

By Senator Jones

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1 A bill to be entitled

2 An act relating to long-term care facilities; amending s.  
3 400.021, F.S.; revising definitions relating to nursing  
4 homes; defining the terms "affiliate," "controlling  
5 entity," "controlling financial interest," "entity," and  
6 "governing body"; amending s. 400.071, F.S.; revising  
7 provisions relating to nursing home license applications;  
8 requiring the application to include the members of the  
9 facility's governing body, the facility's affiliates and  
10 controlling entities, entities having a controlling  
11 interest in the facility, an audited financial statement,  
12 proof of ability to operate, certain contracts, and copies  
13 of certain investigations and fines; amending s. 400.102,  
14 F.S.; revising grounds for taking action against a nursing  
15 home to conform to changes made by the act; amending s.  
16 400.111, F.S.; requiring the disclosure of controlling  
17 interests at the time of licensure, license renewal, or  
18 change of ownership; amending s. 400.121, F.S.; revising  
19 provisions relating to the denial, suspension, or  
20 revocation of a license to conform to changes made by the  
21 act; amending s. 400.141, F.S.; prohibiting nursing home  
22 liability insurance from paying for certain legal costs;  
23 amending s. 400.191, F.S.; requiring that the Agency for  
24 Health Care Administration include additional information  
25 in the Nursing Home Guide; creating s. 400.197, F.S.;  
26 requiring a nursing home to notify residents and post a  
27 request for a change of ownership in prominent locations  
28 in the nursing home; providing for a hearing as to the  
29 fitness of a new owner; providing for investigations of

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30 the new owner; providing that a new owner assumes the  
31 liabilities of the prior licensee; amending s. 429.02,  
32 F.S.; revising definitions for assisted living facilities;  
33 defining the terms "affiliate," "controlling entity,"  
34 "controlling financial interest," and "entity"; amending  
35 s. 429.11, F.S.; revising provisions relating to  
36 applications for an assisted living facility license;  
37 requiring the application to include members of the  
38 facilities governing body, the facility's affiliates and  
39 controlling entities, entities having a controlling  
40 interest in the facility, an audited financial statement,  
41 proof of ability to operate, certain contracts, and copies  
42 of certain investigations and fines; amending s. 429.12,  
43 F.S.; requiring the assisted living facility to notify  
44 residents and post a request for a change of ownership in  
45 prominent locations in the facility; providing for a  
46 hearing as to the fitness of a new owner upon request;  
47 providing for investigations of the new owner; providing  
48 that a new owner assumes the liabilities of the prior  
49 licensee; amending s. 429.14, F.S.; revising provisions  
50 relating to the denial, suspension, or revocation of a  
51 license to conform to changes made by the act; amending s.  
52 429.275, F.S.; prohibiting assisted living facility  
53 liability insurance from paying for certain legal costs;  
54 amending s. 429.174, F.S.; conforming a cross-reference;  
55 providing an effective date.

56  
57 Be It Enacted by the Legislature of the State of Florida:  
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59 Section 1. Subsections (2) through (18) of section 400.021,  
60 Florida Statutes, are renumbered as subsections (3) through (23),  
61 respectively, new subsections (2), (6), (7), (10), and (14) are  
62 added to that section, and present subsections (2) through (9) of  
63 that sections are amended, to read:

64 400.021 Definitions.-- When used in this part, unless the  
65 context otherwise requires, the term:

66 (2) "Affiliate" means an entity having the same or similar  
67 owners, officers, board members, directors, limited liability  
68 corporation members, operating company, management company, or  
69 address as a facility.

70 (3)~~(2)~~ "Agency" means the Agency for Health Care  
71 Administration, ~~which is the licensing agency under this part.~~

72 (4)~~(3)~~ "Bed reservation policy" means the number of  
73 consecutive days and the number of days per year that a resident  
74 may leave the nursing home facility for overnight therapeutic  
75 visits with family or friends or for hospitalization for an acute  
76 condition before the licensee may discharge the resident due to  
77 his or her absence from the facility.

78 (5)~~(4)~~ "Board" means the Board of Nursing Home  
79 Administrators.

80 (6) "Controlling entity" means an entity that exhibits  
81 control over a facility, including, but not limited to, control  
82 over resident care, the facility's budget, staffing levels,  
83 setting or monitoring census goals, employment decisions, capital  
84 purchases, facility improvements, plant improvements, access to  
85 or use of the facility's assets or equipment, financing or  
86 lending agreements, or the business decisions of the facility.

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

90           (8)~~(5)~~ "Custodial service" means care for a person which  
91 entails observation of diet and sleeping habits and maintenance  
92 ~~of a~~ watchfulness over the general health, safety, and well-being  
93 of the aged or infirm.

94           (9)~~(6)~~ "Department" means the Department of Children and  
95 Family Services.

96           (10) "Entity" means an individual, partnership,  
97 association, joint venture, company, sole proprietorship,  
98 corporation, limited liability corporation, professional limited  
99 liability corporation, or any other form of doing business.

100           (11)~~(7)~~ "Facility" means an ~~any~~ institution, building,  
101 residence, private home, or other place, whether operated for  
102 profit or not, including a place operated by a county or  
103 municipality, which undertakes through its ownership or  
104 management to provide for a period exceeding 24-hour nursing  
105 care, personal care, or custodial care for three or more persons  
106 not related to the owner or manager by blood or marriage, who by  
107 reason of illness, physical infirmity, or advanced age require  
108 such services, but does not include any place providing care and  
109 treatment primarily for the acutely ill. A facility offering  
110 services for fewer than three persons is within the meaning of  
111 this definition if it holds itself out to the public to be an  
112 establishment that ~~which~~ regularly provides such services.

113           (12)~~(8)~~ "Geriatric outpatient clinic" means a site for  
114 providing outpatient health care to persons 60 years of age or

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115 older, which is staffed by a registered nurse or a physician  
116 assistant.

117 (13)~~(9)~~ "Geriatric patient" means a ~~any~~ patient who is 60  
118 years of age or older.

119 (14) "Governing body" means the individuals who have  
120 responsibility for hiring the administrator and for approving a  
121 facility's policies and procedures and ensuring their proper  
122 implementation.

123 Section 2. Subsection (1) of section 400.071, Florida  
124 Statutes, is amended to read:

125 400.071 Application for license.--

126 (1) In addition to the requirements of part II of chapter  
127 408, the application for a license under this part must ~~shall~~ be  
128 under oath and must contain the following:

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

132 (b) The names and dates of service of the members of the  
133 applicant's governing body.

134 (c) A signed affidavit disclosing any affiliate of,  
135 controlling entity of, and entity having a controlling financial  
136 interest in the applicant.

137 (d)~~(b)~~ A signed affidavit disclosing any financial or  
138 ownership interest that the applicant, an affiliate, a  
139 controlling entity, or an entity having a controlling financial  
140 interest ~~as defined in part II of chapter 408~~ has held in the  
141 last 5 years in any entity licensed by this state or any other  
142 state to provide health or residential care which has closed  
143 voluntarily or involuntarily; has filed for bankruptcy; has had a

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144 receiver appointed; has had a license denied, suspended, or  
145 revoked; or has had an injunction issued against it which was  
146 initiated by a regulatory agency. The affidavit must disclose the  
147 reason the ~~any such~~ entity was closed, whether voluntarily or  
148 involuntarily.

149 (e) ~~(e)~~ The total number of beds and the total number of  
150 Medicare and Medicaid certified beds.

151 (f) ~~(d)~~ Information relating to the applicant and employees  
152 which the agency requires by rule. The applicant must demonstrate  
153 that sufficient numbers of qualified staff, by training or  
154 experience, will be employed to properly care for the type and  
155 number of residents who will reside in the facility.

156 (g) An audited financial statement of the applicant if an  
157 audited financial statement has been prepared for the applicant  
158 or the controlling entity. If the application relates to a change  
159 of ownership of a current licensee, financial documentation must  
160 include, but need not be limited to, the balance sheet and profit  
161 and loss statement of the nursing home's 2 previous fiscal years  
162 of operation.

163 (h) Proof of financial ability to operate. The applicant  
164 must demonstrate an ability to provide staff at required levels  
165 and maintain solvency in accordance with this part, applicable  
166 provisions of chapter 408, and related rules. Documentation may  
167 include a statement of the projected revenue and expenses for the  
168 first 12 months of operation following licensure, a detailed  
169 explanation of the assumptions implicit in these projections, the  
170 basis for financing the applicant's anticipated cash-flow  
171 requirements, and the applicant's access to contingency  
172 financing.

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173        (i) Any contracts with affiliates or controlling entities,  
174 including details of goods or services provided and the intended  
175 payment for those services.

176        (j) Copies of any audits, investigations, or fines related  
177 to the receipt or use of federal or state funds by all  
178 affiliates, controlling entities, and entities having a  
179 controlling financial interest. These include the results of or  
180 any ongoing investigations into Medicaid or Medicare fraud or  
181 Medicaid or Medicare overpayment, any standing corporate  
182 integrity agreements, or other remedial action by a public  
183 entity.

184        (k) ~~(e)~~ Copies of any civil verdict or judgment involving  
185 the applicant, affiliates, or controlling entities rendered  
186 within the 10 years preceding the application, relating to  
187 medical negligence, violation of residents' rights, or wrongful  
188 death. As a condition of licensure, the licensee agrees to  
189 provide to the agency copies of any new verdict or judgment  
190 involving the applicant, relating to such matters, within 30 days  
191 after filing with the clerk of the court. The information must  
192 ~~required in this paragraph shall~~ be maintained in the facility's  
193 licensure file and in an agency database that ~~which~~ is available  
194 as a public record.

195        Section 3. Section 400.102, Florida Statutes, is amended to  
196 read:

197        400.102 Action by agency against licensee; grounds.--In  
198 addition to the grounds listed in part II of chapter 408, any of  
199 the following conditions shall be grounds for action by the  
200 agency against a licensee:

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201 (1) An intentional or negligent act materially affecting  
202 the health or safety of residents of the facility.~~;~~

203 (2) Misappropriation or conversion of the property of a  
204 resident of the facility.~~;~~

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

209 (4) Fraudulent altering, defacing, or falsifying any  
210 medical or nursing home records, or causing or procuring any of  
211 these offenses to be committed.

212 (5) Failure to disclose at the time of licensure, license  
213 renewal, or change of ownership all affiliates, controlling  
214 entities, entities having a controlling financial interest, or  
215 members of the governing body.

216 Section 4. Section 400.111, Florida Statutes, is amended to  
217 read:

218 400.111 Disclosure of controlling interest.--In addition to  
219 the requirements of part II of chapter 408, the licensee shall at  
220 the time of licensure, license renewal, or change of ownership  
221 submit a signed affidavit disclosing any financial or ownership  
222 interest that an affiliate, controlling entity, or entity having  
223 a controlling financial interest has held within the last 5 years  
224 in any entity licensed by the state or any other state to provide  
225 health or residential care which ~~entity~~ has closed voluntarily or  
226 involuntarily; has filed for bankruptcy; has had a receiver  
227 appointed; has had a license denied, suspended, or revoked; or  
228 has had an injunction issued against it which was initiated by a  
229 regulatory agency. The affidavit must disclose the reason such



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230 entity was closed, whether voluntarily or involuntarily. As a  
231 condition of licensure, license renewal, or change of ownership,  
232 the licensee must agree to provide to the agency a signed  
233 affidavit disclosing such interest within 30 days after the  
234 acquisition.

235 Section 5. Subsections (1) and (3) of section 400.121,  
236 Florida Statutes, are amended to read:

237 400.121 Denial, suspension, revocation of license;  
238 administrative fines; procedure; order to increase staffing.--

239 (1) The agency may deny a license ~~an~~ application, revoke or  
240 suspend a license, and impose an administrative fine, not to  
241 exceed \$500 per violation per day for the ~~violation of any~~  
242 ~~provision of this part, part II of chapter 408, or applicable~~  
243 ~~rules, against any applicant or licensee for the following~~  
244 violations by the applicant, licensee, or ~~other~~ controlling  
245 interest:

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

248 (b) An adverse action by a regulatory agency against any  
249 other licensed facility that has a common controlling entity or  
250 an entity having controlling financial interest in the applicant  
251 or with the licensee or applicant against whom the action under  
252 ~~this section is being brought.~~ If the adverse action involves  
253 solely the management company, the applicant or licensee shall be  
254 given 30 days to remedy before final action is taken. If the  
255 adverse action is based solely upon actions by the a controlling  
256 entity or entity having a controlling financial interest, the  
257 applicant or licensee may present factors in mitigation of a any

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258 | proposed penalty based upon a showing that such penalty is  
259 | inappropriate under the circumstances.

260

261 | All hearings shall be held within the county in which the  
262 | licensee or applicant operates or applies for a license to  
263 | operate a facility ~~as defined herein~~.

264 |       (3) The agency shall revoke or deny a nursing home license  
265 | if the licensee, a controlling entity, or an entity having a  
266 | controlling financial interest in the licensee operates a  
267 | facility in this state that:

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

272 |       (b) Is conditionally licensed for 180 or more continuous  
273 | days;

274 |       (c) Is cited for two class I deficiencies arising from  
275 | unrelated circumstances during the same survey or investigation;  
276 | or

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

279

280 | The licensee may present factors in mitigation of revocation, and  
281 | the agency may make a determination not to revoke a license based  
282 | upon a showing that revocation is inappropriate under the  
283 | circumstances.

284 |       Section 6. Subsections (14) and (20) of section 400.141,  
285 | Florida Statutes, are amended to read:

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286 400.141 Administration and management of nursing home  
287 facilities.--Every licensed facility shall comply with all  
288 applicable standards and rules of the agency and shall:

289 (14) Submit to the agency the information specified in s.  
290 400.071(1)(d) ~~s. 400.071(1)(b)~~ for a management company within 30  
291 days after the effective date of the management agreement.

292 (20) Maintain general and professional liability insurance  
293 coverage that is in force at all times. The liability insurance  
294 may not be used for the litigation costs or attorney's fees for  
295 the defense of a claim against a nursing home pursuant to the  
296 common law, s. 400.023, or s. 400.0233. The licensee must notify  
297 the agency immediately if the policy limits have been exhausted.

298 In lieu of general and professional liability insurance coverage,  
299 a state-designated teaching nursing home and its affiliated  
300 assisted living facilities created under s. 430.80 may  
301 demonstrate proof of financial responsibility as provided in s.  
302 430.80(3)(h).

303  
304 Facilities that have been awarded a Gold Seal under the program  
305 established in s. 400.235 may develop a plan to provide certified  
306 nursing assistant training as prescribed by federal regulations  
307 and state rules and may apply to the agency for approval of their  
308 program.

309 Section 7. Subsections (2) and (5) of section 400.191,  
310 Florida Statutes, are amended to read:

311 400.191 Availability, distribution, and posting of reports  
312 and records.--

313 (2) The agency shall publish the Nursing Home Guide  
314 annually in consumer-friendly printed form and quarterly in

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315 | electronic form to assist consumers and their families in  
316 | comparing and evaluating nursing home facilities.

317 |         (a) The agency shall establish ~~provide~~ an Internet site  
318 | that, at a minimum, includes ~~which shall include at least~~ the  
319 | following information ~~either~~ directly or indirectly through a  
320 | link to other ~~another~~ established ~~site or~~ sites of the agency's  
321 | choosing:

322 |         1. A section entitled "Have you considered programs that  
323 | provide alternatives to nursing home care?" which shall be the  
324 | first section of the ~~Nursing Home~~ guide and which shall  
325 | prominently display information about available alternatives ~~to~~  
326 | ~~nursing homes~~ and how to obtain additional information regarding  
327 | these alternatives. The ~~Nursing Home~~ guide shall explain that  
328 | this state offers alternative programs that allow ~~permit~~  
329 | qualified elderly persons to stay in their homes instead of being  
330 | placed in nursing homes and shall encourage interested persons to  
331 | call the Comprehensive Assessment Review and Evaluation for Long-  
332 | Term Care Services (CARES) Program to inquire if they qualify.  
333 | The ~~Nursing Home~~ guide shall list available home and community-  
334 | based programs and ~~which shall~~ clearly state the services that  
335 | are provided and ~~indicate~~ whether nursing home services are  
336 | included if needed.

337 |         2. A list by name and address of all nursing home  
338 | facilities in this state, including any ~~prior~~ name by which a  
339 | facility was known during the previous 24-month period. The  
340 | agency shall provide the following information for each facility  
341 | listed:

342 |             ~~a.3.~~ Whether the facility is ~~such nursing home facilities~~  
343 | ~~are~~ proprietary or nonproprietary.

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344 b.4. The current owner or owners of the facility's license  
345 and the year in which ~~that~~ that entity became the owner of the  
346 license.

347 c. The name of the administrator and of all members of the  
348 facility's governing body, including their dates of service.

349 d.5. The name of the owner or owners of the each facility  
350 and whether the facility is affiliated with a company or other  
351 organization owning or managing more than one nursing facility in  
352 this state.

353 e. A list of all affiliates, controlling entities, and  
354 entities having a controlling financial interest that are  
355 affiliated with or associated with the facility.

356 f. Any documents related to audits, investigations, or  
357 finances related to the receipt or use of federal or state funds by  
358 the facility, or any affiliate, controlling entity, or entity  
359 having a controlling financial interest, including all related  
360 documents submitted under s. 400.071.

361 g.6. The total number of beds in the each facility and the  
362 most recently available occupancy levels.

363 h.7. The number of private and semiprivate rooms in the  
364 ~~each~~ facility.

365 i.8. The religious affiliation, if any, of the each  
366 facility.

367 j.9. The languages spoken by the administrator and staff of  
368 the each facility.

369 k.10. Whether the or not each facility accepts Medicare or  
370 Medicaid recipients or insurance, health maintenance  
371 organization, Veterans Administration, CHAMPUS program, or  
372 workers' compensation coverage.

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373 l.11. Recreational programs, special care units, and other  
374 programs available at the ~~each~~ facility.

375 m.12. Special care units or programs offered at the ~~each~~  
376 facility.

377 n.13. Whether the facility is a part of a retirement  
378 community that offers other services pursuant to part III of this  
379 chapter or part I or part III of chapter 429.

380 o.14. Survey and deficiency information, including all  
381 federal and state recertification, licensure, revisit, and  
382 complaint survey information, for the ~~each~~ facility for the past  
383 30 months. For noncertified nursing homes, state survey and  
384 deficiency information, including licensure, revisit, and  
385 complaint survey information for the past 30 months shall be  
386 provided.

387 p.15. A summary of the deficiency data for the ~~each~~  
388 facility during ~~over~~ the past 30 months. The summary may include  
389 a score, rating, or comparison ranking with respect to other  
390 facilities based on the number of citations received by the  
391 facility on recertification, licensure, revisit, and complaint  
392 surveys; the severity and scope of the citations; and the number  
393 of recertification surveys the facility has had during the past  
394 30 months. The score, rating, or comparison ranking may be  
395 presented in ~~either~~ numeric or symbolic form for the intended  
396 consumer audience.

397 3. A list, by name and address, of all nursing home  
398 facilities that have submitted an application for a change of  
399 ownership, including the date of the submission and current  
400 status of that application. The list must be updated within 21

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401 days after the agency's receipt of an application for change of  
402 ownership or any change in the status of the application.

403 (b) The agency shall provide the following information in  
404 printed form:

405 1. A section entitled "Have you considered programs that  
406 provide alternatives to nursing home care?" which shall be the  
407 first section of the ~~Nursing Home~~ guide and which shall  
408 prominently display information about available alternatives to  
409 nursing homes and how to obtain additional information regarding  
410 these alternatives. The ~~Nursing Home~~ guide shall explain that  
411 this state offers alternative programs that allow ~~permit~~  
412 qualified elderly persons to stay in their homes instead of being  
413 placed in nursing homes and shall encourage interested persons to  
414 call the Comprehensive Assessment Review and Evaluation for Long-  
415 Term Care Services (CARES) Program to inquire if they qualify.  
416 The ~~Nursing Home~~ guide shall list available home and community-  
417 based programs and ~~which shall~~ clearly state the services that  
418 are provided and ~~indicate~~ whether nursing home services are  
419 included if needed.

420 2. A list by name and address of all nursing home  
421 facilities in this state. The agency shall provide the following  
422 information for each facility listed:

423 ~~a.3.~~ Whether the facility is ~~nursing home facilities are~~  
424 proprietary or nonproprietary.

425 ~~b.4.~~ The current owner or owners of the facility's license  
426 and the year that entity became the owner of the license.

427 ~~c.5.~~ The total number of beds~~7~~ and ~~of~~ private and  
428 semiprivate rooms~~7~~ in the ~~each~~ facility.

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429        d.6. The religious affiliation, if any, of the each  
430 facility.

431        e.7. The name of the owner or owners of the each facility  
432 and whether the facility is affiliated with a company or other  
433 organization owning or managing more than one nursing facility in  
434 this state.

435        f.8. The languages spoken by the administrator and staff of  
436 the each facility.

437        g.9. Whether the or not each facility accepts Medicare or  
438 Medicaid recipients or insurance, health maintenance  
439 organization, Veterans Administration, CHAMPUS program, or  
440 workers' compensation coverage.

441        h.10. Recreational programs, special care units, and other  
442 programs available at the each facility.

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

445        ~~12. A statement advising consumers that each facility will~~  
446 ~~have its own policies and procedures related to protecting~~  
447 ~~resident property.~~

448        i.13. A summary of the deficiency data for the each  
449 facility during ~~over~~ the past 30 months. The summary may include  
450 a score, rating, or comparison ranking with respect to other  
451 facilities based on the number of citations received by the  
452 facility on recertification, licensure, revisit, and complaint  
453 surveys; the severity and scope of the citations; the number of  
454 citations; and the number of recertification surveys the facility  
455 has had during the past 30 months. The score, rating, or  
456 comparison ranking may be presented in ~~either~~ numeric or symbolic  
457 form for the intended consumer audience.



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458       3. A statement advising consumers that each facility has  
459 its own policies and procedures related to protecting resident  
460 property.

461       4. The Internet address for the agency site where more  
462 detailed information about facilities can be found.

463       (c) The agency may provide the following additional  
464 information on an Internet site or in printed form as the  
465 information becomes available:

466           1. The licensure status history of each facility.

467           2. The rating history of each facility.

468           3. The regulatory history of each facility, which may  
469 include federal sanctions, state sanctions, federal fines, state  
470 fines, and other actions.

471           4. Whether the facility currently possesses the Gold Seal  
472 designation awarded pursuant to s. 400.235.

473           5. Known Internet links to the Internet sites of the  
474 facilities, ~~or~~ their affiliates, controlling entities, and  
475 entities having a controlling financial interest.

476       (5) Every nursing home facility licensee shall:

477           (a) Post, in a sufficient number of prominent locations  
478 ~~positions~~ in the nursing home in order ~~so as~~ to be accessible to  
479 all residents and to the general public:

480           1. A concise summary of the last inspection report  
481 pertaining to the nursing home and issued by the agency, with  
482 references to the page numbers of the full reports, noting any  
483 deficiencies found by the agency and the actions taken by the  
484 licensee to rectify the deficiencies and ~~indicating in the~~  
485 ~~summaries~~ where the full reports may be inspected in the nursing  
486 home.

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

489           3. A copy of any conditional license in effect regardless  
490 of an administrative or judicial challenge.

491           (b) Upon request, provide to a prospective resident ~~any~~  
492 ~~person~~ who has completed a written application for admission with  
493 ~~an intent to be admitted~~ to, or to a ~~any~~ resident of, a nursing  
494 home, or to any relative, spouse, surrogate, or guardian of the  
495 person, a copy of the agency's last inspection report of  
496 ~~pertaining to~~ the nursing home if ~~and issued by the agency,~~  
497 ~~provided~~ the person requesting the report agrees to pay a  
498 reasonable charge to cover copying costs.

499           Section 8. Section 400.197, Florida Statutes, is created to  
500 read:

501           400.197 Change of ownership.--

502           (1) If the licensee submits a request for a change of  
503 ownership to the agency, the licensee must notify all residents  
504 and post the request in a sufficient number of prominent  
505 locations in the nursing home and on the primary Internet site of  
506 the facility in order for such information to be accessible to  
507 all residents and to the public. The notice must be posted within  
508 5 days after submitting the request to the agency.

509           (2) Affected parties, including, but not limited to, a  
510 resident, a resident's family member, a resident's legal  
511 representative, a resident's guardian, and facility staff may  
512 submit information for the agency to consider in evaluating the  
513 proposed owner's character, experience, background,  
514 qualifications, and fitness for the license when determining  
515 whether to grant a change of ownership.

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516       (3) The agency may propound any reasonable interrogatories  
517 in addition to those contained in the request, or conduct further  
518 investigations as necessary for the protection of the public and  
519 to ascertain the proposed owner's character, experience,  
520 background, qualifications, and fitness for the license.

521       (4) Upon granting a change of ownership, the new licensee  
522 assumes all liabilities relative to prior licensees and  
523 affiliates and controlling entities of the prior licensee.

524       Section 9. Subsections (3) through (26) of section 429.02,  
525 Florida Statutes, are renumbered as subsections (4) through (30),  
526 respectively, new subsection (3), (9), (10), and (14) are added  
527 to that section, and present subsections (3) through (10) of that  
528 section are amended, to read:

529       429.02 Definitions.--When used in this part, the term:

530       (3) "Affiliate" means an entity having the same or similar  
531 owners, officers, board members, directors, limited liability  
532 corporation members, operating company, management company, or  
533 address as an assisted living facility.

534       ~~(4)(3)~~ "Agency" means the Agency for Health Care  
535 Administration.

536       ~~(5)(4)~~ "Aging in place" or "age in place" means the process  
537 of providing increased or adjusted services to a person to  
538 compensate for the physical or mental decline that may occur with  
539 the aging process, in order to maximize the person's dignity and  
540 independence and allow ~~permit~~ them to remain in a familiar,  
541 noninstitutional, residential environment for as long as  
542 possible. Such services may be provided by facility staff,  
543 volunteers, family, or friends, or through contractual  
544 arrangements with a third party.

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545        ~~(6)~~<sup>(5)</sup> "Assisted living facility" means any building or  
546 buildings, section or distinct part of a building, private home,  
547 boarding home, home for the aged, or other residential facility,  
548 whether operated for profit or not, which undertakes through its  
549 ownership or management to provide housing, meals, and one or  
550 more personal services for a period exceeding 24 hours to one or  
551 more adults who are not relatives of the owner or administrator.

552        ~~(7)~~<sup>(6)</sup> "Chemical restraint" means a pharmacologic drug that  
553 physically limits, restricts, or deprives an individual of  
554 movement or mobility, and is used for discipline or convenience  
555 and not required for the treatment of medical symptoms.

556        ~~(8)~~<sup>(7)</sup> "Community living support plan" means a written  
557 document prepared by a mental health resident and the resident's  
558 mental health case manager in consultation with the administrator  
559 of an assisted living facility with a limited mental health  
560 license or the administrator's designee. A copy must be provided  
561 to the administrator. The plan must include information about the  
562 supports, services, and special needs of the resident which  
563 enable the resident to live in the assisted living facility and a  
564 method by which facility staff can recognize and respond to the  
565 signs and symptoms particular to that resident which indicate the  
566 need for professional services.

567        (9) "Controlling entity" means an entity that exhibits  
568 control over an assisted living facility, including, but not  
569 limited to, control over resident care, the facility's budget,  
570 staffing levels, setting or monitoring census goals, employment  
571 decisions, capital purchases, facility improvements, plant  
572 improvements, access to or use of the facility's assets or

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573 equipment, financing or lending agreements, or the business  
574 decisions of the facility.

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

578 (11)~~(8)~~ "Cooperative agreement" means a written statement  
579 of understanding between a mental health care provider and the  
580 administrator of the assisted living facility with a limited  
581 mental health license in which a mental health resident is  
582 living. The agreement must specify directions for accessing  
583 emergency and after-hours care for the mental health resident. A  
584 single cooperative agreement may service all mental health  
585 residents who are clients of the same mental health care  
586 provider.

587 (12)~~(9)~~ "Department" means the Department of Elderly  
588 Affairs.

589 (13)~~(10)~~ "Emergency" means a situation, physical condition,  
590 or method of operation which presents imminent danger of death or  
591 serious physical or mental harm to ~~facility~~ residents.

592 (14) "Entity" means an individual, partnership,  
593 association, joint venture, company, sole proprietorship,  
594 corporation, limited liability corporation, professional limited  
595 liability corporation, or any other form of doing business.

596 Section 10. Subsection (1) of section 429.11, Florida  
597 Statutes, is amended, and subsection (8) is added to that  
598 section, to read:

599 429.11 Initial application for license; provisional  
600 license.--

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

603 (a) Identify all affiliates ~~other homes or facilities~~,  
604 including the addresses and the license or licenses under which  
605 they operate, if applicable, which are currently operated by the  
606 applicant or administrator and which provide housing, meals, and  
607 personal services to residents.

608 (b) Provide the location of the facility for which a  
609 license is sought and documentation, signed by the appropriate  
610 local government official, which states that the applicant has  
611 met local zoning requirements.

612 (c) Provide the name, address, date of birth, social  
613 security number, education, and experience of the administrator,  
614 if different from the applicant.

615 (d) Provide a signed affidavit disclosing any affiliates  
616 other than those identified in paragraph (a), controlling  
617 entities, and entities having a controlling financial interest.

618 (e) Provide any contracts with an affiliate or controlling  
619 entity, including details of services provided and the intended  
620 payment for those services.

621 (f) Provide copies of any audits, investigations, or fines  
622 related to the receipt or use of federal or state funds by all  
623 affiliates, controlling entities, and entities having a  
624 controlling financial interest. This includes the results of any  
625 ongoing investigations into Medicaid or Medicare fraud or  
626 Medicaid or Medicare overpayment, any standing corporate  
627 integrity agreements, or other remedial action by any public  
628 entity.

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629       (8) As a condition of licensure, license renewal, or change  
630 of ownership, the licensee must agree to provide to the agency a  
631 signed affidavit disclosing any financial or ownership interest  
632 that an affiliate, a controlling entity, or an entity having a  
633 controlling financial interest acquires within 30 days after the  
634 acquisition.

635       Section 11. Section 429.12, Florida Statutes, is amended to  
636 read:

637       429.12 Sale or transfer of ownership of a facility.--It is  
638 the intent of the Legislature to protect the rights of the  
639 residents of an assisted living facility when the facility is  
640 sold or the ownership ~~thereof~~ is transferred. Therefore, in  
641 addition to the requirements of part II of chapter 408:

642       (1) Within 5 days after submitting a request to the agency  
643 for a change of ownership, the licensee shall notify all  
644 residents and post the request in a sufficient number of  
645 prominent locations in the assisted living facility and on the  
646 primary Internet site of the facility in order for such  
647 information to be accessible to all residents and to the public.

648       (2) Affected parties, including, but not limited to, a  
649 resident, a resident's family member, a resident's legal  
650 representative, a resident's guardian, and facility staff may  
651 submit information for the agency to consider in evaluating the  
652 proposed owner's character, experience, background,  
653 qualifications, and fitness for the license when determining  
654 whether to grant a change of ownership.

655       (3) The agency may propound any reasonable interrogatories  
656 in addition to those contained in the request, or conduct further  
657 investigations as necessary for the protection of the public and

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658 to ascertain the proposed owner's character, experience,  
659 background, qualifications, and fitness for the license.  
660 ~~whenever a facility is sold or the ownership thereof is~~  
661 ~~transferred, including leasing:~~

662 ~~(1) The transferee shall notify the residents, in writing,~~  
663 ~~of the change of ownership within 7 days after receipt of the new~~  
664 ~~license.~~

665 (4)~~(2)~~ The transferor of a facility, the license of which  
666 is denied pending an administrative hearing, shall, as a part of  
667 the written change-of-ownership contract, advise the transferee  
668 that a plan of correction must be submitted by the transferee and  
669 approved by the agency at least 7 days before the change of  
670 ownership and that failure to correct the condition that ~~which~~  
671 resulted in the moratorium pursuant to part II of chapter 408 or  
672 denial of licensure is grounds for denial of the transferee's  
673 license.

674 (5) If the facility is sold, the ownership is transferred,  
675 or the facility is leased, the transferee shall notify the  
676 residents, in writing, of the change of ownership within 7 days  
677 after receipt of the new license.

678 (6) Upon granting a change of ownership, the new licensee  
679 assumes all liabilities relative to prior licensees and  
680 affiliates and controlling entities of the prior licensee.

681 Section 12. Paragraph (m) is added to subsection (1) of  
682 section 429.14, Florida Statutes, and subsections (3) and (7) of  
683 that section are amended, to read:

684 429.14 Administrative penalties.--

685 (1) In addition to the requirements of part II of chapter  
686 408, the agency may deny, revoke, and suspend any license issued



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687 | under this part and impose an administrative fine in the manner  
688 | provided in chapter 120 against a licensee of an assisted living  
689 | facility for a violation of any provision of this part, part II  
690 | of chapter 408, or applicable rules, or for any of the following  
691 | actions by a licensee of an assisted living facility, for the  
692 | actions of any person subject to level 2 background screening  
693 | under s. 408.809, or for the actions of any facility employee:

694 |       (m) Failure to disclose at the time of licensure, license  
695 | renewal, or change of ownership all affiliates, controlling  
696 | entities, and entities having a controlling financial interest.

697 |       (3) The agency may deny a license to any applicant who ~~or~~  
698 | ~~controlling interest as defined in part II of chapter 408 which~~  
699 | has or had a 25-percent or greater controlling financial or  
700 | ownership interest in any other facility licensed under this part  
701 | or in an affiliate of such a facility, or in any entity licensed  
702 | by this state or another state to provide health or residential  
703 | care, which ~~facility or entity~~ during the 5 years prior to the  
704 | application for a license closed due to financial inability to  
705 | operate; had a receiver appointed or a license denied, suspended,  
706 | or revoked; was subject to a moratorium; or had an injunctive  
707 | proceeding initiated against it.

708 |       (7) Agency notification of a license suspension or  
709 | revocation, ~~or~~ denial of a license renewal, or issuance of a  
710 | conditional license regardless of an administrative or judicial  
711 | challenge, must shall be posted and visible to the public at the  
712 | facility.

713 |       Section 13. Subsection (3) of section 429.275, Florida  
714 | Statutes, is amended to read:

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715           429.275 Business practice; personnel records; liability  
716 insurance.--The assisted living facility shall be administered on  
717 a sound financial basis that is consistent with good business  
718 practices.

719           (3) The administrator or owner of a facility shall maintain  
720 liability insurance coverage that is in force at all times. The  
721 liability insurance may not be used for the litigation costs or  
722 attorney's fees for the defense of a claim against the facility  
723 pursuant to common law, s. 429.29, or s. 429.293.

724           Section 14. Section 429.174, Florida Statutes, is amended  
725 to read:

726           429.174 Background screening; exemptions.--The owner or  
727 administrator of an assisted living facility must conduct level 1  
728 background screening, as set forth in chapter 435, on all  
729 employees hired on or after October 1, 1998, who perform personal  
730 services ~~as defined in s. 429.02(16)~~. The agency may exempt an  
731 individual from employment disqualification as set forth in  
732 chapter 435. Such persons shall be considered as having met this  
733 requirement if:

734           (1) Proof of compliance with level 1 screening ~~requirements~~  
735 obtained to meet ~~any~~ professional license requirements in this  
736 state is provided and accompanied, under penalty of perjury, by a  
737 copy of the person's current professional license and an  
738 affidavit of current compliance with the background screening  
739 requirements.

740           (2) The person ~~required~~ to be screened has been  
741 continuously employed in the same type of occupation for which  
742 the person is seeking employment without a breach in service  
743 which exceeds 180 days, and proof of compliance with the level 1

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744 screening requirement which is no more than 2 years old is  
745 provided. Proof of compliance shall be provided directly from one  
746 employer or contractor to another, and not from the person  
747 screened. Upon request, a copy of screening results shall be  
748 provided by the employer retaining documentation of the screening  
749 to the person screened.

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

756 Section 15. This act shall take effect July 1, 2008.