

By the Committee on Health Regulation; and Senators Jones, Dockery, Diaz de la Portilla, Storms, Lawson, King and Deutch

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1 A bill to be entitled

2 An act relating to long-term care facilities; providing a
3 short title; amending s. 400.021, F.S.; revising
4 definitions relating to nursing homes; defining the terms
5 "affiliate," "controlling entity," "controlling financial
6 interest," "entity," and "governing body"; amending s.
7 400.0239, F.S.; authorizing the expenditure of funds from
8 the Quality of Long-Term Care Facility Improvement Trust
9 Fund for the development of an electronic Nursing Home
10 Guide; amending s. 400.071, F.S.; revising provisions
11 relating to nursing home license applications; requiring
12 the application to include the facility's affiliates,
13 controlling entities, and entities having a controlling
14 interest in the facility, proof of ability to operate,
15 copies of certain contracts and investigations and fines,
16 and the members of the facility's governing body;
17 requiring financial and ownership information to be
18 submitted in a format prescribed by the agency; amending
19 s. 400.102, F.S.; revising grounds for taking action
20 against a nursing home to conform to changes made by the
21 act; amending s. 400.111, F.S.; requiring the disclosure
22 of controlling interests at the time of licensure, license
23 renewal, or change of ownership; amending s. 400.121,
24 F.S.; revising provisions relating to the denial,
25 suspension, or revocation of a license to conform to
26 changes made by the act; amending s. 400.141, F.S.;
27 prohibiting nursing home liability insurance from paying
28 for certain legal costs; requiring the facility to notify
29 the agency if the policy has been exhausted; amending s.

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30 400.191, F.S.; requiring that the Agency for Health Care
31 Administration to maintain an electronic Nursing Home
32 Guide; deleting the requirement that the agency provide a
33 printed guide; revising the information that must be
34 provided on the agency's website; creating s. 400.197,
35 F.S.; requiring a nursing home to notify residents and
36 post a request for a change of ownership in prominent
37 locations in the nursing home; providing for a hearing as
38 to the fitness of a new owner; providing for
39 investigations of the new owner; providing that a new
40 owner assumes the liabilities of the prior licensee, its
41 affiliates, or controlling entities; amending s. 429.02,
42 F.S.; revising definitions for assisted living facilities;
43 defining the terms "affiliate," "controlling entity,"
44 "controlling financial interest," and "entity"; amending
45 s. 429.11, F.S.; revising provisions relating to
46 applications for an assisted living facility license;
47 requiring the application to include members of the
48 facilities governing body, the facility's affiliates,
49 controlling entities, and entities having a controlling
50 interest in the facility, and copies of certain contracts
51 and investigations and fines; requiring financial and
52 ownership information to be submitted in a format
53 prescribed by the agency; amending s. 429.12, F.S.;
54 requiring the assisted living facility to notify residents
55 and post a request for a change of ownership in prominent
56 locations in the facility; providing for a hearing as to
57 the fitness of a new owner upon request; providing for
58 investigations of the new owner; providing that a new

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59 owner assumes the liabilities of the prior licensee,
60 affiliates, or controlling entities; amending s. 429.14,
61 F.S.; revising provisions relating to the denial,
62 suspension, or revocation of a license to conform to
63 changes made by the act; amending s. 429.174, F.S.;
64 conforming a cross-reference; amending s. 429.275, F.S.;
65 prohibiting assisted living facility liability insurance
66 from paying for certain legal costs; requiring the
67 facility to notify the agency if the policy has been
68 exhausted; providing effective dates.

69
70 Be It Enacted by the Legislature of the State of Florida:

71
72 Section 1. This act may be cited as the "Long-Term Care
73 Transparency Act."

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

79 400.021 Definitions.--When used in this part, unless the
80 context otherwise requires, the term:

81 (2) "Affiliate" means an entity having the same or similar
82 owners, officers, board members, directors, limited liability
83 corporation members, operating company, management company, or
84 address as a facility.

85 ~~(3)(2) "Agency" means the Agency for Health Care~~
86 ~~Administration, which is the licensing agency under this part.~~

87 ~~(4)(3) "Bed reservation policy" means the number of~~

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88 consecutive days and the number of days per year that a resident
89 may leave the nursing home facility for overnight therapeutic
90 visits with family or friends or for hospitalization for an acute
91 condition before the licensee may discharge the resident due to
92 his or her absence from the facility.

93 (5)~~(4)~~ "Board" means the Board of Nursing Home
94 Administrators.

95 (6) (a) "Controlling entity" means an entity that has the
96 ability, acting alone or in concert with others, to directly or
97 indirectly influence, direct, control, or cause the direction of
98 the operation, management, expenditure of money, or policies of
99 a facility.

100 (b) A controlling entity does not include a lender,
101 financial institution, or secured creditor who does not exercise
102 any influence or control, whether formal or actual, over the
103 operation or management of a facility.

104 (7) "Controlling financial interest" means having more
105 than a 5 percent financial ownership interest in the facility,
106 an affiliate, or controlling entity.

107 (8)~~(5)~~ "Custodial service" means care for a person which
108 entails observation of diet and sleeping habits and ~~maintenance~~
109 ~~of~~ a watchfulness over the general health, safety, and well-being
110 of the aged or infirm.

111 (9)~~(6)~~ "Department" means the Department of Children and
112 Family Services.

113 (10) "Entity" means an individual, partnership,
114 association, joint venture, company, sole proprietorship,
115 corporation, limited liability corporation, professional limited
116 liability corporation, or any other form of doing business.

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117 ~~(11)(7)~~ "Facility" means an ~~any~~ institution, building,
118 residence, private home, or other place, whether operated for
119 profit or not, including a place operated by a county or
120 municipality, which undertakes through its ownership or
121 management to provide for a period exceeding 24-hour nursing
122 care, personal care, or custodial care for three or more persons
123 not related to the owner or manager by blood or marriage, who by
124 reason of illness, physical infirmity, or advanced age require
125 such services, but does not include any place providing care and
126 treatment primarily for the acutely ill. A facility offering
127 services for fewer than three persons is within the meaning of
128 this definition if it holds itself out to the public to be an
129 establishment that ~~which~~ regularly provides such services.

130 ~~(12)(8)~~ "Geriatric outpatient clinic" means a site for
131 providing outpatient health care to persons 60 years of age or
132 older, which is staffed by a registered nurse or a physician
133 assistant.

134 ~~(13)(9)~~ "Geriatric patient" means a ~~any~~ patient who is 60
135 years of age or older.

136 (14) "Governing body" means the individuals who have
137 responsibility for hiring the administrator and for approving a
138 facility's policies and procedures and ensuring their proper
139 implementation.

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

142 400.0239 Quality of Long-Term Care Facility Improvement
143 Trust Fund.--

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

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

150 Section 4. Subsection (1) of section 400.071, Florida
151 Statutes, is amended, present subsections (2) through (5) of that
152 section are renumbered as subsections (3) through (6),
153 respectively, and new subsection (2) is added to that section, to
154 read:

155 400.071 Application for license.--

156 (1) In addition to the requirements of part II of chapter
157 408, the application for a license under this part must ~~shall~~ be
158 under oath and must contain the following:

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

162 (b) A signed affidavit disclosing any financial or
163 ownership interest that the applicant, an affiliate, a
164 controlling entity, or an entity having a controlling financial
165 ~~interest as defined in part II of chapter 408~~ has held in the
166 last 5 years in any entity licensed by this state or any other
167 state to provide health or residential care which has closed
168 voluntarily or involuntarily; has filed for bankruptcy; has had a
169 receiver appointed; has had a license denied, suspended, or
170 revoked; or has had an injunction issued against it which was
171 initiated by a regulatory agency. The affidavit must disclose the
172 reason the ~~any such~~ entity was closed, whether voluntarily or
173 involuntarily.

174 (c) A signed affidavit disclosing any affiliate of,

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175 controlling entity of, and entity having a controlling financial
176 interest in the applicant.

177 (d) The total number of beds and the total number of
178 Medicare and Medicaid certified beds.

179 (e)~~(d)~~ Information relating to the applicant and employees
180 which the agency requires by rule. The applicant must demonstrate
181 that sufficient numbers of qualified staff, by training or
182 experience, will be employed to properly care for the type and
183 number of residents who will reside in the facility.

184 (f) Proof of financial ability to operate. The applicant
185 must demonstrate an ability to provide staff at required levels
186 and maintain solvency in accordance with this part, applicable
187 provisions of chapter 408, and related rules. Documentation must
188 include, but need not be limited to, the balance sheet and profit
189 and loss statement of the nursing home's 2 previous fiscal years
190 of operation, a statement of projected revenues and expenses for
191 the first 12 months of operation following licensure, a detailed
192 explanation of the assumptions implicit in these projections, the
193 basis for financing the applicant's anticipated cash-flow
194 requirements, and the applicant's access to contingency
195 financing. This information is not required for a routine license
196 renewal.

197 (g)~~(e)~~ Copies of any civil verdict or judgment involving
198 the applicant, affiliates, or controlling entities rendered
199 within the 10 years preceding the application, relating to
200 medical negligence, violation of residents' rights, or wrongful
201 death. As a condition of licensure, the licensee agrees to
202 provide to the agency copies of any new verdict or judgment
203 involving the applicant, relating to such matters, within 30 days

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

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

211 (i) Copies of any audits, investigations, or fines related
212 to the receipt or use of federal or state funds by all
213 affiliates, controlling entities, and entities having a
214 controlling financial interest. These include the results of or
215 any ongoing investigations into Medicaid or Medicare fraud or
216 Medicaid or Medicare overpayment, any standing corporate
217 integrity agreements, or other remedial action by a public
218 entity.

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

221 (2) Information relating to financial and ownership
222 information shall be submitted in a format prescribed by the
223 agency.

224 Section 5. Section 400.102, Florida Statutes, is amended to
225 read:

226 400.102 Action by agency against licensee; grounds.--In
227 addition to the grounds listed in part II of chapter 408, any of
228 the following conditions shall be grounds for action by the
229 agency against a licensee:

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

232 (2) Misappropriation or conversion of the property of a

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233 resident of the facility.~~†~~

234 (3) Failure to follow the criteria and procedures provided
235 under part I of chapter 394 relating to the transportation,
236 voluntary admission, and involuntary examination of a nursing
237 home resident.~~†~~~~or~~

238 (4) Fraudulent altering, defacing, or falsifying any
239 medical or nursing home records, or causing or procuring any of
240 these offenses to be committed.

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

245 Section 6. Section 400.111, Florida Statutes, is amended to
246 read:

247 400.111 Disclosure of controlling interest.--In addition to
248 the requirements of part II of chapter 408, the licensee shall at
249 the time of licensure, license renewal, or change of ownership
250 submit a signed affidavit disclosing any financial or ownership
251 interest that an affiliate, controlling entity, or entity having
252 a controlling financial interest has held within the last 5 years
253 in any entity licensed by the state or any other state to provide
254 health or residential care which ~~entity~~ has closed voluntarily or
255 involuntarily; has filed for bankruptcy; has had a receiver
256 appointed; has had a license denied, suspended, or revoked; or
257 has had an injunction issued against it which was initiated by a
258 regulatory agency. The affidavit must disclose the reason such
259 entity was closed, whether voluntarily or involuntarily. As a
260 condition of licensure, license renewal, or change of ownership,
261 the licensee must agree to provide to the agency a signed

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262 affidavit disclosing any financial or ownership interest that an
263 affiliate, a controlling entity, or an entity having a
264 controlling financial interest acquires within 30 days after the
265 acquisition.

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

268 400.121 Denial, suspension, revocation of license;
269 administrative fines; procedure; order to increase staffing.--

270 (1) The agency may deny a license ~~an~~ application, revoke or
271 suspend a license, and impose an administrative fine, not to
272 exceed \$500 per violation per day for the ~~violation of any~~
273 ~~provision of this part, part II of chapter 408, or applicable~~
274 ~~rules, against any applicant or licensee for the following~~
275 violations by the applicant, licensee, or ~~other~~ controlling
276 interest:

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

279 (b) An adverse action by a regulatory agency against any
280 other licensed facility that has a common controlling entity or
281 an entity having controlling financial interest in the applicant
282 or with the licensee or applicant against whom the action under
283 ~~this section is being brought~~. If the adverse action involves
284 solely the management company, the applicant or licensee shall be
285 given 30 days to remedy before final action is taken. If the
286 adverse action is based solely upon actions by the a controlling
287 entity or entity having a controlling financial interest, the
288 applicant or licensee may present factors in mitigation of a any
289 proposed penalty based upon a showing that such penalty is
290 inappropriate under the circumstances.

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292 All hearings shall be held within the county in which the
293 licensee or applicant operates or applies for a license to
294 operate a facility ~~as defined herein.~~

295 (3) The agency shall revoke or deny a nursing home license
296 if the licensee, a controlling entity, or an entity having a
297 controlling financial interest in the licensee operates a
298 facility in this state that:

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

303 (b) Is conditionally licensed for 180 or more continuous
304 days;

305 (c) Is cited for two class I deficiencies arising from
306 unrelated circumstances during the same survey or investigation;
307 or

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

310

311 The licensee may present factors in mitigation of revocation, and
312 the agency may make a determination not to revoke a license based
313 upon a showing that revocation is inappropriate under the
314 circumstances.

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

317 400.141 Administration and management of nursing home
318 facilities.--Every licensed facility shall comply with all
319 applicable standards and rules of the agency and shall:

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320 (20) Maintain general and professional liability insurance
321 coverage that is in force at all times. The insurance may not be
322 used for the litigation costs or attorney's fees for the defense
323 of a claim against a nursing home pursuant to the common law, s.
324 400.023, or s. 400.0233. The licensee must notify the agency
325 immediately if the policy limits or annual aggregate liability
326 coverage has been exhausted. In lieu of general and professional
327 liability insurance coverage, a state-designated teaching nursing
328 home and its affiliated assisted living facilities created under
329 s. 430.80 may demonstrate proof of financial responsibility as
330 provided in s. 430.80(3)(h).

331
332 Facilities that have been awarded a Gold Seal under the program
333 established in s. 400.235 may develop a plan to provide certified
334 nursing assistant training as prescribed by federal regulations
335 and state rules and may apply to the agency for approval of their
336 program.

337 Section 9. Effective December 1, 2008, subsections (2) and
338 (5) of section 400.191, Florida Statutes, are amended to read:
339 400.191 Availability, distribution, and posting of reports
340 and records.--

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

346 (a) The agency shall provide an Internet website that, at a
347 minimum, includes ~~site which shall include at least~~ the following
348 information ~~either~~ directly or indirectly through a link to other

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349 ~~another~~ established websites ~~site or sites~~ of the agency's
350 choosing:

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

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

369 3. A list of all affiliates, controlling entities, and
370 entities having a controlling financial interest that are
371 affiliated with or associated with the facility.

372 4. Any documents related to audits, investigations, or
373 finances related to the receipt or use of federal or state funds by
374 the facility, or any affiliate, controlling entity, or entity
375 having a controlling financial interest, including all related
376 documents submitted under s. 400.071.

377 5.3. Whether the facility is ~~such nursing home facilities~~

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378 | ~~are~~ proprietary or nonproprietary.

379 | ~~6.4.~~ The current owner or owners of the facility's license
380 | and the year in which ~~that~~ that entity became the owner of the
381 | license.

382 | ~~7.5.~~ The name of the owner or owners of the ~~each~~ facility
383 | and whether the facility is affiliated with a company or other
384 | organization owning or managing more than one nursing facility in
385 | this state.

386 | ~~8.6.~~ The total number of beds in the ~~each~~ facility and the
387 | most recently available occupancy levels.

388 | ~~9.7.~~ The number of private and semiprivate rooms in the
389 | ~~each~~ facility.

390 | ~~10.8.~~ The religious affiliation, if any, of the ~~each~~
391 | facility.

392 | ~~11.9.~~ The languages spoken by the administrator and staff
393 | of the ~~each~~ facility.

394 | ~~12.10.~~ Whether the ~~or not each~~ facility accepts Medicare or
395 | Medicaid recipients or insurance, health maintenance
396 | organization, Veterans Administration, CHAMPUS program, or
397 | workers' compensation coverage.

398 | ~~13.11.~~ Recreational programs, special care units, and other
399 | programs available at the ~~each~~ facility.

400 | ~~14.12.~~ Special care units or programs offered at the ~~each~~
401 | facility.

402 | ~~15.13.~~ Whether the facility is a part of a retirement
403 | community that offers other services pursuant to part III of this
404 | chapter or part I or part III of chapter 429.

405 | ~~16.14.~~ Survey and deficiency information, including all
406 | federal and state recertification, licensure, revisit, and

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407 | complaint survey information, for the ~~each~~ facility for the past
408 | 30 months. For noncertified nursing homes, state survey and
409 | deficiency information, including licensure, revisit, and
410 | complaint survey information for the past 30 months shall be
411 | provided.

412 | ~~17.15.~~ A summary of the deficiency data for the ~~each~~
413 | facility during ~~over~~ the past 30 months. The summary may include
414 | a score, rating, or comparison ranking with respect to other
415 | facilities based on the number of citations received by the
416 | facility on recertification, licensure, revisit, and complaint
417 | surveys; the severity and scope of the citations; and the number
418 | of recertification surveys the facility has had during the past
419 | 30 months. The score, rating, or comparison ranking may be
420 | presented in ~~either~~ numeric or symbolic form for the intended
421 | consumer audience.

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

424 | 19. A list, by name and address, of all nursing home
425 | facilities that have submitted an application for a change of
426 | ownership, including the date of the submission and current
427 | status of that application.

428 | ~~(b) The agency shall provide the following information in~~
429 | ~~printed form:~~

430 | ~~1. A section entitled "Have you considered programs that~~
431 | ~~provide alternatives to nursing home care?" which shall be the~~
432 | ~~first section of the Nursing Home guide and which shall~~
433 | ~~prominently display information about available alternatives to~~
434 | ~~nursing homes and how to obtain additional information regarding~~
435 | ~~these alternatives. The Nursing Home guide shall explain that~~

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436 ~~this state offers alternative programs that permit qualified~~
437 ~~elderly persons to stay in their homes instead of being placed in~~
438 ~~nursing homes and shall encourage interested persons to call the~~
439 ~~Comprehensive Assessment Review and Evaluation for Long-Term Care~~
440 ~~Services (CARES) Program to inquire if they qualify. The Nursing~~
441 ~~Home guide shall list available home and community-based programs~~
442 ~~which shall clearly state the services that are provided and~~
443 ~~indicate whether nursing home services are included if needed.~~

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

446 ~~3. Whether the nursing home facilities are proprietary or~~
447 ~~nonproprietary.~~

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

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

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

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

456 ~~8. The languages spoken by the administrator and staff of~~
457 ~~each facility.~~

458 ~~9. Whether or not each facility accepts Medicare or~~
459 ~~Medicaid recipients or insurance, health maintenance~~
460 ~~organization, Veterans Administration, CHAMPUS program, or~~
461 ~~workers' compensation coverage.~~

462 ~~10. Recreational programs, special care units, and other~~
463 ~~programs available at each facility.~~

464 ~~11. The Internet address for the site where more detailed~~

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465 ~~information can be seen.~~

466 ~~12. A statement advising consumers that each facility will~~
467 ~~have its own policies and procedures related to protecting~~
468 ~~resident property.~~

469 ~~13. A summary of the deficiency data for each facility over~~
470 ~~the past 30 months. The summary may include a score, rating, or~~
471 ~~comparison ranking with respect to other facilities based on the~~
472 ~~number of citations received by the facility on recertification,~~
473 ~~licensure, revisit, and complaint surveys; the severity and scope~~
474 ~~of the citations; the number of citations; and the number of~~
475 ~~recertification surveys the facility has had during the past 30~~
476 ~~months. The score, rating, or comparison ranking may be presented~~
477 ~~in either numeric or symbolic form for the intended consumer~~
478 ~~audience.~~

479 ~~(b)(c)~~ The agency shall ~~may~~ provide the following
480 additional information on its ~~an~~ Internet website ~~site or in~~
481 ~~printed form~~ as the information becomes available:

482 1. The licensure status history of each facility.
483 2. The rating history of each facility.
484 3. The regulatory history of each facility, which may
485 include federal sanctions, state sanctions, federal fines, state
486 fines, and other actions.

487 4. Whether the facility currently possesses the Gold Seal
488 designation awarded pursuant to s. 400.235.

489 5. Known Internet links to the websites ~~Internet sites~~ of
490 the facilities, ~~or~~ their affiliates, controlling entities, and
491 entities having a controlling financial interest.

492 (5) Every nursing home facility licensee shall:

493 (a) Post, in a sufficient number of prominent locations

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494 ~~positions~~ in the nursing home so as to be accessible to all
495 residents and to the general public:

496 1. A concise summary of the last inspection report
497 pertaining to the nursing home and issued by the agency, with
498 references to the page numbers of the full reports, noting any
499 deficiencies found by the agency and the actions taken by the
500 licensee to rectify the deficiencies and ~~indicating in the~~
501 ~~summaries~~ where the full reports may be inspected in the nursing
502 home.

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

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

508 (b) Upon request, provide to any person who has completed a
509 written application for admission ~~with an intent to be admitted~~
510 to, or to a ~~any~~ resident of, a nursing home, or to any relative,
511 spouse, surrogate, or guardian of the person, a copy of the
512 nursing home's last inspection report or a printed copy of the
513 Nursing Home Guide if ~~pertaining to the nursing home and issued~~
514 ~~by the agency, provided~~ the person requesting the report agrees
515 to pay a reasonable charge to cover copying costs.

516 Section 10. Section 400.197, Florida Statutes, is created
517 to read:

518 400.197 Change of ownership.--

519 (1) Within 5 days after a licensee submits a request for a
520 change of ownership to the agency, the licensee shall notify all
521 residents of the request in writing and post that information in
522 a sufficient number of prominent locations in the nursing home

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523 facility and on the primary Internet website of the nursing home
524 and its controlling entities so that the information is
525 accessible to all residents and the public.

526 (2) Affected parties, including, but not limited to, a
527 resident, a resident's family member, a resident's legal
528 representative, a resident's guardian, and facility staff may
529 submit information for the agency to consider when evaluating the
530 proposed owner's character, experience, background,
531 qualifications, and fitness for licensure when determining
532 whether to grant a change of ownership.

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

538 (4) Upon granting a change of ownership, the new licensee
539 assumes all liabilities of the prior licensee, its affiliates, or
540 controlling entities relating to or arising out of the operation
541 of the facility and services provided at the facility under the
542 prior licensee.

543 Section 11. Subsections (3) through (26) of section 429.02,
544 Florida Statutes, are renumbered as subsections (4) through (30),
545 respectively, new subsection (3), (9), (10), and (14) are added
546 to that section, and present subsections (3) through (10) of that
547 section are amended, to read:

548 429.02 Definitions.--When used in this part, the term:

549 (3) "Affiliate" means an entity having the same or similar
550 owners, officers, board members, directors, limited liability
551 corporation members, operating company, management company, or

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552 address as an assisted living facility.

553 (4)~~(3)~~ "Agency" means the Agency for Health Care
554 Administration.

555 (5)~~(4)~~ "Aging in place" or "age in place" means the process
556 of providing increased or adjusted services to a person to
557 compensate for the physical or mental decline that may occur with
558 the aging process, in order to maximize the person's dignity and
559 independence and allow ~~permit~~ them to remain in a familiar,
560 noninstitutional, residential environment for as long as
561 possible. Such services may be provided by facility staff,
562 volunteers, family, or friends, or through contractual
563 arrangements with a third party.

564 (6)~~(5)~~ "Assisted living facility" means any building or
565 buildings, section or distinct part of a building, private home,
566 boarding home, home for the aged, or other residential facility,
567 whether operated for profit or not, which undertakes through its
568 ownership or management to provide housing, meals, and one or
569 more personal services for a period exceeding 24 hours to one or
570 more adults who are not relatives of the owner or administrator.

571 (7)~~(6)~~ "Chemical restraint" means a pharmacologic drug that
572 physically limits, restricts, or deprives an individual of
573 movement or mobility, and is used for discipline or convenience
574 and not required for the treatment of medical symptoms.

575 (8)~~(7)~~ "Community living support plan" means a written
576 document prepared by a mental health resident and the resident's
577 mental health case manager in consultation with the administrator
578 of an assisted living facility with a limited mental health
579 license or the administrator's designee. A copy must be provided
580 to the administrator. The plan must include information about the

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581 supports, services, and special needs of the resident which
582 enable the resident to live in the assisted living facility and a
583 method by which facility staff can recognize and respond to the
584 signs and symptoms particular to that resident which indicate the
585 need for professional services.

586 (9) (a) "Controlling entity" means an entity that has the
587 ability, acting alone or in concert with others, to directly or
588 indirectly influence, direct, control, or cause the direction of
589 the operation, management, expenditure of money, or policies of
590 a facility.

591 (b) A controlling entity does not include a lender,
592 financial institution, or secured creditor who does not exercise
593 any influence or control, whether formal or actual, over the
594 operation or management of a facility.

595 (10) "Controlling financial interest" means having more
596 than a 5 percent financial ownership interest in the facility,
597 an affiliate, or controlling entity.

598 (11)-(8) "Cooperative agreement" means a written statement
599 of understanding between a mental health care provider and the
600 administrator of the assisted living facility with a limited
601 mental health license in which a mental health resident is
602 living. The agreement must specify directions for accessing
603 emergency and after-hours care for the mental health resident. A
604 single cooperative agreement may service all mental health
605 residents who are clients of the same mental health care
606 provider.

607 (12)-(9) "Department" means the Department of Elderly
608 Affairs.

609 (13)-(10) "Emergency" means a situation, physical condition,

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610 or method of operation which presents imminent danger of death or
611 serious physical or mental harm to ~~facility~~ residents.

612 (14) "Entity" means an individual, partnership,
613 association, joint venture, company, sole proprietorship,
614 corporation, limited liability corporation, professional limited
615 liability corporation, or any other form of doing business.

616 Section 12. Subsection (1) of section 429.11, Florida
617 Statutes, is amended, and subsection (8) is added to that
618 section, to read:

619 429.11 Initial application for license; provisional
620 license.--

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

623 (a) Identify all affiliates ~~other homes or facilities~~,
624 including the addresses and the license or licenses under which
625 they operate, if applicable, which are currently operated by the
626 applicant or administrator and which provide housing, meals, and
627 personal services to residents.

628 (b) Provide the location of the facility for which a
629 license is sought and documentation, signed by the appropriate
630 local government official, which states that the applicant has
631 met local zoning requirements.

632 (c) Provide the name, address, date of birth, social
633 security number, education, and experience of the administrator,
634 if different from the applicant.

635 (d) Provide a signed affidavit disclosing any affiliates,
636 controlling entities, and entities having a controlling financial
637 interest.

638 (e) Provide copies of any contracts with an affiliate or

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639 controlling entity, including details of goods and services
640 provided and the intended payment for those goods and services.

641 (f) Provide copies of any audits, investigations, or fines
642 related to the receipt or use of federal or state funds by all
643 affiliates, controlling entities, and entities having a
644 controlling financial interest. This includes the results of any
645 ongoing investigations into Medicaid or Medicare fraud or
646 Medicaid or Medicare overpayment, any standing corporate
647 integrity agreements, or other remedial action by any public
648 entity.

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

651 (8) As a condition of licensure, license renewal, or change
652 of ownership, the licensee must agree to provide to the agency a
653 signed affidavit disclosing any financial or ownership interest
654 that an affiliate, a controlling entity, or an entity having a
655 controlling financial interest acquires within 30 days after the
656 acquisition.

657 Section 13. Section 429.12, Florida Statutes, is amended to
658 read:

659 429.12 Sale or transfer of ownership of a facility.--It is
660 the intent of the Legislature to protect the rights of the
661 residents of an assisted living facility when the facility is
662 sold or the ownership ~~thereof~~ is transferred. Therefore, in
663 addition to the requirements of part II of chapter 408, ~~whenever~~
664 ~~a facility is sold or the ownership thereof is transferred,~~
665 ~~including leasing:~~

666 (1) Within 5 days after submitting a request to the agency
667 for a change of ownership, the licensee shall notify all

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668 residents of the request in writing and post that information in
669 a sufficient number of prominent locations in the assisted living
670 facility and on the primary Internet website of the facility so
671 that the information is accessible to all residents and the
672 public. ~~The transferee shall notify the residents, in writing, of~~
673 ~~the change of ownership within 7 days after receipt of the new~~
674 ~~license.~~

675 (2) Affected parties, including, but not limited to, a
676 resident, a resident's family member, a resident's legal
677 representative, a resident's guardian, and facility staff may
678 submit information for the agency to consider in evaluating the
679 proposed owner's character, experience, background,
680 qualifications, and fitness for the license when determining
681 whether to grant a change of ownership.

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

687 (4) Upon granting a change of ownership, the new licensee
688 assumes all liabilities of the prior licensee, its affiliates, or
689 controlling entities relating to or arising out of the operation
690 of the facility and services provided at the facility under the
691 prior licensee.

692 (5) Within 7 days after receipt of the new license, the
693 transferee shall notify the residents in writing of the change of
694 ownership.

695 (6)~~(2)~~ The transferor of a facility, the license of which
696 is denied pending an administrative hearing, shall, as a part of

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697 the written change-of-ownership contract, advise the transferee
698 that a plan of correction must be submitted by the transferee and
699 approved by the agency at least 7 days before the change of
700 ownership and that failure to correct the condition that ~~which~~
701 resulted in the moratorium pursuant to part II of chapter 408 or
702 denial of licensure is grounds for denial of the transferee's
703 license.

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

707 429.14 Administrative penalties.--

708 (1) In addition to the requirements of part II of chapter
709 408, the agency may deny, revoke, and suspend any license issued
710 under this part and impose an administrative fine in the manner
711 provided in chapter 120 against a licensee of an assisted living
712 facility for a violation of any provision of this part, part II
713 of chapter 408, or applicable rules, or for any of the following
714 actions by a licensee of an assisted living facility, for the
715 actions of any person subject to level 2 background screening
716 under s. 408.809, or for the actions of any facility employee:

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

720 (3) The agency may deny a license to any applicant or
721 controlling interest as defined in part II of chapter 408 which
722 has or had a 25-percent or greater financial or ownership
723 interest in any other facility licensed under this part, in any
724 affiliate or controlling entity, or in any entity licensed by
725 this state or another state to provide health or residential

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726 care, which ~~facility or entity~~ during the 5 years prior to the
727 application for a license closed due to financial inability to
728 operate; had a receiver appointed or a license denied, suspended,
729 or revoked; was subject to a moratorium; or had an injunctive
730 proceeding initiated against it.

731 (7) Agency notification of a license suspension or
732 revocation, ~~or~~ denial of a license renewal, or issuance of a
733 conditional license regardless of an administrative or judicial
734 challenge, must ~~shall~~ be posted and visible to the public at the
735 facility.

736 Section 15. Section 429.174, Florida Statutes, is amended
737 to read:

738 429.174 Background screening; exemptions.--The owner or
739 administrator of an assisted living facility must conduct level 1
740 background screening, as set forth in chapter 435, on all
741 employees hired on or after October 1, 1998, who perform personal
742 services ~~as defined in s. 429.02(16)~~. The agency may exempt an
743 individual from employment disqualification as set forth in
744 chapter 435. Such persons shall be considered as having met this
745 requirement if:

746 (1) Proof of compliance with level 1 screening ~~requirements~~
747 obtained to meet ~~any~~ professional license requirements in this
748 state is provided and accompanied, under penalty of perjury, by a
749 copy of the person's current professional license and an
750 affidavit of current compliance with the background screening
751 requirements.

752 (2) The person ~~required~~ to be screened has been
753 continuously employed in the same type of occupation for which
754 the person is seeking employment without a breach in service

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755 | which exceeds 180 days, and proof of compliance with the level 1
756 | screening requirement which is no more than 2 years old is
757 | provided. Proof of compliance shall be provided directly from one
758 | employer or contractor to another, and not from the person
759 | screened. Upon request, a copy of screening results shall be
760 | provided by the employer retaining documentation of the screening
761 | to the person screened.

762 | (3) The person ~~required~~ to be screened is employed by a
763 | corporation or business entity or related corporation or business
764 | entity that owns, operates, or manages more than one facility or
765 | agency licensed under this chapter, and for whom a level 1
766 | screening was conducted by the corporation or business entity as
767 | a condition of initial or continued employment.

768 | Section 16. Subsection (3) of section 429.275, Florida
769 | Statutes, is amended to read:

770 | 429.275 Business practice; personnel records; liability
771 | insurance.--The assisted living facility shall be administered on
772 | a sound financial basis that is consistent with good business
773 | practices.

774 | (3) The administrator or owner of a facility shall maintain
775 | liability insurance coverage that is in force at all times. The
776 | general and professional liability insurance may not be used for
777 | the litigation costs or attorney's fees for the defense of a
778 | claim against the facility pursuant to common law, s. 429.29, or
779 | s. 429.293. The administrator or owner of a facility must notify
780 | the agency immediately if the policy limits or annual aggregate
781 | liability coverage has been exhausted.

782 | Section 17. Except as otherwise expressly provided in this
783 | act, this act shall take effect July 1, 2008.