

Bill No. CS for SB 420

Amendment No.     

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Latvala moved the following amendment:

**Senate Amendment (with title amendment)**

On page 38, between lines 25 and 26,

insert:

Section 17. Subsections (1) and (2) of section 400.408, Florida Statutes, are amended to read:

400.408 Unlicensed facilities; referral of person for residency to unlicensed facility; penalties; verification of licensure status.--

(1)(a) It is unlawful to own, operate, or maintain an assisted living facility without obtaining a license under this part.

(b) Except as provided under paragraph (d), any person who owns, operates, or maintains an unlicensed assisted living facility commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each day of continued operation is a separate offense.

(c) Any person found guilty of violating paragraph (a) a second or subsequent time commits a felony of the second

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

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

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

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

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

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

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

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

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

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

31 (b) Any hospital or community mental health center

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

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

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

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

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

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

12 Section 18. Subsection (1) of section 415.1034,  
 13 Florida Statutes, is amended to read:

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

17 (1) MANDATORY REPORTING.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8  
9 (Redesignate subsequent sections.)

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

13 And the title is amended as follows:

14           On page 3, line 1, after the semicolon,

15

16 insert:

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

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