 ~~or an elderly person~~ has been or is being abused, neglected,
21 or exploited.

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

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

29 (d) Immediately identify and locate prior reports of
30 abuse, neglect, or exploitation through the central abuse
31 hotline ~~registry and tracking system.~~

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

3 (f) Maintain data to facilitate the production of
4 aggregate statistical reports for monitoring patterns of
5 abuse, neglect, or exploitation of ~~disabled adults or elderly~~
6 ~~persons~~.

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

11 (2) Upon receiving an oral or written report of known
12 or suspected abuse, neglect, or exploitation of a vulnerable
13 ~~disabled adult or an elderly person~~, the central abuse hotline
14 ~~registry and tracking system~~ must determine if the report
15 requires an immediate onsite protective investigation. For
16 reports requiring an immediate onsite protective
17 investigation, the central abuse hotline ~~registry and tracking~~
18 ~~system~~ must immediately notify the department's designated
19 ~~adult~~ protective investigative district staff responsible for
20 protective investigations to ensure prompt initiation of an
21 onsite investigation. For reports not requiring an immediate
22 onsite protective investigation, the central abuse hotline
23 ~~registry and tracking system~~ must notify the department's
24 designated ~~adult~~ protective investigative district staff
25 responsible for protective investigations in sufficient time
26 to allow for an investigation to be commenced within 24 hours.
27 At the time of notification of district staff with respect to
28 the report, the central abuse hotline ~~registry and tracking~~
29 ~~system~~ must also provide any known information on any previous
30 report concerning a subject of the present report or any
31

1 pertinent information relative to the present report or any
2 noted earlier reports.

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

6 Section 28. Section 415.1034, Florida Statutes, is
7 amended to read:

8 415.1034 Mandatory reporting of abuse, neglect, or
9 exploitation of vulnerable ~~disabled~~ adults ~~or elderly persons~~;
10 mandatory reports of death.--

11 (1) MANDATORY REPORTING.--

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

13 1. Physician, osteopathic physician, medical examiner,
14 chiropractic physician, nurse, or hospital personnel engaged
15 in the admission, examination, care, or treatment of
16 vulnerable ~~disabled~~ adults ~~or elderly persons~~;

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

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

21 4. Nursing home staff; assisted living facility staff;
22 adult day care center staff; adult family-care home staff;
23 social worker; or other professional adult care, residential,
24 or institutional staff;

25 5. State, county, or municipal criminal justice
26 employee or law enforcement officer;

27 6. Human rights advocacy committee or long-term care
28 ombudsman council member; or

29 7. Bank, savings and loan, or credit union officer,
30 trustee, or employee,

31

1 who knows, or has reasonable cause to suspect, that a
2 vulnerable ~~disabled adult or an elderly person~~ has been or is
3 being abused, neglected, or exploited shall immediately report
4 such knowledge or suspicion to the central abuse hotline
5 ~~registry and tracking system on the single statewide toll-free~~
6 ~~telephone number.~~

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

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

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

15 3. Name, address, and telephone number of each alleged
16 perpetrator.

17 4. Name, address, and telephone number of the
18 caregiver of the victim ~~disabled adult or elderly person~~, if
19 different from the alleged perpetrator.

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

22 6. Description of the physical or psychological
23 injuries sustained.

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

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

29 (2) MANDATORY REPORTS OF DEATH.--Any person who is
30 required to investigate reports of abuse, neglect, or
31 exploitation and who has reasonable cause to suspect that a

1 vulnerable disabled adult ~~or an elderly person~~ died as a
2 result of abuse, neglect, or exploitation shall immediately
3 report the suspicion to the appropriate medical examiner, to
4 the appropriate criminal justice agency, and to the
5 department, notwithstanding the existence of a death
6 certificate signed by a practicing physician. The medical
7 examiner shall accept the report for investigation pursuant to
8 s. 406.11 and shall report the findings of the investigation,
9 in writing, to the appropriate local criminal justice agency,
10 the appropriate state attorney, and the department. Autopsy
11 reports maintained by the medical examiner are not subject to
12 the confidentiality requirements provided for in s. 415.107.

13 Section 29. Section 415.1035, Florida Statutes, is
14 amended to read:

15 415.1035 Facility's duty to inform residents of their
16 right to report abusive, neglectful, or exploitive
17 practices.--The department shall work cooperatively with the
18 Agency for Health Care Administration and the Department of
19 Elderly Affairs to ensure that every facility that serves
20 vulnerable adults informs residents of their right to report
21 abusive, neglectful, or exploitive practices. Each facility
22 must establish appropriate policies and procedures to
23 facilitate such reporting.

24 ~~(1) Every facility that serves disabled adults or~~
25 ~~elderly persons must inform residents of their right to report~~
26 ~~abusive, neglectful, or exploitive practices and must~~
27 ~~establish appropriate policies and procedures to facilitate~~
28 ~~such reporting.~~

29 ~~(2) The statewide toll-free telephone number for the~~
30 ~~central abuse registry and tracking system must be posted in~~
31 ~~all facilities operated by, under contract with, or licensed~~

1 ~~by the department or the Agency for Health Care Administration~~
2 ~~which provide services to disabled adults or elderly persons.~~
3 ~~Such posting must be clearly visible and in a prominent place~~
4 ~~within the facility and must be accompanied by the words, "To~~
5 ~~Report the Abuse, Neglect, or Exploitation of a Disabled Adult~~
6 ~~or an Elderly Person, Please Call:....."~~

7 Section 30. Subsection (1) of section 415.1036,
8 Florida Statutes, is amended to read:

9 415.1036 Immunity.--

10 (1) Any person who participates in making a report
11 under s. 415.1034 or participates in a judicial proceeding
12 resulting therefrom is presumed to be acting in good faith
13 and, unless lack of good faith is shown by clear and
14 convincing evidence, is immune from any liability, civil or
15 criminal, that otherwise might be incurred or imposed. This
16 section does not grant immunity, civil or criminal, to any
17 person who is suspected of having abused, neglected, or
18 exploited, or committed any illegal act upon or against, a
19 vulnerable disabled adult ~~or an elderly person~~. Further, a
20 resident or employee of a facility that serves vulnerable
21 ~~disabled~~ adults ~~or elderly persons~~ may not be subjected to
22 reprisal or discharge because of the resident's or employee's
23 actions in reporting abuse, neglect, or exploitation pursuant
24 to s. 415.1034.

25 Section 31. Section 415.104, Florida Statutes, is
26 amended to read:

27 415.104 Protective ~~services~~ investigations of cases of
28 abuse, neglect, or exploitation of vulnerable aged persons ~~or~~
29 ~~disabled~~ adults; transmittal of records to state attorney.--

30 (1) The department shall, upon receipt of a report
31 alleging abuse, neglect, or exploitation of a vulnerable an

1 ~~aged person or disabled adult, begin~~ commence, ~~or cause to be~~
2 ~~commenced~~ within 24 hours, ~~a protective services investigation~~
3 ~~of the facts alleged therein. If, upon arrival of the~~
4 ~~protective investigator at the scene of the incident, a~~
5 ~~caregiver refuses to allow the department to begin a~~
6 ~~protective services investigation or interferes with the~~
7 ~~department's ability to conduct~~ of ~~such an investigation, the~~
8 ~~appropriate law enforcement agency shall be contacted for~~
9 ~~assistance to assist the department in commencing the~~
10 ~~protective services investigation.~~ If, during the course of
11 the investigation, the department has reason to believe that
12 the abuse, neglect, or exploitation is perpetrated by a second
13 party, the appropriate law enforcement ~~criminal justice~~ agency
14 and state attorney shall be orally notified. The department
15 and the law enforcement agency shall cooperate to allow the
16 criminal investigation to proceed concurrently with, and not
17 be hindered by, the protective investigation. ~~in order that~~
18 ~~such agencies may begin a criminal investigation concurrent~~
19 ~~with the protective services investigation of the department.~~
20 ~~In an institutional investigation, the alleged perpetrator may~~
21 ~~be represented by an attorney, at his or her own expense, or~~
22 ~~accompanied by another person, if the person or the attorney~~
23 ~~executes an affidavit of understanding with the department and~~
24 ~~agrees to comply with the confidentiality provisions of s.~~
25 ~~415.107. The absence of an attorney or other person does not~~
26 ~~prevent the department from proceeding with other aspects of~~
27 ~~the investigation, including interviews with other persons.~~
28 The department shall make a preliminary written report to the
29 law enforcement ~~criminal justice~~ agencies within 5 working
30 days after the oral report. The department shall, within 24
31 hours after receipt of the report, notify the appropriate

1 human rights advocacy committee, or long-term care ombudsman
2 council, when appropriate, that an alleged abuse, neglect, or
3 exploitation perpetrated by a second party has occurred.

4 Notice to the human rights advocacy committee or long-term
5 care ombudsman council may be accomplished orally or in
6 writing and shall include the name and location of the
7 vulnerable ~~aged person or disabled~~ adult alleged to have been
8 abused, neglected, or exploited and the nature of the report.

9 (2) Upon commencing an investigation, the protective
10 investigator shall inform all of the vulnerable adults and
11 alleged perpetrators named in the report of the following:

12 (a) The names of the investigators and identifying
13 credentials from the department.

14 (b) The purpose of the investigation.

15 (c) That the victim, the victim's guardian, the
16 victim's caregiver, and the alleged perpetrator, and legal
17 counsel for any of those persons, have a right to a copy of
18 the report at the conclusion of the investigation.

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

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

23
24 Any person being interviewed by a protective investigator may
25 be represented by an attorney, at the person's own expense, or
26 may choose to have another person present. The other person
27 present may not be an alleged perpetrator in any report
28 currently under investigation. Before participating in such
29 interview, the other person present shall execute an agreement
30 to comply with the confidentiality requirements of ss.
31 415.101-415.113. The absence of an attorney or other person

1 does not prevent the department from proceeding with other
2 aspects of the investigation, including interviews with other
3 persons. In an investigative interview with a vulnerable
4 adult, the protective investigator may conduct the interview
5 with no other person present.

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

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

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

12 (c) ~~(b)~~ Determine the composition of the family or
13 household, including the name, address, date of birth, social
14 security number, sex, and race of each aged person in the
15 household ~~or disabled adult named in the report; any others in~~
16 ~~the household or in the care of the caregiver, or any other~~
17 ~~persons responsible for the aged person's or disabled adult's~~
18 ~~welfare; and any other adults in the same household.~~

19 (d) ~~(c)~~ Determine whether there is an indication that a
20 vulnerable ~~any aged person or disabled~~ adult is abused,
21 neglected, or exploited, ~~including a determination of harm or~~
22 ~~threatened harm to any aged person or disabled adult;~~

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

25 (f) Determine, if possible, ~~and a determination as to~~
26 the person or persons apparently responsible for the abuse,
27 neglect, or exploitation, including ~~the name, address, date of~~
28 ~~birth, social security number, sex, and race of each person to~~
29 ~~be classified as an alleged perpetrator in a proposed~~
30 ~~confirmed report. An alleged perpetrator named in a proposed~~
31 ~~confirmed report of abuse, neglect, or exploitation shall~~

1 ~~cooperate in the provision of the required data for the~~
2 ~~central abuse registry and tracking system to the fullest~~
3 ~~extent possible.~~

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

7 (h)~~(e)~~ Determine the protective, treatment, and
8 ameliorative services necessary to safeguard and ensure the
9 vulnerable ~~aged person's or disabled~~ adult's well-being and
10 cause the delivery of those services ~~through the early~~
11 ~~intervention of the departmental worker responsible for~~
12 ~~service provision and management of identified services.~~

13 (4)~~(2)~~ No later than 60 ~~30~~ days after receiving the
14 initial report, the designated protective investigative adult
15 ~~services~~ staff of the department shall complete the ~~its~~
16 investigation and ~~classify the report as proposed confirmed or~~
17 ~~unfounded or close the report without classification and~~
18 notify the guardian of the vulnerable ~~aged person or disabled~~
19 adult, the vulnerable ~~aged person or disabled~~ adult, and the
20 caregiver of any recommendations of services to be provided to
21 ameliorate the causes or effects of abuse, neglect, or
22 exploitation ~~alleged perpetrator. These findings must be~~
23 ~~reported to the department's central abuse registry and~~
24 ~~tracking system. For proposed confirmed reports, after~~
25 ~~receiving the final administrative order rendered in a hearing~~
26 ~~requested pursuant to s. 415.103(3)(d) or after the 30-day~~
27 ~~period during which an alleged perpetrator may request such a~~
28 ~~hearing has expired, the department shall classify the report~~
29 ~~of abuse, neglect, or exploitation as confirmed or unfounded~~
30 ~~and shall report its findings to the department's central~~

31

1 ~~abuse registry and tracking system, and must do so in~~
2 ~~accordance with the final order if a hearing was held.~~

3 (5)~~(3)~~ Whenever the law enforcement ~~criminal justice~~
4 agency and the department have conducted independent
5 investigations, the law enforcement ~~criminal justice~~ agency
6 shall, within 5 working days after concluding its
7 investigation, report its findings ~~from its investigation~~ to
8 the state attorney and to the department.

9 (6)~~(4)~~ Upon receipt of a report which alleges that an
10 employee or agent of the department acting in an official
11 capacity has committed an act of abuse, neglect, or
12 exploitation, the department shall commence, or cause to be
13 commenced ~~within 24 hours~~, a protective ~~services~~ investigation
14 and shall notify the state attorney in whose circuit the
15 alleged abuse, neglect, or exploitation occurred.

16 (7)~~(5)~~ With respect to any case of reported abuse,
17 neglect, or exploitation of a vulnerable ~~an aged person or~~
18 ~~disabled~~ adult, the department, when appropriate, shall
19 transmit all relevant reports ~~received by it which pertain to~~
20 ~~the investigation~~ to the state attorney of the circuit where
21 the incident occurred.

22 (8)~~(6)~~ Within 15 days after ~~of~~ completion of the state
23 attorney's investigation of a case reported to him or her
24 pursuant to this section, the state attorney shall report his
25 or her findings to the department and shall include a
26 determination of whether or not prosecution is justified and
27 appropriate in view of the circumstances of the specific case.

28 (9)~~(7)~~ The department shall not use a warning,
29 reprimand, or disciplinary action against an employee found
30 in that employee's personnel records, as the sole basis for a
31 finding of abuse, neglect, or exploitation.

1 Section 32. Section 415.1045, Florida Statutes, is
2 amended to read:

3 415.1045 ~~Protective investigations; onsite~~
4 ~~investigations; Photographs, videotapes, and medical~~
5 ~~examinations; abrogation of privileged communications;~~
6 ~~confidential records and documents; classification or closure~~
7 ~~of records.--~~

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

9 ~~(a) The department shall, upon receipt of a report~~
10 ~~alleging abuse or neglect of a disabled adult or an elderly~~
11 ~~person, commence, or cause to be commenced within 24 hours, a~~
12 ~~protective investigation of the facts alleged therein. The~~
13 ~~department shall, upon receipt of a report alleging only the~~
14 ~~exploitation of a disabled adult or an elderly person,~~
15 ~~commence, or cause to be commenced within 24 hours, excluding~~
16 ~~Saturdays, Sundays, and legal holidays, a protective~~
17 ~~investigation of the facts alleged therein.~~

18 ~~(b) Upon commencing an investigation, the adult~~
19 ~~protective investigator shall inform all disabled adults and~~
20 ~~elderly persons and alleged perpetrators named in the report~~
21 ~~of the following:~~

22 ~~1. The names of the investigators and identifying~~
23 ~~credentials from the department.~~

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

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

26 ~~4. That the victim, the victim's guardian, the~~
27 ~~victim's caregiver, and the alleged perpetrator, and legal~~
28 ~~counsel for any of those persons, have a right to a copy of~~
29 ~~the report at the conclusion of the investigation.~~

30

31

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

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

7 ~~(c) Except as provided in paragraph (d), in an~~
8 ~~investigative interview, any person being interviewed may be~~
9 ~~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.~~

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

22 ~~(2) ONSITE INVESTIGATIONS. For each report it~~
23 ~~receives, the department shall perform an onsite investigation~~
24 ~~to:~~

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

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

30 ~~(c) Determine whether there is an indication that any~~
31 ~~disabled adult or elderly person has been or is being abused,~~

1 ~~neglected, or exploited, including a determination of the~~
2 ~~immediate and long-term risk; the nature and extent of present~~
3 ~~or prior injuries; and the nature and extent of any abuse,~~
4 ~~neglect, or exploitation, and any evidence thereof.~~

5 ~~(d) Determine whether protective and ameliorative~~
6 ~~services are necessary to safeguard and ensure the disabled~~
7 ~~adult's or elderly person's well-being and cause the delivery~~
8 ~~of those services.~~

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

11 ~~(f) Determine the composition of the family or~~
12 ~~household, including all disabled adults and elderly persons~~
13 ~~named in the report, all persons in the care of the caregiver,~~
14 ~~any other persons responsible for the disabled adult's or~~
15 ~~elderly person's welfare, and any other adults or children in~~
16 ~~the same household.~~

17 ~~(g) Gather appropriate demographic data. Each person~~
18 ~~must cooperate to the fullest extent possible by providing the~~
19 ~~person's name, address, date of birth, social security number,~~
20 ~~sex, and race to the department's representative.~~

21 (1)~~(3)~~ PHOTOGRAPHS AND VIDEOTAPES.--

22 (a) The ~~adult~~ protective investigator, while
23 investigating a report of abuse, neglect, or exploitation, may
24 take or cause to be taken photographs and videotapes of the
25 vulnerable disabled adult or elderly person, and of his or her
26 ~~the disabled adult's or elderly person's~~ environment, which
27 are relevant to the investigation. All photographs and
28 videotapes taken during the course of the protective
29 investigation are confidential and exempt from public
30 disclosure as provided in s. 415.107.

31

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

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

5 (a) With the consent of the vulnerable ~~disabled~~ adult
6 ~~or elderly person~~ who has the capacity to consent or the
7 vulnerable ~~disabled~~ adult's ~~or elderly person's~~ guardian, or
8 pursuant to s. 415.1051, the department may cause the
9 vulnerable ~~disabled~~ adult ~~or elderly person~~ to be referred to
10 a licensed physician or any emergency department in a hospital
11 or health care facility for medical examination, diagnosis, or
12 treatment if any of the following circumstances exist:

13 1. The areas of trauma visible on the vulnerable
14 ~~disabled~~ adult ~~or elderly person~~ indicate a need for medical
15 examination;

16 2. The vulnerable ~~disabled~~ adult ~~or elderly person~~
17 verbally complains or otherwise exhibits signs or symptoms
18 indicating a need for medical attention as a consequence of
19 suspected abuse, neglect, or exploitation; or

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

22 (b) Upon admission to a hospital or health care
23 facility, with the consent of the vulnerable ~~disabled~~ adult ~~or~~
24 ~~elderly person~~ who has capacity to consent or that person's
25 guardian, or pursuant to s. 415.1051, the medical staff of the
26 facility may examine, diagnose, or treat the vulnerable
27 ~~disabled~~ adult ~~or elderly person~~. If a person who has legal
28 authority to give consent for the provision of medical
29 treatment to a vulnerable ~~disabled~~ adult ~~or elderly person~~ has
30 not given or has refused to give such consent, examination and
31 treatment must be limited to reasonable examination of the

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

8 (c) Medical examination, diagnosis, and treatment
9 provided under this subsection must be paid for by third-party
10 reimbursement, if available, or by the vulnerable disabled
11 adult, if he or she is ~~or elderly person or that person's~~
12 ~~guardian from the disabled adult's or elderly person's assets,~~
13 ~~if the disabled adult or elderly person is determined to be~~
14 ~~financially able to pay; or, if he or she ~~the disabled adult~~~~
15 ~~or elderly person is unable to pay, the department shall pay~~
16 the costs within available emergency services funds.

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

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

23 (3)~~(5)~~ ABROGATION OF PRIVILEGED COMMUNICATIONS.--The
24 privileged quality of communication between husband and wife
25 and between any professional and the professional's patient or
26 client, and any other privileged communication except that
27 between attorney and client or clergy and person, as such
28 communication relates to both the competency of the witness
29 and to the exclusion of confidential communications, does not
30 apply to any situation involving known or suspected abuse,
31 neglect, or exploitation of a vulnerable disabled ~~adult or an~~

1 ~~elderly person~~ and does not constitute grounds for failure to
2 report as required by s. 415.1034, for failure to cooperate
3 with the department in its activities under ss.
4 415.101-415.113, or for failure to give evidence in any
5 judicial or administrative proceeding relating to abuse,
6 neglect, or exploitation of a vulnerable ~~disabled~~ adult ~~or an~~
7 ~~elderly person~~.

8 ~~(4)(6)~~ MEDICAL, SOCIAL, OR FINANCIAL RECORDS OR
9 DOCUMENTS.--

10 (a) The ~~adult~~ protective investigator, while
11 investigating a report of abuse, neglect, or exploitation,
12 must have access to, inspect, and copy all medical, social, or
13 financial records or documents in the possession of any
14 person, caregiver, guardian, or facility which are relevant to
15 the allegations under investigation, unless specifically
16 prohibited by the vulnerable ~~disabled~~ adult ~~or elderly person~~
17 who has capacity to consent.

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

- 21 1. Report as required by s. 415.1034;
- 22 2. Cooperate with the department in its activities
23 under ss. 415.101-415.113;
- 24 3. Give access to such records or documents; or
- 25 4. Give evidence in any judicial or administrative
26 proceeding relating to abuse, neglect, or exploitation of a
27 vulnerable ~~disabled~~ adult ~~or an elderly person~~.

28 (5) ACCESS TO RECORDS AND DOCUMENTS.--If any person
29 refuses to allow the protective investigator to have access
30 to, inspect, or copy any medical, social, or financial record
31 or document in the possession of any person, caregiver,

1 guardian, or facility which is relevant to the allegations
2 under investigation, the department may petition the court for
3 an order requiring the person to allow access to the record or
4 document. The petition must allege specific facts sufficient
5 to show that the record or document is relevant to the
6 allegations under investigation and that the person refuses to
7 allow access to such record or document. If the court finds
8 by a preponderance of the evidence that the record or document
9 is relevant to the allegations under investigation, the court
10 may order the person to allow access to and permit the
11 inspection or copying of the medical, social, or financial
12 record or document.

13 (6) WORKING AGREEMENTS.--The department shall enter
14 into working agreements with the jurisdictionally responsible
15 county sheriffs' office or local police department that will
16 be the lead agency when conducting any criminal investigation
17 arising from an allegation of abuse, neglect, or exploitation
18 of a vulnerable adult. The working agreement must specify how
19 the requirements of this chapter will be met. For the purposes
20 of such agreement, the jurisdictionally responsible law
21 enforcement entity is authorized to share Florida criminal
22 history and local criminal history information that is not
23 otherwise exempt from s. 119.07(1) with the district
24 personnel. A law enforcement entity entering into such
25 agreement must comply with s. 943.0525. Criminal justice
26 information provided by such law enforcement entity shall be
27 used only for the purposes specified in the agreement and
28 shall be provided at no charge. Notwithstanding any other
29 provision of law, the Department of Law Enforcement shall
30 provide to the department electronic access to Florida
31 criminal justice information which is lawfully available and

1 not exempt from s. 119.07(1), only for the purpose of
2 protective investigations and emergency placement. As a
3 condition of access to such information, the department shall
4 be required to execute an appropriate user agreement
5 addressing the access, use, dissemination, and destruction of
6 such information and to comply with all applicable laws and
7 rules of the Department of Law Enforcement.

8 ~~(7) CLASSIFICATIONS AND CLOSURES.--No later than 45~~
9 ~~days after receiving an initial report in which the department~~
10 ~~has jurisdiction, the adult protective investigator shall~~
11 ~~complete the investigation and classify the report as proposed~~
12 ~~confirmed or unfounded, or close the report without~~
13 ~~classification. The adult protective investigator must~~
14 ~~document the details of the investigation, close the report,~~
15 ~~and enter the data into the central abuse registry and~~
16 ~~tracking system no later than 60 days after receiving the~~
17 ~~initial report.~~

18 Section 33. Section 415.105, Florida Statutes, is
19 amended to read:

20 415.105 Provision of protective services with consent;
21 withdrawal of consent; interference.--

22 (1) PROTECTIVE SERVICES WITH CONSENT.--If the
23 department determines through its investigation that a
24 vulnerable disabled adult ~~or an elderly person~~ demonstrates a
25 need for protective services or protective supervision, the
26 department shall immediately provide, or arrange for the
27 provision of, protective services or protective supervision,
28 including in-home services, provided that the vulnerable
29 ~~disabled~~ adult ~~or elderly person~~ consents. A vulnerable adult
30 ~~disabled person~~ in need of services as defined in s. 415.102
31 shall be referred to the community care for disabled adults

1 program, or. ~~An elderly person in need of services as defined~~
2 ~~in s. 415.102 shall be referred~~ to the community care for the
3 elderly program administered by the Department of Elderly
4 Affairs.

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

9 (3) INTERFERENCE WITH THE PROVISION OF PROTECTIVE
10 SERVICES.--When any person refuses to allow the provision of
11 protective services to a vulnerable adult who has the capacity
12 to consent to services, the department shall petition the
13 court for an order enjoining the person from interfering with
14 the provision of protective services. The petition must
15 allege specific facts sufficient to show that the vulnerable
16 adult is in need of protective services and that the person
17 refuses to allow the provision of such services. If the court
18 finds by clear and convincing evidence that the vulnerable
19 adult is in need of protective services and that the person
20 refuses to allow the provision of such services, the court may
21 issue an order enjoining the person from interfering with the
22 provision of protective services to the vulnerable adult.

23 Section 34. Section 415.1051, Florida Statutes, is
24 amended to read:

25 415.1051 Protective services interventions when
26 capacity to consent is lacking; nonemergencies; emergencies;
27 orders; limitations.--

28 (1) NONEMERGENCY PROTECTIVE SERVICES
29 INTERVENTIONS.--If the department has reasonable cause to
30 believe that a vulnerable ~~disabled~~ ~~adult or elderly person~~ is
31 being abused, neglected, or exploited and is in need of

1 protective services but lacks the capacity to consent to
2 protective services, the department shall petition the court
3 for an order authorizing the provision of protective services.

4 (a) Nonemergency protective services petition.--The
5 petition must state the name, age, and address of the
6 vulnerable ~~disabled~~ adult ~~or elderly person~~, allege specific
7 facts sufficient to show that the vulnerable ~~disabled~~ adult ~~or~~
8 ~~elderly person~~ is in need of protective services and lacks the
9 capacity to consent to them, and indicate the services needed.

10 (b) Notice.--Notice of the filing of the petition and
11 a copy of the petition must be given to the vulnerable
12 ~~disabled~~ adult ~~or elderly person~~, to that person's spouse,
13 guardian, and legal counsel, and, when known, to the adult
14 children or next of kin of the vulnerable ~~disabled~~ adult ~~or~~
15 ~~elderly person~~. Such notice must be given at least 5 days
16 before the hearing.

17 (c) Hearing.--

18 1. The court shall set the case for hearing within 14
19 days after the filing of the petition. The vulnerable
20 ~~disabled~~ adult ~~or elderly person~~ and any person given notice
21 of the filing of the petition have the right to be present at
22 the hearing. The department must make reasonable efforts to
23 ensure the presence of the vulnerable ~~disabled~~ adult ~~or~~
24 ~~elderly person~~ at the hearing.

25 2. The vulnerable ~~disabled~~ adult ~~or elderly person~~ has
26 the right to be represented by legal counsel at the hearing.
27 The court shall appoint legal counsel to represent a
28 vulnerable ~~disabled~~ adult ~~or elderly person~~ who is without
29 legal representation.

30 3. The court shall determine whether:
31

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

3 b. The vulnerable ~~disabled adult or elderly person~~
4 lacks the capacity to consent to the provision of such
5 services.

6 (d) Hearing findings.--If at the hearing the court
7 finds by clear and convincing evidence that the vulnerable
8 ~~disabled adult or elderly person~~ is in need of protective
9 services and lacks the capacity to consent ~~to protective~~
10 ~~services~~, the court may issue an order authorizing the
11 provision of protective services. If an order for protective
12 services is issued, it must include a statement of the
13 services to be provided and designate an individual or agency
14 to be responsible for performing or obtaining the essential
15 services on behalf of the vulnerable ~~disabled adult or elderly~~
16 ~~person~~ or otherwise consenting to protective services on
17 behalf of the vulnerable ~~disabled adult or elderly person~~.

18 (e) Continued protective services.--

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

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

25 b. Protective services will be continued for the
26 vulnerable ~~disabled adult or elderly person~~ who lacks
27 capacity;

28 c. Protective services will be discontinued; or

29 d. A petition for guardianship should be filed
30 pursuant to chapter 744.

31

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

6 (f) Costs.--The costs of services ordered under this
7 section must be paid by the perpetrator if the perpetrator is
8 financially able to do so; or by third-party reimbursement, if
9 available. If the vulnerable ~~disabled~~ adult ~~or elderly person~~
10 is unable to pay for guardianship, application may be made to
11 the public guardian for public guardianship services, if
12 available.

13 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If
14 the department has reasonable cause to believe that a
15 vulnerable ~~disabled~~ adult ~~or an elderly person~~ is suffering
16 from abuse or neglect that presents a risk of death or serious
17 physical injury to the vulnerable ~~disabled~~ adult ~~or elderly~~
18 ~~person~~ and that the vulnerable ~~disabled~~ adult ~~or elderly~~
19 ~~person~~ lacks the capacity to consent to emergency protective
20 services, the department may take action under this
21 subsection. If the vulnerable ~~disabled~~ adult ~~or elderly~~
22 ~~person~~ has the capacity to consent and refuses consent to
23 emergency protective services, emergency protective services
24 may not be provided.

25 (a) Emergency entry of premises.--If, upon arrival at
26 the scene of the incident, consent is not obtained for access
27 to the alleged victim for purposes of conducting a protective
28 investigation under this subsection and the department has
29 reason to believe that the situation presents a risk of death
30 or serious physical injury, a representative of the department
31 and a law enforcement officer may forcibly enter the premises.

1 If, after obtaining access to the alleged victim, it is
2 determined through a personal assessment of the situation that
3 no emergency exists and there is no basis for emergency
4 protective services intervention under this subsection, the
5 department shall terminate the emergency entry ~~and may provide~~
6 ~~protective services with the consent of the disabled adult or~~
7 ~~elderly person or may petition the court to provide~~
8 ~~nonemergency protective services or protective supervision~~
9 ~~pursuant to subsection (1).~~

10 (b) Emergency removal from premises.--If it appears
11 that the vulnerable ~~disabled~~ adult ~~or elderly person~~ lacks the
12 capacity to consent to emergency protective services and that
13 the vulnerable ~~disabled~~ adult ~~or elderly person~~, from the
14 personal observations of the representative of the department
15 and specified medical personnel or law enforcement officers,
16 is likely to incur a risk of death or serious physical injury
17 if such person is not immediately removed from the premises,
18 then the representative of the department shall transport or
19 arrange for the transportation of the vulnerable ~~disabled~~
20 adult ~~or elderly person~~ to an appropriate medical or
21 protective services facility in order to provide emergency
22 protective services. Law enforcement personnel have a duty to
23 transport when medical transportation is not available or
24 needed and the vulnerable ~~disabled~~ adult ~~or elderly person~~
25 presents a threat of injury to self or others. If the
26 vulnerable ~~disabled~~ adult's ~~or elderly person's~~ caregiver or
27 guardian is present, the ~~adult~~ protective investigator must
28 seek the caregiver's or guardian's consent pursuant to
29 subsection (4) before the vulnerable ~~disabled~~ adult ~~or elderly~~
30 ~~person~~ may be removed from the premises, unless the ~~adult~~
31 protective investigator suspects that the vulnerable ~~disabled~~

1 adult's ~~or elderly person's~~ caregiver or guardian has caused
2 the abuse, neglect, or exploitation ~~to the disabled adult or~~
3 ~~elderly person~~. The department shall, within 24 hours after
4 providing or arranging for emergency removal of the vulnerable
5 ~~disabled adult or elderly person~~, excluding Saturdays,
6 Sundays, and legal holidays, petition the court for an order
7 authorizing emergency protective services.

8 (c) Emergency medical treatment.--If, upon admission
9 to a medical facility, it is the opinion of the medical staff
10 that immediate medical treatment is necessary to prevent
11 serious physical injury or death, and that such treatment does
12 not violate a known health care advance directive prepared by
13 the vulnerable disabled ~~adult or elderly person~~, the medical
14 facility may proceed with treatment to the vulnerable disabled
15 ~~adult or elderly person~~. If a person with legal authority to
16 give consent for the provision of medical treatment to a
17 vulnerable disabled ~~adult or an elderly person~~ has not given
18 or has refused to give such consent, examination and treatment
19 must be limited to reasonable examination of the patient to
20 determine the medical condition of the patient and treatment
21 reasonably necessary to alleviate the emergency medical
22 condition or to stabilize the patient pending court
23 determination of the department's petition authorizing
24 emergency protective services. Any person may seek an
25 expedited judicial intervention under rule 5.900 of the
26 Florida Probate Rules concerning medical treatment procedures.

27 (d) Emergency protective services petition.--A
28 petition filed under this subsection must state the name, age,
29 and address of the vulnerable disabled ~~adult or elderly person~~
30 and allege the facts constituting the emergency protective
31 services intervention and subsequent removal of the vulnerable

1 ~~disabled adult or elderly person~~ or provision of in-home
2 services, the facts relating to the capacity of the vulnerable
3 ~~disabled adult or elderly person~~ to consent to services, the
4 efforts of the department to obtain consent, and the services
5 needed or delivered.

6 (e) Notice.--Notice of the filing of the emergency
7 protective services petition and a copy of the petition must
8 be given to the vulnerable ~~disabled adult or elderly person~~,
9 to that person's spouse, to that person's guardian, if any, to
10 legal counsel representing the vulnerable ~~disabled adult or~~
11 ~~elderly person~~, and, when known, to adult children or next of
12 kin of the vulnerable ~~disabled adult or elderly person~~. Such
13 notice must be given at least 24 hours before any hearing on
14 the petition for emergency protective services.

15 (f) Hearing.--When emergency removal has occurred
16 under this subsection, a hearing must be held within 4 days
17 after the filing of the emergency protective services
18 petition, excluding Saturday, Sunday, and legal holidays, to
19 establish reasonable cause for grounds to continue emergency
20 protective services.

21 1. The court shall determine, by clear and convincing
22 evidence, whether an emergency existed which justified the
23 emergency protective services intervention, whether the
24 vulnerable ~~disabled adult or elderly person~~ is in need of
25 emergency protective services, whether the vulnerable ~~disabled~~
26 ~~adult or elderly person~~ lacks the capacity to consent to
27 emergency protective services, and whether:

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

31

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

4 c. Emergency protective services will be discontinued.

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

10 3. The department must make reasonable efforts to
11 ensure the presence of the vulnerable ~~disabled~~ adult ~~or~~
12 ~~elderly person~~ at the hearing.

13 4. If an order to continue emergency protective
14 services is issued, it must state the services to be provided
15 and designate an individual or agency to be responsible for
16 performing or obtaining the essential services ~~on behalf of~~
17 ~~the disabled adult or elderly person~~, or otherwise consenting
18 to protective services on behalf of the vulnerable ~~disabled~~
19 adult ~~or elderly person~~.

20 (g) Continued emergency protective services.--

21 1. Not more than 60 days after the date of the order
22 authorizing the provision of emergency protective services,
23 the department shall petition the court to determine whether:

24 a. Emergency protective services will be continued
25 with the consent of the vulnerable ~~disabled~~ adult ~~or elderly~~
26 ~~person pursuant to subsection (1);~~

27 b. Emergency protective services will be continued for
28 the vulnerable ~~disabled~~ adult ~~or elderly person~~ who lacks
29 capacity;

30 c. Emergency protective services will be discontinued;
31 or

1 d. A petition should be filed under chapter 744.

2 2. If it is decided to file a petition under chapter
3 744, for good cause shown, the court may order continued
4 emergency protective services until a determination is made by
5 the court ~~regarding the disabled adult's or elderly person's~~
6 ~~capacity.~~

7 (h) Costs.--The costs of services ordered under this
8 section must be paid by the perpetrator if the perpetrator is
9 financially able to do so, or by third-party reimbursement, if
10 available. ~~If the disabled adult or elderly person is unable~~
11 ~~to pay for guardianship, application may be made to the public~~
12 ~~guardian for public guardianship services, if available.~~

13 (3) PROTECTIVE SERVICES ORDER.--In ordering any
14 protective services under this section, the court shall adhere
15 to the following limitations:

16 (a) Only such protective services as are necessary to
17 ameliorate the conditions creating the abuse, neglect, or
18 exploitation may be ordered, and the court shall specifically
19 designate the approved services in the order of the court.

20 (b) Protective services ordered may not include a
21 change of residence, unless the court specifically finds such
22 action is necessary to ameliorate the conditions creating the
23 abuse, neglect, or exploitation and the court gives specific
24 approval for such action in the order. Placement may be made
25 to such facilities as adult family-care homes, assisted living
26 facilities, or nursing homes, or to other appropriate
27 facilities. Placement may not be made to facilities for the
28 acutely mentally ill, except as provided in chapter 394.

29 (c) If an order to continue emergency protective
30 services is issued, it must include the designation of an
31 individual or agency to be responsible for performing or

1 obtaining the essential services on behalf of the vulnerable
2 ~~disabled adult or elderly person~~ or otherwise consenting to
3 protective services on behalf of the vulnerable ~~disabled adult~~
4 ~~or elderly person~~.

5 (4) PROTECTIVE SERVICES INTERVENTIONS WITH CAREGIVER
6 OR GUARDIAN PRESENT.--

7 (a) When a vulnerable ~~disabled adult or an elderly~~
8 ~~person~~ who lacks the capacity to consent has been identified
9 ~~in a report as the victim of abuse, neglect, or exploitation~~
10 ~~and evidences a need for emergency or nonemergency protective~~
11 ~~services or protective supervision, and a caregiver or~~
12 ~~guardian who is responsible for the care of the disabled adult~~
13 ~~or elderly person is present, the adult protective~~
14 investigator must first request consent from the caregiver or
15 guardian, if present, before providing protective services or
16 protective supervision, unless the adult protective
17 investigator suspects that the ~~disabled adult's or elderly~~
18 ~~person's~~ caregiver or guardian has caused the abuse, neglect,
19 or exploitation ~~of the disabled adult or elderly person~~.

20 (b) If the caregiver or guardian agrees to engage or
21 provide services designed to prevent further abuse, neglect,
22 or exploitation, the department may provide protective
23 supervision ~~for the disabled adult or elderly person~~.

24 (c) If the caregiver or guardian refuses to give
25 consent or later withdraws consent to agreed-upon services, or
26 otherwise fails to provide needed care and supervision, the
27 department may provide emergency protective services as
28 provided in subsection (2). If emergency protective services
29 are so provided, the department must then petition the court
30 for an order to provide emergency protective services under
31 subsection (3).

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

7 ~~(6)(5)~~ LIMITATIONS.--This section does not limit in
8 any way the authority of the court or a criminal justice
9 officer, or any other duly appointed official, to intervene in
10 emergency circumstances under existing statutes. This section
11 does not limit the authority of any person to file a petition
12 for guardianship under chapter 744.

13 Section 35. Section 415.1052, Florida Statutes, is
14 amended to read:

15 415.1052 Interference with investigation or with the
16 provision of protective services.--

17 (1) If, upon arrival of the ~~adult~~ protective
18 investigator, any person refuses to allow the department to
19 begin a protective investigation, interferes with the
20 department's ability to conduct such an investigation, or
21 refuses to give access to the vulnerable ~~disabled~~ ~~adult~~ ~~or~~
22 ~~elderly person~~, the appropriate law enforcement agency must be
23 contacted to assist the department in commencing the
24 protective investigation.

25 ~~(2) If any person refuses to allow the adult~~
26 ~~protective investigator to have access to, inspect, or copy~~
27 ~~any medical, social, or financial record or document in the~~
28 ~~possession of any person, caregiver, guardian, or facility~~
29 ~~which is relevant to the allegations under investigation, the~~
30 ~~department may petition the court for an order requiring the~~
31 ~~person to give access to the record or document. The petition~~

1 ~~must allege specific facts sufficient to show that the record~~
2 ~~or document is relevant to the allegations under investigation~~
3 ~~and that the person refuses to give access to such record or~~
4 ~~document. If the court finds by a preponderance of the~~
5 ~~evidence that the record or document is relevant to the~~
6 ~~allegations under investigation, the court may order the~~
7 ~~person to give access to and permit the inspection or copying~~
8 ~~of the medical, social, or financial record or document.~~

9 (2)(3) When any person refuses to allow the provision
10 of protective services to the vulnerable ~~disabled~~ adult or
11 ~~elderly person~~ who has the capacity to consent to services,
12 the department shall petition the court for an order enjoining
13 the person from interfering with the provision of protective
14 services. The petition must allege specific facts sufficient
15 to show that the vulnerable ~~disabled~~ adult or ~~elderly person~~
16 is in need of protective services and that the person refuses
17 to allow the provision of such services. If the court finds
18 by clear and convincing evidence that the vulnerable ~~disabled~~
19 ~~adult or elderly person~~ is in need of protective services and
20 that the person refuses to allow the provision of such
21 services, the court may issue an order enjoining the person
22 from interfering with the provision of protective services to
23 the vulnerable ~~disabled~~ adult or ~~elderly person~~.

24 (4) ~~When a court order exists authorizing protective~~
25 ~~services for a disabled adult or an elderly person who lacks~~
26 ~~capacity to consent and any person interferes with the~~
27 ~~provision of such court-ordered protective services to the~~
28 ~~disabled adult or elderly person, the appropriate law~~
29 ~~enforcement agency shall enforce the order of the court.~~

30 Section 36. Section 415.1055, Florida Statutes, is
31 amended to read:

1 415.1055 Notification to administrative entities,
2 ~~subjects, and reporters; notification to law enforcement and~~
3 ~~state attorneys.--~~

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

5 ~~(a) The department shall, within 24 hours after~~
6 ~~receipt of a report of abuse, neglect, or exploitation of a~~
7 ~~disabled adult or an elderly person within a facility,~~
8 ~~excluding Saturdays, Sundays, and legal holidays, notify the~~
9 ~~appropriate human rights advocacy committee and the long-term~~
10 ~~care ombudsman council, in writing, that the department has~~
11 ~~reasonable cause to believe that a disabled adult or an~~
12 ~~elderly person has been abused, neglected, or exploited at the~~
13 ~~facility.~~

14 (1)(b) Upon receipt of a report that alleges that an
15 employee or agent of the department or the Department of
16 Elderly Affairs, acting in an official capacity, has committed
17 an act of abuse, neglect, or exploitation, the department
18 shall notify the state attorney in whose circuit the abuse,
19 neglect, or exploitation occurred. This notification may be
20 oral or written.

21 (2)(c) If at any time during a protective
22 investigation the department has reasonable cause to believe
23 that a vulnerable disabled ~~adult or an elderly person~~ has been
24 abused, neglected, or exploited by another person, the state
25 attorney having jurisdiction in the county in which the abuse,
26 neglect, or exploitation occurred shall be notified
27 immediately, either orally or in writing.

28 (3)(d) If at any time during a protective
29 investigation the department has reasonable cause to believe
30 that a vulnerable disabled ~~adult or an elderly person~~ has been
31 abused, neglected, or exploited by another person, the

1 appropriate law enforcement agency shall be immediately
2 notified. Such agency may begin a criminal investigation
3 concurrent with or independent of the protective investigation
4 of the department. This notification may be oral or written.

5 (4)~~(e)~~ If at any time during a protective
6 investigation the department has reasonable cause to believe
7 that abuse, neglect, or exploitation of a vulnerable ~~disabled~~
8 ~~adult or an elderly person~~ has occurred within a facility that
9 receives Medicaid funds, the department shall notify the
10 Medicaid Fraud Control Unit within the Department of Legal
11 Affairs, Office of the Attorney General, in order that it may
12 begin an investigation concurrent with the protective
13 investigation of the department. This notification may be oral
14 or written.

15 (5)~~(f)~~ If at any time during a protective
16 investigation the department has reasonable cause to believe
17 that an employee of a facility, as defined in s. 415.102~~(13)~~,
18 is the alleged perpetrator of abuse, neglect, or exploitation
19 of a vulnerable ~~disabled~~ ~~adult or an elderly person~~, the
20 department shall notify the Agency for Health Care
21 Administration, Division of Health Quality Assurance, in
22 writing.

23 (6)~~(g)~~ If at any time during a protective
24 investigation the department has reasonable cause to believe
25 that professional licensure violations have occurred, the
26 department shall notify the Division of Medical Quality
27 Assurance within the Department of Health. This notification
28 must be in writing.

29 ~~(7)(h) When a report has been classified as proposed~~
30 ~~confirmed,~~The department shall notify the state attorney
31 having jurisdiction in the county in which the abuse, neglect,

1 or exploitation occurred. ~~The department may submit a report~~
2 ~~that has been closed without classification~~ if evidence
3 indicates that further criminal investigation is warranted.
4 This notification must be in writing.

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

10 ~~(j)~~ ~~At the conclusion of a protective investigation,~~
11 ~~the department shall notify the Agency for Health Care~~
12 ~~Administration when a licensee or a certified nursing~~
13 ~~assistant has been named as perpetrator in a report that has~~
14 ~~been classified as proposed confirmed or confirmed. This~~
15 ~~notification must be in writing.~~

16 (9)(k) When a report has been classified as proposed
17 ~~confirmed in cases~~ involving a guardian of the person or
18 property, or both, is received, the department shall notify
19 the probate court having jurisdiction over the guardianship,
20 ~~of the proposed confirmed report. This notification must be in~~
21 writing.

22 (10) When a report has been received and the
23 department has reason to believe that a vulnerable adult
24 resident of a facility licensed by the Agency for Health Care
25 Administration has been the victim of abuse, neglect, or
26 exploitation, the department shall provide a copy of its
27 investigation to the agency. If the investigation determines
28 that a health professional licensed or certified under the
29 Department of Health may have abused, neglected, or exploited
30 a vulnerable adult, the department shall also provide a copy
31 to the Department of Health.

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

2 ~~(a) In the case of a report that has been classified~~
3 ~~as unfounded, notice of the classification must be given to~~
4 ~~the disabled adult or elderly person, the guardian of that~~
5 ~~person, the caregiver of that person, and the person who had~~
6 ~~been named as the alleged perpetrator. The notice must be~~
7 ~~sent by regular mail and must advise the recipient that the~~
8 ~~report will be expunged in 1 year.~~

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

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

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

20 ~~3. The notice must clearly advise the alleged~~
21 ~~perpetrator that the alleged perpetrator has the right to~~
22 ~~request amendment or expunction of the report within 60 days~~
23 ~~after receipt of the notice, and that failure to request~~
24 ~~amendment or expunction within 60 days means that the report~~
25 ~~will be reclassified as confirmed at the expiration of the 60~~
26 ~~days and that the alleged perpetrator agrees not to contest~~
27 ~~the classification of the report. No further administrative or~~
28 ~~judicial proceedings in the matter are allowed.~~

29 ~~4. The notice must state that, if the report becomes~~
30 ~~confirmed, the alleged perpetrator may be disqualified from~~

31

1 ~~working with children, the developmentally disabled, disabled~~
2 ~~adults, and elderly persons.~~

3 ~~5. Notice of a proposed confirmed report must be~~
4 ~~personally served upon the alleged perpetrator in this state~~
5 ~~by an adult protective investigator, a sheriff, or a private~~
6 ~~process server in the district in which the alleged~~
7 ~~perpetrator resides, works, or can be found. Proof of service~~
8 ~~of the notice must be by affidavit prepared by the individual~~
9 ~~serving the notice upon the alleged perpetrator. The~~
10 ~~affidavit must state the name of the person serving the~~
11 ~~notice, the name of the alleged perpetrator served, the~~
12 ~~location at which the alleged perpetrator was served, and the~~
13 ~~time the notice was served. If the notice of a proposed~~
14 ~~confirmed report cannot be personally served upon the alleged~~
15 ~~perpetrator in this state or if the alleged perpetrator does~~
16 ~~not reside in this state, the notice of the proposed confirmed~~
17 ~~report must be sent by certified mail, return receipt~~
18 ~~requested, forwarding and address correction requested, to the~~
19 ~~last known address of the alleged perpetrator. If an alleged~~
20 ~~perpetrator cannot be served either by personal service or by~~
21 ~~certified mail, the record of the proposed confirmed report~~
22 ~~must be maintained pursuant to s. 415.1065.~~

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

27 ~~7. If a proposed confirmed report becomes confirmed~~
28 ~~because the alleged perpetrator fails to make a timely request~~
29 ~~to amend or expunge the proposed confirmed report, the~~
30 ~~department must give notice of the confirmed classification to~~
31 ~~the perpetrator and the perpetrator's legal counsel.~~

1 ~~a. Notice of the confirmed classification must inform~~
2 ~~the perpetrator that the perpetrator may be disqualified from~~
3 ~~working with children, the developmentally disabled, disabled~~
4 ~~adults, and elderly persons.~~

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

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

9 ~~(c) If a report is closed without classification,~~
10 ~~notice must be given to the guardian of the disabled adult or~~
11 ~~elderly person, the disabled adult or elderly person, the~~
12 ~~caregiver of that person, any person or facility named in the~~
13 ~~report, and the person who had been named as the alleged~~
14 ~~perpetrator. The notice must be sent by regular mail and must~~
15 ~~advise the recipient that:~~

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

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

19 ~~3. Any person or facility named in a report classified~~
20 ~~as closed without classification has the right to request~~
21 ~~amendment or expunction of the report within 60 days after the~~
22 ~~receipt of the notice, and that failure to request amendment~~
23 ~~or expunction within 60 days means that the report will remain~~
24 ~~classified as closed without classification and that the~~
25 ~~person agrees not to contest the classification of the report.~~
26 ~~No further proceeding will be allowed in this matter.~~

27 ~~(d) In the case of a report that has been determined~~
28 ~~by an adult protective services investigator to be either a~~
29 ~~disabled adult in need of services or an elderly person in~~
30 ~~need of services, as defined in s. 415.102, no classification~~
31

1 ~~of the report shall be made and no notification shall be~~
2 ~~required.~~

3 ~~(e) The department shall adopt rules prescribing the~~
4 ~~content of the notices to be provided and requiring uniformity~~
5 ~~of content and appearance of each notice of classification or~~
6 ~~closure without classification.~~

7 ~~(3) NOTIFICATION BY LAW ENFORCEMENT AND STATE~~
8 ~~ATTORNEYS.--~~

9 ~~(a) Whenever the law enforcement agency and the~~
10 ~~department have conducted independent investigations, the law~~
11 ~~enforcement agency shall, within 5 working days after~~
12 ~~concluding its investigation, report its findings to the~~
13 ~~department and to the state attorney.~~

14 ~~(b) Within 15 days after completion of an~~
15 ~~investigation of a case reported to the state attorney under~~
16 ~~this section, the state attorney shall report the findings to~~
17 ~~the department and shall include a determination of whether or~~
18 ~~not prosecution is justified and appropriate in view of the~~
19 ~~circumstances of the specific case.~~

20 Section 37. Subsections (2) and (3) of section
21 415.106, Florida Statutes, are amended to read:

22 415.106 Cooperation by the department and criminal
23 justice and other agencies.--

24 (2) To ensure coordination, communication, and
25 cooperation with the investigation of abuse, neglect, or
26 exploitation of vulnerable disabled adults or elderly persons,
27 the department shall develop and maintain interprogram
28 agreements or operational procedures among appropriate
29 departmental programs and the State Long-Term Care Ombudsman
30 Council, the Statewide Human Rights Advocacy Committee, and
31 other agencies that provide services to vulnerable disabled

1 adults ~~or elderly persons~~. These agreements or procedures must
2 cover such subjects as the appropriate roles and
3 responsibilities of the department in identifying and
4 responding to reports of abuse, neglect, or exploitation of
5 vulnerable disabled adults ~~or elderly persons~~; the provision
6 of services; and related coordinated activities.

7 (3) To the fullest extent possible, the department
8 shall cooperate with and seek cooperation from all appropriate
9 public and private agencies, including health agencies,
10 educational agencies, social service agencies, courts,
11 organizations, or programs providing or concerned with human
12 services related to the prevention, identification, or
13 treatment of abuse, neglect, or exploitation of vulnerable
14 ~~disabled~~ adults ~~and elderly persons~~.

15 Section 38. Section 415.107, Florida Statutes, is
16 amended to read:

17 415.107 Confidentiality of reports and records.--

18 (1) In order to protect the rights of the individual
19 or other persons responsible for the welfare of a vulnerable
20 ~~disabled~~ adult ~~or an elderly person~~, all records concerning
21 reports of abuse, neglect, or exploitation of the vulnerable
22 ~~disabled~~ adult ~~or elderly person~~, including reports made to
23 the central abuse hotline registry and tracking system, and
24 all records generated as a result of such reports shall be
25 confidential and exempt from s. 119.07(1) and may not be
26 disclosed except as specifically authorized by ss.

27 415.101-415.113.

28 (2) Upon the request of the committee chairperson,
29 access to all records shall be granted to staff of the
30 legislative committees with jurisdiction over issues and
31 services related to vulnerable adults, or over the department.

1 All confidentiality provisions that apply to the Department of
2 Children and Family Services continue to apply to the records
3 made available to legislative staff under this subsection.

4 ~~(3)(2)~~ Access to all records, excluding the name of
5 the reporter which shall be released only as provided in
6 subsection (6), shall be granted only to the following
7 persons, officials, and agencies:

8 (a) Employees or agents of the department, of the
9 Agency for Health Care Administration, or of the Department of
10 Elderly Affairs who are responsible for carrying out ~~adult~~
11 protective investigations, ongoing ~~adult~~ protective services,
12 or licensure or approval of nursing homes, assisted living
13 facilities, adult day care centers, adult family-care homes,
14 home care for the elderly, hospices, or other facilities used
15 for the placement of vulnerable ~~disabled~~ adults ~~or elderly~~
16 ~~persons~~.

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

20 (c) The state attorney of the judicial circuit in
21 which the vulnerable ~~disabled~~ adult ~~or elderly person~~ resides
22 or in which the alleged abuse, neglect, or exploitation
23 occurred.

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

28 (e) A court, by subpoena, upon its finding that access
29 to such records may be necessary for the determination of an
30 issue before the court; however, such access must be limited
31 to inspection in camera, unless the court determines that

1 public disclosure of the information contained in such records
2 is necessary for the resolution of an issue then pending
3 before it.

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

7 (g) Any appropriate official of the human rights
8 advocacy committee or long-term care ombudsman council
9 investigating a report of known or suspected abuse, neglect,
10 or exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
11 ~~person~~.

12 (h) Any appropriate official of the department, of the
13 Agency for Health Care Administration, or of the Department of
14 Elderly Affairs who is responsible for:

15 1. Administration or supervision of the programs for
16 the prevention, investigation, or treatment of ~~adult~~ abuse,
17 neglect, or exploitation of vulnerable adults when carrying
18 out an official function; or

19 2. Taking appropriate administrative action concerning
20 an employee alleged to have perpetrated ~~institutional~~ abuse,
21 neglect, or exploitation of a vulnerable ~~disabled~~ adult in an
22 institution ~~or an elderly person~~.

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

26 (j) Employees or agents of an agency of another state
27 that has jurisdiction comparable to the jurisdiction described
28 in paragraph (a).

29 (k) The Public Employees Relations Commission for the
30 sole purpose of obtaining evidence for appeals filed pursuant
31 to s. 447.207. Records may be released only after deletion of

1 all information that specifically identifies persons other
2 than the employee.

3 (1) Any person in the event of the death of a
4 vulnerable disabled adult ~~or elderly person~~ determined to be a
5 result of abuse, neglect, or exploitation. Information
6 identifying the person reporting abuse, neglect, or
7 exploitation shall not be released. Any information otherwise
8 made confidential or exempt by law shall not be released
9 pursuant to this paragraph.

10 ~~(3) The Division of Administrative Hearings may have~~
11 ~~access to a proposed confirmed or a confirmed report,~~
12 ~~excluding the name of the reporter, for purposes of any~~
13 ~~administrative challenge relating to a proposed confirmed or~~
14 ~~confirmed report.~~

15 (4) The Department of Health, the Department of
16 Business and Professional Regulation, and the Agency for
17 Health Care Administration may have access to a ~~confirmed~~
18 report, excluding the name of the reporter, when considering
19 ~~taking~~ disciplinary action against a licensee or certified
20 nursing assistant pursuant to allegations ~~for actions that~~
21 ~~resulted in a confirmed report~~ of abuse, neglect, or
22 exploitation ~~which has been upheld following a chapter 120~~
23 ~~hearing or a waiver of such proceedings.~~

24 (5) The department may release to any professional
25 person such information as is necessary for the diagnosis and
26 treatment of, and service delivery to, a vulnerable disabled
27 adult ~~or an elderly person~~ or the person perpetrating the
28 abuse, neglect, or exploitation.

29 (6) The identity of any person reporting ~~adult~~ abuse,
30 neglect, or exploitation of a vulnerable adult may not be
31 released, without that person's written consent, to any person

1 other than employees of the department responsible for ~~adult~~
2 protective services, the central abuse hotline registry and
3 ~~tracking system~~, or the appropriate state attorney or law
4 enforcement agency. This subsection grants protection only
5 for the person who reported the ~~adult~~ abuse, neglect, or
6 exploitation and protects only the fact that the person is the
7 reporter. This subsection does not prohibit the subpoena of a
8 person reporting the ~~adult~~ abuse, neglect, or exploitation
9 when deemed necessary by the state attorney or the department
10 to protect a vulnerable disabled adult ~~or an elderly person~~
11 who is the subject of a report, if the fact that the person
12 made the report is not disclosed.

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

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

18 ~~(8) The department, upon receipt of the applicable~~
19 ~~fee, shall search its central abuse registry and tracking~~
20 ~~system records pursuant to the requirements of ss. 110.1127,~~
21 ~~393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,~~
22 ~~402.305(1), 402.3055, 402.313, 409.175, 409.176, and 985.407~~
23 ~~for the existence of a confirmed report made on the personnel~~
24 ~~as defined in the foregoing provisions. The department shall~~
25 ~~report the existence of any confirmed report and advise the~~
26 ~~authorized licensing agency, applicant for licensure, or other~~
27 ~~authorized agency or person of the results of the search and~~
28 ~~the date of the report. Prior to a search being conducted, the~~
29 ~~department or its designee shall notify such person that an~~
30 ~~inquiry will be made. The department shall notify each person~~

31

1 ~~for whom a search is conducted of the results of the search~~
2 ~~upon request.~~

3 ~~(9) Upon receipt of the applicable fee and with the~~
4 ~~written consent of a person applying to work with disabled~~
5 ~~adults or elderly persons, the department shall search its~~
6 ~~central abuse registry and tracking system for the existence~~
7 ~~of a confirmed report. The department shall advise the~~
8 ~~employer and the person of any such report found and the~~
9 ~~results of the investigation.~~

10 ~~(10) The department may charge a user fee to an~~
11 ~~employer or the agency in charge of a volunteer, whichever is~~
12 ~~applicable, for a search of the central abuse registry and~~
13 ~~tracking system of up to one-third of the actual cost of the~~
14 ~~screening process. All fees received by the department under~~
15 ~~this section shall be deposited in an administrative trust~~
16 ~~fund of the department and may be expended only for the~~
17 ~~caregiver screening program.~~

18 Section 39. Section 415.1102, Florida Statutes, is
19 amended to read:

20 415.1102 Adult protection teams; services; eligible
21 cases.--Subject to an appropriation, the department may
22 develop, maintain, and coordinate the services of one or more
23 multidisciplinary adult protection teams in each of the
24 districts of the department. Such teams may be composed of,
25 but need not be limited to, representatives of appropriate
26 health, mental health, social service, legal service, and law
27 enforcement agencies.

28 ~~(1)~~ The department shall utilize and convene the teams
29 to supplement the protective services activities of the adult
30 protective services program of the department. This section
31 does not prevent a person from reporting under s. 415.1034 all

1 suspected or known cases of abuse, neglect, or exploitation of
2 a vulnerable disabled adult ~~or an elderly person~~. The role of
3 the teams is to support activities of the ~~adult~~ protective
4 services program and to provide services deemed by the teams
5 to be necessary and appropriate to abused, neglected, and
6 exploited vulnerable disabled adults ~~or elderly persons~~ upon
7 referral. Services must be provided with the consent of the
8 vulnerable disabled adult, ~~or elderly person~~ or that person's
9 guardian, or through court order. ~~The specialized diagnostic
10 assessment, evaluation, coordination, and other supportive
11 services that an adult protection team must be capable of
12 providing include, but are not limited to:~~

13 ~~(a) Medical diagnosis and evaluation services,
14 including provision or interpretation of X rays and laboratory
15 tests, and related services, as needed, and documentation of
16 findings relative thereto.~~

17 ~~(b) Telephone consultation services in emergencies and
18 in other situations.~~

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

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

23 ~~(e) Short-term psychological treatment. It is the
24 intent of the Legislature that short-term psychological
25 treatment be limited to no more than 6 months' duration after
26 treatment is initiated.~~

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

29 ~~(g) Case staffings to develop, implement, and monitor
30 treatment plans for disabled adults and elderly persons whose
31 cases have been referred to the team. An adult protection~~

1 ~~team may provide consultation with respect to a disabled adult~~
2 ~~or elderly person who has not been referred to the team. The~~
3 ~~consultation must be provided at the request of a~~
4 ~~representative of the adult protective services program or at~~
5 ~~the request of any other professional involved with the~~
6 ~~disabled adult or elderly person or that person's guardian or~~
7 ~~other caregivers. In every such adult protection team case~~
8 ~~staffing consultation or staff activity involving a disabled~~
9 ~~adult or elderly person, an adult protective services program~~
10 ~~representative shall attend and participate.~~

11 ~~(h) Service coordination and assistance, including the~~
12 ~~location of services available from other public and private~~
13 ~~agencies in the community.~~

14 ~~(i) Such training services for program and other~~
15 ~~department employees as is deemed appropriate to enable them~~
16 ~~to develop and maintain their professional skills and~~
17 ~~abilities in handling adult abuse, neglect, or exploitation~~
18 ~~cases.~~

19 ~~(j) Education and community awareness campaigns on~~
20 ~~adult abuse, neglect, or exploitation in an effort to enable~~
21 ~~citizens to prevent, identify, and treat adult abuse, neglect,~~
22 ~~and exploitation in the community more successfully.~~

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

27 ~~(a) Unexplained or implausibly explained bruises,~~
28 ~~burns, fractures, or other injuries in a disabled adult or an~~
29 ~~elderly person.~~

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

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

3 ~~(d) Reported financial exploitation of a disabled~~
4 ~~adult or elderly person.~~

5
6 In all instances in which an adult protection team is
7 providing certain services to abused, neglected, or exploited
8 vulnerable disabled ~~adults or elderly persons~~, other offices
9 and units of the department shall avoid duplicating the
10 provisions of those services.

11 Section 40. Section 415.111, Florida Statutes, is
12 amended to read:

13 415.111 Criminal penalties.--

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

20 (2) A person who knowingly and willfully makes public
21 or discloses any confidential information contained in the
22 central abuse hotline registry ~~and tracking system~~, or in
23 other computer systems, or in the records of any case of
24 abuse, neglect, or exploitation of a vulnerable disabled ~~adult~~
25 ~~or elderly person~~, except as provided in ss. 415.101-415.113,
26 commits a misdemeanor of the second degree, punishable as
27 provided in s. 775.082 or s. 775.083.

28 (3) A person who has custody of records and documents
29 the confidentiality of which is abrogated under s.
30 415.1045~~(3)(5)~~ and who refuses to grant access to such records
31

1 commits a misdemeanor of the second degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 (4) If the department or its authorized agent has
4 determined after its investigation that a report is false, the
5 department shall, with the consent of the alleged perpetrator,
6 refer the reports to the local law enforcement agency having
7 jurisdiction for an investigation to determine whether
8 sufficient evidence exists to refer the case for prosecution
9 for filing a false report as defined in s. 415.102. During the
10 pendency of the investigation by the local law enforcement
11 agency, the department must notify the local law enforcement
12 agency of, and the local law enforcement agency must respond
13 to, all subsequent reports concerning the same vulnerable
14 ~~disabled~~ adult ~~or elderly person~~ in accordance with s. 415.104
15 or s. 415.1045. If the law enforcement agency believes that
16 there are indicators of abuse, neglect, or exploitation, it
17 must immediately notify the department, which must assure the
18 safety of the vulnerable ~~disabled~~ adult ~~or elderly person~~. If
19 the law enforcement agency finds sufficient evidence for
20 prosecution for filing a false report, it must refer the case
21 to the appropriate state attorney for prosecution.

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

27 (a) The department shall establish procedures for
28 determining whether a false report of abuse, neglect, or
29 exploitation of a vulnerable ~~disabled~~ adult ~~or an elderly~~
30 ~~person~~ has been made and for submitting all identifying
31 information relating to such a false report to the local law

1 enforcement agency as provided in this subsection and shall
2 report annually to the Legislature the number of reports
3 referred.

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

6 (6) Each state attorney shall establish and publish
7 procedures to facilitate the prosecution of persons under this
8 section and shall report to the Legislature annually the
9 number of complaints that have resulted in the filing of an
10 information or indictment under this section.

11 Section 41. Section 415.1111, Florida Statutes, is
12 amended to read:

13 415.1111 Civil penalties.--

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

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

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

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

22
23 ~~Second and subsequent offenses may be for the same type of~~
24 ~~abuse, neglect, or exploitation or for a different type, and~~
25 ~~may be perpetrated upon the same or a different disabled adult~~
26 ~~or elderly person.~~

27 ~~(2) All fines received by the department under this~~
28 ~~section must be deposited in the Operations and Maintenance~~
29 ~~Trust Fund within the department. The Legislature shall~~
30 ~~annually appropriate from the fund an amount that is no less~~
31

1 ~~than the amount deposited under this section, to be expended~~
2 ~~only for the adult protective services program.~~

3 (1)(3) A vulnerable adult who has been abused,
4 neglected, or exploited disabled adult or an elderly person
5 ~~who has been named as a victim in a confirmed report of abuse,~~
6 ~~neglect, or exploitation~~ as specified in this chapter part has
7 a cause of action against any perpetrator ~~named in the~~
8 ~~confirmed report~~ and may recover actual and punitive damages
9 for such abuse, neglect, or exploitation. The action may be
10 brought by the vulnerable disabled adult or elderly person, or
11 that person's guardian, by a person or organization acting on
12 behalf of the vulnerable disabled adult or elderly person with
13 the consent of that person or that person's guardian, or by
14 the personal representative of the estate of a deceased victim
15 ~~disabled adult or elderly person~~ without regard to whether the
16 cause of death resulted from the abuse, neglect, or
17 exploitation. The action may be brought in any court of
18 competent jurisdiction to enforce such action and to recover
19 actual and punitive damages for any deprivation of or
20 infringement on the rights of a vulnerable disabled adult or
21 ~~an elderly person~~. A party who prevails in any such action
22 may be entitled to recover reasonable attorney's fees, costs
23 of the action, and damages. The remedies provided in this
24 section are in addition to and cumulative with other legal and
25 administrative remedies available to a vulnerable disabled
26 ~~adult or an elderly person~~.

27 Section 42. Subsections (1), (2), and (5) of section
28 415.1113, Florida Statutes, are amended to read:

29 415.1113 Administrative fines for false report of
30 abuse, neglect, or exploitation of a vulnerable disabled adult
31 ~~or an elderly person~~.--

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

8 (2) If the department alleges that a person has
9 knowingly and willfully filed a false report with the central
10 abuse hotline registry and tracking system, the department
11 must file a notice of intent that alleges the name, age, and
12 address of the individual; the facts constituting the
13 allegation that the individual made a false report; and the
14 administrative fine that the department proposes to impose on
15 the person. Each time that a false report is made constitutes
16 a separate violation.

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

22 Section 43. Section 415.113, Florida Statutes, is
23 amended to read:

24 415.113 Statutory construction; treatment by spiritual
25 means.--Nothing in ss. 415.101-415.112 shall be construed to
26 mean a person is abused, neglected, or in need of emergency or
27 protective services for the sole reason that the person relies
28 upon and is, therefore, being furnished treatment by spiritual
29 means through prayer alone in accordance with the tenets and
30 practices of a well-recognized ~~recognized~~ church or religious
31 denomination or organization; nor shall anything in such

1 sections be construed to authorize, permit, or require any
2 medical care or treatment in contravention of the stated or
3 implied objection of such person. Such construction does not:

4 (1) Eliminate the requirement that such a case be
5 reported to the department;

6 (2) Prevent the department from investigating such a
7 case; or

8 (3) Preclude a court from ordering, when the health of
9 the individual requires it, the provision of medical services
10 by a licensed physician or treatment by a duly accredited
11 practitioner who relies solely on spiritual means for healing
12 in accordance with the tenets and practices of a
13 well-recognized church or religious denomination or
14 organization.

15 Section 44. Sections 435.01, 435.02, 435.03, 435.04,
16 435.045, 435.05, 435.06, 435.07, 435.08, 435.09, 435.10, and
17 435.11, Florida Statutes, are designated as part I of chapter
18 435, Florida Statutes.

19 Section 45. Paragraph (a) of subsection (2) and
20 paragraph (a) of subsection (3) of section 435.03, Florida
21 Statutes, are amended to read:

22 435.03 Level 1 screening standards.--

23 (2) Any person for whom employment screening is
24 required by statute must not have been found guilty of,
25 regardless of adjudication, or entered a plea of nolo
26 contendere or guilty to, any offense prohibited under any of
27 the following provisions of the Florida Statutes or under any
28 similar statute of another jurisdiction:

29 (a) Section 415.111, relating to ~~adult~~ abuse, neglect,
30 or exploitation of a vulnerable adult ~~aged persons or disabled~~
31 ~~adults~~.

1 (3) Standards must also ensure that the person:
2 (a) For employees and employers licensed or registered
3 pursuant to chapter 400, and for employees and employers of
4 developmental services institutions as defined in s. 393.063,
5 intermediate care facilities for the developmentally disabled
6 as defined in s. 393.063, and mental health treatment
7 facilities as defined in s. 394.455, meets the requirements of
8 part II does not have a confirmed report of abuse, neglect, or
9 exploitation as defined in s. 415.102(5), which has been
10 uncontested or upheld under s. 415.103.

11 Section 46. Paragraphs (b) and (c) of subsection (1)
12 and subsection (2) of section 435.05, Florida Statutes, are
13 amended to read:

14 435.05 Requirements for covered employees.--Except as
15 otherwise provided by law, the following requirements shall
16 apply to covered employees:

17 (1)

18 (b) For level 1 screening, the employer must submit
19 the information necessary for screening to the Florida
20 Department of Law Enforcement within 5 working days after
21 receiving it. The Florida Department of Law Enforcement will
22 conduct a search of its ~~When required, the employer must at~~
23 ~~the same time submit sufficient information to the Department~~
24 ~~of Children and Family Services to complete a check of its~~
25 ~~records relating to the abuse, neglect, and exploitation of~~
26 ~~vulnerable adults. The Florida Department of Law Enforcement~~
27 ~~and the Department of Children and Family Services will~~
28 ~~conduct searches of their records and will respond to the~~
29 employer agency. The employer will inform the employee
30 whether screening has revealed any disqualifying information.

31

1 (c) For level 2 screening, the employer or licensing
2 agency must submit the information necessary for screening to
3 the Florida Department of Law Enforcement within 5 working
4 days after receiving it. ~~When required, the employer or~~
5 ~~licensing agency must also submit sufficient information to~~
6 ~~the Department of Children and Family Services to complete a~~
7 ~~check of its records.~~The Florida Department of Law
8 Enforcement will conduct a search of its criminal and juvenile
9 records and will request that the Federal Bureau of
10 Investigation conduct a search of its records for each
11 employee for whom the request is made. The Florida Department
12 of Law Enforcement ~~and the Department of Children and Family~~
13 ~~Services~~ will respond to the employer or licensing agency, and
14 the employer or licensing agency will inform the employee
15 whether screening has revealed disqualifying information.

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

20 Section 47. Subsection (1) of section 435.07, Florida
21 Statutes, is amended to read:

22 435.07 Exemptions from disqualification.--Unless
23 otherwise provided by law, the provisions of this section
24 shall apply to exemptions from disqualification.

25 (1) The appropriate licensing agency may grant to any
26 employee otherwise disqualified from employment an exemption
27 from disqualification for:

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

30
31

1 (b) Misdemeanors prohibited under any of the Florida
2 Statutes cited in this chapter or under similar statutes of
3 other jurisdictions;

4 (c) Offenses that were felonies when committed but are
5 now misdemeanors;

6 (d) Findings of delinquency; or

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

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

11
12 For the purposes of this subsection, the term "felonies" means
13 both felonies prohibited under any of the Florida Statutes
14 cited in this part ~~chapter~~ or under similar statutes of other
15 jurisdictions.

16 Section 48. Section 435.08, Florida Statutes, is
17 amended to read:

18 435.08 Payment for processing of fingerprints and,
19 state criminal records checks, ~~and abuse hotline~~

20 ~~checks.~~--Either the employer or the employee is responsible
21 for paying the costs of screening. Payment shall be submitted
22 to the Florida Department of Law Enforcement with the request
23 for screening. ~~When a search of the central abuse hotline is~~
24 ~~required, payment shall be submitted by separate check to the~~
25 ~~Department of Children and Family Services with the request~~
26 ~~for screening.~~

27 Section 49. Section 435.09, Florida Statutes, is
28 amended to read:

29 435.09 Confidentiality of personnel background check
30 information.--No criminal or, juvenile, ~~or abuse hotline~~
31 information obtained under this section may be used for any

1 purpose other than determining whether persons meet the
2 minimum standards for employment or for an owner or director
3 of a covered service provider. The criminal records and
4 juvenile records obtained by the department or by an employer
5 are exempt from s. 119.07(1).

6 Section 50. Paragraph (g) of subsection (3) of section
7 20.43, Florida Statutes, is amended to read:

8 20.43 Department of Health.--There is created a
9 Department of Health.

10 (3) The following divisions of the Department of
11 Health are established:

12 (g) Division of Medical Quality Assurance, which is
13 responsible for the following boards and professions
14 established within the division:

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

16 ~~2. Health care services pools, as provided under s.
17 402.48.~~

18 2.3. The Board of Acupuncture, created under chapter
19 457.

20 3.4. The Board of Medicine, created under chapter 458.

21 4.5. The Board of Osteopathic Medicine, created under
22 chapter 459.

23 5.6. The Board of Chiropractic Medicine, created under
24 chapter 460.

25 6.7. The Board of Podiatric Medicine, created under
26 chapter 461.

27 7.8. Naturopathy, as provided under chapter 462.

28 8.9. The Board of Optometry, created under chapter
29 463.

30 9.10. The Board of Nursing, created under chapter 464.
31

- 1 ~~10.11.~~ The Board of Pharmacy, created under chapter
2 465.
- 3 ~~11.12.~~ The Board of Dentistry, created under chapter
4 466.
- 5 ~~12.13.~~ Midwifery, as provided under chapter 467.
- 6 ~~13.14.~~ The Board of Speech-Language Pathology and
7 Audiology, created under part I of chapter 468.
- 8 ~~14.15.~~ The Board of Nursing Home Administrators,
9 created under part II of chapter 468.
- 10 ~~15.16.~~ The Board of Occupational Therapy, created
11 under part III of chapter 468.
- 12 ~~16.17.~~ Respiratory therapy, as provided under part V
13 of chapter 468.
- 14 ~~17.18.~~ Dietetics and nutrition practice, as provided
15 under part X of chapter 468.
- 16 ~~18.19.~~ The Board of Athletic Training, created under
17 part XIII of chapter 468.
- 18 ~~19.20.~~ The Board of Orthotists and Prosthetists,
19 created under part XIV of chapter 468.
- 20 ~~20.21.~~ Electrolysis, as provided under chapter 478.
- 21 ~~21.22.~~ The Board of Massage Therapy, created under
22 chapter 480.
- 23 ~~22.23.~~ The Board of Clinical Laboratory Personnel,
24 created under part III of chapter 483.
- 25 ~~23.24.~~ Medical physicists, as provided under part IV
26 of chapter 483.
- 27 ~~24.25.~~ The Board of Opticianry, created under part I
28 of chapter 484.
- 29 ~~25.26.~~ The Board of Hearing Aid Specialists, created
30 under part II of chapter 484.
- 31

1 ~~26.27.~~ The Board of Physical Therapy Practice, created
2 under chapter 486.

3 ~~27.28.~~ The Board of Psychology, created under chapter
4 490.

5 ~~28.29.~~ School psychologists, as provided under chapter
6 490.

7 ~~29.30.~~ The Board of Clinical Social Work, Marriage and
8 Family Therapy, and Mental Health Counseling, created under
9 chapter 491.

10

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

16 Section 51. Paragraph (h) of subsection (2) of section
17 39.202, Florida Statutes, is amended to read:

18 39.202 Confidentiality of reports and records in cases
19 of child abuse or neglect.--

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

24 (h) Any appropriate official of the department
25 responsible for:

26 1. Administration or supervision of the department's
27 program for the prevention, investigation, or treatment of
28 child abuse, abandonment, or neglect, or abuse, neglect, or
29 exploitation of a vulnerable ~~disabled~~ adult ~~or elderly person~~,
30 when carrying out his or her official function;

31

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

6 3. Employing and continuing employment of personnel of
7 the department.

8 Section 52. Paragraphs (a) and (b) of subsection (3)
9 of section 110.1127, Florida Statutes, are amended to read:

10 110.1127 Employee security checks.--

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

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

24 Section 53. Paragraph (a) of subsection (12) of
25 section 112.0455, Florida Statutes, is amended to read:

26 112.0455 Drug-Free Workplace Act.--

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

28 (a) A laboratory may analyze initial or confirmation
29 drug specimens only if:

30 1. The laboratory is licensed and approved by the
31 Agency for Health Care Administration using criteria

1 established by the United States Department of Health and
2 Human Services as general guidelines for modeling the state
3 drug testing program. Each applicant for licensure must comply
4 with the following requirements:

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

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

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

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

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

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

25 f. Each applicant must submit to the agency a
26 description and explanation of any conviction of an offense
27 prohibited under the level 2 standards of chapter 435 by a
28 member of the board of directors of the applicant, its
29 officers, or any individual owning 5 percent or more of the
30 applicant. This requirement does not apply to a director of a
31 not-for-profit corporation or organization if the director

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

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

19 h. The agency may deny or revoke licensure if the
20 applicant:

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

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

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

31

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

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

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

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

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

15 d. Other necessary and proper actions taken to ensure
16 reliable and accurate drug test results.

17 Section 54. Paragraphs (a), (b), and (c) of subsection
18 (7) of section 119.07, Florida Statutes, are amended to read:

19 119.07 Inspection, examination, and duplication of
20 records; exemptions.--

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

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

14 (b) In cases involving serious bodily injury to a
15 child or a vulnerable, ~~a disabled adult or an elderly person~~,
16 the Department of Children and Family Services may petition
17 the court for an order for the immediate public release of
18 records of the department which pertain to the protective
19 ~~investigation of abuse, neglect, abandonment, or exploitation~~
20 ~~of the child, disabled adult, or elderly person who suffered~~
21 ~~serious bodily injury.~~ The petition must be personally served
22 upon the child or vulnerable, ~~disabled adult, or elderly~~
23 ~~person~~, the child's parents or guardian, the legal guardian of
24 that person, if any, and any person named as an alleged
25 perpetrator in the report of abuse, neglect, abandonment, or
26 exploitation. The court must determine if good cause exists
27 for the public release of the records sought no later than 24
28 hours, excluding Saturdays, Sundays, and legal holidays, after
29 the date the department filed the petition with the court. If
30 the court has neither granted nor denied the petition within
31

1 the 24-hour time period, the department may release to the
2 public summary information including:

- 3 1. A confirmation that an investigation has been
4 conducted concerning the alleged victim.
- 5 2. The dates and brief description of procedural
6 activities undertaken during the department's investigation.
- 7 3. The date of each judicial proceeding, a summary of
8 each participant's recommendations made at the judicial
9 proceedings, and the rulings of the court.

10

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

24

(c) When the court determines that good cause for
25 public access exists, the court shall direct that the
26 department redact the name of and other identifying
27 information with respect to any person identified in any
28 protective investigation report ~~unfounded report or proposed~~
29 ~~confirmed report or report closed without classification, or~~
30 ~~in any report that has not yet been classified pursuant to s.~~
31 ~~415.1045(7)~~, until such time as the court finds that there is

1 probable cause to believe that the person identified committed
2 an act of alleged abuse, neglect, or abandonment.

3 Section 55. Subsection (1) of section 232.50, Florida
4 Statutes, is amended to read:

5 232.50 Child abuse, abandonment, and neglect
6 policy.--Every school board shall by March 1, 1985:

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

17 Section 56. Subsection (4) and paragraph (b) of
18 subsection (5) of section 242.335, Florida Statutes, are
19 amended to read:

20 242.335 Personnel screening; Florida School for the
21 Deaf and the Blind.--

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

1 school are confidential and exempt from the provisions of s.
2 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

13 Section 57. Paragraph (a) of subsection (8) of section
14 320.0848, Florida Statutes, is amended to read:

15 320.0848 Persons who have disabilities; issuance of
16 disabled parking permits; temporary permits; permits for
17 certain providers of transportation services to persons who
18 have disabilities.--

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

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

1 ~~Florida~~ abuse hotline of the Department of Children and Family
2 Services for an investigation of potential abuse, neglect, or
3 exploitation of the permit owner.

4 Section 58. Paragraph (c) of subsection (1) of section
5 381.0059, Florida Statutes, is amended to read:

6 381.0059 Background screening requirements for school
7 health services personnel.--

8 (1)

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

22 Section 59. Paragraph (d) of subsection (1) of section
23 381.60225, Florida Statutes, is amended to read:

24 381.60225 Background screening.--

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

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

1 has not yet received background screening results from the
2 Federal Bureau of Investigation, or a request for a
3 disqualification exemption has been submitted to the agency as
4 set forth in chapter 435, but a response has not yet been
5 issued. A standard certification may be granted to the
6 organization, agency, or entity 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 Section 60. Paragraph (d) of subsection (7) of section
21 383.305, Florida Statutes, is amended to read:

22 383.305 Licensure; issuance, renewal, denial,
23 suspension, revocation; fees; background screening.--

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

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

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

18 Section 61. Paragraph (d) of subsection (3) of section
19 390.015, Florida Statutes, is amended to read:

20 390.015 Application for license.--

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

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

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

15 Section 62. Paragraph (c) of subsection (5) and
16 paragraph (d) of subsection (6) of section 393.067, Florida
17 Statutes, are amended to read:

18 393.067 Licensure of residential facilities and
19 comprehensive transitional education programs.--

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

28 (c) The department or a residential facility or
29 comprehensive transitional education program may not use the
30 criminal records or, juvenile records, ~~or abuse registry~~
31 ~~information~~ of a person obtained under this subsection for any

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

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

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

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

5 Section 63. Paragraph (c) of subsection (1) of section
6 393.0674, Florida Statutes, is amended to read:

7 393.0674 Penalties.--

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

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

18 Section 64. Paragraph (e) of subsection (5) of section
19 394.459, Florida Statutes, is amended to read:

20 394.459 Rights of patients.--

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

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

31

1 Section 65. 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 66. 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 67. 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 68. 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 69. 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 70. 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 71. 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 72. 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 73. 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 74. 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 75. 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 76. 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 77. 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 78. 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 79. 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 80. 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 81. 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 82. 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 83. 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 84. 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 85. 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 86. 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 87. 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 88. 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 89. 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 90. 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 91. 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 92. 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 93. 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 94. 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 95. 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 96. 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 97. 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 98. 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 99. 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 100. Subsection (1) of section 447.208,
5 Florida 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 101. 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 102. Subsection (5) of section 455.712,
30 Florida 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 103. Paragraph (e) of subsection (1) of
10 section 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 104. Paragraph (f) of subsection (4) of
23 section 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:

30
31

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 105. 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 106. 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 107. Paragraph (d) of subsection (2) of
11 section 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 108. Paragraph (d) of subsection (2) of
8 section 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 109. Paragraph (a) of subsection (2) of
5 section 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 110. Subsection (3) of section 744.309,
4 Florida 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 111. 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 112. 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 113. Paragraph (a) of subsection (6) of
14 section 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 114. 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 115. 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 116. 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 117. Sections 415.1065, 415.1075, 415.1085,
10 and 415.109, Florida Statutes, are repealed.

11 Section 118. 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 119. Subsection (4) of section 20.41, Florida
18 Statutes, is amended to read:

19 20.41 Department of Elderly Affairs.--There is created
20 a Department of Elderly Affairs.

21 (4) The department shall administratively house the
22 State Long-Term Care Ombudsman Council, created by s.
23 400.0067, and the local ~~district~~ long-term care ombudsman
24 councils, created by s. 400.0069 and shall, as required by s.
25 712 of the federal Older Americans Act of 1965, ensure that
26 both the state and local ~~district~~ long-term care ombudsman
27 councils operate in compliance with the Older Americans Act.
28 The councils in performance of their duties shall not be
29 subject to control, supervision, or direction by the
30 department.

31

1 Section 120. Paragraph (h) of subsection (4) of
2 section 395.3025, Florida Statutes, is amended to read:

3 395.3025 Patient and personnel records; copies;
4 examination.--

5 (4) Patient records are confidential and must not be
6 disclosed without the consent of the person to whom they
7 pertain, but appropriate disclosure may be made without such
8 consent to:

9 (h) The State Long-Term Care Ombudsman Council and the
10 local ~~district~~ long-term care ombudsman councils, with respect
11 to the records of a patient who has been admitted from a
12 nursing home or long-term care facility, when the councils are
13 conducting an investigation involving the patient as
14 authorized under part II of chapter 400, upon presentation of
15 identification as a council member by the person making the
16 request. Disclosure under this paragraph shall only be made
17 after a competent patient or the patient's representative has
18 been advised that disclosure may be made and the patient has
19 not objected.

20 Section 121. Paragraph (b) of subsection (3) of
21 section 400.0063, Florida Statutes, is amended to read:

22 400.0063 Establishment of Office of State Long-Term
23 Care Ombudsman; designation of ombudsman and legal advocate.--

24 (3)

25 (b) The duties of the legal advocate shall include,
26 but not be limited to:

27 1. Assisting the ombudsman in carrying out the duties
28 of the office with respect to the abuse, neglect, or violation
29 of rights of residents of long-term care facilities.

30
31

1 2. Assisting the state and local ~~district~~ ombudsman
2 councils in carrying out their responsibilities under this
3 part.

4 3. Initiating and prosecuting legal and equitable
5 actions to enforce the rights of long-term care facility
6 residents as defined in this chapter.

7 4. Serving as legal counsel to the state and local
8 ~~district~~ ombudsman councils, or individual members thereof,
9 against whom any suit or other legal action is initiated in
10 connection with the performance of the official duties of the
11 councils or an individual member.

12 Section 122. Paragraph (f) of subsection (1) and
13 subsections (2) and (3) of section 400.0065, Florida Statutes,
14 are amended to read:

15 400.0065 State Long-Term Care Ombudsman; duties and
16 responsibilities; conflict of interest.--

17 (1) The purpose of the Office of State Long-Term Care
18 Ombudsman shall be to:

19 (f) Provide administrative and technical assistance to
20 state and local ~~district~~ ombudsman councils.

21 (2) The State Long-Term Care Ombudsman shall have the
22 duty and authority to:

23 (a) Assist and support the efforts of the State
24 Long-Term Care Ombudsman Council in the establishment and
25 coordination of local ~~district~~ ombudsman councils throughout
26 the state.

27 (b) Perform the duties specified in state and federal
28 law, rules, and regulations.

29 (c) Within the limits of federal and state funding
30 authorized and appropriated, employ such personnel, including
31 staff for local ~~district~~ ombudsman councils, as are necessary

1 to perform adequately the functions of the office and provide
2 or contract for legal services to assist the state and local
3 ~~district~~ ombudsman councils in the performance of their
4 duties. Staff positions for each local ~~district~~ ombudsman
5 council may be established as career service positions, and
6 shall be filled by the ombudsman after ~~in~~ consultation with
7 the respective local ~~district~~ ombudsman council.

8 (d) Contract for services necessary to carry out the
9 activities of the office.

10 (e) Apply for, receive, and accept grants, gifts, or
11 other payments, including, but not limited to, real property,
12 personal property, and services from a governmental entity or
13 other public or private entity or person, and make
14 arrangements for the use of such grants, gifts, or payments.

15 (f) Annually prepare a budget request that shall be
16 submitted to the Governor by the department for transmittal to
17 the Legislature.

18 ~~(f) Perform the duties specified in state and federal~~
19 ~~law without interference by officials of the Department of~~
20 ~~Elderly Affairs, the Agency for Health Care Administration, or~~
21 ~~the Department of Children and Family Services. The ombudsman~~
22 ~~shall report to the Governor, the President of the Senate, and~~
23 ~~the Speaker of the House of Representatives whenever~~
24 ~~organizational or departmental policy issues threaten the~~
25 ~~ability of the Office of State Long-Term Care Ombudsman to~~
26 ~~carry out its duties under state or federal law.~~

27 (g) Coordinate, to the greatest extent possible, state
28 and local ~~district~~ ombudsman services with the protection and
29 advocacy systems for individuals with developmental
30 disabilities and mental illnesses and with legal assistance
31

1 programs for the poor through adoption of memoranda of
2 understanding and other means.

3 (h) Enter into a cooperative agreement with the
4 statewide and district human rights advocacy committees for
5 the purpose of coordinating advocacy services provided to
6 residents of long-term care facilities.

7 (i) Enter into a cooperative agreement with the
8 Medicaid Fraud Division as prescribed under s. 731(e)(2)(B) of
9 the Older Americans Act.

10 (3) The State Long-Term Care Ombudsman shall not:

11 (a) Have a direct involvement in the licensing or
12 certification of, or an ownership or investment interest in, a
13 long-term care facility or a provider of a long-term care
14 service.

15 (b) Be employed by, or participate in the management
16 of, a long-term care facility.

17 (c) Receive, or have a right to receive, directly or
18 indirectly, remuneration, in cash or in kind, under a
19 compensation agreement with the owner or operator of a
20 long-term care facility.

21
22 The Department of Elderly Affairs, in consultation with
23 ombudsman, shall adopt rules to establish procedures to
24 identify and eliminate conflicts of interest as described in
25 this subsection.

26 Section 123. Section 400.0066, Florida Statutes, is
27 created to read:

28 400.0066 Office of State Long-Term Care Ombudsman and
29 departments of state government.--

30 (1) The State Long-Term Care Ombudsman shall perform
31 the duties specified in state and federal law.

1 (2) Officials from the Department of Elderly Affairs,
2 the Agency for Health Care Administration, and the Department
3 of Children and Family Services shall not interfere in the
4 performance of official duties of any ombudsman staff or
5 volunteers.

6 (3) The Department of Elderly Affairs shall provide
7 administrative support to the long-term care ombudsman
8 program, including:

9 (a) Office space for state and local ombudsman
10 councils.

11 (b) Assistance with personnel, accounting, and
12 management information systems.

13 (4) The Department of Elderly Affairs shall meet the
14 costs associated with these functions from funds appropriated
15 to the department.

16 (5) The Department of Elderly Affairs shall include
17 the costs associated with support of the long-term care
18 ombudsman program in developing its budget requests for
19 consideration by the Governor and submittal to the
20 Legislature.

21 (6) The Department of Elderly Affairs may divert from
22 the federal ombudsman appropriation an amount equal to the
23 department's administrative cost ratio, not to exceed 10
24 percent of the federal appropriation, for the ombudsman. The
25 remaining ninety percent or more of the allotment from the
26 Older Americans Act Program shall be expended on direct
27 ombudsman activities.

28 Section 124. Section 400.0067, Florida Statutes, is
29 amended to read:

30 400.0067 Establishment of State Long-Term Care
31 Ombudsman Council; duties; membership.--

1 (1) There is created within the Office of State
2 Long-Term Care Ombudsman, the State Long-Term Care Ombudsman
3 Council.

4 (2) The State Long-Term Care Ombudsman Council shall:

5 (a) Assist the ombudsman in reaching a consensus among
6 local ~~district~~ ombudsman councils on issues of statewide
7 concern.

8 (b) Serve as an appellate body in receiving from the
9 local ~~district~~ ombudsman councils complaints not resolved at
10 the local ~~district~~ level. The state ombudsman council may
11 enter any long-term care facility involved in an appeal,
12 pursuant to the conditions specified in s. 400.0069(3).

13 (c) Assist the ombudsman to discover, investigate, and
14 determine the existence of abuse or neglect in any long-term
15 care facility and to develop procedures, in consultation with
16 the Department of Elderly Affairs, relating to such
17 investigations. Investigations may consist, in part, of one or
18 more onsite administrative inspections.

19 (d) Assist the ombudsman in eliciting, receiving,
20 responding to, and resolving complaints made by or on behalf
21 of long-term care facility residents and in developing
22 procedures, in consultation with the Department of Elderly
23 Affairs, relating to the receipt and resolution of such
24 complaints.

25 (e) Elicit and coordinate state, local, and voluntary
26 organizational assistance for the purpose of improving the
27 care received by residents of a long-term care facility.

28 (f) Be authorized to call upon appropriate agencies of
29 state government for such professional assistance as may be
30 needed in the discharge of its duties, including assistance
31

1 from the adult protective services program of the Department
2 of Children and Family Services.

3 ~~(g) Enter into a cooperative agreement with the~~
4 ~~statewide and district human rights advocacy committees for~~
5 ~~the purpose of coordinating advocacy services provided to~~
6 ~~residents of long-term care facilities.~~

7 (g)(h) Prepare an annual report describing the
8 activities carried out by the ombudsman and the State
9 Long-Term Care Ombudsman Council in the year for which the
10 report is prepared. The State Long-Term Care Ombudsman
11 Council shall submit the report to the Commissioner of the
12 United States Administration on Aging, the Governor, the
13 President of the Senate, the Speaker of the House of
14 Representatives, the minority leaders of the House and Senate,
15 the chairpersons of appropriate House and Senate committees,
16 the Secretaries of Elderly Affairs and Children and Family
17 Services, and the Director of Health Care Administration. The
18 report shall be submitted at least 30 days before the
19 convening of the regular session of the Legislature and shall,
20 at a minimum:

21 1. Contain and analyze data collected concerning
22 complaints about and conditions in long-term care facilities.

23 2. Evaluate the problems experienced by residents of
24 long-term care facilities.

25 3. Contain recommendations for improving the quality
26 of life of the residents and for protecting the health,
27 safety, welfare, and rights of the residents.

28 4. Analyze the success of the ombudsman program during
29 the preceding year and identify the barriers that prevent the
30 optimal operation of the program. The report of the program's
31 successes shall also address the relationship between the

1 state long-term care ombudsman program, the Department of
2 Elderly Affairs, the Agency for Health Care Administration,
3 and the Department of Children and Family Services, and an
4 assessment of how successfully the state long-term care
5 ombudsman program has carried out its responsibilities under
6 the Older Americans Act.

7 5. Provide policy and regulatory and legislative
8 recommendations to solve identified problems; resolve
9 residents' complaints; improve the quality of care and life of
10 the residents; protect the health, safety, welfare, and rights
11 of the residents; and remove the barriers to the optimal
12 operation of the state long-term care ombudsman program.

13 6. Contain recommendations from the local district
14 ombudsman councils regarding program functions and activities.

15 7. Include a report on the activities of the legal
16 advocate and other legal advocates acting on behalf of the
17 local district and state councils.

18 (3)(a) The State Long-Term Care Ombudsman Council
19 shall be composed of: one active local council member
20 designated by each local council and three persons appointed
21 by the Governor.~~a number of members equal to the number of~~
22 ~~district councils in the state plus three. Each district~~
23 ~~ombudsman council, including the ombudsman councils for~~
24 ~~subdistricts 3A and 3B, shall appoint one member and the~~
25 ~~Governor shall appoint three members to the State Long-Term~~
26 ~~Care Ombudsman Council. An individual designated by a~~
27 ~~district ombudsman council must have been a member of a~~
28 ~~district ombudsman council for at least 1 year, and shall~~
29 ~~continue to serve as an active member at the district level.~~
30 ~~The Governor's appointments shall be made from a list of not~~
31 ~~fewer than eight nominees, to be selected by the secretary in~~

1 ~~consultation with the State Long-Term Care Ombudsman Council~~
2 ~~and submitted to the Governor. If the appointments are not~~
3 ~~made within 30 days after the Governor receives the list of~~
4 ~~nominees, the secretary shall, in consultation with the State~~
5 ~~Long-Term Care Ombudsman Council, appoint three members from~~
6 ~~the list of nominees submitted to the Governor. At least one~~
7 ~~member appointed by the Governor must be over 60 years of age.~~

8 (b)1. The ombudsman, in consultation with the
9 secretary and the state ombudsman council, shall submit a list
10 of at least eight names to the Governor of persons not serving
11 on a local council.

12 2. The Governor shall appoint three members from the
13 list, at least one of whom must be over 60 years of age.

14 3. If the Governor's appointments are not made within
15 60 days after the ombudsman submits the list, the ombudsman,
16 in consultation with the state ombudsman council, shall
17 appoint three members, at least one of whom must be over 60
18 years of age.

19 (c)(b) All members shall be appointed to serve 3-year
20 terms. A member of the state ombudsman council may not serve
21 more than two consecutive terms. Any vacancy shall be filled
22 in the same manner as the original appointment. The position
23 of any member missing three consecutive regular meetings
24 without cause shall be declared vacant. The findings of the
25 ombudsman regarding cause shall be final and binding.

26 (d)(c) The state ombudsman council shall elect a
27 chairperson for a term of 1 year from among the members who
28 have served for at least 1 year. The chairperson shall select
29 a vice chairperson from among the members. The vice
30 chairperson shall preside over the council in the absence of
31 the chairperson.

1 ~~(e)(d)~~ The state ombudsman council shall meet upon the
2 call of the chairperson, at least quarterly or more frequently
3 as needed.

4 ~~(f)(e)~~ Members shall receive no compensation but shall
5 be reimbursed for per diem and travel expenses as provided in
6 s. 112.061.

7 ~~(4)~~ ~~Members shall be appointed and serve 3-year terms~~
8 ~~as provided by this section.~~

9 ~~(4)(5)~~ No officer, employee, or representative of the
10 Office of State Long-Term Care Ombudsman or of the State
11 Long-Term Care Ombudsman Council, nor any member of the
12 immediate family of such officer, employee, or representative,
13 may have a conflict of interest. ~~The Department of Elderly~~
14 ~~Affairs, in consultation with~~ The ombudsman, shall adopt rules
15 to identify and remove conflicts of interest.

16 ~~(5)(6)~~ The Department of Elderly Affairs shall make a
17 separate and distinct request for an appropriation for all
18 expenses for the state and local ~~district~~ ombudsman councils.

19 Section 125. Section 400.0069, Florida Statutes, is
20 amended to read:

21 400.0069 Local ~~District~~ long-term care ombudsman
22 councils; duties; membership.--

23 (1) There shall be at least one long-term care
24 ombudsman council in each of the planning and service areas of
25 the Department of Elderly Affairs, which shall function under
26 the direction of the ombudsman and the state ombudsman
27 council.

28 (2) The duties of the local ~~district~~ ombudsman council
29 are:
30
31

1 (a) To serve as a third-party mechanism for protecting
2 the health, safety, welfare, and civil and human rights of
3 residents of a long-term care facility.

4 (b) To discover, investigate, and determine the
5 existence of abuse or neglect in any long-term care facility
6 and to use the procedures provided for in ss. 415.101-415.113
7 when applicable. Investigations may consist, in part, of one
8 or more onsite administrative inspections.

9 (c) To elicit, receive, investigate, respond to, and
10 resolve complaints made by, or on behalf of, long-term care
11 facility residents.

12 (d) To review and, if necessary, to comment on, for
13 their effect on the rights of long-term care facility
14 residents, all existing or proposed rules, regulations, and
15 other governmental policies relating to long-term care
16 facilities.

17 (e) To review personal property and money accounts of
18 Medicaid residents pursuant to an investigation to obtain
19 information regarding a specific complaint or problem.

20 (f) To represent the interests of residents before
21 government agencies and to seek administrative, legal, and
22 other remedies to protect the health, safety, welfare, and
23 rights of the residents.

24 (g) To carry out other activities that the ombudsman
25 determines to be appropriate.

26 (3) In order to carry out the duties specified in
27 subsection (2), the local ~~district~~ ombudsman council is
28 authorized, pursuant to ss. 400.19(1) and 400.434, to enter
29 any long-term care facility without notice or first obtaining
30 a warrant, subject to the provisions of s. 400.0073(5).

31

1 (4) Each local ~~district~~ ombudsman council shall be
2 composed of no less than 15 members and no more than 30
3 members from the local planning and service area district, to
4 include the following: one medical or osteopathic physician
5 whose practice includes or has included a substantial number
6 of geriatric patients and who may have limited practice in a
7 long-term care facility; one registered nurse who has
8 geriatric experience, if possible; one licensed pharmacist;
9 one registered dietitian; at least six nursing home residents
10 or representative consumer advocates for nursing home
11 residents; at least three residents of assisted living
12 facilities or adult family-care homes or three representative
13 consumer advocates for long-term care facility residents; one
14 attorney; and one professional social worker. In no case
15 shall the medical director of a long-term care facility or an
16 employee of the Agency for Health Care Administration, the
17 Department of Children and Family Services, or the Department
18 of Elderly Affairs serve as a member or as an ex officio
19 member of a council. Each member of the council shall certify
20 that neither the council member nor any member of the council
21 member's immediate family has any conflict of interest
22 pursuant to subsection (10). Local ~~District~~ ombudsman
23 councils are encouraged to recruit council members who are 60
24 years of age or older.

25 (5) All members shall be appointed to serve 3-year
26 terms. Upon expiration of a term and in case of any other
27 vacancy, the council shall select ~~appoint~~ a replacement by
28 majority vote ~~of the council, subject to the approval of the~~
29 Governor. The ombudsman shall review the selection of the
30 council and recommend approval or disapproval to the Governor.
31 If no action is taken by the Governor to approve or disapprove

1 the replacement of a member within 30 days after the ombudsman
2 ~~council~~ has notified the Governor of his or her
3 recommendation, the appointment, the appointment of the
4 replacement shall be considered disapproved and the process
5 for selection of a replacement shall be repeated ~~approved~~. The
6 ~~term of any member missing three consecutive regular meetings~~
7 ~~without cause shall be declared vacant.~~

8 (6) The local ~~district~~ ombudsman council shall elect a
9 chair for a term of 1 year from members who have served at
10 least 1 year. The chair shall select a vice chair from among
11 the members of the council. The vice chair shall preside over
12 the council in the absence of the chair.

13 (7) The local ~~district~~ ombudsman council shall meet
14 upon the call of the chair or the ombudsman, at least once a
15 month or more frequently as needed to handle emergency
16 situations.

17 (8) A member of a local ~~district~~ ombudsman council
18 shall receive no compensation but shall be reimbursed for
19 travel expenses both within and outside the county of
20 residence in accordance with the provisions of s. 112.061.

21 (9) The local ~~district~~ ombudsman councils are
22 authorized to call upon appropriate agencies of state
23 government for such professional assistance as may be needed
24 in the discharge of their duties. All state agencies shall
25 cooperate with the local ~~district~~ ombudsman councils in
26 providing requested information and agency representatives at
27 council meetings. ~~The Department of Children and Family~~
28 ~~Services shall continue to provide space and in-kind~~
29 ~~administrative support for each district ombudsman council~~
30 ~~staff within available resources until the Legislature~~

31

1 ~~appropriates funds for office space and administrative~~
2 ~~support.~~

3 (10) No officer, employee, or representative of a
4 local district long-term care ombudsman council, nor any
5 member of the immediate family of such officer, employee, or
6 representative, may have a conflict of interest. ~~The~~
7 ~~Department of Elderly Affairs, in consultation with The~~
8 ~~ombudsman,~~ shall adopt rules to identify and remove conflicts
9 of interest.

10 Section 126. Section 400.0071, Florida Statutes, is
11 amended to read:

12 400.0071 Complaint procedures.--

13 (1) The state ombudsman council shall establish state
14 and local district procedures for receiving complaints against
15 a nursing home or long-term care facility or its employee.

16 (2) These procedures shall be posted in full view in
17 every nursing home or long-term care facility. Every resident
18 or representative of a resident shall receive, upon admission
19 to a nursing home or long-term care facility, a printed copy
20 of the procedures of the state and the local district
21 ombudsman councils.

22 Section 127. Subsections (1), (2), (3), and (4) of
23 section 400.0073, Florida Statutes, are amended to read:

24 400.0073 State and local district ombudsman council
25 investigations.--

26 (1) A local district ombudsman council shall
27 investigate any complaint of a resident or representative of a
28 resident based on an action by an administrator or employee of
29 a nursing home or long-term care facility which might be:

30 (a) Contrary to law.

31

1 (b) Unreasonable, unfair, oppressive, or unnecessarily
2 discriminatory, even though in accordance with law.

3 (c) Based on a mistake of fact.

4 (d) Based on improper or irrelevant grounds.

5 (e) Unaccompanied by an adequate statement of reasons.

6 (f) Performed in an inefficient manner.

7 (g) Otherwise erroneous.

8 (2) In an investigation, both the state and local
9 ~~district~~ ombudsman councils have the authority to hold
10 hearings.

11 (3) Subsequent to an appeal from a local ~~district~~
12 ombudsman council, the state ombudsman council may investigate
13 any nursing home or long-term care facility.

14 (4) In addition to any specific investigation made
15 pursuant to a complaint, the local ~~district~~ ombudsman council
16 shall conduct, at least annually, an investigation, which
17 shall consist, in part, of an onsite administrative
18 inspection, of each nursing home or long-term care facility
19 within its jurisdiction.

20 Section 128. Section 400.0075, Florida Statutes, is
21 amended to read:

22 400.0075 Complaint resolution procedures.--

23 (1) Any complaint, including any problem identified by
24 an ombudsman council as a result of an investigation, deemed
25 valid and requiring remedial action by the local ~~district~~
26 ombudsman council shall be identified and brought to the
27 attention of the long-term care facility administrator in
28 writing. Upon receipt of such document, the administrator, in
29 concurrence with the local ~~district~~ ombudsman council chair,
30 shall establish target dates for taking appropriate remedial
31 action. If, by the target date, the remedial action is not

1 completed or forthcoming, the local ~~district~~ ombudsman council
2 may:

3 (a) Extend the target date if the council has reason
4 to believe such action would facilitate the resolution of the
5 complaint.

6 (b) In accordance with s. 400.0077, publicize the
7 complaint, the recommendations of the council, and the
8 response of the long-term care facility.

9 (c) Refer the complaint to the state ombudsman
10 council.

11

12 If the health, safety, welfare, or rights of the resident are
13 in imminent danger, the local ~~district~~ long-term care
14 ombudsman council may seek immediate legal or administrative
15 remedies to protect the resident.

16 (2) Upon referral from the local ~~district~~ ombudsman
17 council, the state ombudsman council shall assume the
18 responsibility for the disposition of the complaint. If a
19 long-term care facility fails to take action on a complaint
20 found valid by the state ombudsman council, the state council
21 may:

22 (a) In accordance with s. 400.0077, publicize the
23 complaint, the recommendations of the council, and the
24 response of the long-term care facility.

25 (b) Recommend to the agency a series of facility
26 reviews pursuant to s. 400.19(4) to assure correction and
27 nonrecurrence of conditions that give rise to complaints
28 against a long-term care facility.

29 (c) Recommend to the agency changes in rules for
30 inspecting and licensing or certifying long-term care
31 facilities, and recommend to the Agency for Health Care

1 Administration changes in rules for licensing and regulating
2 long-term care facilities.

3 (d) Refer the complaint to the state attorney for
4 prosecution if there is reason to believe the long-term care
5 facility or its employee is guilty of a criminal act.

6 (e) Recommend to the Agency for Health Care
7 Administration that the long-term care facility no longer
8 receive payments under the State Medical Assistance Program
9 (Medicaid).

10 (f) Recommend that the agency initiate procedures for
11 revocation of license in accordance with chapter 120.

12 (g) Seek legal, administrative, or other remedies to
13 protect the health, safety, welfare, or rights of the
14 resident.

15
16 If the health, safety, welfare, or rights of the resident are
17 in imminent danger, the State Long-Term Care Ombudsman Council
18 shall seek immediate legal or administrative remedies to
19 protect the resident.

20 (3) The state ombudsman council shall provide, as part
21 of its annual report required pursuant to s.
22 400.0067(2)(g)(h), information relating to the disposition of
23 all complaints to the Department of Elderly Affairs.

24 Section 129. Paragraph (a) of subsection (1) and
25 subsections (4) and (5) of section 400.0077, Florida Statutes,
26 are amended to read:

27 400.0077 Confidentiality.--

28 (1) The following are confidential and exempt from the
29 provisions of s. 119.07(1):

30 (a) Resident records held by the ombudsman or by the
31 state or a local ~~district~~ ombudsman council.

1 (4) Members of any state or local ~~district~~ ombudsman
2 council shall not be required to testify in any court with
3 respect to matters held to be confidential under s. 400.414
4 except as may be necessary to enforce the provisions of this
5 act.

6 (5) Subject to the provisions of this section, the
7 Office of State Long-Term Care Ombudsman ~~Department of Elderly~~
8 ~~Affairs, in consultation with the ombudsman and the State~~
9 ~~Long-Term Care Ombudsman Council,~~ shall adopt rules for the
10 disclosure by the ombudsman or local ~~district~~ ombudsman
11 councils of files maintained by the program.

12 Section 130. Subsection (2) of section 400.0079,
13 Florida Statutes, is amended to read:

14 400.0079 Immunity.--

15 (2) The ombudsman or any person acting on behalf of
16 the Office of State Long-Term Care Ombudsman or the state or a
17 local ~~district~~ long-term care ombudsman council shall be
18 immune from any liability, civil or criminal, that otherwise
19 might be incurred or imposed, during the good faith
20 performance of official duties.

21 Section 131. Subsections (1) and (2) of section
22 400.0081, Florida Statutes, are amended to read:

23 400.0081 Access.--

24 (1) The Office of State Long-Term Care Ombudsman, the
25 State Long-Term Care Ombudsman Council, and the local ~~district~~
26 long-term care ombudsman councils, or their representatives,
27 shall have access to:

28 (a) Long-term care facilities and residents.

29 (b) Medical and social records of a resident for
30 review, if:

31

1 1. The office has the permission of the resident or
2 the legal representative of the resident; or

3 2. The resident is unable to consent to the review and
4 has no legal representative.

5 (c) Medical and social records of the resident as
6 necessary to investigate a complaint, if:

7 1. A legal guardian of the resident refuses to give
8 permission.

9 2. The office has reasonable cause to believe that the
10 guardian is not acting in the best interests of the resident.

11 3. The representative obtains the approval of the
12 ombudsman.

13 (d) The administrative records, policies, and
14 documents to which the residents, or the general public, have
15 access.

16 (e) Upon request, copies of all licensing and
17 certification records maintained by the state with respect to
18 a long-term care facility.

19 (2) Notwithstanding paragraph (1)(b), if, pursuant to
20 a complaint investigation by the state ombudsman council or a
21 local district ombudsman council, the legal representative of
22 the resident refuses to give permission for the release of the
23 resident's records, and if the Office of ~~the~~ State Long-Term
24 Care Ombudsman ~~Council~~ has reasonable cause to find that the
25 legal representative is not acting in the best interests of
26 the resident, the medical and social records of the resident
27 must be made available to the state or local district council
28 as is necessary for the members of the council to investigate
29 the complaint.

30 Section 132. Subsections (1) and (2) of section
31 400.0083, Florida Statutes, are amended to read:

1 400.0083 Interference; retaliation; penalties.--

2 (1) It shall be unlawful for any person, long-term
3 care facility, or other entity to willfully interfere with a
4 representative of the Office of ~~the~~ State Long-Term Care
5 Ombudsman, the State Long-Term Care Ombudsman Council, or a
6 local ~~district~~ long-term care ombudsman council in the
7 performance of official duties.

8 (2) It shall be unlawful for any person, long-term
9 care facility, or other entity to retaliate against any
10 resident, employee, or other person for filing a complaint
11 with, providing information to, or otherwise cooperating with
12 any representative of the Office of ~~the~~ State Long-Term Care
13 Ombudsman, the State Long-Term Care Ombudsman Council, or a
14 local ~~district~~ long-term care ombudsman council.

15 Section 133. Section 400.0087, Florida Statutes, is
16 amended to read:

17 400.0087 Agency oversight.--

18 (1) The Department of Elderly Affairs shall monitor
19 the local ~~district~~ ombudsman councils responsible for carrying
20 out the duties delegated by s. 400.0069 and federal law. The
21 department, in consultation with the ombudsman and the State
22 Long-Term Care Ombudsman Council, shall adopt rules to
23 establish the policies and procedures for the monitoring of
24 local ~~district~~ ombudsman councils.

25 (2) The department is responsible for ensuring that
26 the Office of State Long-Term Care Ombudsman prepares its
27 annual report; provides information to public and private
28 agencies, legislators, and others; provides appropriate
29 training to representatives of the office or of the state or
30 local ~~district~~ long-term care ombudsman councils; and
31 coordinates ombudsman services with the Advocacy Center for

1 Persons with Disabilities and with providers of legal services
2 to residents of long-term care facilities in compliance with
3 state and federal laws.

4 (3) The Department of Elderly Affairs is the
5 designated state unit on aging for purposes of complying with
6 the federal Older Americans Act. The Department of Elderly
7 Affairs shall ensure that the ombudsman program has the
8 objectivity and independence required to qualify it for
9 funding under the federal Older Americans Act, and shall carry
10 out the long-term care ombudsman program through the Office of
11 ~~the State Long-Term Care Ombudsman Council~~. The Department of
12 Elderly Affairs shall also:

13 (a) Receive and disburse state and federal funds for
14 purposes that the state ombudsman council has formulated in
15 accordance with the Older Americans Act.

16 (b) Act as liaison between the federal program
17 representatives, the staffs of the state and local ~~district~~
18 ombudsman councils, and members of the state and local
19 ~~district~~ ombudsman councils.

20 Section 134. Section 400.0089, Florida Statutes, is
21 amended to read:

22 400.0089 Agency reports.--The State Long-Term Care
23 Ombudsman Council, shall, in cooperation with the Department
24 of Elderly Affairs, maintain a statewide uniform reporting
25 system to collect and analyze data relating to complaints and
26 conditions in long-term care facilities and to residents, for
27 the purpose of identifying and resolving significant problems.
28 The council shall submit such data as part of its annual
29 report required pursuant to s. 400.0067(2)(g)~~(h)~~ to the Agency
30 for Health Care Administration, the Department of Children and
31 Family Services, the Statewide Human Rights Advocacy

1 Committee, the Advocacy Center for Persons with Disabilities,
2 the Commissioner for the United States Administration on
3 Aging, the National Ombudsman Resource Center, and any other
4 state or federal entities that the ombudsman determines
5 appropriate.

6 Section 135. Section 400.0091, Florida Statutes, is
7 amended to read:

8 400.0091 Training.--The ombudsman shall provide
9 appropriate training to all employees of the Office of State
10 Long-Term Care Ombudsman and to the state and local ~~district~~
11 long-term care ombudsman councils, including all unpaid
12 volunteers. The ombudsman shall implement the training
13 program no later than June 1, 1994. No employee, officer, or
14 representative of the office or of the state or local ~~district~~
15 long-term care ombudsman councils, other than the ombudsman,
16 may carry out any authorized ombudsman duty or responsibility
17 unless the person has received the training required by this
18 section and has been approved by the ombudsman as qualified to
19 carry out ombudsman activities on behalf of the office or the
20 state or local ~~district~~ long-term care ombudsman councils.

21 Section 136. Present subsections (8), (9), and (10) of
22 section 400.021, Florida Statutes, are renumbered as
23 subsections (7), (8), and (9), respectively, and present
24 subsection (7) is renumbered as subsection (10) and amended to
25 read:

26 400.021 Definitions.--When used in this part, unless
27 the context otherwise requires, the term:

28 ~~(10)(7)~~ "Local District ombudsman council" means a
29 local ~~district~~ long-term care ombudsman council established
30 pursuant to s. 400.0069, located within the Older Americans
31 Act planning and service areas.

1 Section 137. Paragraph (c) of subsection (1) and
2 subsections (2) and (3) of section 400.022, Florida Statutes,
3 are amended to read:

4 400.022 Residents' rights.--

5 (1) All licensees of nursing home facilities shall
6 adopt and make public a statement of the rights and
7 responsibilities of the residents of such facilities and shall
8 treat such residents in accordance with the provisions of that
9 statement. The statement shall assure each resident the
10 following:

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

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

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

28
29 The facility must allow representatives of the State Long-Term
30 Care Ombudsman Council to examine a resident's clinical
31

1 records with the permission of the resident or the resident's
2 legal representative and consistent with state law.

3 (2) The licensee for each nursing home shall orally
4 inform the resident of the resident's rights and provide a
5 copy of the statement required by subsection (1) to each
6 resident or the resident's legal representative at or before
7 the resident's admission to a facility. The licensee shall
8 provide a copy of the resident's rights to each staff member
9 of the facility. Each such licensee shall prepare a written
10 plan and provide appropriate staff training to implement the
11 provisions of this section. The written statement of rights
12 must include a statement that a resident may file a complaint
13 with the agency or local ~~district~~ ombudsman council. The
14 statement must be in boldfaced type and shall include the
15 name, address, and telephone numbers of the local ~~district~~
16 ombudsman council and adult abuse registry where complaints
17 may be lodged.

18 (3) Any violation of the resident's rights set forth
19 in this section shall constitute grounds for action by the
20 agency under the provisions of s. 400.102. In order to
21 determine whether the licensee is adequately protecting
22 residents' rights, the annual inspection of the facility shall
23 include private informal conversations with a sample of
24 residents to discuss residents' experiences within the
25 facility with respect to rights specified in this section and
26 general compliance with standards, and consultation with the
27 ombudsman council in the local ~~district~~ in which the nursing
28 home is located.

29 Section 138. Subsections (8), (9), (11), (12), (13),
30 and (14) of section 400.0255, Florida Statutes, are amended to
31 read:

1 400.0255 Resident transfer or discharge; requirements
2 and procedures; hearings.--

3 (8) The notice required by subsection (7) must be in
4 writing and must contain all information required by state and
5 federal law, rules, or regulations applicable to Medicaid or
6 Medicare cases. The agency shall develop a standard document
7 to be used by all facilities licensed under this part for
8 purposes of notifying residents of a discharge or transfer.
9 Such document must include a means for a resident to request
10 the local ~~district~~ long-term care ombudsman council to review
11 the notice and request information about or assistance with
12 initiating a fair hearing with the department's Office of
13 Appeals Hearings. In addition to any other pertinent
14 information included, the form shall specify the reason
15 allowed under federal or state law that the resident is being
16 discharged or transferred, with an explanation to support this
17 action. Further, the form shall state the effective date of
18 the discharge or transfer and the location to which the
19 resident is being discharged or transferred. The form shall
20 clearly describe the resident's appeal rights and the
21 procedures for filing an appeal, including the right to
22 request the local ~~district~~ ombudsman council to review the
23 notice of discharge or transfer. A copy of the notice must be
24 placed in the resident's clinical record, and a copy must be
25 transmitted to the resident's legal guardian or representative
26 and to the local ~~district~~ ombudsman council.

27 (9) A resident may request that the local ~~district~~
28 ombudsman council review any notice of discharge or transfer
29 given to the resident. When requested by a resident to review
30 a notice of discharge or transfer, the local ~~district~~
31 ombudsman council shall do so within 7 days after receipt of

1 the request. The nursing home administrator, or the
2 administrator's designee, must forward the request for review
3 contained in the notice to the local ~~district~~ ombudsman
4 council within 24 hours after such request is submitted.
5 Failure to forward the request within 24 hours after the
6 request is submitted shall toll the running of the 30-day
7 advance notice period until the request has been forwarded.

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

25 (12) After receipt of any notice required under this
26 section, the local ~~district~~ ombudsman council may request a
27 private informal conversation with a resident to whom the
28 notice is directed, and, if known, a family member or the
29 resident's legal guardian or designee, to ensure that the
30 facility is proceeding with the discharge or transfer in
31 accordance with the requirements of this section. If

1 requested, the local ~~district~~ ombudsman council shall assist
2 the resident with filing an appeal of the proposed discharge
3 or transfer.

4 (13) The following persons must be present at all
5 hearings authorized under this section:

6 (a) The resident, or the resident's legal
7 representative or designee.

8 (b) The facility administrator, or the facility's
9 legal representative or designee.

10

11 A representative of the local ~~district~~ long-term care
12 ombudsman council may be present at all hearings authorized by
13 this section.

14 (14) In any hearing under this section, the following
15 information concerning the parties shall be confidential and
16 exempt from the provisions of s. 119.07(1):

17 (a) Names and addresses.

18 (b) Medical services provided.

19 (c) Social and economic conditions or circumstances.

20 (d) Evaluation of personal information.

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

23 (f) Any information received verifying income
24 eligibility and amount of medical assistance payments. Income
25 information received from the Social Security Administration
26 or the Internal Revenue Service must be safeguarded according
27 to the requirements of the agency that furnished the data.

28

29 The exemption created by this subsection does not prohibit
30 access to such information by a local ~~district~~ long-term care
31 ombudsman council upon request, by a reviewing court if such

1 information is required to be part of the record upon
2 subsequent review, or as specified in s. 24(a), Art. I of the
3 State Constitution.

4 Section 139. Subsection (1) of section 400.19, Florida
5 Statutes, is amended to read:

6 400.19 Right of entry and inspection.--

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

1 within 60 days after receipt of a complaint made by a resident
2 or resident's representative, complete its investigation and
3 provide to the complainant its findings and resolution.

4 Section 140. Subsection (1) of section 400.191,
5 Florida Statutes, is amended to read:

6 400.191 Availability, distribution, and posting of
7 reports and records.--

8 (1) The agency shall provide information to the public
9 about all of the licensed nursing home facilities operating in
10 the state. The agency shall, within 60 days after an annual
11 inspection visit or within 30 days after any interim visit to
12 a facility, send copies of the inspection reports to the local
13 ~~district~~ long-term care ombudsman council, the agency's local
14 office, and a public library or the county seat for the county
15 in which the facility is located.

16 Section 141. Subsection (6) and paragraph (c) of
17 subsection (7) of section 400.23, Florida Statutes, are
18 amended to read:

19 400.23 Rules; evaluation and deficiencies; licensure
20 status.--

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

29 (7) The agency shall, at least every 15 months,
30 evaluate all nursing home facilities and make a determination
31 as to the degree of compliance by each licensee with the

1 established rules adopted under this part as a basis for
2 assigning a licensure status to that facility. The agency
3 shall base its evaluation on the most recent inspection
4 report, taking into consideration findings from other official
5 reports, surveys, interviews, investigations, and inspections.
6 The agency shall assign a licensure status of standard or
7 conditional to each nursing home.

8 (c) In evaluating the overall quality of care and
9 services and determining whether the facility will receive a
10 conditional or standard license, the agency shall consider the
11 needs and limitations of residents in the facility and the
12 results of interviews and surveys of a representative sampling
13 of residents, families of residents, ombudsman council members
14 in the planning and service area ~~district~~ in which the
15 facility is located, guardians of residents, and staff of the
16 nursing home facility.

17 Section 142. Subsection (13) of section 400.419,
18 Florida Statutes, is amended to read:

19 400.419 Violations; administrative fines.--

20 (13) The agency shall develop and disseminate an
21 annual list of all facilities sanctioned or fined \$5,000 or
22 more for violations of state standards, the number and class
23 of violations involved, the penalties imposed, and the current
24 status of cases. The list shall be disseminated, at no charge,
25 to the Department of Elderly Affairs, the Department of
26 Health, the Department of Children and Family Services, the
27 area agencies on aging, the Statewide Human Rights Advocacy
28 Committee, and the state and local ~~district nursing home~~
29 ombudsman councils. The Department of Children and Family
30 Services shall disseminate the list to service providers under
31 contract to the department who are responsible for referring

1 persons to a facility for residency. The agency may charge a
2 fee commensurate with the cost of printing and postage to
3 other interested parties requesting a copy of this list.

4 Section 143. Subsection (2) of section 400.428,
5 Florida Statutes, is amended to read:

6 400.428 Resident bill of rights.--

7 (2) The administrator of a facility shall ensure that
8 a written notice of the rights, obligations, and prohibitions
9 set forth in this part is posted in a prominent place in each
10 facility and read or explained to residents who cannot read.
11 This notice shall include the name, address, and telephone
12 numbers of the local ~~district~~ ombudsman council and adult
13 abuse registry and, when applicable, the Advocacy Center for
14 Persons with Disabilities, Inc., and the district human rights
15 advocacy committee, where complaints may be lodged. The
16 facility must ensure a resident's access to a telephone to
17 call the local ~~district~~ ombudsman council, adult abuse
18 registry, Advocacy Center for Persons with Disabilities, Inc.,
19 and district human rights advocacy committee.

20 Section 144. Section 400.434, Florida Statutes, is
21 amended to read:

22 400.434 Right of entry and inspection.--Any duly
23 designated officer or employee of the department, the
24 Department of Children and Family Services, the agency, the
25 state or local fire marshal, or a member of the state or local
26 ~~district~~ long-term care ombudsman council shall have the right
27 to enter unannounced upon and into the premises of any
28 facility licensed pursuant to this part in order to determine
29 the state of compliance with the provisions of this part and
30 of rules or standards in force pursuant thereto. The right of
31 entry and inspection shall also extend to any premises which

1 the agency has reason to believe is being operated or
2 maintained as a facility without a license; but no such entry
3 or inspection of any premises may be made without the
4 permission of the owner or person in charge thereof, unless a
5 warrant is first obtained from the circuit court authorizing
6 such entry. The warrant requirement shall extend only to a
7 facility which the agency has reason to believe is being
8 operated or maintained as a facility without a license. Any
9 application for a license or renewal thereof made pursuant to
10 this part shall constitute permission for, and complete
11 acquiescence in, any entry or inspection of the premises for
12 which the license is sought, in order to facilitate
13 verification of the information submitted on or in connection
14 with the application; to discover, investigate, and determine
15 the existence of abuse or neglect; or to elicit, receive,
16 respond to, and resolve complaints. Any current valid license
17 shall constitute unconditional permission for, and complete
18 acquiescence in, any entry or inspection of the premises by
19 authorized personnel. The agency shall retain the right of
20 entry and inspection of facilities that have had a license
21 revoked or suspended within the previous 24 months, to ensure
22 that the facility is not operating unlawfully. However, before
23 entering the facility, a statement of probable cause must be
24 filed with the director of the agency, who must approve or
25 disapprove the action within 48 hours. Probable cause shall
26 include, but is not limited to, evidence that the facility
27 holds itself out to the public as a provider of personal care
28 services or the receipt of a complaint by the long-term care
29 ombudsman council about the facility.

30 Section 145. Subsection (2) of section 400.435,
31 Florida Statutes, is amended to read:

1 400.435 Maintenance of records; reports.--

2 (2) Within 60 days after the date of the biennial
3 inspection visit or within 30 days after the date of any
4 interim visit, the agency shall forward the results of the
5 inspection to the local ~~district~~ ombudsman council in whose
6 planning and service area, as defined in part II, the facility
7 is located; to at least one public library or, in the absence
8 of a public library, the county seat in the county in which
9 the inspected assisted living facility is located; and, when
10 appropriate, to the district adult services and district
11 alcohol, drug abuse, and mental health program offices.

12 Section 146. Paragraph (i) of subsection (1) and
13 subsection (5) of section 400.4415, Florida Statutes, are
14 amended to read:

15 400.4415 Assisted living facilities advisory
16 committee.--

17 (1) There is created the assisted living facilities
18 advisory committee, which shall assist the agency in
19 developing and implementing a pilot rating system for
20 facilities. The committee shall consist of nine members who
21 are to be appointed by, and report directly to, the director
22 of the agency. The membership is to include:

23 (i) One consumer representative from a local ~~district~~
24 long-term care ombudsman council.

25 (5) In determining the rating and evaluating the
26 overall quality of care and services, the agency shall
27 consider the needs and limitations of residents in the
28 facility and the results of interviews and surveys of a
29 representative sampling of residents, families of residents,
30 long-term care ombudsman council members in the planning and
31

1 service area ~~district~~ in which the facility is located,
2 guardians of residents, and staff of the facility.

3 Section 147. Subsection (7) of section 400.619,
4 Florida Statutes, is amended to read:

5 400.619 Licensure application and renewal.--

6 (7) Access to a licensed adult family-care home must
7 be provided at reasonable times for the appropriate officials
8 of the department, the Department of Health, the Department of
9 Children and Family Services, the agency, and the State Fire
10 Marshal, who are responsible for the development and
11 maintenance of fire, health, sanitary, and safety standards,
12 to inspect the facility to assure compliance with these
13 standards. In addition, access to a licensed adult
14 family-care home must be provided at reasonable times for the
15 local ~~district~~ long-term care ombudsman council.

16 Section 148. Subsection (2) of section 400.62, Florida
17 Statutes, is amended to read:

18 400.628 Residents' bill of rights.--

19 (2) The provider shall ensure that residents and their
20 legal representatives are made aware of the rights,
21 obligations, and prohibitions set forth in this part.
22 Residents must also be given the names, addresses, and
23 telephone numbers of the local ~~district~~ ombudsman council and
24 the adult abuse registry where they may lodge complaints.

25 Section 149. There is hereby appropriated from the
26 General Revenue Fund to the long-term care ombudsman program
27 within the Department of Elderly Affairs the sum of \$40,000 in
28 nonrecurring funds to be used for training members of the
29 state and local long-term care ombudsman councils.

30 Section 150. There is hereby appropriated from the
31 General Revenue Fund to the long-term care ombudsman program

1 within the Department of Elderly Affairs the sum of \$40,000 in
2 nonrecurring funds to be used for materials to educate
3 residents of long-term care facilities and their families and
4 visitors, facility staff, and the general public about the
5 ombudsman program and to encourage such persons to seek
6 assistance from the long-term care ombudsman program.

7 Section 151. Section 39.407, Florida Statutes, is
8 amended to read:

9 39.407 Medical, psychiatric, and psychological
10 examination and treatment of child; physical or mental
11 examination of parent or person requesting custody of child.--

12 (1) When any child is removed from the home and
13 maintained in an out-of-home placement, the department is
14 authorized to have a medical screening performed on the child
15 without authorization from the court and without consent from
16 a parent or legal custodian. Such medical screening shall be
17 performed by a licensed health care professional and shall be
18 to examine the child for injury, illness, and communicable
19 diseases and to determine the need for immunization. The
20 department shall by rule establish the invasiveness of the
21 medical procedures authorized to be performed under this
22 subsection. In no case does this subsection authorize the
23 department to consent to medical treatment for such children.

24 (2) When the department has performed the medical
25 screening authorized by subsection (1), or when it is
26 otherwise determined by a licensed health care professional
27 that a child who is in an out-of-home placement, but who has
28 not been committed to the department, is in need of medical
29 treatment, including the need for immunization, consent for
30 medical treatment shall be obtained in the following manner:

31

1 (a)1. Consent to medical treatment shall be obtained
2 from a parent or legal custodian of the child; or

3 2. A court order for such treatment shall be obtained.

4 (b) If a parent or legal custodian of the child is
5 unavailable and his or her whereabouts cannot be reasonably
6 ascertained, and it is after normal working hours so that a
7 court order cannot reasonably be obtained, an authorized agent
8 of the department shall have the authority to consent to
9 necessary medical treatment, including immunization, for the
10 child. The authority of the department to consent to medical
11 treatment in this circumstance shall be limited to the time
12 reasonably necessary to obtain court authorization.

13 (c) If a parent or legal custodian of the child is
14 available but refuses to consent to the necessary treatment,
15 including immunization, a court order shall be required unless
16 the situation meets the definition of an emergency in s.
17 743.064 or the treatment needed is related to suspected abuse,
18 abandonment, or neglect of the child by a parent, caregiver,
19 or legal custodian. In such case, the department shall have
20 the authority to consent to necessary medical treatment. This
21 authority is limited to the time reasonably necessary to
22 obtain court authorization.

23
24 In no case shall the department consent to sterilization,
25 abortion, or termination of life support.

26 (3)(a) A judge may order a child in an out-of-home
27 placement to be examined by a licensed health care
28 professional.

29 (b) The judge may also order such child to be
30 evaluated by a psychiatrist or a psychologist, ~~by a district~~
31 ~~school board educational needs assessment team, or, if a~~

1 developmental disability is suspected or alleged, by the
2 developmental disability diagnostic and evaluation team of the
3 department. If it is necessary to place a child in a
4 residential facility for such evaluation, ~~then~~ the criteria
5 and procedure established in s. 394.463(2) or chapter 393
6 shall be used, whichever is applicable.

7 (c) The judge may also order such child to be
8 evaluated by a district school board educational needs
9 assessment team.The educational needs assessment provided by
10 the district school board educational needs assessment team
11 shall include, but not be limited to, reports of intelligence
12 and achievement tests, screening for learning disabilities and
13 other handicaps, and screening for the need for alternative
14 education as defined in s. 230.23.

15 (4) A judge may order a child in an out-of-home
16 placement to be treated by a licensed health care professional
17 based on evidence that the child should receive treatment.
18 The judge may also order such child to receive mental health
19 or developmental disabilities ~~retardation~~ services from a
20 psychiatrist, psychologist, or other appropriate service
21 provider. Except as provided in subsection (5),if it is
22 necessary to place the child in a residential facility for
23 such services, ~~then~~ the procedures and criteria established in
24 s. 394.467 or chapter 393 shall be used, whichever is
25 applicable. A child may be provided developmental disabilities
26 or mental health ~~or retardation~~ services in emergency
27 situations, pursuant to the procedures and criteria contained
28 in s. 394.463(1) or chapter 393, whichever is applicable.

29 (5) Children who are in the legal custody of the
30 department may be placed by the department in a residential
31 treatment center licensed under s. 394.875 or a hospital

1 licensed under chapter 395 for residential mental health
2 treatment only pursuant to this section or may be placed by
3 the court in accordance with an order of involuntary
4 examination or involuntary placement entered pursuant to s.
5 394.463 or s. 394.467. All children placed in a residential
6 treatment program under this subsection must have a guardian
7 ad litem appointed.

8 (a) As used in this subsection, the term:

9 1. "Residential treatment" means placement for
10 observation, diagnosis, or treatment of an emotional
11 disturbance in a residential treatment center licensed under
12 s. 394.875 or a hospital licensed under chapter 395.

13 2. "Least-restrictive alternative" means the treatment
14 and conditions of treatment that, separately and in
15 combination, are no more intrusive or restrictive of freedom
16 than reasonably necessary to achieve a substantial therapeutic
17 benefit or to protect the child or adolescent or others from
18 physical injury.

19 3. "Suitable for residential treatment" or
20 "suitability" means a determination concerning a child or
21 adolescent with an emotional disturbance as defined in s.
22 394.492(5) or a serious emotional disturbance as defined in s.
23 394.492(6) that each of the following criteria is met:

24 a. The child requires residential treatment.

25 b. The child is in need of a residential treatment
26 program and is expected to benefit from mental health
27 treatment.

28 c. An appropriate, less restrictive alternative to
29 residential treatment is unavailable.

30 (b) Whenever the department believes that a child in
31 its legal custody is emotionally disturbed and may need

1 residential treatment, an examination and suitability
2 assessment must be conducted by a qualified evaluator who is
3 appointed by the Agency for Health Care Administration. This
4 suitability assessment must be completed before the placement
5 of the child in a residential treatment center for emotionally
6 disturbed children and adolescents or a hospital. The
7 qualified evaluator must be a psychiatrist or a psychologist
8 licensed in Florida who has at least 3 years of experience in
9 the diagnosis and treatment of serious emotional disturbances
10 in children and adolescents and who has no actual or perceived
11 conflict of interest with any inpatient facility or
12 residential treatment center or program.

13 (c) Before a child is admitted under this subsection,
14 the child shall be assessed for suitability for residential
15 treatment by a qualified evaluator who has conducted a
16 personal examination and assessment of the child and has made
17 written findings that:

18 1. The child appears to have an emotional disturbance
19 serious enough to require residential treatment and is
20 reasonably likely to benefit from the treatment.

21 2. The child has been provided with a clinically
22 appropriate explanation of the nature and purpose of the
23 treatment.

24 3. All available modalities of treatment less
25 restrictive than residential treatment have been considered,
26 and a less restrictive alternative that would offer comparable
27 benefits to the child is unavailable.

28
29 A copy of the written findings of the evaluation and
30 suitability assessment must be provided to the department and
31

1 to the guardian ad litem, who shall have the opportunity to
2 discuss the findings with the evaluator.

3 (d) Immediately upon placing a child in a residential
4 treatment program under this section, the department must
5 notify the guardian ad litem and the court having jurisdiction
6 over the child and must provide the guardian ad litem and the
7 court with a copy of the assessment by the qualified
8 evaluator.

9 (e)1. Within 10 days after the admission of a child to
10 a residential treatment program, the director of the
11 residential treatment program or the director's designee must
12 ensure that an individualized plan of treatment has been
13 prepared by the program and has been explained to the child,
14 to the department and to the guardian ad litem, and submitted
15 to the department. The child must be involved in the
16 preparation of the plan to the maximum feasible extent
17 consistent with his or her ability to understand and
18 participate, and the guardian ad litem and the child's foster
19 parents must be involved to the maximum extent consistent with
20 the child's treatment needs. The plan must include a
21 preliminary plan for residential treatment and aftercare upon
22 completion of residential treatment. The plan must include
23 specific behavioral and emotional goals against which the
24 success of the residential treatment may be measured. A copy
25 of the plan must be provided to the child, to the guardian ad
26 litem, and to the department.

27 (f) Within 30 days after admission, the residential
28 treatment program must review the appropriateness and
29 suitability of the child's placement in the program. The
30 residential treatment program must determine whether the child
31 is receiving benefit towards the treatment goals and whether

1 the child could be treated in a less restrictive treatment
2 program. The residential treatment program shall prepare a
3 written report of its findings and submit the report to the
4 guardian ad litem and to the department. The department must
5 submit the report to the court. The report must include a
6 discharge plan for the child. The residential treatment
7 program must continue to evaluate the child's treatment
8 progress every 30 days thereafter and must include its
9 findings in a written report submitted to the department. The
10 department may not reimburse a facility until the facility has
11 submitted every written report that is due.

12 (g)1. The department must submit, at the beginning of
13 each month, to the court having jurisdiction over the child a
14 written report regarding the child's progress towards
15 achieving the goals specified in the individualized plan of
16 treatment.

17 2. The court must conduct a hearing to review the
18 status of the child's residential treatment plan no later than
19 3 months after the child's admission to the residential
20 treatment program. An independent review of the child's
21 progress towards achieving the goals and objectives of the
22 treatment plan must be completed by a qualified evaluator and
23 submitted to the court before its 3-month review.

24 3. For any child in residential treatment at the time
25 a judicial review is held pursuant to s. 39.701, the child's
26 continued placement in residential treatment must be a subject
27 of the judicial review.

28 4. If at any time the court determines that the child
29 is not suitable for continued residential treatment, the court
30 shall order the department to place the child in the least
31

1 restrictive setting that is best suited to meet his or her
2 needs.

3 (h) After the initial 3-month review, the court must
4 conduct a review of the child's residential treatment plan
5 every 90 days.

6 (i) The department must adopt rules for implementing
7 timeframes for the completion of suitability assessments by
8 qualified evaluators and a procedure that includes timeframes
9 for completing the 3-month independent review by the qualified
10 evaluators of the child's progress towards achieving the goals
11 and objectives of the treatment plan which review must be
12 submitted to the court. The Agency for Health Care
13 Administration must adopt rules for the registration of
14 qualified evaluators, the procedure for selecting the
15 evaluators to conduct the reviews required under this section,
16 and a reasonable, cost-efficient fee schedule for qualified
17 evaluators.

18 (6)(5) When a child is in an out-of-home placement, a
19 licensed health care professional shall be immediately called
20 if there are indications of physical injury or illness, or the
21 child shall be taken to the nearest available hospital for
22 emergency care.

23 (7)(6) Except as otherwise provided herein, nothing in
24 this section shall be deemed to eliminate the right of a
25 parent, legal custodian, or the child to consent to
26 examination or treatment for the child.

27 (8)(7) Except as otherwise provided herein, nothing in
28 this section shall be deemed to alter the provisions of s.
29 743.064.

30 (9)(8) A court shall not be precluded from ordering
31 services or treatment to be provided to the child by a duly

1 accredited practitioner who relies solely on spiritual means
2 for healing in accordance with the tenets and practices of a
3 church or religious organization, when required by the child's
4 health and when requested by the child.

5 (10)~~(9)~~ Nothing in this section shall be construed to
6 authorize the permanent sterilization of the child unless such
7 sterilization is the result of or incidental to medically
8 necessary treatment to protect or preserve the life of the
9 child.

10 (11)~~(10)~~ For the purpose of obtaining an evaluation or
11 examination, or receiving treatment as authorized pursuant to
12 this section, no child alleged to be or found to be dependent
13 shall be placed in a detention home or other program used
14 primarily for the care and custody of children alleged or
15 found to have committed delinquent acts.

16 (12)~~(11)~~ The parents or legal custodian of a child in
17 an out-of-home placement remain financially responsible for
18 the cost of medical treatment provided to the child even if
19 either one or both of the parents or if the legal custodian
20 did not consent to the medical treatment. After a hearing, the
21 court may order the parents or legal custodian, if found able
22 to do so, to reimburse the department or other provider of
23 medical services for treatment provided.

24 (13)~~(12)~~ Nothing in this section alters the authority
25 of the department to consent to medical treatment for a
26 dependent child when the child has been committed to the
27 department and the department has become the legal custodian
28 of the child.

29 (14)~~(13)~~ At any time after the filing of a shelter
30 petition or petition for dependency, when the mental or
31 physical condition, including the blood group, of a parent,

1 caregiver, legal custodian, or other person requesting custody
2 of a child is in controversy, the court may order the person
3 to submit to a physical or mental examination by a qualified
4 professional. The order may be made only upon good cause
5 shown and pursuant to notice and procedures as set forth by
6 the Florida Rules of Juvenile Procedure.

7 Section 152. Section 394.4785, Florida Statutes, is
8 amended to read:

9 394.4785 Children and adolescents ~~Minors~~; admission
10 and placement in mental facilities.--

11 (1) A child or adolescent as defined in s. 394.492 may
12 not be admitted to a state-owned or state-operated mental
13 health treatment facility. A child may be admitted pursuant to
14 s. 394.4625 or s. 394.467 to a crisis stabilization unit or a
15 residential treatment center licensed under chapter 394 or a
16 hospital licensed under chapter 395. The treatment center,
17 unit, or hospital must provide the least-restrictive available
18 treatment that is appropriate to the individual needs of the
19 child or adolescent and must adhere to the guiding principles,
20 system of care, and service planning provisions contained in
21 part III of chapter 394.

22 ~~(a) A minor who is admitted to a state mental hospital~~
23 ~~and placed in the general population or in a specialized unit~~
24 ~~for children or adolescents shall reside in living quarters~~
25 ~~separate from adult patients, and a minor who has not attained~~
26 ~~the age of 14 shall reside in living quarters separate from~~
27 ~~minors who are 14 years of age or older.~~

28 (2)(b) A person ~~minor~~ under the age of 14 who is
29 admitted to any hospital licensed pursuant to chapter 395 may
30 ~~shall~~ not be admitted to a bed in a room or ward with an adult
31 patient in a mental health unit or share common areas with an

1 adult patient in a mental health unit. However, a person
2 ~~minor~~ 14 years of age or older may be admitted to a bed in a
3 room or ward in the mental health unit with an adult if the
4 admitting physician documents in the case record that such
5 placement is medically indicated or for reasons of safety.
6 Such placement shall be reviewed by the attending physician or
7 a designee or on-call physician each day and documented in the
8 case record.

9 ~~(2) In all cases involving the admission of minors to~~
10 ~~a state mental hospital, the case record shall document that a~~
11 ~~good faith effort was made to place the minor in a less~~
12 ~~restrictive form of treatment. Admission to a state mental~~
13 ~~hospital shall be regarded as the last and only treatment~~
14 ~~option available. Notwithstanding the provision of paragraph~~
15 ~~(1)(a), an individual under the age of 18 may be housed in the~~
16 ~~general population if the hospital multidisciplinary treatment~~
17 ~~and rehabilitation team has reviewed the patient and has~~
18 ~~documented in the case record that such placement is necessary~~
19 ~~for reasons of safety. Such patients placed in the general~~
20 ~~population must be reviewed by this team every 30 days and~~
21 ~~recertified as appropriate for placement in the general~~
22 ~~population.~~

23 Section 153. Present subsections (18), (19), and (20)
24 of section 394.67, Florida Statutes, are redesignated as
25 subsections (19), (20), and (21), respectively, and a new
26 subsection (18) is added to that section to read:

27 394.67 Definitions.--As used in this part, the term:

28 (18) "Residential treatment center for children and
29 adolescents" means a 24-hour residential program, including a
30 therapeutic group home, which provides mental health services
31 to emotionally disturbed children or adolescents as defined in

1 s. 394.492(5) or (6) and which is a private for-profit or
2 not-for-profit corporation under contract with the department
3 which offers a variety of treatment modalities in a more
4 restrictive setting.

5 Section 154. Section 394.875, Florida Statutes, is
6 amended to read:

7 394.875 Crisis stabilization units,~~and~~ residential
8 treatment facilities, and residential treatment centers for
9 children and adolescents; authorized services; license
10 required; penalties.--

11 (1)(a) The purpose of a crisis stabilization unit is
12 to stabilize and redirect a client to the most appropriate and
13 least restrictive community setting available, consistent with
14 the client's needs. Crisis stabilization units may screen,
15 assess, and admit for stabilization persons who present
16 themselves to the unit and persons who are brought to the unit
17 under s. 394.463. Clients may be provided 24-hour
18 observation, medication prescribed by a physician or
19 psychiatrist, and other appropriate services. Crisis
20 stabilization units shall provide services regardless of the
21 client's ability to pay and shall be limited in size to a
22 maximum of 30 beds.

23 (b) The purpose of a residential treatment facility is
24 to be a part of a comprehensive treatment program for mentally
25 ill individuals in a community-based residential setting.

26 (c) The purpose of a residential treatment center for
27 children and adolescents is to provide mental health
28 assessment and treatment services pursuant to ss. 394.491,
29 394.495, and 394.496 to children and adolescents who meet the
30 target population criteria specified in s. 394.493(1)(a), (b),
31 or (c).

1 (2) It is unlawful for any entity to hold itself out
2 as a crisis stabilization unit,or a residential treatment
3 facility, or a residential treatment center for children and
4 adolescents, or to act as a crisis stabilization unit,or a
5 residential treatment facility, or a residential treatment
6 center for children and adolescents, unless it is licensed by
7 the agency pursuant to this chapter.

8 (3) Any person who violates subsection (2) is guilty
9 of a misdemeanor of the first degree, punishable as provided
10 in s. 775.082 or s. 775.083.

11 (4) The agency may maintain an action in circuit court
12 to enjoin the unlawful operation of a crisis stabilization
13 unit,or a residential treatment facility, or a residential
14 treatment center for children and adolescents if the agency
15 first gives the violator 14 days' notice of its intention to
16 maintain such action and if the violator fails to apply for
17 licensure within such 14-day period.

18 (5) Subsection (2) does not apply to:

19 (a) Homes for special services licensed under chapter
20 400; or

21 (b) Nursing homes licensed under chapter 400, ~~or~~

22 (c) Comprehensive transitional education programs
23 ~~Residential child caring facilities~~ licensed under s. 393.067
24 ~~s. 409.175~~.

25 (6) The department, in consultation with the agency,
26 may establish multiple license classifications for residential
27 treatment facilities.

28 (7) The agency may not issue a license to a crisis
29 stabilization unit unless the unit receives state mental
30 health funds and is affiliated with a designated public
31 receiving facility.

1 (8) The agency may issue a license for a crisis
2 stabilization unit or short-term residential treatment
3 facility, certifying the number of authorized beds for such
4 facility as indicated by existing need and available
5 appropriations. The agency may disapprove an application for
6 such a license if it determines that a facility should not be
7 licensed pursuant to the provisions of this chapter. Any
8 facility operating beds in excess of those authorized by the
9 agency shall, upon demand of the agency, reduce the number of
10 beds to the authorized number, forfeit its license, or provide
11 evidence of a license issued pursuant to chapter 395 for the
12 excess beds.

13 (9) A children's crisis stabilization unit which does
14 not exceed 20 licensed beds and which provides separate
15 facilities or a distinct part of a facility, separate
16 staffing, and treatment exclusively for minors may be located
17 on the same premises as a crisis stabilization unit serving
18 adults. The department, in consultation with the agency, shall
19 adopt rules governing facility construction, staffing and
20 licensure requirements, and the operation of such units for
21 minors.

22 (10) The department, in consultation with the agency,
23 must adopt rules governing a residential treatment center for
24 children and adolescents which specify licensure standards
25 for: admission; length of stay; program and staffing;
26 discharge and discharge planning; treatment planning;
27 seclusion, restraints, and time-out; rights of patients under
28 s. 394.459; use of psychotropic medications; and standards for
29 the operation of such centers.

30 ~~(11)(10)~~ Notwithstanding the provisions of subsection
31 (8), crisis stabilization units may not exceed their licensed

1 capacity by more than 10 percent, nor may they exceed their
2 licensed capacity for more than 3 consecutive working days or
3 for more than 7 days in 1 month.

4 (12)~~(11)~~ Notwithstanding the other provisions of this
5 section, any facility licensed under chapters 396 and 397 for
6 detoxification, residential level I care, and outpatient
7 treatment may elect to license concurrently all of the beds at
8 such facility both for that purpose and as a long-term
9 residential treatment facility pursuant to this section, if
10 all of the following conditions are met:

11 (a) The licensure application is received by the
12 department prior to January 1, 1993.

13 (b) On January 1, 1993, the facility was licensed
14 under chapters 396 and 397 as a facility for detoxification,
15 residential level I care, and outpatient treatment of
16 substance abuse.

17 (c) The facility restricted its practice to the
18 treatment of law enforcement personnel for a period of at
19 least 12 months beginning after January 1, 1992.

20 (d) The number of beds to be licensed under chapter
21 394 is equal to or less than the number of beds licensed under
22 chapters 396 and 397 as of January 1, 1993.

23 (e) The licensee agrees in writing to a condition
24 placed upon the license that the facility will limit its
25 treatment exclusively to law enforcement personnel and their
26 immediate families who are seeking admission on a voluntary
27 basis and who are exhibiting symptoms of posttraumatic stress
28 disorder or other mental health problems, including drug or
29 alcohol abuse, which are directly related to law enforcement
30 work and which are amenable to verbal treatment therapies; the
31 licensee agrees to coordinate the provision of appropriate

1 postresidential care for discharged individuals; and the
2 licensee further agrees in writing that a failure to meet any
3 condition specified in this paragraph shall constitute grounds
4 for a revocation of the facility's license as a residential
5 treatment facility.

6 (f) The licensee agrees that the facility will meet
7 all licensure requirements for a residential treatment
8 facility, including minimum standards for compliance with
9 lifesafety requirements, except those licensure requirements
10 which are in express conflict with the conditions and other
11 provisions specified in this subsection.

12 (g) The licensee agrees that the conditions stated in
13 this subsection must be agreed to in writing by any person
14 acquiring the facility by any means.

15

16 Any facility licensed under this subsection is not required to
17 provide any services to any persons except those included in
18 the specified conditions of licensure, and is exempt from any
19 requirements related to the 60-day or greater average length
20 of stay imposed on community-based residential treatment
21 facilities otherwise licensed under this chapter.

22 (13)~~(12)~~ Each applicant for licensure must comply with
23 the following requirements:

24 (a) Upon receipt of a completed, signed, and dated
25 application, the agency shall require background screening, in
26 accordance with the level 2 standards for screening set forth
27 in chapter 435, of the managing employee and financial
28 officer, or other similarly titled individual who is
29 responsible for the financial operation of the facility,
30 including billings for client care and services. The applicant
31 must comply with the procedures for level 2 background

1 screening as set forth in chapter 435, as well as the
2 requirements of s. 435.03(3).

3 (b) The agency may require background screening of any
4 other individual who is an applicant if the agency has
5 probable cause to believe that he or she has been convicted of
6 a crime or has committed any other offense prohibited under
7 the level 2 standards for screening set forth in chapter 435.

8 (c) Proof of compliance with the level 2 background
9 screening requirements of chapter 435 which has been submitted
10 within the previous 5 years in compliance with any other
11 health care licensure requirements of this state is acceptable
12 in fulfillment of the requirements of paragraph (a).

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

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

5 (e) Each applicant must submit to the agency, with its
6 application, a description and explanation of any exclusions,
7 permanent suspensions, or terminations of the applicant from
8 the Medicare or Medicaid programs. Proof of compliance with
9 the requirements for disclosure of ownership and control
10 interests under the Medicaid or Medicare programs shall be
11 accepted in lieu of this submission.

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

30 (g) A license may not be granted to an applicant if
31 the applicant or managing employee has been found guilty of,

1 regardless of adjudication, or has entered a plea of nolo
2 contendere or guilty to, any offense prohibited under the
3 level 2 standards for screening set forth in chapter 435,
4 unless an exemption from disqualification has been granted by
5 the agency as set forth in chapter 435.

6 (h) The agency may deny or revoke licensure if the
7 applicant:

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

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

15 (i) An application for license renewal must contain
16 the information required under paragraphs (e) and (f).

17 Section 155. Paragraph (j) of subsection (2) of
18 section 409.175, Florida Statutes, is amended to read:

19 409.175 Licensure of family foster homes, residential
20 child-caring agencies, and child-placing agencies.--

21 (2) As used in this section, the term:

22 (j) "Residential child-caring agency" means any
23 person, corporation, or agency, public or private, other than
24 the child's parent or legal guardian, that provides staffed
25 24-hour care for children in facilities maintained for that
26 purpose, regardless of whether operated for profit or whether
27 a fee is charged. Such residential child-caring agencies
28 include, but are not limited to, maternity homes, runaway
29 shelters, group homes that are administered by an agency,
30 emergency shelters that are not in private residences, and
31 wilderness camps. Residential child-caring agencies do not

1 include hospitals, boarding schools, summer or recreation
2 camps, nursing homes, or facilities operated by a governmental
3 agency for the training, treatment, or secure care of
4 delinquent youth, or facilities licensed under s. 393.067 or
5 s. 394.875 or chapter 397.

6 Section 156. Nothing in this act excuses or relieves
7 the department of any other obligations to abused, neglected
8 or abandoned children in its custody.

9 Section 157. Except as otherwise provided herein, this
10 act shall take effect September 1, 2000.

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