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CHAMBER ACTION

Senate

House

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Floor: 2/F/RM
5/1/2008 4:55 PM

1 Senator Hill moved the following substitute for amendment
2 (806500) to amendment:
3

4 Senate Amendment (with title amendment)

5 Delete line(s) 5-521

6 and insert:
7

8 Section 1. Subsection (4) of section 322.142, Florida
9 Statutes, is amended to read:

10 322.142 Color photographic or digital imaged licenses.--

11 (4) The department may maintain a film negative or print
12 file. The department shall maintain a record of the digital image
13 and signature of the licensees, together with other data required
14 by the department for identification and retrieval. Reproductions
15 from the file or digital record are exempt from the provisions of
16 s. 119.07(1) and shall be made and issued only for departmental
17 administrative purposes; for the issuance of duplicate licenses;

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18 in response to law enforcement agency requests; to the Department  
19 of State pursuant to an interagency agreement to facilitate  
20 determinations of eligibility of voter registration applicants  
21 and registered voters in accordance with ss. 98.045 and 98.075;  
22 to the Department of Revenue pursuant to an interagency agreement  
23 for use in establishing paternity and establishing, modifying, or  
24 enforcing support obligations in Title IV-D cases; to the  
25 Department of Children and Family Services pursuant to an  
26 interagency agreement to conduct protective investigations under  
27 chapter 415; or to the Department of Financial Services pursuant  
28 to an interagency agreement to facilitate the location of owners  
29 of unclaimed property, the validation of unclaimed property  
30 claims, and the identification of fraudulent or false claims, ~~and~~  
31 ~~are exempt from the provisions of s. 119.07(1).~~

32 Section 2. Effective April 1, 2009, paragraph (g) is added  
33 to subsection (15) and subsection (25) is added to section  
34 400.141, Florida Statutes, to read:

35 400.141 Administration and management of nursing home  
36 facilities.--Every licensed facility shall comply with all  
37 applicable standards and rules of the agency and shall:

38 (15) Submit semiannually to the agency, or more frequently  
39 if requested by the agency, information regarding facility staff-  
40 to-resident ratios, staff turnover, and staff stability,  
41 including information regarding certified nursing assistants,  
42 licensed nurses, the director of nursing, and the facility  
43 administrator. For purposes of this reporting:

44 (g) The agency shall impose sanctions against a nursing  
45 home for failure to meet the staffing ratios in s. 400.23(3) and  
46 for failure to impose a moratorium on new admissions pursuant to  
47 this section.



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48  
49 Nothing in this section shall limit the agency's ability to  
50 impose a deficiency or take other actions if a facility does not  
51 have enough staff to meet the residents' needs.

52 (25) Conduct a search of the Department of Law  
53 Enforcement's sexual offender database for each prospective  
54 resident before admission or immediately after admission. A  
55 facility must maintain verification that all residents have been  
56 screened. The information obtained may be used by the facility to  
57 assess the needs of the resident and to provide adequate and  
58 appropriate health care and protective and support services in  
59 accordance with this part. The information obtained may be  
60 disclosed to other residents. The facility does not have to  
61 rescreen a resident who is away from a facility for no more than  
62 45 days.

63  
64 Facilities that have been awarded a Gold Seal under the program  
65 established in s. 400.235 may develop a plan to provide certified  
66 nursing assistant training as prescribed by federal regulations  
67 and state rules and may apply to the agency for approval of their  
68 program.

69 Section 3. Subsection (3) of section 400.19, Florida  
70 Statutes, is amended to read:

71 400.19 Right of entry and inspection.--

72 (3) The agency shall every 15 months conduct at least one  
73 unannounced inspection to determine compliance by the licensee  
74 with statutes, and related ~~with rules promulgated under the~~  
75 ~~provisions of those statutes,~~ governing minimum standards of  
76 construction, quality and adequacy of care, and rights of  
77 residents. The survey shall be conducted every 6 months for the

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78 | next 2-year period if the facility has been cited for a class I  
79 | deficiency, has been cited for two or more class II deficiencies  
80 | arising from separate surveys or investigations within a 60-day  
81 | period, or has had three or more substantiated complaints within  
82 | a 6-month period, each resulting in at least one class I or class  
83 | II deficiency. In addition to any other fees or fines in this  
84 | part, the agency shall assess a fine for each facility that is  
85 | subject to the 6-month survey cycle. The fine for the 2-year  
86 | period shall be \$6,000, one-half to be paid at the completion of  
87 | each survey. The agency may adjust this fine by the change in the  
88 | Consumer Price Index, based on the 12 months immediately  
89 | preceding the change ~~increase~~, to cover the cost of the  
90 | additional surveys. The agency shall verify through subsequent  
91 | inspection that any deficiency identified during inspection is  
92 | corrected. However, the agency may verify the correction of a  
93 | class III or class IV deficiency unrelated to resident rights or  
94 | resident care without reinspecting the facility if adequate  
95 | written documentation has been received from the facility, which  
96 | provides assurance that the deficiency has been corrected. ~~The~~  
97 | ~~giving or causing to be given of advance notice of such~~  
98 | ~~unannounced inspections by an employee of the agency to any~~  
99 | ~~unauthorized person shall constitute cause for suspension of not~~  
100 | ~~fewer than 5 working days according to the provisions of chapter~~  
101 | ~~110.~~

102 | Section 4. Effective April 1, 2009, section 400.215,  
103 | Florida Statutes, is amended to read:

104 | 400.215 Background Personnel screening ~~requirement~~--

105 | (1) ~~The agency shall require~~ Background screening as  
106 | provided in chapter 435 is required for all nursing home facility  
107 | ~~employees or prospective employees of facilities licensed under~~



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108 ~~this part~~ who are expected to, or whose responsibilities may  
109 require them to:

110 (a) Provide personal care or services to residents;

111 (b) Have access to resident living areas; or

112 (c) Have access to resident funds or other personal  
113 property.

114 (2) Background screening as provided in chapter 435 is  
115 required for all nursing home facility contracted workers who are  
116 expected to, or whose responsibilities may require them to,  
117 provide personal care or services to residents. The facility  
118 shall maintain verification that such contracted workers have  
119 been screened pursuant to this section. The facility may either  
120 obtain a copy of the qualifying screening results from the entity  
121 or receive an affidavit from the entity which specifies that a  
122 background screen has been performed on all contracted workers  
123 sent to the facility. Contracted workers who do not provide  
124 personal care or services to residents are not required to be  
125 screened pursuant to this section but must sign in at the  
126 reception desk or nurses' station upon entering the facility,  
127 wear an identification badge while on the premises, and sign out  
128 before leaving the facility. The nursing facility shall maintain  
129 a log containing the information collected.

130 (3)(2) Employers, and employees, contractors, and  
131 contracted workers shall comply with the requirements of s.  
132 435.05.

133 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),  
134 facilities must have in their possession evidence that level 1  
135 screening under s. 435.03 has been completed before allowing an  
136 employee or contracted worker to begin employment in the facility  
137 ~~working with patients~~ as provided in subsection (1). All



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138 information necessary for conducting level 1 background screening  
139 ~~using level 1 standards as specified in s. 435.03~~ shall be  
140 submitted by the nursing facility to the agency. Results of the  
141 background screening shall be provided by the agency to the  
142 requesting nursing facility.

143 (b) Employees and contracted workers qualified under ~~the~~  
144 ~~provisions of~~ paragraph (a) who have not maintained continuous  
145 residency within the state for the 5 years immediately preceding  
146 the date of request for background screening must complete level  
147 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such Employees  
148 may work in a conditional status for up to 180 days pending the  
149 receipt of written findings evidencing the completion of level 2  
150 screening. Contracted workers who are awaiting the completion of  
151 level 2 screening may work only under the direct and visual  
152 supervision of persons who have met the screening requirements of  
153 this section. Level 2 screening ~~is shall~~ not be required ~~for of~~  
154 employees, or prospective employees, or contracted workers who  
155 attest in writing under penalty of perjury that they meet the  
156 residency requirement. To complete ~~Completion of~~ level 2  
157 screening: ~~shall require~~

158 1. The employee or contracted worker shall ~~prospective~~  
159 ~~employee to~~ furnish to the nursing facility a full set of  
160 fingerprints for conducting a federal criminal records check to  
161 ~~enable a criminal background investigation to be conducted.~~

162 2. The nursing facility shall submit the completed  
163 fingerprint card to the agency.

164 3. The agency shall establish a record of the request in  
165 the database provided for in paragraph (c) and forward the  
166 request to the Department of Law Enforcement, which is authorized



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167 to submit the fingerprints to the Federal Bureau of Investigation  
168 for a national criminal history records check.

169 4. The results of the national criminal history records  
170 check shall be returned to the agency, which shall maintain the  
171 results in the database provided for in paragraph (c).

172 5. The agency shall notify the administrator of the  
173 requesting nursing facility or the administrator of any other  
174 requesting facility licensed under chapter 393, chapter 394,  
175 chapter 395, chapter 397, chapter 429, or this chapter, ~~as~~  
176 ~~requested by such facility,~~ as to whether ~~or not~~ the employee has  
177 qualified under level 1 or level 2 screening.

178  
179 An employee or contracted worker ~~prospective employee~~ who has  
180 qualified under level 2 screening and has maintained ~~such~~  
181 continuous residency within the state is ~~shall~~ not be required to  
182 complete a subsequent level 2 screening as a condition of  
183 employment at another facility.

184 (c) The agency shall establish and maintain a database that  
185 includes ~~of background screening information which shall include~~  
186 the results of all ~~both~~ level 1 and level 2 screening. The  
187 Department of Law Enforcement shall timely provide to the agency,  
188 electronically, the results of each statewide screening for  
189 incorporation into the database. The agency shall, upon request  
190 from any facility, agency, or program required by or authorized  
191 by law to screen its employees or contracted workers ~~applicants,~~  
192 notify the administrator of the facility, agency, or program of  
193 the qualifying or disqualifying status of the person ~~employee or~~  
194 ~~applicant~~ named in the request.

195 (d) ~~Applicants and~~ Employees, prospective employees, and  
196 contracted workers shall be excluded from employment pursuant to

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197 s. 435.06, and may not be employed or resume employment until  
198 exempted or all appeals have been resolved in favor of the person  
199 screened. However, an employee of a nursing facility, employed  
200 prior to October 1, 1998, who is determined to have a  
201 disqualifying offense occurring after October 1, 1998, may  
202 continue employment pending the outcome of an exemption request  
203 if such request is made within 30 days of receipt of the results  
204 of the background screening. An employee of a nursing facility,  
205 employed before October 1, 1998, who is determined to have a  
206 disqualifying offense before October 1, 1998, but does not have a  
207 disqualifying offense after that date, is not required to submit  
208 an exemption request pursuant to s. 435.07 and may continue his  
209 or her employment.

210  
211 Notwithstanding chapter 435, the agency may not provide to the  
212 employer the results of background screening for offenses  
213 occurring prior to October 1, 1998, for persons employed before  
214 October 1, 1998, except for an absolute disqualifying offense.  
215 For the purposes of this section, the term "absolute  
216 disqualifying offense" means a felony offense pursuant to s.  
217 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035;  
218 s. 800.04, except for crimes identified in ss. 800.04(7)(c) and  
219 (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and  
220 (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s.  
221 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07,  
222 a person who has been convicted of, or entered a plea of guilty  
223 or nolo contendere, regardless of adjudication, to an absolute  
224 disqualifying offense may not be granted an exemption from  
225 disqualification from employment. Neither the agency nor an  
226 employer is required to rescreen or reevaluate qualifications for





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227 employment of a person who was screened by that employer and  
228 continuously employed before April 1, 2009.

229 (4)(3) The person being screened ~~applicant~~ is responsible  
230 for paying the fees associated with obtaining the required  
231 screening. Payment for the screening shall be submitted to the  
232 agency. The agency shall establish a schedule of fees to cover  
233 the costs of level 1 and level 2 screening. Facilities may pay  
234 ~~reimburse employees~~ for these costs. The Department of Law  
235 Enforcement shall charge the agency for a level 1 or level 2  
236 screening a rate sufficient to cover the costs of ~~such~~ screening  
237 pursuant to s. 943.053(3). The agency shall, as allowable,  
238 reimburse nursing facilities for the cost of conducting  
239 background screening as required by this section. This  
240 reimbursement is ~~will~~ not ~~be~~ subject to any rate ceilings or  
241 payment targets in the Medicaid Reimbursement plan.

242 (5)(4)(a) As provided in s. 435.07:r

243 (a) The agency may grant an exemption from disqualification  
244 to an employee, ~~or~~ prospective employee, or contracted worker who  
245 is subject to this section and who has not received a  
246 professional license or certification from the Department of  
247 Health.

248 (b) ~~As provided in s. 435.07,~~ The appropriate regulatory  
249 board within the Department of Health, or that department itself  
250 when there is no board, may grant an exemption from  
251 disqualification to an employee, ~~or~~ prospective employee, or  
252 contracted worker who is subject to this section and who has  
253 received a professional license or certification from the  
254 Department of Health or a regulatory board within that  
255 department.



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256        ~~(6)(5) Any provision of law to the contrary~~  
257 ~~notwithstanding,~~ Persons who have been screened and qualified as  
258 required by this section, ~~and~~ who have not been unemployed for  
259 more than 180 days ~~thereafter,~~ and who, under penalty of perjury,  
260 attest to not having been convicted of a disqualifying offense  
261 since the completion of such screening are, ~~shall not be~~ required  
262 to be rescreened. An employer may obtain, pursuant to s. 435.10,  
263 written verification of qualifying screening results from the  
264 previous employer, contractor, or other entity that ~~which~~ caused  
265 the ~~such~~ screening to be performed.

266        ~~(7)(6) The agency and the Department of Health may shall~~  
267 ~~have authority to~~ adopt rules to administer ~~pursuant to the~~  
268 ~~Administrative Procedure Act to implement~~ this section.

269        ~~(7) All employees shall comply with the requirements of~~  
270 ~~this section by October 1, 1998. No current employee of a nursing~~  
271 ~~facility as of the effective date of this act shall be required~~  
272 ~~to submit to rescreening if the nursing facility has in its~~  
273 ~~possession written evidence that the person has been screened and~~  
274 ~~qualified according to level 1 standards as specified in s.~~  
275 ~~435.03(1). Any current employee who meets the level 1 requirement~~  
276 ~~but does not meet the 5-year residency requirement as specified~~  
277 ~~in this section must provide to the employing nursing facility~~  
278 ~~written attestation under penalty of perjury that the employee~~  
279 ~~has not been convicted of a disqualifying offense in another~~  
280 ~~state or jurisdiction. All applicants hired on or after October~~  
281 ~~1, 1998, shall comply with the requirements of this section.~~

282        (8) There is no monetary or unemployment liability on the  
283 part of, and a ~~no~~ cause of action for damages does not arise  
284 ~~arising~~ against, an employer that, upon notice of a disqualifying  
285 offense listed under chapter 435 or an act of domestic violence,

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286 terminates the employee against whom the report was issued,  
287 whether or not the employee has filed for an exemption with the  
288 Department of Health or the agency ~~for Health Care~~  
289 ~~Administration.~~

290 Section 5. Subsection (6) is added to section 408.809,  
291 Florida Statutes, to read:

292 408.809 Background screening; prohibited offenses.--

293 (6) The agency shall establish a schedule of fees to cover  
294 the costs of any level 1 or level 2 screening required pursuant  
295 to this part or other authorizing statutes and may adopt rules to  
296 carry out these screenings and for the schedule of fees.

297 Section 6. Subsection (5) of section 408.810, Florida  
298 Statutes, is amended to read:

299 408.810 Minimum licensure requirements.--In addition to the  
300 licensure requirements specified in this part, authorizing  
301 statutes, and applicable rules, each applicant and licensee must  
302 comply with the requirements of this section in order to obtain  
303 and maintain a license.

304 (5) Each licensee must:

305 (a) On or before the first day services are provided to a  
306 client, ~~a licensee must~~ inform the client and his or her  
307 immediate family or representative, if appropriate, of the right  
308 to report:

309 1. Complaints. The statewide toll-free telephone number for  
310 reporting complaints to the agency must be provided to clients in  
311 a manner that is clearly legible and must include the words: "To  
312 report a complaint regarding the services you receive, please  
313 call toll-free (phone number)."

314 2. Abusive, neglectful, or exploitative practices. The  
315 statewide toll-free telephone number for the central abuse



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316 hotline must be provided to clients in a manner that is clearly  
317 legible and must include the words: "To report abuse, neglect, or  
318 exploitation, please call toll-free (phone number)." The agency  
319 shall publish a minimum of a 90-day advance notice of a change in  
320 the toll-free telephone numbers.

321 (b) ~~Each licensee shall~~ Establish appropriate policies and  
322 procedures for providing such notice to clients.

323 (c) Publicly display a poster approved by the agency  
324 containing the names, addresses, and telephone numbers for the  
325 state's central abuse hotline, the State Long-Term Care  
326 Ombudsman, the agency's consumer hotline, the Advocacy Center for  
327 Persons with Disabilities, the Florida Statewide Advocacy  
328 Council, and the Medicaid Fraud Control Unit, along with a clear  
329 description of the assistance to be expected from each. The  
330 Statewide Public Guardianship Office and its website shall also  
331 be listed. The agency shall make the poster available on the  
332 Internet. Providers may download the poster, at no charge, from  
333 the agency's website.

334 Section 7. Section 408.811, Florida Statutes, is amended to  
335 read:

336 408.811 Right of inspection; copies; inspection reports.--

337 (1) An authorized officer or employee of the agency may  
338 make or cause to be made any inspection or investigation deemed  
339 necessary by the agency to determine the state of compliance with  
340 this part, authorizing statutes, and applicable rules. The right  
341 of inspection extends to any business that the agency has reason  
342 to believe is being operated as a provider without a license, but  
343 inspection of any business suspected of being operated without  
344 the appropriate license may not be made without the permission of  
345 the owner or person in charge unless a warrant is first obtained



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346 from a circuit court. Any application for a license issued under  
347 this part, authorizing statutes, or applicable rules constitutes  
348 permission for an appropriate inspection to verify the  
349 information submitted on or in connection with the application.

350 (a) All inspections shall be unannounced, except as  
351 specified in s. 408.806. The giving or causing to be given of  
352 advance notice of the unannounced inspection by an agency  
353 employee to any unauthorized person shall, in accordance with  
354 chapter 110, constitute cause for suspension of the employee for  
355 at least 5 working days.

356 (b) Inspections for relicensure shall be conducted  
357 biennially unless otherwise specified by authorizing statutes or  
358 applicable rules.

359 (c) Deficiencies found during an inspection or  
360 investigation must be corrected within 30 days unless an  
361 alternative timeframe is required or approved by the agency.

362 (d) The agency may require an applicant or licensee to  
363 submit a plan of correction for deficiencies. If required, the  
364 plan of correction must be filed with the agency within 10 days  
365 unless an alternative timeframe is required.

366 (2) Inspections conducted in conjunction with certification  
367 may be accepted in lieu of a complete licensure inspection.  
368 However, a licensure inspection may also be conducted to review  
369 any licensure requirements that are not also requirements for  
370 certification.

371 (3) The agency shall have access to and the licensee shall  
372 provide copies of all provider records required during an  
373 inspection at no cost to the agency.

374 (4) (a) Each licensee shall maintain as public information,  
375 available upon request, records of all inspection reports



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376 | pertaining to that provider that have been filed by the agency  
377 | unless those reports are exempt from or contain information that  
378 | is exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
379 | Constitution or is otherwise made confidential by law. Effective  
380 | October 1, 2006, copies of such reports shall be retained in the  
381 | records of the provider for at least 3 years following the date  
382 | the reports are filed and issued, regardless of a change of  
383 | ownership.

384 |       (b) A licensee shall, upon the request of any person who  
385 | has completed a written application with intent to be admitted by  
386 | such provider, any person who is a client of such provider, or  
387 | any relative, spouse, or guardian of any such person, furnish to  
388 | the requester a copy of the last inspection report pertaining to  
389 | the licensed provider that was issued by the agency or by an  
390 | accrediting organization if such report is used in lieu of a  
391 | licensure inspection.

392 |       (c) As an alternative to sending reports required by this  
393 | part or authorizing statutes, the agency may provide electronic  
394 | access to information or documents.

395 |       Section 8. Subsection (2) of section 415.103, Florida  
396 | Statutes, is amended to read:

397 |       415.103 Central abuse hotline.--

398 |       (2) Upon receiving an oral or written report of known or  
399 | suspected abuse, neglect, or exploitation of a vulnerable adult,  
400 | the central abuse hotline shall ~~must~~ determine if the report  
401 | requires an immediate onsite protective investigation.

402 |       (a) For reports requiring an immediate onsite protective  
403 | investigation, the central abuse hotline must immediately notify  
404 | the department's designated protective investigative district



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405 staff responsible for protective investigations to ensure prompt  
406 initiation of an onsite investigation.

407 (b) For reports not requiring an immediate onsite  
408 protective investigation, the central abuse hotline must notify  
409 the department's designated protective investigative district  
410 staff responsible for protective investigations in sufficient  
411 time to allow for an investigation to be commenced within 24  
412 hours. At the time of notification ~~of district staff with respect~~  
413 ~~to the report~~, the central abuse hotline must also provide any  
414 ~~known information on any previous reports~~ report concerning the a  
415 subject of the present report or any pertinent information  
416 relative to the present report or any noted earlier reports.

417 (c) If the report is of known or suspected abuse of a  
418 vulnerable adult by someone other than a relative, caregiver, or  
419 household member, the call shall be immediately transferred to  
420 the appropriate county sheriff's office.

421 Section 9. Paragraph (e) of subsection (1) and paragraph  
422 (g) of subsection (2) of section 415.1051, Florida Statutes, are  
423 amended to read:

424 415.1051 Protective services interventions when capacity to  
425 consent is lacking; nonemergencies; emergencies; orders;  
426 limitations.--

427 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If the  
428 department has reasonable cause to believe that a vulnerable  
429 adult or a vulnerable adult in need of services is being abused,  
430 neglected, or exploited and is in need of protective services but  
431 lacks the capacity to consent to protective services, the  
432 department shall petition the court for an order authorizing the  
433 provision of protective services.

434 (e) Continued protective services.--



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435 1. Within ~~No more than~~ 60 days after the date of the order  
436 authorizing the provision of protective services, the department  
437 shall petition the court to determine whether:

438 a. Protective services are to ~~will~~ be continued with the  
439 consent of the vulnerable adult pursuant to this subsection;

440 b. Protective services are to ~~will~~ be continued for the  
441 vulnerable adult who lacks capacity;

442 c. Protective services are to ~~will~~ be discontinued; or

443 d. A petition for guardianship shall ~~should~~ be filed  
444 pursuant to chapter 744.

445 2. If the court determines that a petition for guardianship  
446 shall ~~should~~ be filed pursuant to chapter 744, the court, for  
447 good cause shown, may order continued protective services until  
448 it makes a determination regarding capacity.

449 3. If the department has a good faith belief that the  
450 vulnerable adult lacks capacity, the petition to determine  
451 incapacity under s. 744.3201 may be filed by the department. Once  
452 the petition is filed, the department may not be appointed  
453 guardian and may not provide legal counsel for the guardian.

454 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the  
455 department has reasonable cause to believe that a vulnerable  
456 adult is suffering from abuse or neglect that presents a risk of  
457 death or serious physical injury to the vulnerable adult and that  
458 the vulnerable adult lacks the capacity to consent to emergency  
459 protective services, the department may take action under this  
460 subsection. If the vulnerable adult has the capacity to consent  
461 and refuses consent to emergency protective services, emergency  
462 protective services may not be provided.

463 (g) Continued emergency protective services.--





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464 1. Within ~~Not more than~~ 60 days after the date of the order  
465 authorizing the provision of emergency protective services, the  
466 department shall petition the court to determine whether:

467 a. Emergency protective services are to ~~will~~ be continued  
468 with the consent of the vulnerable adult;

469 b. Emergency protective services are to ~~will~~ be continued  
470 for the vulnerable adult who lacks capacity;

471 c. Emergency protective services are to ~~will~~ be  
472 discontinued; or

473 d. A petition shall ~~should~~ be filed under chapter 744.

474 2. If it is decided to file a petition under chapter 744,  
475 for good cause shown, the court may order continued emergency  
476 protective services until a determination is made by the court.

477 3. If the department has a good faith belief that the  
478 vulnerable adult lacks capacity, the petition to determine  
479 incapacity under s. 744.3201 may be filed by the department. Once  
480 the petition is filed, the department may not be appointed  
481 guardian and may not provide legal counsel for the guardian.

482 Section 10. Section 415.112, Florida Statutes, is amended  
483 to read:

484 415.112 ~~Rules for implementation of ss. 415.101-~~  
485 ~~415.113.~~--The department shall adopt promulgate rules to  
486 administer this chapter including, but not limited to: for the  
487 implementation of ss. 415.101-415.113.

488 (1) Background screening of department employees and  
489 employee applicants which includes a criminal records check and  
490 drug testing of adult protective investigators and adult  
491 protective investigator supervisors.

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492       (2) The reporting of adult abuse, neglect, exploitation, a  
493 vulnerable adult in need of services, false reporting, and adult  
494 protective investigations.

495       (3) Confidentiality and retention of department records,  
496 access to records, and record requests.

497       (4) Injunctions and other protective orders.

498       (5) The provision of emergency and nonemergency protective  
499 services intervention.

500       (6) Agreements with law enforcement and other state  
501 agencies.

502       (7) Legal and casework procedures, including, but not  
503 limited to, diligent search, petitions, emergency removals,  
504 capacity to consent, and adult protection teams.

505       (8) The legal and casework management of cases involving  
506 protective supervision, protective orders, judicial reviews,  
507 administrative reviews, case plans, and documentation  
508 requirements.

509       Section 11. Paragraphs (b) and (c) of subsection (3) of  
510 section 429.07, Florida Statutes, are amended to read:

511       429.07 License required; fee.--

512       (3) In addition to the requirements of s. 408.806, each  
513 license granted by the agency must state the type of care for  
514 which the license is granted. Licenses shall be issued for one or  
515 more of the following categories of care: standard, extended  
516 congregate care, limited nursing services, or limited mental  
517 health.

518       (b) An extended congregate care license shall be issued to  
519 facilities providing, directly or through contract, services  
520 beyond those authorized in paragraph (a), including services  
521 performed by persons licensed under ~~acts performed pursuant to~~

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522 part I of chapter 464 ~~by persons licensed thereunder,~~ and  
523 supportive services, as defined by rule, to persons who would  
524 otherwise ~~would~~ be disqualified from continued residence in a  
525 facility licensed under this part.

526 1. To obtain an ~~In order for~~ extended congregate care  
527 license services to be provided in a facility licensed under this  
528 ~~part,~~ the agency must first determine that all requirements  
529 established in law and rule are met and must specifically  
530 designate, on the facility's license, that such services may be  
531 provided and whether the designation applies to all or part of  
532 the a facility. Such designation may be made at the time of  
533 initial licensure or relicensure, or upon request in writing by a  
534 licensee under this part and part II of chapter 408. Notification  
535 of approval or denial of the ~~such~~ request shall be made in  
536 accordance with part II of chapter 408. ~~Existing~~

537 2. Facilities applying for, and facilities currently  
538 licensed ~~qualifying~~ to provide, extended congregate care services  
539 must have ~~maintained~~ a standard license and may not have been  
540 subject to administrative sanctions during the previous 2 years,  
541 or since initial licensure if the facility has been licensed for  
542 less than 2 years, for any of the following reasons:

- 543 a. A class I or class II violation;
- 544 b. Three or more repeat or recurring class III violations  
545 of identical or similar resident care standards as specified in  
546 rule from which a pattern of noncompliance is found by the  
547 agency;
- 548 c. Three or more class III violations that were not  
549 corrected in accordance with the corrective action plan approved  
550 by the agency;



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551 d. Violation of resident care standards which result in  
552 requiring the facility ~~resulting in a requirement~~ to employ the  
553 services of a consultant pharmacist or consultant dietitian;

554 e. Denial, suspension, or revocation of a license for  
555 another facility licensed under this part in which the applicant  
556 for an extended congregate care license has at least 25 percent  
557 ownership interest; or

558 f. Imposition of a moratorium pursuant to this part or part  
559 II of chapter 408 or initiation of injunctive proceedings.

560 ~~3.2.~~ A facility that is ~~Facilities that are~~ licensed to  
561 provide extended congregate care services must ~~shall~~ maintain a  
562 written progress report on each person who receives ~~such~~  
563 services, which report describes the type, amount, duration,  
564 scope, and outcome of services that are rendered and the general  
565 status of the resident's health. A registered nurse, or  
566 appropriate designee, representing the agency shall visit the  
567 facility ~~such facilities~~ at least quarterly to monitor residents  
568 who are receiving extended congregate care services and to  
569 determine if the facility is in compliance with this part, part  
570 II of chapter 408, and rules that relate to extended congregate  
571 care. One of these visits may be in conjunction with the regular  
572 survey. The monitoring visits may be provided through contractual  
573 arrangements with appropriate community agencies. A registered  
574 nurse shall serve as part of the team that inspects the ~~such~~  
575 facility. The agency may waive one of the required yearly  
576 monitoring visits for a facility that has been licensed for at  
577 least 24 months to provide extended congregate care services, if,  
578 during the inspection, the registered nurse determines that  
579 extended congregate care services are being provided  
580 appropriately, and if the facility has no class I or class II



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581 | violations and no uncorrected class III violations. ~~Before such~~  
582 | ~~decision is made,~~ The agency must first ~~shall~~ consult with the  
583 | long-term care ombudsman council for the area in which the  
584 | facility is located to determine if any complaints have been made  
585 | and substantiated about the quality of services or care. The  
586 | agency may not waive one of the required yearly monitoring visits  
587 | if complaints have been made and substantiated.

588 |       4.3. Facilities that are licensed to provide extended  
589 | congregate care services must ~~shall~~:

590 |           a. Demonstrate the capability to meet unanticipated  
591 | resident service needs.

592 |           b. Offer a physical environment that promotes a homelike  
593 | setting, provides for resident privacy, promotes resident  
594 | independence, and allows sufficient congregate space as defined  
595 | by rule.

596 |           c. Have sufficient staff available, taking into account the  
597 | physical plant and firesafety features of the building, to assist  
598 | with the evacuation of residents in an emergency, ~~as necessary.~~

599 |           d. Adopt and follow policies and procedures that maximize  
600 | resident independence, dignity, choice, and decisionmaking to  
601 | permit residents to age in place ~~to the extent possible,~~ so that  
602 | moves due to changes in functional status are minimized or  
603 | avoided.

604 |           e. Allow residents or, if applicable, a resident's  
605 | representative, designee, surrogate, guardian, or attorney in  
606 | fact to make a variety of personal choices, participate in  
607 | developing service plans, and share responsibility in  
608 | decisionmaking.

609 |           f. Implement the concept of managed risk.

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610 g. Provide, ~~either~~ directly or through contract, the  
611 services of a person licensed pursuant to part I of chapter 464.

612 h. In addition to the training mandated in s. 429.52,  
613 provide specialized training as defined by rule for facility  
614 staff.

615 ~~5.4.~~ Facilities licensed to provide extended congregate  
616 care services are exempt from the criteria for continued  
617 residency ~~as~~ set forth in rules adopted under s. 429.41.  
618 Facilities so licensed must ~~shall~~ adopt their own requirements  
619 within guidelines for continued residency set forth by rule.  
620 However, such facilities may not serve residents who require 24-  
621 hour nursing supervision. Facilities licensed to provide extended  
622 congregate care services must ~~shall~~ provide each resident with a  
623 written copy of facility policies governing admission and  
624 retention.

625 ~~6.5.~~ The primary purpose of extended congregate care  
626 services is to allow residents, as they become more impaired, the  
627 option of remaining in a familiar setting from which they would  
628 otherwise be disqualified for continued residency. A facility  
629 licensed to provide extended congregate care services may also  
630 admit an individual who exceeds the admission criteria for a  
631 facility with a standard license, if the individual is determined  
632 appropriate for admission to the extended congregate care  
633 facility.

634 ~~7.6.~~ Before admission of an individual to a facility  
635 licensed to provide extended congregate care services, the  
636 individual must undergo a medical examination ~~as provided in s.~~  
637 ~~429.26(4)~~ and the facility must develop a preliminary service  
638 plan for the individual as provided in s. 429.26.



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639       ~~8.7.~~ When a facility can no longer provide or arrange for  
640 services in accordance with the resident's service plan and needs  
641 and the facility's policy, the facility shall make arrangements  
642 for relocating the person in accordance with s. 429.28(1)(k).

643       ~~9.8.~~ Failure to provide extended congregate care services  
644 may result in denial of extended congregate care license renewal.

645       ~~9.~~ No later than January 1 of each year, the department, in  
646 consultation with the agency, shall prepare and submit to the  
647 Governor, the President of the Senate, the Speaker of the House  
648 of Representatives, and the chairs of appropriate legislative  
649 committees, a report on the status of, and recommendations  
650 related to, extended congregate care services. The status report  
651 must include, but need not be limited to, the following  
652 information:

653       ~~a.~~ A description of the facilities licensed to provide such  
654 services, including total number of beds licensed under this  
655 part.

656       ~~b.~~ The number and characteristics of residents receiving  
657 such services.

658       ~~c.~~ The types of services rendered that could not be  
659 provided through a standard license.

660       ~~d.~~ An analysis of deficiencies cited during licensure  
661 inspections.

662       ~~e.~~ The number of residents who required extended congregate  
663 care services at admission and the source of admission.

664       ~~f.~~ Recommendations for statutory or regulatory changes.

665       ~~g.~~ The availability of extended congregate care to state  
666 clients residing in facilities licensed under this part and in  
667 need of additional services, and recommendations for



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668 ~~appropriations to subsidize extended congregate care services for~~  
669 ~~such persons.~~

670 ~~h. Such other information as the department considers~~  
671 ~~appropriate.~~

672 (c) A limited nursing services license shall be issued to a  
673 facility that provides services beyond those authorized in  
674 paragraph (a) and as specified in this paragraph.

675 1. To obtain a ~~In order for~~ limited nursing services  
676 license to be provided in a facility licensed under this part,  
677 the agency must first determine that all requirements established  
678 in law and rule are met and must specifically designate, on the  
679 facility's license, that such services may be provided. Such  
680 designation may be made at the time of initial licensure or  
681 relicensure, or upon request in writing by a licensee under this  
682 part and part II of chapter 408. Notification of approval or  
683 denial of such request shall be made in accordance with part II  
684 of chapter 408. ~~Existing~~

685 2. Facilities applying for, and facilities currently  
686 licensed ~~qualifying~~ to provide, limited nursing services must  
687 ~~shall~~ have ~~maintained~~ a standard license and may not have been  
688 subject to administrative sanctions that affect the health,  
689 safety, and welfare of residents for the previous 2 years or  
690 since initial licensure if the facility has been licensed for  
691 less than 2 years.

692 ~~3.2.~~ Facilities that are licensed to provide limited  
693 nursing services shall maintain a written progress report on each  
694 person who receives ~~such~~ nursing services, which report describes  
695 the type, amount, duration, scope, and outcome of services that  
696 are rendered and the general status of the resident's health. A  
697 registered nurse representing the agency shall visit such



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698 facilities at least twice a year to monitor residents who are  
699 receiving limited nursing services and to determine if the  
700 facility is in compliance with applicable provisions of this  
701 part, part II of chapter 408, and related rules. The monitoring  
702 visits may be provided through contractual arrangements with  
703 appropriate community agencies. A registered nurse shall also  
704 serve as part of the team that inspects the ~~such~~ facility.

705 ~~4.3.~~ A person who receives limited nursing services ~~under~~  
706 ~~this part~~ must meet the admission criteria established by the  
707 agency for assisted living facilities. ~~If~~ ~~When~~ a resident no  
708 longer meets the admission criteria for a facility licensed under  
709 this part, arrangements for relocating the person shall be made  
710 in accordance with s. 429.28(1)(k), unless the facility is also  
711 licensed to provide extended congregate care services.

712 Section 12. Effective April 1, 2009, section 429.174,  
713 Florida Statutes, is amended to read:

714 429.174 Background screening; exemptions.--

715 (1) The owner or administrator of an assisted living  
716 facility must conduct level 1 ~~background~~ screening, as set forth  
717 in chapter 435, on all employees ~~hired on or after October 1,~~  
718 ~~1998,~~ who perform personal services or who have access to  
719 resident living areas as defined in s. 429.02(16). The agency may  
720 exempt an individual from ~~employment~~ disqualification as set  
721 forth in s. 435.07 ~~chapter 435~~. However, such person may not be  
722 employed or resume employment pending the granting of an  
723 exemption or until all appeals have been resolved in favor of the  
724 person screened. A person employed before October 1, 1998, who is  
725 determined to have a disqualifying offense occurring after  
726 October 1, 1998, may continue employment pending the outcome of  
727 an exemption request if such request is made within 30 days of



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728 receipt of the results of the background screening. A person  
729 employed before October 1, 1998, who is determined to have a  
730 disqualifying offense before October 1, 1998, but does not have a  
731 disqualifying offense after that date, is not required to submit  
732 an exemption request pursuant to s. 435.07 and may continue his  
733 or her employment. Employees ~~Such persons~~ shall be considered as  
734 having met the screening requirements ~~this requirement~~ if:

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

741 (b) ~~(2)~~ The person required to be screened has been  
742 continuously employed in the same type of occupation for which  
743 the person is seeking employment without a breach in service  
744 which exceeds 180 days, and proof of compliance with the level 1  
745 screening requirement which is no more than 2 years old is  
746 provided. Proof of compliance shall be provided directly from one  
747 employer or contractor to another, and not from the person  
748 screened. Upon request, a copy of screening results shall be  
749 provided by the employer retaining documentation of the screening  
750 to the person screened.

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

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758 Notwithstanding chapter 435, the agency may not provide to the  
759 employer the results of background screening for offenses  
760 occurring prior to October 1, 1998, for persons employed before  
761 October 1, 1998, except for an absolute disqualifying offense.  
762 For the purposes of this section, the term "absolute  
763 disqualifying offense" means a felony offense pursuant to s.  
764 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035;  
765 s. 800.04, except for crimes identified in ss. 800.04(7)(c) and  
766 (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and  
767 (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s.  
768 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07,  
769 a person who has been convicted of, or entered a plea of guilty  
770 or nolo contendere, regardless of adjudication, to an absolute  
771 disqualifying offense may not be granted an exemption from  
772 disqualification from employment. The agency or an employer is  
773 not required to rescreen or reevaluate qualifications for  
774 employment of a person who was screened by that employer and  
775 continuously employed before April 1, 2009.

776 (2) Level 1 screening as provided in chapter 435 is  
777 required for all contracted workers who are expected to, or whose  
778 responsibilities may require them to, provide personal services  
779 to residents. The facility shall maintain verification that such  
780 contracted workers have been screened pursuant to this section.  
781 The facility may either obtain a copy of the qualifying screening  
782 results from the entity or receive an affidavit from the entity  
783 which specifies that a background screen has been performed on  
784 all contracted workers sent to the facility. A contracted worker  
785 who does not provide personal services to residents is not  
786 required to be screened pursuant to this section but must sign in  
787 at the reception desk upon entering the facility, wear an

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788 identification badge while on the premises, and sign out before  
789 leaving the facility. The facility shall maintain a log  
790 containing the information collected.

791 (3) The person being screened is responsible for paying the  
792 fees associated with obtaining the required screening. Payment  
793 for the screening shall be submitted to the agency. The agency  
794 shall establish a schedule of fees to cover the costs of level 1  
795 and level 2 screening. Facilities may reimburse employees or  
796 contracted workers for these costs. The Department of Law  
797 Enforcement shall charge the agency for a level 1 or level 2  
798 screening a rate sufficient to cover the costs of screening  
799 pursuant to s. 943.053(3).

800 Section 13. Subsection (1) of section 429.255, Florida  
801 Statutes, is amended to read:

802 429.255 Use of personnel; emergency care.--

803 (1) (a) Facility staff, including persons under contract to  
804 the facility, facility employees ~~staff~~, or volunteers, who are  
805 licensed according to part I of chapter 464, or those persons  
806 exempt under s. 464.022(1), and others as defined by rule, may  
807 administer medications to residents, take residents' vital signs,  
808 manage individual weekly pill organizers for residents who self-  
809 administer medication, give prepackaged enemas ordered by a  
810 physician, observe residents, document observations on the  
811 appropriate resident's record, report observations to the  
812 resident's physician, and contract or allow residents or a  
813 resident's representative, designee, surrogate, guardian, or  
814 attorney in fact to contract with a third party, provided  
815 residents meet the criteria for appropriate placement as defined  
816 in s. 429.26. Nursing assistants certified pursuant to part II of

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817 chapter 464 may take residents' vital signs as directed by a  
818 licensed nurse or physician.

819 (b) Facility All staff, including persons under contract to  
820 the facility and facility employees in facilities licensed under  
821 this part shall exercise their professional responsibility to  
822 observe residents, to document observations on the appropriate  
823 resident's record, ~~and~~ to report the observations to the  
824 resident's physician, and to provide needed services competently.  
825 However, the owner or administrator of the facility is ~~shall be~~  
826 responsible for determining that the resident receiving services  
827 is appropriate for residence in the facility and for the  
828 provision of and quality of care and services provided to the  
829 resident.

830 (c) In an emergency situation, licensed personnel may carry  
831 out their professional duties pursuant to part I of chapter 464  
832 until emergency medical personnel assume responsibility for care.

833 Section 14. Present subsections (8) through (12) of section  
834 429.26, Florida Statutes, are renumbered as sections (6) through  
835 (10), respectively, and present subsections (1) through (7) of  
836 that section, are amended to read:

837 429.26 Appropriateness of placements; examinations of  
838 residents.--

839 (1) The owner or administrator of a facility is responsible  
840 for determining the appropriateness of admission of an individual  
841 to the facility and for determining the continued appropriateness  
842 of residence of an individual in the facility. A determination  
843 shall be based upon an assessment of the strengths, needs, and  
844 preferences of the resident, the care and services offered or  
845 arranged for by the facility in accordance with facility policy,  
846 and any limitations in law or rule related to admission criteria



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847 or continued residency for the type of license held by the  
848 facility under this part. Except as provided in s. 429.28(1)(k),  
849 a resident may not be moved from one facility to another without  
850 consultation with and agreement from the resident or, if  
851 applicable, the resident's representative or designee or the  
852 resident's family, guardian, surrogate, or attorney in fact. If  
853 ~~In the case of~~ a resident ~~who~~ has been placed by the department  
854 or the Department of Children and Family Services, the  
855 administrator must notify the appropriate contact person in the  
856 applicable department.

857 ~~(2) A physician, physician assistant, or nurse practitioner~~  
858 ~~who is employed by an assisted living facility to provide an~~  
859 ~~initial examination for admission purposes may not have financial~~  
860 ~~interest in the facility.~~

861 ~~(3) Persons licensed under part I of chapter 464 who are~~  
862 ~~employed by or under contract with a facility shall, on a routine~~  
863 ~~basis or at least monthly, perform a nursing assessment of the~~  
864 ~~residents for whom they are providing nursing services ordered by~~  
865 ~~a physician, except administration of medication, and shall~~  
866 ~~document such assessment, including any substantial changes in a~~  
867 ~~resident's status which may necessitate relocation to a nursing~~  
868 ~~home, hospital, or specialized health care facility. Such records~~  
869 ~~shall be maintained in the facility for inspection by the agency~~  
870 ~~and shall be forwarded to the resident's case manager, if~~  
871 ~~applicable.~~

872 (2)(4) If possible, each resident shall have been examined  
873 by a licensed physician, a licensed physician assistant, or a  
874 licensed nurse practitioner within 60 days before admission to  
875 the facility. The person conducting an examination under this  
876 subsection may not have financial interest in the facility. The

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877 signed and completed medical examination report shall be  
878 submitted to the owner or administrator of the facility who shall  
879 use the information contained in the report therein to assist in  
880 determining the determination of the appropriateness of the  
881 resident's admission and continued stay in the facility and to  
882 develop a plan for the provision of services for the resident.  
883 The plan must be reviewed and updated annually; however, for a  
884 resident receiving nursing services ordered by a physician,  
885 except administration of medication, the plan must be reviewed  
886 and updated quarterly and whenever a resident experiences a  
887 significant change in condition. The medical examination report  
888 and plan for services shall be reported on a single form provided  
889 by the agency or a community supported-living plan for mental  
890 health residents. The plan shall become a permanent part of the  
891 record of the resident at the facility and shall be made  
892 available to the agency during inspection or upon request. An  
893 assessment that has been completed through the Comprehensive  
894 Assessment and Review for Long-Term Care Services (CARES) Program  
895 fulfills the requirements for a medical examination under this  
896 subsection ~~and s. 429.07(3)(b)6.~~

897 (a) (5) Except as provided in s. 429.07, if a medical  
898 examination has not been completed within 60 days before the  
899 admission of the resident to the facility, medical personnel a  
900 licensed physician, licensed physician assistant, or licensed  
901 nurse practitioner shall examine the resident and complete a  
902 medical examination form provided by the agency within 30 days  
903 following the admission to the facility ~~to enable the facility~~  
904 ~~owner or administrator to determine the appropriateness of the~~  
905 ~~admission. The medical examination form shall become a permanent~~  
906 ~~part of the record of the resident at the facility and shall be~~



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907 ~~made available to the agency during inspection by the agency or~~  
908 ~~upon request.~~

909       (b) (6) Any resident accepted in a facility and placed by  
910 the department or the Department of Children and Family Services  
911 must be ~~shall have been~~ examined by medical personnel within 30  
912 days before placement in the facility and recorded on a medical  
913 examination form provided by the agency. The examination shall  
914 include an assessment of the appropriateness of placement in a  
915 facility. ~~The findings of this examination shall be recorded on~~  
916 ~~the examination form provided by the agency. The completed form~~  
917 ~~shall accompany the resident and shall be submitted to the~~  
918 ~~facility owner or administrator. For~~ Additionally, in the case of  
919 a mental health resident, the Department of Children and Family  
920 Services must provide documentation that the individual has been  
921 assessed by a psychiatrist, clinical psychologist, clinical  
922 social worker, or psychiatric nurse, or an individual who is  
923 supervised by one of these professionals, and determined to be  
924 appropriate to reside in an assisted living facility. The  
925 documentation must be in the facility within 30 days after the  
926 mental health resident has been admitted to the facility. An  
927 evaluation completed upon discharge from a state mental hospital  
928 meets the requirements of this subsection related to  
929 appropriateness for placement as a mental health resident  
930 providing it was completed within 90 days prior to admission to  
931 the facility. The applicable department shall provide to the  
932 facility administrator any information about the resident that  
933 would help the administrator meet his or her responsibilities  
934 under this section ~~subsection (1)~~. Further, department personnel  
935 shall explain to the facility operator any special needs of the  
936 resident and advise the operator whom to call should problems



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937 arise. The applicable department shall advise and assist the  
938 facility administrator where the special needs of residents who  
939 are recipients of optional state supplementation require such  
940 assistance.

941 (3) Effective April 1, 2009, a search of the Department of  
942 Law Enforcement's sexual offender database for each prospective  
943 resident must be conducted by the facility before admission or  
944 immediately after admission. The facility must maintain  
945 verification that all residents have been screened. The  
946 information obtained may be used by the facility to assess the  
947 needs of the resident and the care and services offered or  
948 arranged by the facility in accordance with this section. The  
949 information obtained may be disclosed to other residents. The  
950 facility does not have to rescreen a resident who is away from a  
951 facility for not more than 45 days.

952 (4) Persons licensed under part I of chapter 464 who are  
953 employed by or under contract with a facility shall, at least  
954 monthly, perform a nursing assessment of residents for whom they  
955 are providing nursing services ordered by a physician, except  
956 administration of medication, and shall document such assessment,  
957 including any substantial change in a resident's status which may  
958 necessitate relocation to a nursing home, hospital, or  
959 specialized health care facility. The records must be maintained  
960 in the facility for inspection by the agency and shall be  
961 forwarded to the resident's case manager, if applicable.

962 (5) ~~(7)~~ Residents shall be periodically assessed to  
963 determine if the resident is capable of handling his or her  
964 personal and financial affairs and, if not, whether a responsible  
965 person such as a resident representative or designee, guardian,  
966 surrogate, or attorney in fact is available to make decisions on



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967 behalf of the resident. If a resident is having difficulty  
968 handling his or her personal or financial affairs because of a  
969 decline in health or cognitive abilities, the owner or  
970 administrator shall contact the resident's representative or  
971 designee, guardian, surrogate, or attorney in fact. If a resident  
972 does not have family or a legal representative to make decisions  
973 on his or her behalf, the owner or administrator must contact the  
974 Florida Abuse Hotline. The facility must notify a licensed  
975 physician when a resident exhibits signs of dementia or cognitive  
976 impairment or has a change of condition in order to rule out the  
977 presence of an underlying physiological condition that may be  
978 contributing to such dementia or impairment. The notification  
979 must occur within 30 days after the acknowledgment of such signs  
980 by facility staff. If an underlying condition is determined to  
981 exist, the facility shall arrange, with the appropriate health  
982 care provider, the necessary care and services to treat the  
983 condition.

984 Section 15. Subsections (3) through (8) of section 429.27,  
985 Florida Statutes, are renumbered as subsections (6) through (11),  
986 respectively, and subsections (1) and (2) of that section, are  
987 amended to read:

988 429.27 Property and personal affairs of residents.--

989 (1)~~(a)~~ A resident shall be given the option of using his or  
990 her own belongings, as space permits; choosing his or her  
991 roommate; and, whenever possible, unless the resident is  
992 adjudicated incompetent or incapacitated under state law,  
993 managing his or her own affairs.

994 (2)~~(b)~~ The admission of a resident to a facility does ~~and~~  
995 ~~his or her presence therein shall~~ not confer on the facility or  
996 its owner, administrator, staff employees, or representatives any



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997 authority to manage, use, or dispose of any property of the  
998 resident or to make financial or health care decisions on behalf  
999 of the resident; ~~nor shall such admission or presence confer on~~  
1000 ~~any of such persons any authority or responsibility for the~~  
1001 ~~personal affairs of the resident, except if that which may be~~  
1002 necessary for the safe management of the facility or for the  
1003 safety of the resident.

1004 (3) ~~(2)~~ A facility, or an owner, administrator, staff  
1005 ~~employee~~, or representative thereof, may not act as the  
1006 resident's representative or designee, guardian, health care  
1007 surrogate, trustee, or conservator for a ~~any~~ resident ~~of the~~  
1008 ~~assisted living facility~~ or any of the ~~such~~ resident's property  
1009 unless the person is a relative of the resident.

1010 (4) A facility ~~An~~ owner, administrator, or staff member, or  
1011 representative thereof, may not act as a competent resident's  
1012 payee for social security, veteran's, or railroad benefits  
1013 without the consent of the resident. Any facility ~~whose~~ owner,  
1014 administrator, or staff, or representative thereof ~~who~~, serves as  
1015 representative payee for a ~~any~~ resident must ~~of the facility~~  
1016 ~~shall~~ file a surety bond with the agency in an amount equal to  
1017 twice the average monthly aggregate income or personal funds due  
1018 to residents, or expendable for his or her ~~their~~ account, which  
1019 are received by a facility.

1020 (5) Any facility ~~whose~~ owner, administrator, or staff, or a  
1021 representative thereof ~~who~~, is granted power of attorney for a  
1022 ~~any~~ resident must ~~of the facility shall~~ file a surety bond with  
1023 the agency for each resident for whom such power of attorney is  
1024 granted. The surety bond must ~~shall~~ be in an amount equal to  
1025 twice the average monthly income of the resident, plus the value  
1026 of any resident's property under the control of the attorney in

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1027 fact. The bond must ~~shall~~ be executed by the facility as  
1028 principal and a licensed surety company. The bond shall be  
1029 conditioned upon the faithful compliance of the facility with  
1030 this section and shall run to the agency for the benefit of any  
1031 resident who suffers a financial loss as a result of the misuse  
1032 or misappropriation ~~by a facility~~ of funds held pursuant to this  
1033 subsection. Any surety company that cancels or does not renew the  
1034 bond of any licensee shall notify the agency in writing not less  
1035 than 30 days in advance of such action, giving the reason for the  
1036 cancellation or nonrenewal. Any facility owner, administrator, or  
1037 staff, or representative thereof, who is granted power of  
1038 attorney for a ~~any~~ resident ~~of the facility~~ shall, on a monthly  
1039 basis, ~~be required to~~ provide the resident with a written  
1040 statement of any transaction made on behalf of the resident  
1041 pursuant to this subsection, and a copy of such statement ~~given~~  
1042 ~~to the resident~~ shall be retained in each resident's file and  
1043 available for agency inspection.

1044 Section 16. Paragraphs (k) and (l) of subsection (1),  
1045 subsection (2), and paragraph (b) of subsection (3) of section  
1046 429.28, Florida Statutes, are amended to read:

1047 429.28 Resident bill of rights.--

1048 (1) No resident of a facility shall be deprived of any  
1049 civil or legal rights, benefits, or privileges guaranteed by law,  
1050 the Constitution of the State of Florida, or the Constitution of  
1051 the United States as a resident of a facility. Every resident of  
1052 a facility shall have the right to:

1053 (k) Receive at least 45 days' written notice of relocation  
1054 or termination of residency from the licensee as provided in s.  
1055 429.285, unless the relocation or termination of residency is  
1056 initiated by the resident or the resident designee; ~~facility~~



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1057 ~~unless,~~ for medical reasons, the resident is certified by a  
1058 physician to require an emergency relocation to a facility  
1059 providing a more skilled level of care; or the resident engages  
1060 in a pattern of conduct that is harmful or offensive to other  
1061 residents. ~~In the case of a resident who has been adjudicated~~  
1062 ~~mentally incapacitated, the guardian shall be given at least 45~~  
1063 ~~days' notice of a nonemergency relocation or residency~~  
1064 ~~termination. Reasons for relocation shall be set forth in~~  
1065 ~~writing.~~ In order for a licensee facility to terminate the  
1066 residency of an individual without notice as provided in this  
1067 paragraph herein, the licensee facility shall show good cause in  
1068 a court of competent jurisdiction. Admission to a facility  
1069 licensed under this part may not be conditioned upon a waiver of  
1070 such right, and any document or provision in a document that  
1071 purports to waive or preclude such right is void and  
1072 unenforceable.

1073 (1) Present grievances and recommend changes in policies,  
1074 procedures, and services to the staff of the facility, governing  
1075 officials, or any other person without restraint, interference,  
1076 coercion, discrimination, or reprisal. Each licensee facility  
1077 shall establish a written grievance procedure to facilitate the  
1078 residents' exercise of this right. This right includes access to  
1079 ombudsman volunteers and advocates and the right to be a member  
1080 of, to be active in, and to associate with advocacy or special  
1081 interest groups. Each licensee shall maintain a written log of  
1082 grievances that shall be available for inspection and shall be  
1083 maintained for at least 2 years. Residents may provide verbal or  
1084 written grievances.

1085 (2) The administrator of a facility shall ensure that a  
1086 written notice of the rights, obligations, and prohibitions set



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1087 | forth in this part is posted in a prominent place in each  
1088 | facility and read or explained to residents who cannot read. This  
1089 | notice shall include the name, address, and telephone numbers of  
1090 | the local ombudsman council and central abuse hotline and, when  
1091 | applicable, the Advocacy Center for Persons with Disabilities,  
1092 | Inc., and the Florida local advocacy council, where complaints  
1093 | may be lodged. The licensee facility must ensure a resident's  
1094 | access to a telephone to call the local ombudsman council,  
1095 | central abuse hotline, Advocacy Center for Persons with  
1096 | Disabilities, Inc., and the Florida local advocacy council.

1097 | (3)

1098 | (b) In order to determine whether the licensee facility is  
1099 | adequately protecting residents' rights, the biennial survey  
1100 | shall include private informal conversations with a sample of  
1101 | residents and consultation with the ombudsman council in the  
1102 | planning and service area in which the facility is located to  
1103 | discuss residents' experiences within the facility.

1104 | Section 17. Section 429.285, Florida Statutes, is created  
1105 | to read:

1106 | 429.285 Resident relocation or termination of residency;  
1107 | requirements and procedures.--

1108 | (1) A facility licensed under this part must permit a  
1109 | resident to remain in the facility. Relocation or termination of  
1110 | residency of a resident may not occur unless:

1111 | (a) The relocation or termination of residency is necessary  
1112 | for the resident's welfare and the resident's needs cannot be met  
1113 | in the facility;

1114 | (b) The relocation or termination of residency is  
1115 | appropriate because the resident's health has improved

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1116 sufficiently so that the resident no longer needs the services  
1117 provided by the facility;

1118 (c) The health and safety of other residents or facility  
1119 employees would be endangered;

1120 (d) The resident has failed, after at least 30 days'  
1121 notice, to provide payment for his or her stay in the facility;

1122 (e) The facility ceases to operate;

1123 (f) There is a documented pattern of harmful and offensive  
1124 behavior by the resident; or

1125 (g) The contract provided for under s. 429.24(1) between  
1126 the licensee and the resident expires on its own terms.

1127 (2) When a relocation or termination of residency is  
1128 initiated by the licensee, the administrator that is relocating  
1129 the resident or terminating residency, or an individual employed  
1130 by the facility who is designated by the administrator to act on  
1131 behalf of the administration, must sign the notice of relocation  
1132 or termination of residency. Any notice indicating a medical  
1133 reason for relocation or termination of residency must be signed  
1134 by the resident's physician or include an attached physician's  
1135 written order for the relocation or termination of residency.

1136 (3) At least 45 days prior to a proposed relocation or  
1137 termination of residency, a licensee must provide by certified  
1138 mail advance written notice of the proposed relocation or  
1139 termination of residency to the resident and, if known, to a  
1140 family member or the resident's legal guardian or representative.

1141 (4) The notice must be in writing and contain all  
1142 information required by state and federal laws, rules, and  
1143 regulations. A copy of the notice must be placed in the  
1144 resident's file. The agency shall develop a standard form to be  
1145 used by all facilities licensed under this part for purposes of

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1146 notifying residents of a relocation or termination of residency.  
1147 In addition to any other pertinent information included, the form  
1148 shall:

1149 (a) Specify the reason allowed under state law justifying  
1150 the relocation or termination of the residency, with an  
1151 explanation to support this action.

1152 (b) State the effective date of the relocation or  
1153 termination of residency and the location to which the resident  
1154 is being relocated.

1155 (c) Include the right and means to request the local long-  
1156 term care ombudsman council to review the notice of relocation or  
1157 termination of residency.

1158 (5) A relocation or termination of residency notice  
1159 initiated by a licensee must be reported to the Office of State  
1160 Long-Term Care Ombudsman by mail, electronic mail, or facsimile  
1161 within 5 business days after a resident's receipt of a notice to  
1162 relocate or terminate residency. The Office of State Long-Term  
1163 Care Ombudsman shall compile and publish the information  
1164 collected from such notices in the annual report required by s.  
1165 400.0065(2)(i). A resident may request that the local long-term  
1166 care ombudsman council review any notice of relocation or  
1167 termination of residency given to the resident. When requested by  
1168 a resident to review such notice, the local long-term care  
1169 ombudsman council shall do so within 5 business days after  
1170 receipt of the request.

1171 (6) In the event of an emergency relocation or termination  
1172 of residency, as provided under s. 429.28(1)(k), notice shall be  
1173 provided to the resident, the resident's legal guardian or  
1174 representative, and the local long-term care ombudsman council by  
1175 telephone or in person. The written notice shall be given before



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1176 the relocation or termination of residency, if possible, and no  
1177 later than 5 business days after the relocation or termination of  
1178 residency. A local long-term care ombudsman council conducting a  
1179 review under this section shall do so within 2 business days  
1180 after receipt of the request. The resident's file must include  
1181 documentation indicating who was contacted, whether the contact  
1182 was by telephone or in person, and the date and time of the  
1183 contact.

1184 (7) After receipt of a notice required under this section,  
1185 the local long-term care ombudsman council may request a private  
1186 informal conversation with a resident to whom the notice is  
1187 directed, and, if known, a family member or the resident's legal  
1188 guardian or representative, to ensure that the licensee is  
1189 proceeding with the relocation or termination of residency in  
1190 accordance with the requirements of this section.

1191 (8) The agency may adopt rules pursuant to ss. 120.536(1)  
1192 and 120.54 to administer this section.

1193 Section 18. Subsection (1) of section 429.294, Florida  
1194 Statutes, is amended to read:

1195 429.294 Availability of facility records for investigation  
1196 of resident's rights violations and defenses; penalty.--

1197 (1) Failure to provide complete copies of a resident's  
1198 records, including, but not limited to, all medical records and  
1199 the resident's chart, within the control or possession of the  
1200 facility within 10 days, ~~in accordance with the provisions of s.~~  
1201 ~~400.145,~~ shall constitute evidence of failure of that party to  
1202 comply with good faith discovery requirements and shall waive the  
1203 good faith certificate and presuit notice requirements under this  
1204 part by the requesting party.

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1205 Section 19. Section 429.34, Florida Statutes, is amended to  
1206 read:

1207 429.34 Right of entry and inspection.--In addition to the  
1208 requirements of s. 408.811:<sup>7</sup>

1209 (1) Any duly designated officer or employee of the  
1210 department, the Department of Children and Family Services, the  
1211 Medicaid Fraud Control Unit of the Office of the Attorney  
1212 General, the state or local fire marshal, or a member of the  
1213 state or local long-term care ombudsman council shall have the  
1214 right to enter unannounced upon and into the premises of any  
1215 facility licensed pursuant to this part in order to determine the  
1216 state of compliance with the provisions of this part, part II of  
1217 chapter 408, and applicable rules. Data collected by the state or  
1218 local long-term care ombudsman councils or the state or local  
1219 advocacy councils may be used by the agency in investigations  
1220 involving violations of regulatory standards.

1221 (2) Every 24 months the agency shall conduct at least one  
1222 unannounced inspection to determine compliance with this chapter  
1223 and related rules, including minimum standards of quality and  
1224 adequacy of care and the rights of residents. Two additional  
1225 surveys shall be conducted every 6 months for the next year if  
1226 the facility has been cited for a class I deficiency or two or  
1227 more class II deficiencies arising from separate surveys or  
1228 investigations within a 60-day period. In addition to any fines  
1229 imposed on a facility under s. 429.19, the agency shall assess a  
1230 fine of \$69 per bed for each of the additional two surveys, not  
1231 to exceed \$12,000 each. The agency shall adjust this fine by the  
1232 change in the Consumer Price Index, based on the 12 months  
1233 immediately preceding the change, to cover the cost of the  
1234 additional two surveys. The agency shall verify through



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1235 subsequent inspections that any deficiency identified during an  
1236 inspection is corrected. However, the agency may verify the  
1237 correction of a class III or class IV deficiency unrelated to  
1238 resident rights or resident care without reinspecting the  
1239 facility if adequate written documentation has been received from  
1240 the facility which provides assurance that the deficiency has  
1241 been corrected.

1242 Section 20. Present subsection (14) of section 429.65,  
1243 Florida Statutes, is renumbered as subsection (15), and a new  
1244 subsection (14) is added to that section, to read:

1245 429.65 Definitions.--As used in this part, the term:

1246 (14) "Reside" means the licensee or applicant lives in the  
1247 adult family care home as a primary residence. For purposes of  
1248 this part, any two of the following documents that include the  
1249 adult family care home address and the name of the licensee or  
1250 applicant may be accepted by the agency as proof that the  
1251 licensee or applicant resides in the adult family care home:

1252 (a) Homestead exemption documentation;

1253 (b) Lease or rental agreement accompanied by a  
1254 corresponding utility bill; or

1255 (c) Personal identification issued by a state or federal  
1256 agency.

1257 Section 21. Subsection (4) of section 429.67, Florida  
1258 Statutes, is amended to read:

1259 429.67 Licensure.--

1260 (4) Upon receipt of a completed license application or  
1261 license renewal, and the fee, the agency shall initiate a level 1  
1262 background screening as provided under chapter 435 on the adult  
1263 family-care home provider, the designated relief person, all  
1264 adult household members, ~~and~~ all staff members, and any other

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1265 person who provides personal services to residents or who have  
1266 routine access to the adult family-care home.

1267 (a) Proof of compliance with level 1 screening standards  
1268 which has been submitted within the previous 5 years to meet any  
1269 facility or professional licensure requirements of the agency or  
1270 the Department of Health satisfies the requirements of this  
1271 subsection. Such proof must be accompanied, under penalty of  
1272 perjury, by a copy of the person's current professional license  
1273 and an affidavit of current compliance with the background  
1274 screening requirements.

1275 (b) The person required to be screened must have been  
1276 continuously employed in the same type of occupation for which  
1277 the person is seeking employment without a breach in service that  
1278 exceeds 180 days, and proof of compliance with the level 1  
1279 screening requirement which is no more than 2 years old must be  
1280 provided. Proof of compliance shall be provided directly from one  
1281 employer or contractor to another, and not from the person  
1282 screened. Upon request, a copy of screening results shall be  
1283 provided to the person screened by the employer retaining  
1284 documentation of the screening.

1285 Section 22. Subsection (3) is added to section 429.69,  
1286 Florida Statutes, to read:

1287 429.69 Denial, revocation, and suspension of a license.--In  
1288 addition to the requirements of part II of chapter 408, the  
1289 agency may deny, suspend, and revoke a license for any of the  
1290 following reasons:

1291 (3) Failure of the adult family-care home provider who owns  
1292 or rents the home to live in the home.

1293 Section 23. Paragraph (b) of subsection (1) of section  
1294 429.73, Florida Statutes, is amended to read:

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1295 429.73 Rules and standards relating to adult family-care  
1296 homes.--

1297 (1) The agency, in consultation with the department, may  
1298 adopt rules to administer the requirements of part II of chapter  
1299 408. The department, in consultation with the Department of  
1300 Health, the Department of Children and Family Services, and the  
1301 agency shall, by rule, establish minimum standards to ensure the  
1302 health, safety, and well-being of each resident in the adult  
1303 family-care home pursuant to this part. The rules must address:

1304 (b) Services that must be provided to all residents of an  
1305 adult family-care home and standards for such services, which  
1306 must include, but need not be limited to:

- 1307 1. Room and board.
- 1308 2. Assistance necessary to perform the activities of daily  
1309 living.
- 1310 3. Assistance necessary to administer medication.
- 1311 4. Supervision of residents.

1312 5. Health monitoring, including periodic assessments to  
1313 determine if the resident is competent to handle his or her  
1314 personal and financial affairs and, if not, whether a responsible  
1315 person such as a guardian, surrogate, or attorney in fact is  
1316 available to make decisions on behalf of the resident.

1317 6. Social and leisure activities.

1318 Section 24. Effective April 1, 2009, subsections (2) and  
1319 (3) of section 435.03, Florida Statutes, are amended to read:

1320 435.03 Level 1 screening standards.--

1321 (2) Any person for whom employment screening is required by  
1322 statute must not have been convicted of ~~found guilty of,~~  
1323 ~~regardless of adjudication,~~ or entered a plea of guilty or nolo  
1324 ~~contendere or guilty to,~~ regardless of adjudication, to any

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1325 offense prohibited under any of the following ~~provisions of the~~  
1326 ~~Florida~~ statutes or under any similar statute of another  
1327 jurisdiction:

1328 (a) Section 393.135, relating to sexual misconduct with  
1329 certain developmentally disabled clients and reporting of such  
1330 sexual misconduct.

1331 (b) Section 394.4593, relating to sexual misconduct with  
1332 certain mental health patients and reporting of such sexual  
1333 misconduct.

1334 (c) Section 415.111, relating to abuse, neglect, or  
1335 exploitation of a vulnerable adult.

1336 (d) Section 782.04, relating to murder.

1337 (e) Section 782.07, relating to manslaughter, aggravated  
1338 manslaughter of an elderly person or disabled adult, or  
1339 aggravated manslaughter of a child.

1340 (f) Section 782.071, relating to vehicular homicide.

1341 (g) Section 782.09, relating to killing of an unborn quick  
1342 child by injury to the mother.

1343 (h) Section 784.011, relating to assault, if the victim of  
1344 the offense was a minor.

1345 (i) Section 784.021, relating to aggravated assault.

1346 (j) Section 784.03, relating to battery, if the victim of  
1347 the offense was a minor.

1348 (k) Section 784.045, relating to aggravated battery.

1349 (l) Section 787.01, relating to kidnapping.

1350 (m) Section 787.02, relating to false imprisonment.

1351 (n) Section 794.011, relating to sexual battery.

1352 (o) Former s. 794.041, relating to prohibited acts of  
1353 persons in familial or custodial authority.

1354 (p) Chapter 796, relating to prostitution.

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- 1355           (q) Section 798.02, relating to lewd and lascivious  
1356 behavior.
- 1357           (r) Chapter 800, relating to lewdness and indecent  
1358 exposure.
- 1359           (s) Section 806.01, relating to arson.
- 1360           (t) Chapter 812, relating to theft, robbery, and related  
1361 crimes, if the offense was a felony.
- 1362           (u) Section 817.563, relating to fraudulent sale of  
1363 controlled substances, only if the offense was a felony.
- 1364           (v) Section 825.102, relating to abuse, aggravated abuse,  
1365 or neglect of an elderly person or disabled adult.
- 1366           (w) Section 825.1025, relating to lewd or lascivious  
1367 offenses committed upon or in the presence of an elderly person  
1368 or disabled adult.
- 1369           (x) Section 825.103, relating to exploitation of an elderly  
1370 person or disabled adult, if the offense was a felony.
- 1371           (y) Section 826.04, relating to incest.
- 1372           (z) Section 827.03, relating to child abuse, aggravated  
1373 child abuse, or neglect of a child.
- 1374           (aa) Section 827.04, relating to contributing to the  
1375 delinquency or dependency of a child.
- 1376           (bb) Former s. 827.05, relating to negligent treatment of  
1377 children.
- 1378           (cc) Section 827.071, relating to sexual performance by a  
1379 child.
- 1380           (dd) Chapter 847, relating to obscene literature.
- 1381           (ee) Chapter 893, relating to drug abuse prevention and  
1382 control, only if the offense was a felony or if any other person  
1383 involved in the offense was a minor.

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1384 (ff) Section 916.1075, relating to sexual misconduct with  
1385 certain forensic clients and reporting of such sexual misconduct.

1386 (3) Standards must also ensure that the person:

1387 (a) Has not been convicted of, or entered a plea of guilty  
1388 or nolo contendere to, regardless of adjudication, offenses  
1389 prohibited under any of the following statutes or under any  
1390 similar statute of another jurisdiction, if he or she is an  
1391 employee or employer ~~For employees and employers~~ licensed or  
1392 registered pursuant to chapter 393, chapter 400, part II of  
1393 chapter 408, or chapter 429, or an employee or employer at a ~~and~~  
1394 ~~for employees and employers of developmental disabilities~~  
1395 ~~institutions as defined in s. 393.063, intermediate care~~  
1396 ~~facilities for the developmentally disabled as defined in s.~~  
1397 ~~400.960, and mental health treatment facility facilities as~~  
1398 ~~defined in s. 394.455, meets the requirements of this chapter.~~

1399 1. Sections 409.920 and 409.9201, relating to Medicaid  
1400 fraud.

1401 2. Chapter 429, relating to assisted care communities.

1402 3. Chapter 784, relating to assault, battery, and culpable  
1403 negligence, if the offense is a felony.

1404 4. Section 810.02, relating to burglary, if the offense is  
1405 a felony.

1406 5. Section 817.034, relating to communications fraud.

1407 6. Section 817.234, relating to fraudulent insurance  
1408 claims.

1409 7. Section 817.505, relating to patient brokering.

1410 8. Section 817.568, relating to identification theft.

1411 9. Sections 817.60 and 817.61, relating to credit cards, if  
1412 the offense is a felony.



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1413           10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and  
1414 831.31 relating to forgery, uttering, and counterfeiting.

1415           (b) Has not committed an act that constitutes domestic  
1416 violence as defined in s. 741.28.

1417           Section 25. Effective April 1, 2009, subsections (2) and  
1418 (4) of section 435.04, Florida Statutes, are amended to read:

1419           435.04 Level 2 screening standards.--

1420           (2) The security background investigations under this  
1421 section must ensure that no persons subject to ~~the provisions of~~  
1422 this section have been convicted ~~found guilty of, regardless of~~  
1423 ~~adjudication,~~ or entered a plea of guilty or nolo contendere or  
1424 ~~guilty to,~~ regardless of adjudication, to any offense prohibited  
1425 under any of the following ~~provisions of the Florida~~ statutes or  
1426 under any similar statute of another jurisdiction:

1427           (a) Section 393.135, relating to sexual misconduct with  
1428 certain developmentally disabled clients and reporting of such  
1429 sexual misconduct.

1430           (b) Section 394.4593, relating to sexual misconduct with  
1431 certain mental health patients and reporting of such sexual  
1432 misconduct.

1433           (c) Section 415.111, relating to adult abuse, neglect, or  
1434 exploitation of aged persons or disabled adults.

1435           (d) Section 782.04, relating to murder.

1436           (e) Section 782.07, relating to manslaughter, aggravated  
1437 manslaughter of an elderly person or disabled adult, or  
1438 aggravated manslaughter of a child.

1439           (f) Section 782.071, relating to vehicular homicide.

1440           (g) Section 782.09, relating to killing of an unborn quick  
1441 child by injury to the mother.



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1442 (h) Section 784.011, relating to assault, if the victim of  
1443 the offense was a minor.

1444 (i) Section 784.021, relating to aggravated assault.

1445 (j) Section 784.03, relating to battery, if the victim of  
1446 the offense was a minor.

1447 (k) Section 784.045, relating to aggravated battery.

1448 (l) Section 784.075, relating to battery on a detention or  
1449 commitment facility staff.

1450 (m) Section 787.01, relating to kidnapping.

1451 (n) Section 787.02, relating to false imprisonment.

1452 (o) Section 787.04(2), relating to taking, enticing, or  
1453 removing a child beyond the state limits with criminal intent  
1454 pending custody proceedings.

1455 (p) Section 787.04(3), relating to carrying a child beyond  
1456 the state lines with criminal intent to avoid producing a child  
1457 at a custody hearing or delivering the child to the designated  
1458 person.

1459 (q) Section 790.115(1), relating to exhibiting firearms or  
1460 weapons within 1,000 feet of a school.

1461 (r) Section 790.115(2)(b), relating to possessing an  
1462 electric weapon or device, destructive device, or other weapon on  
1463 school property.

1464 (s) Section 794.011, relating to sexual battery.

1465 (t) Former s. 794.041, relating to prohibited acts of  
1466 persons in familial or custodial authority.

1467 (u) Chapter 796, relating to prostitution.

1468 (v) Section 798.02, relating to lewd and lascivious  
1469 behavior.

1470 (w) Chapter 800, relating to lewdness and indecent  
1471 exposure.

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- 1472 (x) Section 806.01, relating to arson.
- 1473 (y) Chapter 812, relating to theft, robbery, and related  
1474 crimes, if the offense is a felony.
- 1475 (z) Section 817.563, relating to fraudulent sale of  
1476 controlled substances, only if the offense was a felony.
- 1477 (aa) Section 825.102, relating to abuse, aggravated abuse,  
1478 or neglect of an elderly person or disabled adult.
- 1479 (bb) Section 825.1025, relating to lewd or lascivious  
1480 offenses committed upon or in the presence of an elderly person  
1481 or disabled adult.
- 1482 (cc) Section 825.103, relating to exploitation of an  
1483 elderly person or disabled adult, if the offense was a felony.
- 1484 (dd) Section 826.04, relating to incest.
- 1485 (ee) Section 827.03, relating to child abuse, aggravated  
1486 child abuse, or neglect of a child.
- 1487 (ff) Section 827.04, relating to contributing to the  
1488 delinquency or dependency of a child.
- 1489 (gg) Former s. 827.05, relating to negligent treatment of  
1490 children.
- 1491 (hh) Section 827.071, relating to sexual performance by a  
1492 child.
- 1493 (ii) Section 843.01, relating to resisting arrest with  
1494 violence.
- 1495 (jj) Section 843.025, relating to depriving a law  
1496 enforcement, correctional, or correctional probation officer  
1497 means of protection or communication.
- 1498 (kk) Section 843.12, relating to aiding in an escape.
- 1499 (ll) Section 843.13, relating to aiding in the escape of  
1500 juvenile inmates in correctional institutions.
- 1501 (mm) Chapter 847, relating to obscene literature.

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1502 (nn) Section 874.05(1), relating to encouraging or  
1503 recruiting another to join a criminal gang.

1504 (oo) Chapter 893, relating to drug abuse prevention and  
1505 control, only if the offense was a felony or if any other person  
1506 involved in the offense was a minor.

1507 (pp) Section 916.1075, relating to sexual misconduct with  
1508 certain forensic clients and reporting of such sexual misconduct.

1509 (qq) Section 944.35(3), relating to inflicting cruel or  
1510 inhuman treatment on an inmate resulting in great bodily harm.

1511 (rr) Section 944.46, relating to harboring, concealing, or  
1512 aiding an escaped prisoner.

1513 (ss) Section 944.47, relating to introduction of contraband  
1514 into a correctional facility.

1515 (tt) Section 985.701, relating to sexual misconduct in  
1516 juvenile justice programs.

1517 (uu) Section 985.711, relating to contraband introduced  
1518 into detention facilities.

1519 (4) Standards must also ensure that the person:

1520 (a) Has not been convicted of, or entered a plea of guilty  
1521 or nolo contendere to, regardless of adjudication, offenses  
1522 prohibited under any of the following statutes or under any  
1523 similar statute of another jurisdiction, if he or she is an  
1524 employee or employer ~~For employees or employers~~ licensed or  
1525 registered pursuant to chapter 393, chapter 400, part II of  
1526 chapter 408, or chapter 429, or an employee or employer at a  
1527 mental health treatment facility as defined in s. 394.455 ~~does~~  
1528 ~~not have a confirmed report of abuse, neglect, or exploitation as~~  
1529 ~~defined in s. 415.102(6), which has been uncontested or upheld~~  
1530 ~~under s. 415.103.~~

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- 1531 |       1. Sections 409.920 and 409.9201, relating to Medicaid  
1532 | fraud.
- 1533 |       2. Chapter 429, relating to assisted care communities.
- 1534 |       3. Chapter 784, relating to assault, battery, and culpable  
1535 | negligence, if the offense is a felony.
- 1536 |       4. Section 810.02, relating to burglary, if the offense is  
1537 | a felony.
- 1538 |       5. Section 817.034, relating to communications fraud.
- 1539 |       6. Section 817.234, relating to fraudulent insurance  
1540 | claims.
- 1541 |       7. Section 817.505, relating to patient brokering.
- 1542 |       8. Section 817.568, relating to identification theft.
- 1543 |       9. Sections 817.60 and 817.61, relating to credit cards, if  
1544 | the offense is a felony.
- 1545 |       10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and  
1546 | 831.31 relating to forgery, uttering, and counterfeiting.
- 1547 |       (b) Has not committed an act that constitutes domestic  
1548 | violence as defined in s. 741.28 ~~s. 741.30~~.
- 1549 |       (c) Does not have a confirmed report of abuse, neglect, or  
1550 | exploitation which has been uncontested or upheld under s.  
1551 | 415.103, if the person is an employee of a developmental  
1552 | disabilities institution as defined in s. 393.063.
- 1553 |       Section 26. Subsection (13) of section 400.141, subsection  
1554 | (3) of section 408.809, subsection (2) of section 429.08, and  
1555 | subsection (5) of section 429.41, Florida Statutes, are repealed.
- 1556 |       Section 27. Paragraph (h) of subsection (3) of section  
1557 | 430.80, Florida Statutes, is amended to read:
- 1558 |       430.80 Implementation of a teaching nursing home pilot  
1559 | project.--

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1560 (3) To be designated as a teaching nursing home, a nursing  
1561 home licensee must, at a minimum:

1562 (h) Maintain insurance coverage pursuant to s. 400.141(19)  
1563 ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum  
1564 amount of \$750,000. ~~Such~~ Proof of financial responsibility may  
1565 include:

1566 1. Maintaining an escrow account consisting of cash or  
1567 assets eligible for deposit in accordance with s. 625.52; or

1568 2. Obtaining and maintaining, pursuant to chapter 675, an  
1569 unexpired, irrevocable, nontransferable and nonassignable letter  
1570 of credit issued by a ~~any~~ bank or savings association organized  
1571 and existing under the laws of this state or a ~~any~~ bank or  
1572 savings association organized under the laws of the United States  
1573 that has its principal place of business in this state or has a  
1574 branch office which is authorized to receive deposits in this  
1575 state. The letter of credit shall be used to satisfy the  
1576 obligation of the facility to the claimant upon presentment of a  
1577 final judgment indicating liability and awarding damages to be  
1578 paid by the facility or upon presentment of a settlement  
1579 agreement signed by all parties if the ~~to the agreement when such~~  
1580 final judgment or settlement is a result of a liability claim  
1581 against the facility.

1582 Section 28. Subsection (13) of section 651.118, Florida  
1583 Statutes, is amended to read:

1584 651.118 Agency for Health Care Administration; certificates  
1585 of need; sheltered beds; community beds.--

1586 (13) Residents, ~~as defined in this chapter,~~ are not  
1587 considered new admissions for the purpose of s. 400.141(14)(d) ~~s.~~  
1588 ~~400.141(15)(d)~~.



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1589           Section 29. The sum of \$241,274 is appropriated to the  
 1590 Agency for Health Care Administration from the Health Care Trust  
 1591 Fund for the 2008-2009 fiscal year, and 8.5 full-time equivalent  
 1592 positions along with an associated salary rate of 298,721 are  
 1593 authorized for the purpose of implementing the provisions of this  
 1594 act.

1595           Section 30. Except as otherwise expressly provided in this  
 1596 act, this act shall take effect October 1, 2008.

1597

1598 ===== T I T L E   A M E N D M E N T =====

1599 And the title is amended as follows:

1600           Delete line(s) 527-571

1601 and insert:

1602           An act relating to adult protection and care; amending s.  
 1603 322.142, F.S.; authorizing the Department of Children and  
 1604 Family Services to obtain copies of driver's license files  
 1605 maintained by the Department of Highway Safety and Motor  
 1606 Vehicles for the purpose of conducting protective  
 1607 investigations; amending s. 400.141, F.S.; requiring the  
 1608 agency to impose sanctions against a nursing home for  
 1609 failure to meet certain requirements and for failure to  
 1610 impose a moratorium on new admissions; requiring a search  
 1611 of the Department of Law Enforcement's sexual offender  
 1612 database to be conducted on all nursing home residents;  
 1613 amending s. 400.19, F.S.; revising provisions relating to  
 1614 unannounced inspections; amending s. 400.215, F.S.;

1615           requiring contracted workers employed in a nursing home to  
 1616 submit to background screening; prohibiting employees and  
 1617 contracted workers who do not meet background screening  
 1618 requirements from being employed in a nursing home;

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1619 providing certain exceptions; deleting an obsolete  
1620 provision; amending s. 408.809, F.S.; requiring the agency  
1621 to establish a fee schedule to cover the cost of a level 1  
1622 or level 2 screening and giving the agency rulemaking  
1623 authority; amending s. 408.810, F.S.; requiring health  
1624 care facilities regulated by the Agency for Health Care  
1625 Administration to post certain information in the  
1626 facility; requiring the agency to have the information  
1627 available on its website; amending s. 408.811, F.S.;  
1628 providing that agency employees who provide advance notice  
1629 of unannounced agency inspections are subject to  
1630 suspension; providing a timeline and process for  
1631 correction of deficiencies; providing that the agency may  
1632 provide electronic access to documents; amending s.  
1633 415.103, F.S.; requiring certain reports to the central  
1634 abuse hotline relating to vulnerable adults to be  
1635 immediately transferred to the county sheriff's office;  
1636 amending s. 415.1051, F.S.; authorizing the Department of  
1637 Children and Family Services to file the petition to  
1638 determine incapacity in adult protection proceedings;  
1639 prohibiting the department from serving as the guardian or  
1640 providing legal counsel to the guardian; amending s.  
1641 415.112, F.S.; specifying rules to be adopted by the  
1642 Department of Children and Family Services relating to  
1643 adult protective services under ch. 415, F.S.; amending s.  
1644 429.07, F.S.; providing that license requirements for  
1645 specialty licenses apply to current licensees as well as  
1646 applicants for an extended congregate care and limited  
1647 nursing license; conforming a cross-reference; amending s.  
1648 429.174, F.S.; requiring certain employees and contracted



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1649 workers in assisted living facilities to submit to  
1650 background screening; prohibiting employees and contracted  
1651 workers who do not meet background screening requirements  
1652 from being employed in an assisted living facility;  
1653 providing certain exceptions; requiring the person being  
1654 screened to pay for the cost of screening; amending s.  
1655 429.255, F.S.; providing that the owner or administrator  
1656 of an assisted living facility is responsible for the  
1657 services provided in the facility; amending s. 429.26,  
1658 F.S.; clarifying a prohibition on moving a resident;  
1659 providing for the development of a plan for services for  
1660 all residents; requiring that the plan be updated and  
1661 reviewed periodically; requiring a search of the  
1662 Department of Law Enforcement's sexual offender database  
1663 to be conducted on all residents of an assisted living  
1664 facility; requiring residents to be periodically assessed  
1665 for competency to handle personal affairs; amending s.  
1666 429.27, F.S.; prohibiting assisted living facility  
1667 personnel from making certain decisions for a resident or  
1668 acting as the resident's representative or surrogate;  
1669 amending s. 429.28, F.S.; revising and specifying certain  
1670 conditions in an assisted living facility's resident bill  
1671 of rights for a resident's relocation or termination of  
1672 residency; creating s. 429.285, F.S.; prohibiting resident  
1673 relocation or termination of residency in the absence of  
1674 certain specified conditions; requiring the administrator  
1675 or employee of a facility to sign a notice of relocation  
1676 or termination of residency and requiring a physician's  
1677 signature under certain circumstances; requiring a  
1678 licensee to provide advance written notice to the resident

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1679 | and other specified persons regarding relocation or  
1680 | termination of residency; providing that the notice  
1681 | contain certain information; providing for the creation of  
1682 | a form to submit relocation or termination of residency  
1683 | information and specifying information to be included  
1684 | therein; requiring a licensee to report relocation or  
1685 | termination of residency to the Office of State Long-term  
1686 | Care Ombudsman within a certain timeframe; permitting  
1687 | residents to seek the assistance of the local long-term  
1688 | care ombudsmen council in reviewing a notice of relocation  
1689 | or termination of residency; providing for emergency  
1690 | relocation and termination of residency; permitting the  
1691 | local long-term care ombudsmen council to request private  
1692 | informal contact with a resident upon receipt of a notice  
1693 | of relocation or termination of residency; authorizing the  
1694 | agency to adopt rules; amending s. 429.294, F.S.; deleting  
1695 | a cross-reference; amending s. 429.34, F.S.; providing for  
1696 | unannounced inspections; providing for additional 6-month  
1697 | inspections for certain violations; providing for an  
1698 | additional fine for 6-month inspections; amending s.  
1699 | 429.65, F.S.; providing a definition of the term "reside";  
1700 | amending s. 429.67, F.S.; expanding the list of persons  
1701 | who must have a background screening in adult family-care  
1702 | homes; amending s. 429.69, F.S.; providing that the  
1703 | failure of a adult family-care home provider to live in  
1704 | the home is grounds for the denial, revocation, or  
1705 | suspension of a license; amending s. 429.73, F.S.;  
1706 | requiring adult family-care home residents to be  
1707 | periodically assessed for competency to handle personal  
1708 | affairs; amending ss. 435.03 and 435.04, F.S.; providing

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1709 additional criminal offenses for screening certain health  
1710 care facility personnel; repealing s. 400.141(13), F.S.,  
1711 relating to a requirement to post certain information in  
1712 nursing homes; repealing s. 408.809(3), F.S., relating to  
1713 the granting of a provisional license while awaiting the  
1714 results of a background screening; repealing s. 429.08(2),  
1715 F.S., deleting a provision relating to local workgroups of  
1716 field offices of the Agency for Health Care  
1717 Administration; repealing s. 429.41(5), F.S., relating to  
1718 agency inspections; amending ss. 430.80 and 651.118, F.S.;  
1719 conforming cross-references; providing an appropriation  
1720 and authorizing additional positions; providing effective  
1721 dates.