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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/15/2008	.	
	.	
	.	

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1 The Committee on Health Regulation (Jones) recommended the  
 2 following **amendment**:

3  
 4 Senate Amendment (with title amendment)  
 5 Delete everything after the enacting clause  
 6 and insert:

7 Section 1. This act may be cited as the "Long-Term Care  
 8 Transparency Act."

9 Section 2. Subsections (2) through (18) of section 400.021,  
 10 Florida Statutes, are renumbered as subsections (3) through (23),  
 11 respectively, new subsections (2), (6), (7), (10), and (14) are  
 12 added to that section, and present subsections (2) through (9) of  
 13 that sections are amended, to read:

14 400.021 Definitions.-- When used in this part, unless the  
 15 context otherwise requires, the term:

16 (2) "Affiliate" means an entity having the same or similar  
 17 owners, officers, board members, directors, limited liability

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18 corporation members, operating company, management company, or  
19 address as a facility.

20 (3)-(2) "Agency" means the Agency for Health Care  
21 Administration, ~~which is the licensing agency under this part.~~

22 (4)-(3) "Bed reservation policy" means the number of  
23 consecutive days and the number of days per year that a resident  
24 may leave the nursing home facility for overnight therapeutic  
25 visits with family or friends or for hospitalization for an acute  
26 condition before the licensee may discharge the resident due to  
27 his or her absence from the facility.

28 (5)-(4) "Board" means the Board of Nursing Home  
29 Administrators.

30 (6) "Controlling entity" means an entity that exhibits  
31 control over a facility, including, but not limited to, control  
32 over the facility's budget, staffing levels, setting or  
33 monitoring census goals, employment decisions, capital purchases,  
34 facility improvements, plant improvements, access to or use of  
35 the facility's assets or equipment, financing or lending  
36 agreements, or the business decisions of the facility.

37 (7) "Controlling financial interest" means having a 5  
38 percent or greater financial ownership interest in the facility,  
39 an affiliate, or controlling entity.

40 (8)-(5) "Custodial service" means care for a person which  
41 entails observation of diet and sleeping habits and ~~maintenanece~~  
42 ~~of a~~ watchfulness over the general health, safety, and well-being  
43 of the aged or infirm.

44 (9)-(6) "Department" means the Department of Children and  
45 Family Services.

46 (10) "Entity" means an individual, partnership,  
47 association, joint venture, company, sole proprietorship,

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48 corporation, limited liability corporation, professional limited  
49 liability corporation, or any other form of doing business.

50 (11)~~(7)~~ "Facility" means an ~~any~~ institution, building,  
51 residence, private home, or other place, whether operated for  
52 profit or not, including a place operated by a county or  
53 municipality, which undertakes through its ownership or  
54 management to provide for a period exceeding 24-hour nursing  
55 care, personal care, or custodial care for three or more persons  
56 not related to the owner or manager by blood or marriage, who by  
57 reason of illness, physical infirmity, or advanced age require  
58 such services, but does not include any place providing care and  
59 treatment primarily for the acutely ill. A facility offering  
60 services for fewer than three persons is within the meaning of  
61 this definition if it holds itself out to the public to be an  
62 establishment that ~~which~~ regularly provides such services.

63 (12)~~(8)~~ "Geriatric outpatient clinic" means a site for  
64 providing outpatient health care to persons 60 years of age or  
65 older, which is staffed by a registered nurse or a physician  
66 assistant.

67 (13)~~(9)~~ "Geriatric patient" means a ~~any~~ patient who is 60  
68 years of age or older.

69 (14) "Governing body" means the individuals who have  
70 responsibility for hiring the administrator and for approving a  
71 facility's policies and procedures and ensuring their proper  
72 implementation.

73 Section 3. Paragraph (h) is added to subsection (2) of  
74 section 400.0239, Florida Statutes, to read:

75 400.0239 Quality of Long-Term Care Facility Improvement  
76 Trust Fund.--

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77 (2) Expenditures from the trust fund shall be allowable for  
78 direct support of the following:

79 (h) The development and expansion of an electronic Nursing  
80 Home Guide pursuant to s. 400.191 to aid prospective residents in  
81 selecting a nursing facility that will meet their unique needs  
82 and standards.

83 Section 4. Subsection (1) of section 400.071, Florida  
84 Statutes, is amended, present subsections (2) through (5) of that  
85 section are renumbered as subsections (3) through (6),  
86 respectively, and new subsection (2) is added to that section, to  
87 read:

88 400.071 Application for license.--

89 (1) In addition to the requirements of part II of chapter  
90 408, the application for a license under this part must ~~shall~~ be  
91 under oath and must contain the following:

92 (a) The location of the facility for which a license is  
93 sought and an indication, ~~as in the original application,~~ that  
94 the such location conforms to ~~the~~ local zoning ordinances.

95 (b) A signed affidavit disclosing any financial or  
96 ownership interest that the applicant, an affiliate, a  
97 controlling entity, or an entity having a controlling financial  
98 interest as defined in part II of chapter 408 has held in the  
99 last 5 years in any entity licensed by this state or any other  
100 state to provide health or residential care which has closed  
101 voluntarily or involuntarily; has filed for bankruptcy; has had a  
102 receiver appointed; has had a license denied, suspended, or  
103 revoked; or has had an injunction issued against it which was  
104 initiated by a regulatory agency. The affidavit must disclose the  
105 reason the any such entity was closed, whether voluntarily or  
106 involuntarily.



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107           (c) A signed affidavit disclosing any affiliate of,  
108 controlling entity of, and entity having a controlling financial  
109 interest in the applicant.

110           (d) The total number of beds and the total number of  
111 Medicare and Medicaid certified beds.

112           ~~(e)~~ Information relating to the applicant and employees  
113 which the agency requires by rule. The applicant must demonstrate  
114 that sufficient numbers of qualified staff, by training or  
115 experience, will be employed to properly care for the type and  
116 number of residents who will reside in the facility.

117           (f) Proof of financial ability to operate. The applicant  
118 must demonstrate an ability to provide staff at required levels  
119 and maintain solvency in accordance with this part, applicable  
120 provisions of chapter 408, and related rules. Documentation must  
121 include, but need not be limited to, the balance sheet and profit  
122 and loss statement of the nursing home's 2 previous fiscal years  
123 of operation, a statement of projected revenues and expenses for  
124 the first 12 months of operation following licensure, a detailed  
125 explanation of the assumptions implicit in these projections, the  
126 basis for financing the applicant's anticipated cash-flow  
127 requirements, and the applicant's access to contingency  
128 financing. This information is not required for a routine license  
129 renewal.

130           ~~(g)~~ Copies of any civil verdict or judgment involving  
131 the applicant, affiliates, or controlling entities rendered  
132 within the 10 years preceding the application, relating to  
133 medical negligence, violation of residents' rights, or wrongful  
134 death. As a condition of licensure, the licensee agrees to  
135 provide to the agency copies of any new verdict or judgment  
136 involving the applicant, relating to such matters, within 30 days



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137 after filing with the clerk of the court. The information must  
138 ~~required in this paragraph shall~~ be maintained in the facility's  
139 licensure file and in an agency database that ~~which~~ is available  
140 as a public record.

141 (h) Copies of any contracts with affiliates or controlling  
142 entities, including details of goods or services provided and the  
143 intended method of payment for those goods and services.

144 (i) Copies of any audits, investigations, or fines related  
145 to the receipt or use of federal or state funds by all  
146 affiliates, controlling entities, and entities having a  
147 controlling financial interest. These include the results of or  
148 any ongoing investigations into Medicaid or Medicare fraud or  
149 Medicaid or Medicare overpayment, any standing corporate  
150 integrity agreements, or other remedial action by a public  
151 entity.

152 (j) The names and dates of service of the members of the  
153 applicant's governing body.

154 (2) Information relating to financial and ownership  
155 information shall be submitted in a format prescribed by the  
156 agency.

157 Section 5. Section 400.102, Florida Statutes, is amended to  
158 read:

159 400.102 Action by agency against licensee; grounds.--In  
160 addition to the grounds listed in part II of chapter 408, any of  
161 the following conditions shall be grounds for action by the  
162 agency against a licensee:

163 (1) An intentional or negligent act materially affecting  
164 the health or safety of residents of the facility.†

165 (2) Misappropriation or conversion of the property of a  
166 resident of the facility.†



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167 (3) Failure to follow the criteria and procedures provided  
168 under part I of chapter 394 relating to the transportation,  
169 voluntary admission, and involuntary examination of a nursing  
170 home resident. ~~;~~ ~~or~~

171 (4) Fraudulent altering, defacing, or falsifying any  
172 medical or nursing home records, or causing or procuring any of  
173 these offenses to be committed.

174 (5) Failure to disclose at the time of licensure, license  
175 renewal, or change of ownership all affiliates, controlling  
176 entities, entities having a controlling financial interest, or  
177 members of the facility's governing body.

178 Section 6. Section 400.111, Florida Statutes, is amended to  
179 read:

180 400.111 Disclosure of controlling interest.--In addition to  
181 the requirements of part II of chapter 408, the licensee shall at  
182 the time of licensure, license renewal, or change of ownership  
183 submit a signed affidavit disclosing any financial or ownership  
184 interest that an affiliate, controlling entity, or entity having  
185 a controlling financial interest has held within the last 5 years  
186 in any entity licensed by the state or any other state to provide  
187 health or residential care which ~~entity~~ has closed voluntarily or  
188 involuntarily; has filed for bankruptcy; has had a receiver  
189 appointed; has had a license denied, suspended, or revoked; or  
190 has had an injunction issued against it which was initiated by a  
191 regulatory agency. The affidavit must disclose the reason such  
192 entity was closed, whether voluntarily or involuntarily. As a  
193 condition of licensure, license renewal, or change of ownership,  
194 the licensee must agree to provide to the agency a signed  
195 affidavit disclosing such interest within 30 days after the  
196 acquisition.



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197 Section 7. Subsections (1) and (3) of section 400.121,  
198 Florida Statutes, are amended to read:

199 400.121 Denial, suspension, revocation of license;  
200 administrative fines; procedure; order to increase staffing.--

201 (1) The agency may deny a license ~~an~~ application, revoke or  
202 suspend a license, and impose an administrative fine, not to  
203 exceed \$500 per violation per day for the ~~violation of any~~  
204 ~~provision of this part, part II of chapter 408, or applicable~~  
205 ~~rules, against any applicant or licensee for the following~~  
206 violations by the applicant, licensee, or ~~other~~ controlling  
207 interest:

208 (a) A violation of any provision of this part, part II of  
209 chapter 408, or applicable rules; or

210 (b) An adverse action by a regulatory agency against any  
211 other licensed facility that has a common controlling entity or  
212 an entity having controlling financial interest in the applicant  
213 or with the licensee or applicant against whom the action under  
214 ~~this section is being brought~~. If the adverse action involves  
215 solely the management company, the applicant or licensee shall be  
216 given 30 days to remedy before final action is taken. If the  
217 adverse action is based solely upon actions by the a controlling  
218 entity or entity having a controlling financial interest, the  
219 applicant or licensee may present factors in mitigation of a any  
220 proposed penalty based upon a showing that such penalty is  
221 inappropriate under the circumstances.

222  
223 All hearings shall be held within the county in which the  
224 licensee or applicant operates or applies for a license to  
225 operate a facility ~~as defined herein~~.



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226 (3) The agency shall revoke or deny a nursing home license  
227 if the licensee, a controlling entity, or an entity having a  
228 controlling financial interest in the licensee operates a  
229 facility in this state that:

230 (a) Has had two moratoria issued pursuant to this part or  
231 part II of chapter 408 which are imposed by final order for  
232 substandard quality of care, as defined by 42 C.F.R. part 483,  
233 within any 30-month period;

234 (b) Is conditionally licensed for 180 or more continuous  
235 days;

236 (c) Is cited for two class I deficiencies arising from  
237 unrelated circumstances during the same survey or investigation;  
238 or

239 (d) Is cited for two class I deficiencies arising from  
240 separate surveys or investigations within a 30-month period.

241  
242 The licensee may present factors in mitigation of revocation, and  
243 the agency may make a determination not to revoke a license based  
244 upon a showing that revocation is inappropriate under the  
245 circumstances.

246 Section 8. Subsection (20) of section 400.141, Florida  
247 Statutes, are amended to read:

248 400.141 Administration and management of nursing home  
249 facilities.--Every licensed facility shall comply with all  
250 applicable standards and rules of the agency and shall:

251 (20) Maintain general and professional liability insurance  
252 coverage that is in force at all times. The insurance may not be  
253 used for the litigation costs or attorney's fees for the defense  
254 of a claim against a nursing home pursuant to the common law, s.  
255 400.023, or s. 400.0233. The licensee must notify the agency

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256 immediately if the policy limits or annual aggregate liability  
257 coverage has been exhausted. In lieu of general and professional  
258 liability insurance coverage, a state-designated teaching nursing  
259 home and its affiliated assisted living facilities created under  
260 s. 430.80 may demonstrate proof of financial responsibility as  
261 provided in s. 430.80(3)(h).

262  
263 Facilities that have been awarded a Gold Seal under the program  
264 established in s. 400.235 may develop a plan to provide certified  
265 nursing assistant training as prescribed by federal regulations  
266 and state rules and may apply to the agency for approval of their  
267 program.

268 Section 9. Effective December 1, 2008, subsections (2) and  
269 (5) of section 400.191, Florida Statutes, are amended to read:

270 400.191 Availability, distribution, and posting of reports  
271 and records.--

272 (2) The agency shall maintain an electronic ~~publish the~~  
273 Nursing Home Guide ~~annually~~ in a consumer-friendly ~~printed form~~  
274 ~~and quarterly in electronic form,~~ which is updated weekly, to  
275 assist consumers and their families in comparing and evaluating  
276 nursing home facilities.

277 (a) The agency shall provide an Internet website that, at a  
278 minimum, includes ~~site which shall include at least~~ the following  
279 information ~~either~~ directly or indirectly through a link to other  
280 ~~another~~ established websites ~~site or sites~~ of the agency's  
281 choosing:

282 1. A section entitled "Have you considered programs that  
283 provide alternatives to nursing home care?" which shall be the  
284 first section of the Nursing Home Guide and which shall  
285 prominently display information about available alternatives to



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286 nursing homes and how to obtain additional information regarding  
287 these alternatives. The Nursing Home Guide shall explain that  
288 this state offers alternative programs that allow ~~permit~~  
289 qualified elderly persons to stay in their homes instead of being  
290 placed in nursing homes and shall encourage interested persons to  
291 call the Comprehensive Assessment Review and Evaluation for Long-  
292 Term Care Services (CARES) Program to inquire if they qualify.  
293 The Nursing Home Guide shall list available home and community-  
294 based programs and ~~which shall~~ clearly state the services that  
295 are provided and ~~indicate~~ whether nursing home services are  
296 included if needed.

297 2. A list by name and address of all nursing home  
298 facilities in this state, including any ~~prior~~ name by which a  
299 facility was known during the previous 24-month period.

300 3. A list of all affiliates, controlling entities, and  
301 entities having a controlling financial interest that are  
302 affiliated with or associated with the facility.

303 4. Any documents related to audits, investigations, or  
304 finances related to the receipt or use of federal or state funds by  
305 the facility, or any affiliate, controlling entity, or entity  
306 having a controlling financial interest, including all related  
307 documents submitted under s. 400.071.

308 ~~5.3.~~ Whether the facility is ~~such nursing home facilities~~  
309 ~~are~~ proprietary or nonproprietary.

310 ~~6.4.~~ The current owner or owners of the facility's license  
311 and the year in which ~~that~~ that entity became the owner of the  
312 license.

313 ~~7.5.~~ The name of the owner or owners of the ~~each~~ facility  
314 and whether the facility is affiliated with a company or other



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315 organization owning or managing more than one nursing facility in  
316 this state.

317 ~~8.6.~~ The total number of beds in the ~~each~~ facility and the  
318 most recently available occupancy levels.

319 ~~9.7.~~ The number of private and semiprivate rooms in the  
320 ~~each~~ facility.

321 ~~10.8.~~ The religious affiliation, if any, of the ~~each~~  
322 facility.

323 ~~11.9.~~ The languages spoken by the administrator and staff  
324 of the ~~each~~ facility.

325 ~~12.10.~~ Whether the ~~or not each~~ facility accepts Medicare or  
326 Medicaid recipients or insurance, health maintenance  
327 organization, Veterans Administration, CHAMPUS program, or  
328 workers' compensation coverage.

329 ~~13.11.~~ Recreational programs, special care units, and other  
330 programs available at the ~~each~~ facility.

331 ~~14.12.~~ Special care units or programs offered at the ~~each~~  
332 facility.

333 ~~15.13.~~ Whether the facility is a part of a retirement  
334 community that offers other services pursuant to part III of this  
335 chapter or part I or part III of chapter 429.

336 ~~16.14.~~ Survey and deficiency information, including all  
337 federal and state recertification, licensure, revisit, and  
338 complaint survey information, for the ~~each~~ facility for the past  
339 30 months. For noncertified nursing homes, state survey and  
340 deficiency information, including licensure, revisit, and  
341 complaint survey information for the past 30 months shall be  
342 provided.

343 ~~17.15.~~ A summary of the deficiency data for the ~~each~~  
344 facility during ~~over~~ the past 30 months. The summary may include



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345 a score, rating, or comparison ranking with respect to other  
346 facilities based on the number of citations received by the  
347 facility on recertification, licensure, revisit, and complaint  
348 surveys; the severity and scope of the citations; and the number  
349 of recertification surveys the facility has had during the past  
350 30 months. The score, rating, or comparison ranking may be  
351 presented in ~~either~~ numeric or symbolic form for the intended  
352 consumer audience.

353 18. The name of the administrator and of all members of the  
354 facility's governing body, including their dates of service.

355 19. A list, by name and address, of all nursing home  
356 facilities that have submitted an application for a change of  
357 ownership, including the date of the submission and current  
358 status of that application.

359 ~~(b) The agency shall provide the following information in~~  
360 ~~printed form:~~

361 ~~1. A section entitled "Have you considered programs that~~  
362 ~~provide alternatives to nursing home care?" which shall be the~~  
363 ~~first section of the Nursing Home guide and which shall~~  
364 ~~prominently display information about available alternatives to~~  
365 ~~nursing homes and how to obtain additional information regarding~~  
366 ~~these alternatives. The Nursing Home guide shall explain that~~  
367 ~~this state offers alternative programs that permit qualified~~  
368 ~~elderly persons to stay in their homes instead of being placed in~~  
369 ~~nursing homes and shall encourage interested persons to call the~~  
370 ~~Comprehensive Assessment Review and Evaluation for Long-Term Care~~  
371 ~~Services (CARES) Program to inquire if they qualify. The Nursing~~  
372 ~~Home guide shall list available home and community-based programs~~  
373 ~~which shall clearly state the services that are provided and~~  
374 ~~indicate whether nursing home services are included if needed.~~



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375           ~~2. A list by name and address of all nursing home~~  
376 ~~facilities in this state.~~

377           ~~3. Whether the nursing home facilities are proprietary or~~  
378 ~~nonproprietary.~~

379           ~~4. The current owner or owners of the facility's license~~  
380 ~~and the year that entity became the owner of the license.~~

381           ~~5. The total number of beds, and of private and semiprivate~~  
382 ~~rooms, in each facility.~~

383           ~~6. The religious affiliation, if any, of each facility.~~

384           ~~7. The name of the owner of each facility and whether the~~  
385 ~~facility is affiliated with a company or other organization~~  
386 ~~owning or managing more than one nursing facility in this state.~~

387           ~~8. The languages spoken by the administrator and staff of~~  
388 ~~each facility.~~

389           ~~9. Whether or not each facility accepts Medicare or~~  
390 ~~Medicaid recipients or insurance, health maintenance~~  
391 ~~organization, Veterans Administration, CHAMPUS program, or~~  
392 ~~workers' compensation coverage.~~

393           ~~10. Recreational programs, special care units, and other~~  
394 ~~programs available at each facility.~~

395           ~~11. The Internet address for the site where more detailed~~  
396 ~~information can be seen.~~

397           ~~12. A statement advising consumers that each facility will~~  
398 ~~have its own policies and procedures related to protecting~~  
399 ~~resident property.~~

400           ~~13. A summary of the deficiency data for each facility over~~  
401 ~~the past 30 months. The summary may include a score, rating, or~~  
402 ~~comparison ranking with respect to other facilities based on the~~  
403 ~~number of citations received by the facility on recertification,~~  
404 ~~licensure, revisit, and complaint surveys; the severity and scope~~

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405 ~~of the citations; the number of citations; and the number of~~  
406 ~~recertification surveys the facility has had during the past 30~~  
407 ~~months. The score, rating, or comparison ranking may be presented~~  
408 ~~in either numeric or symbolic form for the intended consumer~~  
409 ~~audience.~~

410 (b)(e) The agency shall ~~may~~ provide the following  
411 additional information on its ~~an~~ Internet website ~~site or in~~  
412 ~~printed form~~ as the information becomes available:

- 413 1. The licensure status history of each facility.
- 414 2. The rating history of each facility.
- 415 3. The regulatory history of each facility, which may  
416 include federal sanctions, state sanctions, federal fines, state  
417 fines, and other actions.
- 418 4. Whether the facility currently possesses the Gold Seal  
419 designation awarded pursuant to s. 400.235.

420 5. Known Internet links to the websites ~~Internet sites~~ of  
421 the facilities, ~~or~~ their affiliates, controlling entities, and  
422 entities having a controlling financial interest.

423 (5) Every nursing home facility licensee shall:

424 (a) Post, in a sufficient number of prominent locations  
425 ~~positions~~ in the nursing home so as to be accessible to all  
426 residents and to the general public:

- 427 1. A concise summary of the last inspection report  
428 pertaining to the nursing home and issued by the agency, with  
429 references to the page numbers of the full reports, noting any  
430 deficiencies found by the agency and the actions taken by the  
431 licensee to rectify the deficiencies and ~~indicating in the~~  
432 ~~summaries~~ where the full reports may be inspected in the nursing  
433 home.



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434           2. A copy of ~~all of~~ the pages that list the facility in the  
435 most recent version of the Nursing Home Guide.

436           3. A copy of any conditional license in effect regardless  
437 of an administrative or judicial challenge for the purpose of  
438 providing public transparency and timely notification.

439           (b) Upon request, provide to any person who has completed a  
440 written application for admission ~~with an intent to be admitted~~  
441 to, or to a any resident of, a nursing home, or to any relative,  
442 spouse, surrogate, or guardian of the person, a copy of the  
443 nursing home's last inspection report or a printed copy of the  
444 Nursing Home Guide if pertaining to the nursing home and issued  
445 ~~by the agency, provided~~ the person requesting the report agrees  
446 to pay a reasonable charge to cover copying costs.

447           Section 10. Section 400.197, Florida Statutes, is created  
448 to read:

449           400.197 Change of ownership.--

450           (1) Within 5 days after a licensee submits a request for a  
451 change of ownership to the agency, the licensee shall notify all  
452 residents of the request in writing and post that information in  
453 a sufficient number of prominent locations in the nursing home  
454 facility and on the primary Internet website of the nursing home  
455 and its controlling entities so that the information is  
456 accessible to all residents and the public.

457           (2) Affected parties, including, but not limited to, a  
458 resident, a resident's family member, a resident's legal  
459 representative, a resident's guardian, and facility staff may  
460 submit information for the agency to consider when evaluating the  
461 proposed owner's character, experience, background,  
462 qualifications, and fitness for licensure when determining  
463 whether to grant a change of ownership.





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464       (3) The agency may propound any reasonable interrogatories  
465 in addition to those contained in the request, or conduct further  
466 investigations as necessary for the protection of the public and  
467 to ascertain the proposed owner's character, experience,  
468 background, qualifications, and fitness for licensure.

469       (4) Upon granting a change of ownership, the new licensee  
470 assumes all liabilities of the prior licensee, its affiliates, or  
471 controlling entities relating to or arising out of the operation  
472 of the facility and services provided at the facility under the  
473 prior licensee.

474       Section 11. Subsections (3) through (26) of section 429.02,  
475 Florida Statutes, are renumbered as subsections (4) through (30),  
476 respectively, new subsection (3), (9), (10), and (14) are added  
477 to that section, and present subsections (3) through (10) of that  
478 section are amended, to read:

479       429.02 Definitions.--When used in this part, the term:

480       (3) "Affiliate" means an entity having the same or similar  
481 owners, officers, board members, directors, limited liability  
482 corporation members, operating company, management company, or  
483 address as an assisted living facility.

484       (4)~~(3)~~ "Agency" means the Agency for Health Care  
485 Administration.

486       (5)~~(4)~~ "Aging in place" or "age in place" means the process  
487 of providing increased or adjusted services to a person to  
488 compensate for the physical or mental decline that may occur with  
489 the aging process, in order to maximize the person's dignity and  
490 independence and allow ~~permit~~ them to remain in a familiar,  
491 noninstitutional, residential environment for as long as  
492 possible. Such services may be provided by facility staff,

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493 volunteers, family, or friends, or through contractual  
494 arrangements with a third party.

495 ~~(6)(5)~~ "Assisted living facility" means any building or  
496 buildings, section or distinct part of a building, private home,  
497 boarding home, home for the aged, or other residential facility,  
498 whether operated for profit or not, which undertakes through its  
499 ownership or management to provide housing, meals, and one or  
500 more personal services for a period exceeding 24 hours to one or  
501 more adults who are not relatives of the owner or administrator.

502 ~~(7)(6)~~ "Chemical restraint" means a pharmacologic drug that  
503 physically limits, restricts, or deprives an individual of  
504 movement or mobility, and is used for discipline or convenience  
505 and not required for the treatment of medical symptoms.

506 ~~(8)(7)~~ "Community living support plan" means a written  
507 document prepared by a mental health resident and the resident's  
508 mental health case manager in consultation with the administrator  
509 of an assisted living facility with a limited mental health  
510 license or the administrator's designee. A copy must be provided  
511 to the administrator. The plan must include information about the  
512 supports, services, and special needs of the resident which  
513 enable the resident to live in the assisted living facility and a  
514 method by which facility staff can recognize and respond to the  
515 signs and symptoms particular to that resident which indicate the  
516 need for professional services.

517 (9) "Controlling entity" means an entity that exhibits  
518 control over an assisted living facility, including, but not  
519 limited to, control over the facility's budget, staffing levels,  
520 setting or monitoring census goals, employment decisions, capital  
521 purchases, facility improvements, plant improvements, access to

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522 or use of the facility's assets or equipment, financing or  
523 lending agreements, or the business decisions of the facility.

524 (10) "Controlling financial interest" means having a 5  
525 percent or greater financial ownership interest in an assisted  
526 living facility, an affiliate, or controlling entity.

527 (11)-(8) "Cooperative agreement" means a written statement  
528 of understanding between a mental health care provider and the  
529 administrator of the assisted living facility with a limited  
530 mental health license in which a mental health resident is  
531 living. The agreement must specify directions for accessing  
532 emergency and after-hours care for the mental health resident. A  
533 single cooperative agreement may service all mental health  
534 residents who are clients of the same mental health care  
535 provider.

536 (12)-(9) "Department" means the Department of Elderly  
537 Affairs.

538 (13)-(10) "Emergency" means a situation, physical condition,  
539 or method of operation which presents imminent danger of death or  
540 serious physical or mental harm to ~~facility~~ residents.

541 (14) "Entity" means an individual, partnership,  
542 association, joint venture, company, sole proprietorship,  
543 corporation, limited liability corporation, professional limited  
544 liability corporation, or any other form of doing business.

545 Section 12. Subsection (1) of section 429.11, Florida  
546 Statutes, is amended, and subsection (8) is added to that  
547 section, to read:

548 429.11 Initial application for license; provisional  
549 license.--

550 (1) Each applicant for licensure must comply with ~~all~~  
551 ~~provisions of~~ part II of chapter 408 and must:



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552 (a) Identify all affiliates ~~other homes or facilities~~,  
553 including the addresses and the license or licenses under which  
554 they operate, if applicable, which are currently operated by the  
555 applicant or administrator and which provide housing, meals, and  
556 personal services to residents.

557 (b) Provide the location of the facility for which a  
558 license is sought and documentation, signed by the appropriate  
559 local government official, which states that the applicant has  
560 met local zoning requirements.

561 (c) Provide the name, address, date of birth, social  
562 security number, education, and experience of the administrator,  
563 if different from the applicant.

564 (d) Provide a signed affidavit disclosing any affiliates,  
565 controlling entities, and entities having a controlling financial  
566 interest.

567 (e) Provide copies of any contracts with an affiliate or  
568 controlling entity, including details of goods and services  
569 provided and the intended payment for those goods and services.

570 (f) Provide copies of any audits, investigations, or fines  
571 related to the receipt or use of federal or state funds by all  
572 affiliates, controlling entities, and entities having a  
573 controlling financial interest. This includes the results of any  
574 ongoing investigations into Medicaid or Medicare fraud or  
575 Medicaid or Medicare overpayment, any standing corporate  
576 integrity agreements, or other remedial action by any public  
577 entity.

578 (g) Submit all information regarding financial and  
579 ownership information in a format prescribed by the agency.

580 (8) As a condition of licensure, license renewal, or change  
581 of ownership, the licensee must agree to provide to the agency a

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582 signed affidavit disclosing any financial or ownership interest  
583 that an affiliate, a controlling entity, or an entity having a  
584 controlling financial interest acquires within 30 days after the  
585 acquisition.

586 Section 13. Section 429.12, Florida Statutes, is amended to  
587 read:

588 429.12 Sale or transfer of ownership of a facility.--It is  
589 the intent of the Legislature to protect the rights of the  
590 residents of an assisted living facility when the facility is  
591 sold or the ownership thereof is transferred. Therefore, in  
592 addition to the requirements of part II of chapter 408, ~~whenever~~  
593 ~~a facility is sold or the ownership thereof is transferred,~~  
594 ~~including leasing:~~

595 (1) Within 5 days after submitting a request to the agency  
596 for a change of ownership, the licensee shall notify all  
597 residents of the request in writing and post that information in  
598 a sufficient number of prominent locations in the assisted living  
599 facility and on the primary Internet website of the facility so  
600 that the information is accessible to all residents and the  
601 public. ~~The transferee shall notify the residents, in writing, of~~  
602 ~~the change of ownership within 7 days after receipt of the new~~  
603 ~~license.~~

604 (2) Affected parties, including, but not limited to, a  
605 resident, a resident's family member, a resident's legal  
606 representative, a resident's guardian, and facility staff may  
607 submit information for the agency to consider in evaluating the  
608 proposed owner's character, experience, background,  
609 qualifications, and fitness for the license when determining  
610 whether to grant a change of ownership.



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611       (3) The agency may propound any reasonable interrogatories  
612 in addition to those contained in the request, or conduct further  
613 investigations as necessary for the protection of the public and  
614 to ascertain the proposed owner's character, experience,  
615 background, qualifications, and fitness for licensure.

616       (4) Upon granting a change of ownership, the new licensee  
617 assumes all liabilities of the prior licensee, its affiliates, or  
618 controlling entities relating to or arising out of the operation  
619 of the facility and services provided at the facility under the  
620 prior licensee.

621       (5) Within 7 days after receipt of the new license, the  
622 transferee shall notify the residents in writing of the change of  
623 ownership.

624       (6) (2) The transferor of a facility, the license of which  
625 is denied pending an administrative hearing, shall, as a part of  
626 the written change-of-ownership contract, advise the transferee  
627 that a plan of correction must be submitted by the transferee and  
628 approved by the agency at least 7 days before the change of  
629 ownership and that failure to correct the condition that ~~which~~  
630 resulted in the moratorium pursuant to part II of chapter 408 or  
631 denial of licensure is grounds for denial of the transferee's  
632 license.

633       Section 14. Paragraph (m) is added to subsection (1) of  
634 section 429.14, Florida Statutes, and subsections (3) and (7) of  
635 that section are amended, to read:

636       429.14 Administrative penalties.--

637       (1) In addition to the requirements of part II of chapter  
638 408, the agency may deny, revoke, and suspend any license issued  
639 under this part and impose an administrative fine in the manner  
640 provided in chapter 120 against a licensee of an assisted living

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641 facility for a violation of any provision of this part, part II  
642 of chapter 408, or applicable rules, or for any of the following  
643 actions by a licensee of an assisted living facility, for the  
644 actions of any person subject to level 2 background screening  
645 under s. 408.809, or for the actions of any facility employee:

646 (m) Failure to disclose at the time of licensure, license  
647 renewal, or change of ownership all affiliates, controlling  
648 entities, and entities having a controlling financial interest.

649 (3) The agency may deny a license to any applicant or  
650 controlling interest as defined in part II of chapter 408 which  
651 has or had a 25-percent or greater financial or ownership  
652 interest in any other facility licensed under this part, in any  
653 affiliate or controlling entity, or in any entity licensed by  
654 this state or another state to provide health or residential  
655 care, which ~~facility or entity~~ during the 5 years prior to the  
656 application for a license closed due to financial inability to  
657 operate; had a receiver appointed or a license denied, suspended,  
658 or revoked; was subject to a moratorium; or had an injunctive  
659 proceeding initiated against it.

660 (7) Agency notification of a license suspension or  
661 revocation, ~~or~~ denial of a license renewal, or issuance of a  
662 conditional license regardless of an administrative or judicial  
663 challenge, must shall be posted and visible to the public at the  
664 facility.

665 Section 15. Section 429.174, Florida Statutes, is amended  
666 to read:

667 429.174 Background screening; exemptions.--The owner or  
668 administrator of an assisted living facility must conduct level 1  
669 background screening, as set forth in chapter 435, on all  
670 employees hired on or after October 1, 1998, who perform personal



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671 services ~~as defined in s. 429.02(16)~~. The agency may exempt an  
672 individual from employment disqualification as set forth in  
673 chapter 435. Such persons shall be considered as having met this  
674 requirement if:

675 (1) Proof of compliance with level 1 screening ~~requirements~~  
676 obtained to meet ~~any~~ professional license requirements in this  
677 state is provided and accompanied, under penalty of perjury, by a  
678 copy of the person's current professional license and an  
679 affidavit of current compliance with the background screening  
680 requirements.

681 (2) The person ~~required~~ to be screened has been  
682 continuously employed in the same type of occupation for which  
683 the person is seeking employment without a breach in service  
684 which exceeds 180 days, and proof of compliance with the level 1  
685 screening requirement which is no more than 2 years old is  
686 provided. Proof of compliance shall be provided directly from one  
687 employer or contractor to another, and not from the person  
688 screened. Upon request, a copy of screening results shall be  
689 provided by the employer retaining documentation of the screening  
690 to the person screened.

691 (3) The person ~~required~~ to be screened is employed by a  
692 corporation or business entity or related corporation or business  
693 entity that owns, operates, or manages more than one facility or  
694 agency licensed under this chapter, and for whom a level 1  
695 screening was conducted by the corporation or business entity as  
696 a condition of initial or continued employment.

697 Section 16. Subsection (3) of section 429.275, Florida  
698 Statutes, is amended to read:

699 429.275 Business practice; personnel records; liability  
700 insurance.--The assisted living facility shall be administered on





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701 a sound financial basis that is consistent with good business  
702 practices.

703 (3) The administrator or owner of a facility shall maintain  
704 liability insurance coverage that is in force at all times. The  
705 general and professional liability insurance may not be used for  
706 the litigation costs or attorney's fees for the defense of a  
707 claim against the facility pursuant to common law, s. 429.29, or  
708 s. 429.293. The administrator or owner of a facility must notify  
709 the agency immediately if the policy limits or annual aggregate  
710 liability coverage has been exhausted.

711 Section 17. Except as otherwise expressly provided in this  
712 act, this act shall take effect July 1, 2008.

713  
714 ===== T I T L E A M E N D M E N T =====

715 And the title is amended as follows:

716 Delete everything before the enacting clause  
717 and insert:

718 A bill to be entitled  
719 An act relating to long-term care facilities; providing a  
720 short title; amending s. 400.021, F.S.; revising  
721 definitions relating to nursing homes; defining the terms  
722 "affiliate," "controlling entity," "controlling financial  
723 interest," "entity," and "governing body"; amending s.  
724 400.0239, F.S.; authorizing the expenditure of funds from  
725 the Quality of Long-Term Care Facility Improvement Trust  
726 Fund for the development of an electronic Nursing Home  
727 Guide; amending s. 400.071, F.S.; revising provisions  
728 relating to nursing home license applications; requiring  
729 the application to include the facility's affiliates,  
730 controlling entities, and entities having a controlling

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731 interest in the facility, proof of ability to operate,  
732 copies of certain contracts and investigations and fines,  
733 and the members of the facility's governing body;  
734 requiring financial and ownership information to be  
735 submitted in a format prescribed by the agency; amending  
736 s. 400.102, F.S.; revising grounds for taking action  
737 against a nursing home to conform to changes made by the  
738 act; amending s. 400.111, F.S.; requiring the disclosure  
739 of controlling interests at the time of licensure, license  
740 renewal, or change of ownership; amending s. 400.121,  
741 F.S.; revising provisions relating to the denial,  
742 suspension, or revocation of a license to conform to  
743 changes made by the act; amending s. 400.141, F.S.;  
744 prohibiting nursing home liability insurance from paying  
745 for certain legal costs; requiring the facility to notify  
746 the agency if the policy has been exhausted; amending s.  
747 400.191, F.S.; requiring that the Agency for Health Care  
748 Administration to maintain an electronic Nursing Home  
749 Guide; deleting the requirement that the agency provide a  
750 printed guide; revising the information that must be  
751 provided on the agency's website; creating s. 400.197,  
752 F.S.; requiring a nursing home to notify residents and  
753 post a request for a change of ownership in prominent  
754 locations in the nursing home; providing for a hearing as  
755 to the fitness of a new owner; providing for  
756 investigations of the new owner; providing that a new  
757 owner assumes the liabilities of the prior licensee, its  
758 affiliates, or controlling entities; amending s. 429.02,  
759 F.S.; revising definitions for assisted living facilities;  
760 defining the terms "affiliate," "controlling entity,"



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761 "controlling financial interest," and "entity"; amending  
762 s. 429.11, F.S.; revising provisions relating to  
763 applications for an assisted living facility license;  
764 requiring the application to include members of the  
765 facilities governing body, the facility's affiliates,  
766 controlling entities, and entities having a controlling  
767 interest in the facility, and copies of certain contracts  
768 and investigations and fines; requiring financial and  
769 ownership information to be submitted in a format  
770 prescribed by the agency; amending s. 429.12, F.S.;  
771 requiring the assisted living facility to notify residents  
772 and post a request for a change of ownership in prominent  
773 locations in the facility; providing for a hearing as to  
774 the fitness of a new owner upon request; providing for  
775 investigations of the new owner; providing that a new  
776 owner assumes the liabilities of the prior licensee,  
777 affiliates, or controlling entities; amending s. 429.14,  
778 F.S.; revising provisions relating to the denial,  
779 suspension, or revocation of a license to conform to  
780 changes made by the act; amending s. 429.174, F.S.;  
781 conforming a cross-reference; amending s. 429.275, F.S.;  
782 prohibiting assisted living facility liability insurance  
783 from paying for certain legal costs; requiring the  
784 facility to notify the agency if the policy has been  
785 exhausted; providing effective dates.