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CHAMBER ACTION

Senate

House

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Floor: 1/AD/RM
5/1/2008 5:02 PM

Floor: RC
5/2/2008 10:06 AM

1 Senator Storms moved the following **Senate amendment to House**
2 **amendment (820601):**

3
4 **Senate Amendment (with title amendment)**

5 Delete line(s) 5-521

6 and insert:

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

9 322.142 Color photographic or digital imaged licenses.--

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

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

31 Section 2. Effective April 1, 2009, subsection (25) is
32 added to section 400.141, Florida Statutes, to read:

33 400.141 Administration and management of nursing home
34 facilities.--Every licensed facility shall comply with all
35 applicable standards and rules of the agency and shall:

36 (25) Conduct a search of the Department of Law
37 Enforcement's sexual offender database for each prospective
38 resident before admission or immediately after admission. A
39 facility must maintain verification that all residents have been
40 screened. The information obtained may be used by the facility to
41 assess the needs of the resident and to provide adequate and
42 appropriate health care and protective and support services in
43 accordance with this part. The information obtained may be
44 disclosed to other residents. The facility does not have to
45 rescreen a resident who is away from a facility for no more than
46 45 days.

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48 Facilities that have been awarded a Gold Seal under the program
49 established in s. 400.235 may develop a plan to provide certified
50 nursing assistant training as prescribed by federal regulations
51 and state rules and may apply to the agency for approval of their
52 program.

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

55 400.19 Right of entry and inspection.--

56 (3) The agency shall every 15 months conduct at least one
57 unannounced inspection to determine compliance by the licensee
58 with statutes, and related ~~with rules promulgated under the~~
59 ~~provisions of those statutes,~~ governing minimum standards of
60 construction, quality and adequacy of care, and rights of
61 residents. The survey shall be conducted every 6 months for the
62 next 2-year period if the facility has been cited for a class I
63 deficiency, has been cited for two or more class II deficiencies
64 arising from separate surveys or investigations within a 60-day
65 period, or has had three or more substantiated complaints within
66 a 6-month period, each resulting in at least one class I or class
67 II deficiency. In addition to any other fees or fines in this
68 part, the agency shall assess a fine for each facility that is
69 subject to the 6-month survey cycle. The fine for the 2-year
70 period shall be \$6,000, one-half to be paid at the completion of
71 each survey. The agency may adjust this fine by the change in the
72 Consumer Price Index, based on the 12 months immediately
73 preceding the change ~~increase~~, to cover the cost of the
74 additional surveys. The agency shall verify through subsequent
75 inspection that any deficiency identified during inspection is
76 corrected. However, the agency may verify the correction of a
77 class III or class IV deficiency unrelated to resident rights or

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78 resident care without reinspecting the facility if adequate
79 written documentation has been received from the facility, which
80 provides assurance that the deficiency has been corrected. ~~The~~
81 ~~giving or causing to be given of advance notice of such~~
82 ~~unannounced inspections by an employee of the agency to any~~
83 ~~unauthorized person shall constitute cause for suspension of not~~
84 ~~fewer than 5 working days according to the provisions of chapter~~
85 ~~110.~~

86 Section 4. Effective April 1, 2009, section 400.215,
87 Florida Statutes, is amended to read:

88 400.215 Background Personnel screening requirement.--

89 (1) ~~The agency shall require~~ Background screening as
90 provided in chapter 435 is required for all nursing home facility
91 ~~employees or prospective employees of facilities licensed under~~
92 ~~this part~~ who are expected to, or whose responsibilities may
93 require them to:

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

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

96 (c) Have access to resident funds or other personal
97 property.

98 (2) Background screening as provided in chapter 435 is
99 required for all nursing home facility contracted workers who are
100 expected to, or whose responsibilities may require them to,
101 provide personal care or services to residents. The facility
102 shall maintain verification that such contracted workers have
103 been screened pursuant to this section. The facility may either
104 obtain a copy of the qualifying screening results from the entity
105 or receive an affidavit from the entity which specifies that a
106 background screen has been performed on all contracted workers
107 sent to the facility. Contracted workers who do not provide

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108 personal care or services to residents are not required to be
109 screened pursuant to this section but must sign in at the
110 reception desk or nurses' station upon entering the facility,
111 wear an identification badge while on the premises, and sign out
112 before leaving the facility. The nursing facility shall maintain
113 a log containing the information collected.

114 (3)(2) Employers, and employees, contractors, and
115 contracted workers shall comply with the requirements of s.
116 435.05.

117 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),
118 facilities must have in their possession evidence that level 1
119 screening under s. 435.03 has been completed before allowing an
120 employee or contracted worker to begin employment in the facility
121 ~~working with patients~~ as provided in subsection (1). All
122 information necessary for conducting level 1 background screening
123 ~~using level 1 standards as specified in s. 435.03~~ shall be
124 submitted by the nursing facility to the agency. Results of the
125 background screening shall be provided by the agency to the
126 requesting nursing facility.

127 (b) Employees and contracted workers qualified under ~~the~~
128 ~~provisions of~~ paragraph (a) who have not maintained continuous
129 residency within the state for the 5 years immediately preceding
130 the date of request for background screening must complete level
131 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such Employees
132 may work in a conditional status for up to 180 days pending the
133 receipt of written findings evidencing the completion of level 2
134 screening. Contracted workers who are awaiting the completion of
135 level 2 screening may work only under the direct and visual
136 supervision of persons who have met the screening requirements of
137 this section. Level 2 screening ~~is shall~~ not be required ~~for of~~



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138 employees, ~~or~~ prospective employees, or contracted workers who
139 attest in writing under penalty of perjury that they meet the
140 residency requirement. To complete ~~Completion of~~ level 2
141 screening: ~~shall require~~

142 1. The employee or contracted worker shall ~~prospective~~
143 ~~employee to~~ furnish to the nursing facility a full set of
144 fingerprints for conducting a federal criminal records check ~~to~~
145 ~~enable a criminal background investigation to be conducted.~~

146 2. The nursing facility shall submit the completed
147 fingerprint card to the agency.

148 3. The agency shall establish a record of the request in
149 the database provided for in paragraph (c) and forward the
150 request to the Department of Law Enforcement, which is authorized
151 to submit the fingerprints to the Federal Bureau of Investigation
152 for a national criminal history records check.

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

156 5. The agency shall notify the administrator of the
157 requesting nursing facility or the administrator of any other
158 requesting facility licensed under chapter 393, chapter 394,
159 chapter 395, chapter 397, chapter 429, or this chapter, ~~as~~
160 ~~requested by such facility,~~ as to whether ~~or not~~ the employee has
161 qualified under level 1 or level 2 screening.

162
163 An employee or contracted worker ~~prospective employee~~ who has
164 qualified under level 2 screening and has maintained ~~such~~
165 continuous residency within the state is ~~shall~~ not ~~be~~ required to
166 complete a subsequent level 2 screening as a condition of
167 employment at another facility.



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168 (c) The agency shall establish and maintain a database that
169 includes ~~of background screening information which shall include~~
170 the results of all ~~both~~ level 1 and level 2 screening. The
171 Department of Law Enforcement shall timely provide to the agency,
172 electronically, the results of each statewide screening for
173 incorporation into the database. The agency shall, upon request
174 from any facility, agency, or program required by or authorized
175 by law to screen its employees or contracted workers ~~applicants~~,
176 notify the administrator of the facility, agency, or program of
177 the qualifying or disqualifying status of the person ~~employee or~~
178 ~~applicant~~ named in the request.

179 (d) ~~Applicants and~~ Employees, prospective employees, and
180 contracted workers shall be excluded from employment pursuant to
181 s. 435.06, and may not be employed or resume employment until
182 exempted or all appeals have been resolved in favor of the person
183 screened. However, an employee of a nursing facility, employed
184 prior to October 1, 1998, who is determined to have a
185 disqualifying offense occurring after October 1, 1998, may
186 continue employment pending the outcome of an exemption request
187 if such request is made within 30 days of receipt of the results
188 of the background screening. An employee of a nursing facility,
189 employed before October 1, 1998, who is determined to have a
190 disqualifying offense before October 1, 1998, but does not have a
191 disqualifying offense after that date, is not required to submit
192 an exemption request pursuant to s. 435.07 and may continue his
193 or her employment.

194
195 Notwithstanding chapter 435, the agency may not provide to the
196 employer the results of background screening for offenses
197 occurring prior to October 1, 1998, for persons employed before

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198 October 1, 1998, except for an absolute disqualifying offense.
199 For the purposes of this section, the term "absolute
200 disqualifying offense" means a felony offense pursuant to s.
201 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035;
202 s. 800.04, except for crimes identified in ss. 800.04(7)(c) and
203 (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and
204 (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s.
205 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07,
206 a person who has been convicted of, or entered a plea of guilty
207 or nolo contendere, regardless of adjudication, to an absolute
208 disqualifying offense may not be granted an exemption from
209 disqualification from employment. Neither the agency nor an
210 employer is required to rescreen or reevaluate qualifications for
211 employment of a person who was screened by that employer and
212 continuously employed before April 1, 2009.

213 (4)(3) The person being screened ~~applicant~~ is responsible
214 for paying the fees associated with obtaining the required
215 screening. Payment for the screening shall be submitted to the
216 agency. The agency shall establish a schedule of fees to cover
217 the costs of level 1 and level 2 screening. Facilities may pay
218 ~~reimburse employees~~ for these costs. The Department of Law
219 Enforcement shall charge the agency for a level 1 or level 2
220 screening a rate sufficient to cover the costs of ~~such~~ screening
221 pursuant to s. 943.053(3). The agency shall, as allowable,
222 reimburse nursing facilities for the cost of conducting
223 background screening as required by this section. This
224 reimbursement is ~~will~~ not be subject to any rate ceilings or
225 payment targets in the Medicaid Reimbursement plan.

226 (5)(4)(a) As provided in s. 435.07:7

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227 (a) The agency may grant an exemption from disqualification
228 to an employee, ~~or prospective employee,~~ or contracted worker who
229 is subject to this section and who has not received a
230 professional license or certification from the Department of
231 Health.

232 ~~(b) As provided in s. 435.07,~~ The appropriate regulatory
233 board within the Department of Health, or that department itself
234 when there is no board, may grant an exemption from
235 disqualification to an employee, ~~or prospective employee,~~ or
236 contracted worker who is subject to this section and who has
237 received a professional license or certification from the
238 Department of Health or a regulatory board within that
239 department.

240 ~~(6)(5) Any provision of law to the contrary~~
241 ~~notwithstanding,~~ Persons who have been screened and qualified as
242 required by this section, ~~and~~ who have not been unemployed for
243 more than 180 days ~~thereafter,~~ and who, under penalty of perjury,
244 attest to not having been convicted of a disqualifying offense
245 since the completion of such screening ~~are,~~ shall not be required
246 to be rescreened. An employer may obtain, pursuant to s. 435.10,
247 written verification of qualifying screening results from the
248 previous employer, contractor, or other entity that ~~which~~ caused
249 the ~~such~~ screening to be performed.

250 ~~(7)(6) The agency and the Department of Health may~~ shall
251 ~~have authority to adopt rules to administer pursuant to the~~
252 ~~Administrative Procedure Act to implement~~ this section.

253 ~~(7) All employees shall comply with the requirements of~~
254 ~~this section by October 1, 1998. No current employee of a nursing~~
255 ~~facility as of the effective date of this act shall be required~~
256 ~~to submit to rescreening if the nursing facility has in its~~

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257 ~~possession written evidence that the person has been screened and~~
258 ~~qualified according to level 1 standards as specified in s.~~
259 ~~435.03(1). Any current employee who meets the level 1 requirement~~
260 ~~but does not meet the 5-year residency requirement as specified~~
261 ~~in this section must provide to the employing nursing facility~~
262 ~~written attestation under penalty of perjury that the employee~~
263 ~~has not been convicted of a disqualifying offense in another~~
264 ~~state or jurisdiction. All applicants hired on or after October~~
265 ~~1, 1998, shall comply with the requirements of this section.~~

266 (8) There is no monetary or unemployment liability on the
267 part of, and ~~a~~ no cause of action for damages does not arise
268 ~~arising~~ against, an employer that, upon notice of a disqualifying
269 offense listed under chapter 435 or an act of domestic violence,
270 terminates the employee against whom the report was issued,
271 whether or not the employee has filed for an exemption with the
272 Department of Health or the agency ~~for Health Care~~
273 ~~Administration.~~

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

276 408.809 Background screening; prohibited offenses.--

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

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

283 408.810 Minimum licensure requirements.--In addition to the
284 licensure requirements specified in this part, authorizing
285 statutes, and applicable rules, each applicant and licensee must

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286 | comply with the requirements of this section in order to obtain
287 | and maintain a license.

288 | (5) Each licensee must:

289 | (a) On or before the first day services are provided to a
290 | client, ~~a licensee must~~ inform the client and his or her
291 | immediate family or representative, if appropriate, of the right
292 | to report:

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

298 | 2. Abusive, neglectful, or exploitative practices. The
299 | statewide toll-free telephone number for the central abuse
300 | hotline must be provided to clients in a manner that is clearly
301 | legible and must include the words: "To report abuse, neglect, or
302 | exploitation, please call toll-free (phone number)." The agency
303 | shall publish a minimum of a 90-day advance notice of a change in
304 | the toll-free telephone numbers.

305 | (b) ~~Each licensee shall~~ Establish appropriate policies and
306 | procedures for providing such notice to clients.

307 | (c) Publicly display a poster approved by the agency
308 | containing the names, addresses, and telephone numbers for the
309 | state's central abuse hotline, the State Long-Term Care
310 | Ombudsman, the agency's consumer hotline, the Advocacy Center for
311 | Persons with Disabilities, the Florida Statewide Advocacy
312 | Council, and the Medicaid Fraud Control Unit, along with a clear
313 | description of the assistance to be expected from each. The
314 | Statewide Public Guardianship Office and its website shall also
315 | be listed. The agency shall make the poster available on the



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316 Internet. Providers may download the poster, at no charge, from
317 the agency's website.

318 Section 7. Section 408.811, Florida Statutes, is amended to
319 read:

320 408.811 Right of inspection; copies; inspection reports.--

321 (1) An authorized officer or employee of the agency may
322 make or cause to be made any inspection or investigation deemed
323 necessary by the agency to determine the state of compliance with
324 this part, authorizing statutes, and applicable rules. The right
325 of inspection extends to any business that the agency has reason
326 to believe is being operated as a provider without a license, but
327 inspection of any business suspected of being operated without
328 the appropriate license may not be made without the permission of
329 the owner or person in charge unless a warrant is first obtained
330 from a circuit court. Any application for a license issued under
331 this part, authorizing statutes, or applicable rules constitutes
332 permission for an appropriate inspection to verify the
333 information submitted on or in connection with the application.

334 (a) All inspections shall be unannounced, except as
335 specified in s. 408.806. The giving or causing to be given of
336 advance notice of the unannounced inspection by an agency
337 employee to any unauthorized person shall, in accordance with
338 chapter 110, constitute cause for suspension of the employee for
339 at least 5 working days.

340 (b) Inspections for relicensure shall be conducted
341 biennially unless otherwise specified by authorizing statutes or
342 applicable rules.

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



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

350 (2) Inspections conducted in conjunction with certification
351 may be accepted in lieu of a complete licensure inspection.
352 However, a licensure inspection may also be conducted to review
353 any licensure requirements that are not also requirements for
354 certification.

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

358 (4) (a) Each licensee shall maintain as public information,
359 available upon request, records of all inspection reports
360 pertaining to that provider that have been filed by the agency
361 unless those reports are exempt from or contain information that
362 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
363 Constitution or is otherwise made confidential by law. Effective
364 October 1, 2006, copies of such reports shall be retained in the
365 records of the provider for at least 3 years following the date
366 the reports are filed and issued, regardless of a change of
367 ownership.

368 (b) A licensee shall, upon the request of any person who
369 has completed a written application with intent to be admitted by
370 such provider, any person who is a client of such provider, or
371 any relative, spouse, or guardian of any such person, furnish to
372 the requester a copy of the last inspection report pertaining to
373 the licensed provider that was issued by the agency or by an
374 accrediting organization if such report is used in lieu of a
375 licensure inspection.



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376 (c) As an alternative to sending reports required by this
377 part or authorizing statutes, the agency may provide electronic
378 access to information or documents.

379 Section 8. Subsection (2) of section 415.103, Florida
380 Statutes, is amended to read:

381 415.103 Central abuse hotline.--

382 (2) Upon receiving an oral or written report of known or
383 suspected abuse, neglect, or exploitation of a vulnerable adult,
384 the central abuse hotline shall ~~must~~ determine if the report
385 requires an immediate onsite protective investigation.

386 (a) For reports requiring an immediate onsite protective
387 investigation, the central abuse hotline must immediately notify
388 the department's designated protective investigative district
389 staff responsible for protective investigations to ensure prompt
390 initiation of an onsite investigation.

391 (b) For reports not requiring an immediate onsite
392 protective investigation, the central abuse hotline must notify
393 the department's designated protective investigative district
394 staff responsible for protective investigations in sufficient
395 time to allow for an investigation to be commenced within 24
396 hours. At the time of notification ~~of district staff with respect~~
397 ~~to the report~~, the central abuse hotline must also provide any
398 ~~known information on any previous~~ reports ~~report~~ concerning the a
399 subject of the present report or any pertinent information
400 relative to the present report or any noted earlier reports.

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

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

408 415.1051 Protective services interventions when capacity to
409 consent is lacking; nonemergencies; emergencies; orders;
410 limitations.--

411 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If the
412 department has reasonable cause to believe that a vulnerable
413 adult or a vulnerable adult in need of services is being abused,
414 neglected, or exploited and is in need of protective services but
415 lacks the capacity to consent to protective services, the
416 department shall petition the court for an order authorizing the
417 provision of protective services.

418 (e) Continued protective services.--

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

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

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

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

427 d. A petition for guardianship shall ~~should~~ be filed
428 pursuant to chapter 744.

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

433 3. If the department has a good faith belief that the
434 vulnerable adult lacks capacity, the petition to determine



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435 incapacity under s. 744.3201 may be filed by the department. Once
436 the petition is filed, the department may not be appointed
437 guardian and may not provide legal counsel for the guardian.

438 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the
439 department has reasonable cause to believe that a vulnerable
440 adult is suffering from abuse or neglect that presents a risk of
441 death or serious physical injury to the vulnerable adult and that
442 the vulnerable adult lacks the capacity to consent to emergency
443 protective services, the department may take action under this
444 subsection. If the vulnerable adult has the capacity to consent
445 and refuses consent to emergency protective services, emergency
446 protective services may not be provided.

447 (g) Continued emergency protective services.--

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

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

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

455 c. Emergency protective services are to ~~will~~ be
456 discontinued; or

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

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

461 3. If the department has a good faith belief that the
462 vulnerable adult lacks capacity, the petition to determine
463 incapacity under s. 744.3201 may be filed by the department. Once

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464 the petition is filed, the department may not be appointed
465 guardian and may not provide legal counsel for the guardian.

466 Section 10. Section 415.112, Florida Statutes, is amended
467 to read:

468 415.112 ~~Rules for implementation of ss. 415.101-~~
469 ~~415.113.~~--The department shall adopt promulgate rules to
470 administer this chapter including, but not limited to: for the
471 implementation of ss. 415.101-415.113.

472 (1) Background screening of department employees and
473 employee applicants which includes a criminal records check and
474 drug testing of adult protective investigators and adult
475 protective investigator supervisors.

476 (2) The reporting of adult abuse, neglect, exploitation, a
477 vulnerable adult in need of services, false reporting, and adult
478 protective investigations.

479 (3) Confidentiality and retention of department records,
480 access to records, and record requests.

481 (4) Injunctions and other protective orders.

482 (5) The provision of emergency and nonemergency protective
483 services intervention.

484 (6) Agreements with law enforcement and other state
485 agencies.

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

489 (8) The legal and casework management of cases involving
490 protective supervision, protective orders, judicial reviews,
491 administrative reviews, case plans, and documentation
492 requirements.

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

495 429.07 License required; fee.--

496 (3) In addition to the requirements of s. 408.806, each
497 license granted by the agency must state the type of care for
498 which the license is granted. Licenses shall be issued for one or
499 more of the following categories of care: standard, extended
500 congregate care, limited nursing services, or limited mental
501 health.

502 (b) An extended congregate care license shall be issued to
503 facilities providing, directly or through contract, services
504 beyond those authorized in paragraph (a), including services
505 performed by persons licensed under acts performed pursuant to
506 part I of chapter 464 by persons licensed thereunder, and
507 supportive services, as defined by rule, to persons who would
508 otherwise would be disqualified from continued residence in a
509 facility licensed under this part.

510 1. To obtain an ~~In order for~~ extended congregate care
511 license services to be provided in a facility licensed under this
512 ~~part~~, the agency must first determine that all requirements
513 established in law and rule are met and must specifically
514 designate, on the facility's license, that such services may be
515 provided and whether the designation applies to all or part of
516 the a facility. Such designation may be made at the time of
517 initial licensure or relicensure, or upon request in writing by a
518 licensee under this part and part II of chapter 408. Notification
519 of approval or denial of the such request shall be made in
520 accordance with part II of chapter 408. ~~Existing~~

521 2. Facilities applying for, and facilities currently
522 licensed ~~qualifying~~ to provide, extended congregate care services

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523 must have ~~maintained~~ a standard license and may not have been
524 subject to administrative sanctions during the previous 2 years,
525 or since initial licensure if the facility has been licensed for
526 less than 2 years, for any of the following reasons:

527 a. A class I or class II violation;

528 b. Three or more repeat or recurring class III violations
529 of identical or similar resident care standards as specified in
530 rule from which a pattern of noncompliance is found by the
531 agency;

532 c. Three or more class III violations that were not
533 corrected in accordance with the corrective action plan approved
534 by the agency;

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

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

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

544 ~~3.2. A facility that is~~ Facilities that are licensed to
545 provide extended congregate care services must ~~shall~~ maintain a
546 written progress report on each person who receives ~~such~~
547 services, which report describes the type, amount, duration,
548 scope, and outcome of services that are rendered and the general
549 status of the resident's health. A registered nurse, or
550 appropriate designee, representing the agency shall visit the
551 facility ~~such facilities~~ at least quarterly to monitor residents
552 who are receiving extended congregate care services and to



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553 determine if the facility is in compliance with this part, part
554 II of chapter 408, and rules that relate to extended congregate
555 care. One of these visits may be in conjunction with the regular
556 survey. The monitoring visits may be provided through contractual
557 arrangements with appropriate community agencies. A registered
558 nurse shall serve as part of the team that inspects the ~~such~~
559 facility. The agency may waive one of the required yearly
560 monitoring visits for a facility that has been licensed for at
561 least 24 months to provide extended congregate care services, if,
562 during the inspection, the registered nurse determines that
563 extended congregate care services are being provided
564 appropriately, and if the facility has no class I or class II
565 violations and no uncorrected class III violations. ~~Before such~~
566 ~~decision is made,~~ The agency must first ~~shall~~ consult with the
567 long-term care ombudsman council for the area in which the
568 facility is located to determine if any complaints have been made
569 and substantiated about the quality of services or care. The
570 agency may not waive one of the required yearly monitoring visits
571 if complaints have been made and substantiated.

572 ~~4.3.~~ Facilities that are licensed to provide extended
573 congregate care services must ~~shall~~:

574 a. Demonstrate the capability to meet unanticipated
575 resident service needs.

576 b. Offer a physical environment that promotes a homelike
577 setting, provides for resident privacy, promotes resident
578 independence, and allows sufficient congregate space as defined
579 by rule.

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

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583 d. Adopt and follow policies and procedures that maximize
584 resident independence, dignity, choice, and decisionmaking to
585 permit residents to age in place ~~to the extent possible~~, so that
586 moves due to changes in functional status are minimized or
587 avoided.

588 e. Allow residents or, if applicable, a resident's
589 representative, designee, surrogate, guardian, or attorney in
590 fact to make a variety of personal choices, participate in
591 developing service plans, and share responsibility in
592 decisionmaking.

593 f. Implement the concept of managed risk.

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

596 h. In addition to the training mandated in s. 429.52,
597 provide specialized training as defined by rule for facility
598 staff.

599 5.4. Facilities licensed to provide extended congregate
600 care services are exempt from the criteria for continued
601 residency ~~as~~ set forth in rules adopted under s. 429.41.
602 Facilities so licensed must ~~shall~~ adopt their own requirements
603 within guidelines for continued residency set forth by rule.
604 However, such facilities may not serve residents who require 24-
605 hour nursing supervision. Facilities licensed to provide extended
606 congregate care services must ~~shall~~ provide each resident with a
607 written copy of facility policies governing admission and
608 retention.

609 6.5. The primary purpose of extended congregate care
610 services is to allow residents, as they become more impaired, the
611 option of remaining in a familiar setting from which they would
612 otherwise be disqualified for continued residency. A facility



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613 licensed to provide extended congregate care services may also
614 admit an individual who exceeds the admission criteria for a
615 facility with a standard license, if the individual is determined
616 appropriate for admission to the extended congregate care
617 facility.

618 ~~7.6.~~ Before admission of an individual to a facility
619 licensed to provide extended congregate care services, the
620 individual must undergo a medical examination ~~as provided in s.~~
621 ~~429.26(4)~~ and the facility must develop a preliminary service
622 plan for the individual as provided in s. 429.26.

623 ~~8.7.~~ When a facility can no longer provide or arrange for
624 services in accordance with the resident's service plan and needs
625 and the facility's policy, the facility shall make arrangements
626 for relocating the person in accordance with s. 429.28(1)(k).

627 ~~9.8.~~ Failure to provide extended congregate care services
628 may result in denial of extended congregate care license renewal.

629 ~~9.~~ ~~No later than January 1 of each year, the department, in~~
630 ~~consultation with the agency, shall prepare and submit to the~~
631 ~~Governor, the President of the Senate, the Speaker of the House~~
632 ~~of Representatives, and the chairs of appropriate legislative~~
633 ~~committees, a report on the status of, and recommendations~~
634 ~~related to, extended congregate care services. The status report~~
635 ~~must include, but need not be limited to, the following~~
636 ~~information:~~

637 ~~a.~~ ~~A description of the facilities licensed to provide such~~
638 ~~services, including total number of beds licensed under this~~
639 ~~part.~~

640 ~~b.~~ ~~The number and characteristics of residents receiving~~
641 ~~such services.~~

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642 ~~e. The types of services rendered that could not be~~
643 ~~provided through a standard license.~~

644 ~~d. An analysis of deficiencies cited during licensure~~
645 ~~inspections.~~

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

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

649 ~~g. The availability of extended congregate care to state~~
650 ~~clients residing in facilities licensed under this part and in~~
651 ~~need of additional services, and recommendations for~~
652 ~~appropriations to subsidize extended congregate care services for~~
653 ~~such persons.~~

654 ~~h. Such other information as the department considers~~
655 ~~appropriate.~~

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

659 1. To obtain a ~~In order for~~ limited nursing services
660 license to be provided in a facility licensed under this part,
661 the agency must first determine that all requirements established
662 in law and rule are met and must specifically designate, on the
663 facility's license, that such services may be provided. Such
664 designation may be made at the time of initial licensure or
665 relicensure, or upon request in writing by a licensee under this
666 part and part II of chapter 408. Notification of approval or
667 denial of such request shall be made in accordance with part II
668 of chapter 408. ~~Existing~~

669 2. Facilities applying for, and facilities currently
670 licensed ~~qualifying~~ to provide, limited nursing services must
671 ~~shall~~ have ~~maintained~~ a standard license and may not have been



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672 subject to administrative sanctions that affect the health,
673 safety, and welfare of residents for the previous 2 years or
674 since initial licensure if the facility has been licensed for
675 less than 2 years.

676 ~~3.2.~~ Facilities that are licensed to provide limited
677 nursing services shall maintain a written progress report on each
678 person who receives ~~such~~ nursing services, which report describes
679 the type, amount, duration, scope, and outcome of services that
680 are rendered and the general status of the resident's health. A
681 registered nurse representing the agency shall visit such
682 facilities at least twice a year to monitor residents who are
683 receiving limited nursing services and to determine if the
684 facility is in compliance with applicable provisions of this
685 part, part II of chapter 408, and related rules. The monitoring
686 visits may be provided through contractual arrangements with
687 appropriate community agencies. A registered nurse shall also
688 serve as part of the team that inspects the ~~such~~ facility.

689 ~~4.3.~~ A person who receives limited nursing services ~~under~~
690 ~~this part~~ must meet the admission criteria established by the
691 agency for assisted living facilities. If ~~When~~ a resident no
692 longer meets the admission criteria for a facility licensed under
693 this part, arrangements for relocating the person shall be made
694 in accordance with s. 429.28(1)(k), unless the facility is also
695 licensed to provide extended congregate care services.

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

698 429.174 Background screening; exemptions.--

699 (1) The owner or administrator of an assisted living
700 facility must conduct level 1 ~~background~~ screening, as set forth
701 in chapter 435, on all employees ~~hired on or after October 1,~~

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702 ~~1998,~~ who perform personal services or who have access to
703 resident living areas as defined in s. 429.02(16). The agency may
704 exempt an individual from ~~employment~~ disqualification as set
705 forth in s. 435.07 chapter 435. However, such person may not be
706 employed or resume employment pending the granting of an
707 exemption or until all appeals have been resolved in favor of the
708 person screened. A person employed before October 1, 1998, who is
709 determined to have a disqualifying offense occurring after
710 October 1, 1998, may continue employment pending the outcome of
711 an exemption request if such request is made within 30 days of
712 receipt of the results of the background screening. A person
713 employed before October 1, 1998, who is determined to have a
714 disqualifying offense before October 1, 1998, but does not have a
715 disqualifying offense after that date, is not required to submit
716 an exemption request pursuant to s. 435.07 and may continue his
717 or her employment. Employees ~~Such persons~~ shall be considered as
718 having met the screening requirements ~~this requirement~~ if:

719 (a) ~~(1)~~ Proof of compliance with level 1 screening
720 requirements obtained to meet any professional license
721 requirements in this state is provided and accompanied, under
722 penalty of perjury, by a copy of the person's current
723 professional license and an affidavit of current compliance with
724 the background screening requirements.

725 (b) ~~(2)~~ The person required to be screened has been
726 continuously employed in the same type of occupation for which
727 the person is seeking employment without a breach in service
728 which exceeds 180 days, and proof of compliance with the level 1
729 screening requirement which is no more than 2 years old is
730 provided. Proof of compliance shall be provided directly from one
731 employer or contractor to another, and not from the person

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732 screened. Upon request, a copy of screening results shall be
733 provided by the employer retaining documentation of the screening
734 to the person screened.

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

741
742 Notwithstanding chapter 435, the agency may not provide to the
743 employer the results of background screening for offenses
744 occurring prior to October 1, 1998, for persons employed before
745 October 1, 1998, except for an absolute disqualifying offense.
746 For the purposes of this section, the term "absolute
747 disqualifying offense" means a felony offense pursuant to s.
748 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035;
749 s. 800.04, except for crimes identified in ss. 800.04(7)(c) and
750 (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and
751 (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s.
752 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07,
753 a person who has been convicted of, or entered a plea of guilty
754 or nolo contendere, regardless of adjudication, to an absolute
755 disqualifying offense may not be granted an exemption from
756 disqualification from employment. The agency or an employer is
757 not required to rescreen or reevaluate qualifications for
758 employment of a person who was screened by that employer and
759 continuously employed before April 1, 2009.

760 (2) Level 1 screening as provided in chapter 435 is
761 required for all contracted workers who are expected to, or whose

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762 responsibilities may require them to, provide personal services
763 to residents. The facility shall maintain verification that such
764 contracted workers have been screened pursuant to this section.
765 The facility may either obtain a copy of the qualifying screening
766 results from the entity or receive an affidavit from the entity
767 which specifies that a background screen has been performed on
768 all contracted workers sent to the facility. A contracted worker
769 who does not provide personal services to residents is not
770 required to be screened pursuant to this section but must sign in
771 at the reception desk upon entering the facility, wear an
772 identification badge while on the premises, and sign out before
773 leaving the facility. The facility shall maintain a log
774 containing the information collected.

775 (3) The person being screened is responsible for paying the
776 fees associated with obtaining the required screening. Payment
777 for the screening shall be submitted to the agency. The agency
778 shall establish a schedule of fees to cover the costs of level 1
779 and level 2 screening. Facilities may reimburse employees or
780 contracted workers for these costs. The Department of Law
781 Enforcement shall charge the agency for a level 1 or level 2
782 screening a rate sufficient to cover the costs of screening
783 pursuant to s. 943.053(3).

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

786 429.255 Use of personnel; emergency care.--

787 (1) (a) Facility staff, including persons under contract to
788 the facility, facility employees staff, or volunteers, who are
789 licensed according to part I of chapter 464, or those persons
790 exempt under s. 464.022(1), and others as defined by rule, may
791 administer medications to residents, take residents' vital signs,

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792 | manage individual weekly pill organizers for residents who self-
793 | administer medication, give prepackaged enemas ordered by a
794 | physician, observe residents, document observations on the
795 | appropriate resident's record, report observations to the
796 | resident's physician, and contract or allow residents or a
797 | resident's representative, designee, surrogate, guardian, or
798 | attorney in fact to contract with a third party, provided
799 | residents meet the criteria for appropriate placement as defined
800 | in s. 429.26. Nursing assistants certified pursuant to part II of
801 | chapter 464 may take residents' vital signs as directed by a
802 | licensed nurse or physician.

803 | (b) Facility All staff, including persons under contract to
804 | the facility and facility employees in facilities licensed under
805 | this part shall exercise their professional responsibility to
806 | observe residents, to document observations on the appropriate
807 | resident's record, and to report the observations to the
808 | resident's physician, and to provide needed services competently.
809 | However, the owner or administrator of the facility is shall be
810 | responsible for determining that the resident receiving services
811 | is appropriate for residence in the facility and for the
812 | provision of and quality of care and services provided to the
813 | resident.

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

817 | Section 14. Present subsections (8) through (12) of section
818 | 429.26, Florida Statutes, are renumbered as sections (6) through
819 | (10), respectively, and present subsections (1) through (7) of
820 | that section, are amended to read:

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821 429.26 Appropriateness of placements; examinations of
822 residents.--

823 (1) The owner or administrator of a facility is responsible
824 for determining the appropriateness of admission of an individual
825 to the facility and for determining the continued appropriateness
826 of residence of an individual in the facility. A determination
827 shall be based upon an assessment of the strengths, needs, and
828 preferences of the resident, the care and services offered or
829 arranged for by the facility in accordance with facility policy,
830 and any limitations in law or rule related to admission criteria
831 or continued residency for the type of license held by the
832 facility under this part. Except as provided in s. 429.28(1)(k),
833 a resident may not be moved from one facility to another without
834 consultation with and agreement from the resident or, if
835 applicable, the resident's representative or designee or the
836 resident's family, guardian, surrogate, or attorney in fact. If
837 ~~In the case of~~ a resident ~~who~~ has been placed by the department
838 or the Department of Children and Family Services, the
839 administrator must notify the appropriate contact person in the
840 applicable department.

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

845 ~~(3) Persons licensed under part I of chapter 464 who are~~
846 ~~employed by or under contract with a facility shall, on a routine~~
847 ~~basis or at least monthly, perform a nursing assessment of the~~
848 ~~residents for whom they are providing nursing services ordered by~~
849 ~~a physician, except administration of medication, and shall~~
850 ~~document such assessment, including any substantial changes in a~~

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851 ~~resident's status which may necessitate relocation to a nursing~~
852 ~~home, hospital, or specialized health care facility. Such records~~
853 ~~shall be maintained in the facility for inspection by the agency~~
854 ~~and shall be forwarded to the resident's case manager, if~~
855 ~~applicable.~~

856 (2)(4) If possible, each resident shall have been examined
857 by a licensed physician, a licensed physician assistant, or a
858 licensed nurse practitioner within 60 days before admission to
859 the facility. The person conducting an examination under this
860 subsection may not have financial interest in the facility. The
861 signed and completed medical examination report shall be
862 submitted to the owner or administrator of the facility who shall
863 use the information contained in the report therein to assist in
864 determining the determination of the appropriateness of the
865 resident's admission and continued stay in the facility and to
866 develop a plan for the provision of services for the resident.
867 The plan must be reviewed and updated annually; however, for a
868 resident receiving nursing services ordered by a physician,
869 except administration of medication, the plan must be reviewed
870 and updated quarterly and whenever a resident experiences a
871 significant change in condition. The medical examination report
872 and plan for services shall be reported on a single form provided
873 by the agency or a community supported-living plan for mental
874 health residents. The plan shall become a permanent part of the
875 record of the resident at the facility and shall be made
876 available to the agency during inspection or upon request. An
877 assessment that has been completed through the Comprehensive
878 Assessment and Review for Long-Term Care Services (CARES) Program
879 fulfills the requirements for a medical examination under this
880 subsection ~~and s. 429.07(3)(b)6.~~



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881 (a)(5) Except as provided in s. 429.07, if a medical
882 examination has not been completed within 60 days before the
883 admission of the resident to the facility, medical personnel a
884 ~~licensed physician, licensed physician assistant, or licensed~~
885 ~~nurse practitioner~~ shall examine the resident and complete a
886 medical examination form provided by the agency within 30 days
887 following ~~the~~ admission to the facility ~~to enable the facility~~
888 ~~owner or administrator to determine the appropriateness of the~~
889 ~~admission. The medical examination form shall become a permanent~~
890 ~~part of the record of the resident at the facility and shall be~~
891 ~~made available to the agency during inspection by the agency or~~
892 ~~upon request.~~

893 (b)(6) Any resident accepted in a facility and placed by
894 the department or the Department of Children and Family Services
895 must be ~~shall have been~~ examined by medical personnel within 30
896 days before placement in the facility and recorded on a medical
897 examination form provided by the agency. The examination shall
898 include an assessment of the appropriateness of placement in a
899 facility. ~~The findings of this examination shall be recorded on~~
900 ~~the examination form provided by the agency. The completed form~~
901 ~~shall accompany the resident and shall be submitted to the~~
902 ~~facility owner or administrator. For~~ Additionally, ~~in the case of~~
903 a mental health resident, the Department of Children and Family
904 Services must provide documentation that the individual has been
905 assessed by a psychiatrist, clinical psychologist, clinical
906 social worker, or psychiatric nurse, or an individual who is
907 supervised by one of these professionals, and determined to be
908 appropriate to reside in an assisted living facility. The
909 documentation must be in the facility within 30 days after the
910 mental health resident has been admitted to the facility. An

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911 evaluation completed upon discharge from a state mental hospital
912 meets the requirements of this subsection related to
913 appropriateness for placement as a mental health resident
914 providing it was completed within 90 days prior to admission to
915 the facility. The applicable department shall provide to the
916 facility administrator any information about the resident that
917 would help the administrator meet his or her responsibilities
918 under this section ~~subsection (1)~~. Further, department personnel
919 shall explain to the facility operator any special needs of the
920 resident and advise the operator whom to call should problems
921 arise. The applicable department shall advise and assist the
922 facility administrator where the special needs of residents who
923 are recipients of optional state supplementation require such
924 assistance.

925 (3) Effective April 1, 2009, a search of the Department of
926 Law Enforcement's sexual offender database for each prospective
927 resident must be conducted by the facility before admission or
928 immediately after admission. The facility must maintain
929 verification that all residents have been screened. The
930 information obtained may be used by the facility to assess the
931 needs of the resident and the care and services offered or
932 arranged by the facility in accordance with this section. The
933 information obtained may be disclosed to other residents. The
934 facility does not have to rescreen a resident who is away from a
935 facility for not more than 45 days.

936 (4) Persons licensed under part I of chapter 464 who are
937 employed by or under contract with a facility shall, at least
938 monthly, perform a nursing assessment of residents for whom they
939 are providing nursing services ordered by a physician, except
940 administration of medication, and shall document such assessment,

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941 including any substantial change in a resident's status which may
942 necessitate relocation to a nursing home, hospital, or
943 specialized health care facility. The records must be maintained
944 in the facility for inspection by the agency and shall be
945 forwarded to the resident's case manager, if applicable.

946 (5)(7) Residents shall be periodically assessed to
947 determine if the resident is capable of handling his or her
948 personal and financial affairs and, if not, whether a responsible
949 person such as a resident representative or designee, guardian,
950 surrogate, or attorney in fact is available to make decisions on
951 behalf of the resident. If a resident is having difficulty
952 handling his or her personal or financial affairs because of a
953 decline in health or cognitive abilities, the owner or
954 administrator shall contact the resident's representative or
955 designee, guardian, surrogate, or attorney in fact. If a resident
956 does not have family or a legal representative to make decisions
957 on his or her behalf, the owner or administrator must contact the
958 Florida Abuse Hotline. The facility must notify a licensed
959 physician when a resident exhibits signs of dementia or cognitive
960 impairment or has a change of condition in order to rule out the
961 presence of an underlying physiological condition that may be
962 contributing to such dementia or impairment. The notification
963 must occur within 30 days after the acknowledgment of such signs
964 by facility staff. If an underlying condition is determined to
965 exist, the facility shall arrange, with the appropriate health
966 care provider, the necessary care and services to treat the
967 condition.

968 Section 15. Subsections (3) through (8) of section 429.27,
969 Florida Statutes, are renumbered as subsections (6) through (11),

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970 respectively, and subsections (1) and (2) of that section, are
971 amended to read:

972 429.27 Property and personal affairs of residents.--

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

978 (2)~~(b)~~ The admission of a resident to a facility does ~~and~~
979 ~~his or her presence therein shall~~ not confer on the facility or
980 its owner, administrator, staff ~~employees~~, or representatives any
981 authority to manage, use, or dispose of any property of the
982 resident or to make financial or health care decisions on behalf
983 of the resident; ~~nor shall such admission or presence confer on~~
984 ~~any of such persons any authority or responsibility for the~~
985 ~~personal affairs of the resident, except if that which may be~~
986 necessary for the safe management of the facility or for the
987 safety of the resident.

988 (3)~~(2)~~ A facility, or an owner, administrator, staff
989 ~~employee~~, or representative thereof, may not act as the
990 resident's representative or designee, guardian, health care
991 surrogate, trustee, or conservator for a ~~any~~ resident ~~of the~~
992 ~~assisted living facility~~ or any of the ~~such~~ resident's property
993 unless the person is a relative of the resident.

994 (4) A facility ~~An~~ owner, administrator, or staff member, or
995 representative thereof, may not act as a competent resident's
996 payee for social security, veteran's, or railroad benefits
997 without the consent of the resident. Any facility ~~whose~~ owner,
998 administrator, or staff, or representative thereof ~~who~~, serves as
999 representative payee for a ~~any~~ resident must ~~of the facility~~

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1000 ~~shall~~ file a surety bond with the agency in an amount equal to
1001 twice the average monthly aggregate income or personal funds due
1002 to residents, or expendable for his or her ~~their~~ account, which
1003 are received by a facility.

1004 (5) Any facility ~~whose~~ owner, administrator, or staff, or a
1005 representative thereof ~~who,~~ is granted power of attorney for a
1006 ~~any resident must of the facility shall~~ file a surety bond with
1007 the agency for each resident for whom such power of attorney is
1008 granted. The surety bond must ~~shall~~ be in an amount equal to
1009 twice the average monthly income of the resident, plus the value
1010 of any resident's property under the control of the attorney in
1011 fact. The bond must ~~shall~~ be executed by the facility as
1012 principal and a licensed surety company. The bond shall be
1013 conditioned upon the faithful compliance of the facility with
1014 this section and shall run to the agency for the benefit of any
1015 resident who suffers a financial loss as a result of the misuse
1016 or misappropriation ~~by a facility~~ of funds held pursuant to this
1017 subsection. Any surety company that cancels or does not renew the
1018 bond of any licensee shall notify the agency in writing not less
1019 than 30 days in advance of such action, giving the reason for the
1020 cancellation or nonrenewal. Any facility owner, administrator, or
1021 staff, or representative thereof, who is granted power of
1022 attorney for a ~~any resident of the facility~~ shall, on a monthly
1023 basis, ~~be required to~~ provide the resident with a written
1024 statement of any transaction made on behalf of the resident
1025 pursuant to this subsection, and a copy of such statement ~~given~~
1026 ~~to the resident~~ shall be retained in each resident's file and
1027 available for agency inspection.

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1028 Section 16. Paragraphs (k) and (l) of subsection (1),
1029 subsection (2), and paragraph (b) of subsection (3) of section
1030 429.28, Florida Statutes, are amended to read:

1031 429.28 Resident bill of rights.--

1032 (1) No resident of a facility shall be deprived of any
1033 civil or legal rights, benefits, or privileges guaranteed by law,
1034 the Constitution of the State of Florida, or the Constitution of
1035 the United States as a resident of a facility. Every resident of
1036 a facility shall have the right to:

1037 (k) Receive at least 45 days' written notice of relocation
1038 or termination of residency from the licensee as provided in s.
1039 429.285, unless the relocation or termination of residency is
1040 initiated by the resident or the resident designee; facility
1041 unless, for medical reasons, the resident is certified by a
1042 physician to require an emergency relocation to a facility
1043 providing a more skilled level of care; or the resident engages
1044 in a pattern of conduct that is harmful or offensive to other
1045 residents. In the case of a resident who has been adjudicated
1046 mentally incapacitated, the guardian shall be given at least 45
1047 days' notice of a nonemergency relocation or residency
1048 termination. Reasons for relocation shall be set forth in
1049 writing. In order for a licensee facility to terminate the
1050 residency of an individual without notice as provided in this
1051 paragraph herein, the licensee facility shall show good cause in
1052 a court of competent jurisdiction. Admission to a facility
1053 licensed under this part may not be conditioned upon a waiver of
1054 such right, and any document or provision in a document that
1055 purports to waive or preclude such right is void and
1056 unenforceable.

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1057 (1) Present grievances and recommend changes in policies,
1058 procedures, and services to the staff of the facility, governing
1059 officials, or any other person without restraint, interference,
1060 coercion, discrimination, or reprisal. Each licensee facility
1061 shall establish a written grievance procedure to facilitate the
1062 residents' exercise of this right. This right includes access to
1063 ombudsman volunteers and advocates and the right to be a member
1064 of, to be active in, and to associate with advocacy or special
1065 interest groups. Each licensee shall maintain a written log of
1066 grievances that shall be available for inspection and shall be
1067 maintained for at least 2 years. Residents may provide verbal or
1068 written grievances.

1069 (2) The administrator of a facility shall ensure that a
1070 written notice of the rights, obligations, and prohibitions set
1071 forth in this part is posted in a prominent place in each
1072 facility and read or explained to residents who cannot read. This
1073 notice shall include the name, address, and telephone numbers of
1074 the local ombudsman council and central abuse hotline and, when
1075 applicable, the Advocacy Center for Persons with Disabilities,
1076 Inc., and the Florida local advocacy council, where complaints
1077 may be lodged. The licensee facility must ensure a resident's
1078 access to a telephone to call the local ombudsman council,
1079 central abuse hotline, Advocacy Center for Persons with
1080 Disabilities, Inc., and the Florida local advocacy council.

1081 (3)

1082 (b) In order to determine whether the licensee facility is
1083 adequately protecting residents' rights, the biennial survey
1084 shall include private informal conversations with a sample of
1085 residents and consultation with the ombudsman council in the

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1086 planning and service area in which the facility is located to
1087 discuss residents' experiences within the facility.

1088 Section 17. Section 429.285, Florida Statutes, is created
1089 to read:

1090 429.285 Resident relocation or termination of residency;
1091 requirements and procedures.--

1092 (1) A facility licensed under this part must permit a
1093 resident to remain in the facility. Relocation or termination of
1094 residency of a resident may not occur unless:

1095 (a) The relocation or termination of residency is necessary
1096 for the resident's welfare and the resident's needs cannot be met
1097 in the facility;

1098 (b) The relocation or termination of residency is
1099 appropriate because the resident's health has improved
1100 sufficiently so that the resident no longer needs the services
1101 provided by the facility;

1102 (c) The health and safety of other residents or facility
1103 employees would be endangered;

1104 (d) The resident has failed, after at least 30 days'
1105 notice, to provide payment for his or her stay in the facility;

1106 (e) The facility ceases to operate;

1107 (f) There is a documented pattern of harmful and offensive
1108 behavior by the resident; or

1109 (g) The contract provided for under s. 429.24(1) between
1110 the licensee and the resident expires on its own terms.

1111 (2) When a relocation or termination of residency is
1112 initiated by the licensee, the administrator that is relocating
1113 the resident or terminating residency, or an individual employed
1114 by the facility who is designated by the administrator to act on
1115 behalf of the administration, must sign the notice of relocation

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1116 or termination of residency. Any notice indicating a medical
1117 reason for relocation or termination of residency must be signed
1118 by the resident's physician or include an attached physician's
1119 written order for the relocation or termination of residency.

1120 (3) At least 45 days prior to a proposed relocation or
1121 termination of residency, a licensee must provide by certified
1122 mail advance written notice of the proposed relocation or
1123 termination of residency to the resident and, if known, to a
1124 family member or the resident's legal guardian or representative.

1125 (4) The notice must be in writing and contain all
1126 information required by state and federal laws, rules, and
1127 regulations. A copy of the notice must be placed in the
1128 resident's file. The agency shall develop a standard form to be
1129 used by all facilities licensed under this part for purposes of
1130 notifying residents of a relocation or termination of residency.
1131 In addition to any other pertinent information included, the form
1132 shall:

1133 (a) Specify the reason allowed under state law justifying
1134 the relocation or termination of the residency, with an
1135 explanation to support this action.

1136 (b) State the effective date of the relocation or
1137 termination of residency and the location to which the resident
1138 is being relocated.

1139 (c) Include the right and means to request the local long-
1140 term care ombudsman council to review the notice of relocation or
1141 termination of residency.

1142 (5) A relocation or termination of residency notice
1143 initiated by a licensee must be reported to the Office of State
1144 Long-Term Care Ombudsman by mail, electronic mail, or facsimile
1145 within 5 business days after a resident's receipt of a notice to

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1146 relocate or terminate residency. The Office of State Long-Term
1147 Care Ombudsman shall compile and publish the information
1148 collected from such notices in the annual report required by s.
1149 400.0065(2) (i). A resident may request that the local long-term
1150 care ombudsman council review any notice of relocation or
1151 termination of residency given to the resident. When requested by
1152 a resident to review such notice, the local long-term care
1153 ombudsman council shall do so within 5 business days after
1154 receipt of the request.

1155 (6) In the event of an emergency relocation or termination
1156 of residency, as provided under s. 429.28(1)(k), notice shall be
1157 provided to the resident, the resident's legal guardian or
1158 representative, and the local long-term care ombudsman council by
1159 telephone or in person. The written notice shall be given before
1160 the relocation or termination of residency, if possible, and no
1161 later than 5 business days after the relocation or termination of
1162 residency. A local long-term care ombudsman council conducting a
1163 review under this section shall do so within 2 business days
1164 after receipt of the request. The resident's file must include
1165 documentation indicating who was contacted, whether the contact
1166 was by telephone or in person, and the date and time of the
1167 contact.

1168 (7) After receipt of a notice required under this section,
1169 the local long-term care ombudsman council may request a private
1170 informal conversation with a resident to whom the notice is
1171 directed, and, if known, a family member or the resident's legal
1172 guardian or representative, to ensure that the licensee is
1173 proceeding with the relocation or termination of residency in
1174 accordance with the requirements of this section.

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1175 (8) The agency may adopt rules pursuant to ss. 120.536(1)
1176 and 120.54 to administer this section.

1177 Section 18. Subsection (1) of section 429.294, Florida
1178 Statutes, is amended to read:

1179 429.294 Availability of facility records for investigation
1180 of resident's rights violations and defenses; penalty.--

1181 (1) Failure to provide complete copies of a resident's
1182 records, including, but not limited to, all medical records and
1183 the resident's chart, within the control or possession of the
1184 facility within 10 days, ~~in accordance with the provisions of s.~~
1185 ~~400.145,~~ shall constitute evidence of failure of that party to
1186 comply with good faith discovery requirements and shall waive the
1187 good faith certificate and presuit notice requirements under this
1188 part by the requesting party.

1189 Section 19. Section 429.34, Florida Statutes, is amended to
1190 read:

1191 429.34 Right of entry and inspection.--In addition to the
1192 requirements of s. 408.811:7

1193 (1) Any duly designated officer or employee of the
1194 department, the Department of Children and Family Services, the
1195 Medicaid Fraud Control Unit of the Office of the Attorney
1196 General, the state or local fire marshal, or a member of the
1197 state or local long-term care ombudsman council shall have the
1198 right to enter unannounced upon and into the premises of any
1199 facility licensed pursuant to this part in order to determine the
1200 state of compliance with the provisions of this part, part II of
1201 chapter 408, and applicable rules. Data collected by the state or
1202 local long-term care ombudsman councils or the state or local
1203 advocacy councils may be used by the agency in investigations
1204 involving violations of regulatory standards.

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1205 (2) Every 24 months the agency shall conduct at least one
1206 unannounced inspection to determine compliance with this chapter
1207 and related rules, including minimum standards of quality and
1208 adequacy of care and the rights of residents. Two additional
1209 surveys shall be conducted every 6 months for the next year if
1210 the facility has been cited for a class I deficiency or two or
1211 more class II deficiencies arising from separate surveys or
1212 investigations within a 60-day period. In addition to any fines
1213 imposed on a facility under s. 429.19, the agency shall assess a
1214 fine of \$69 per bed for each of the additional two surveys, not
1215 to exceed \$12,000 each. The agency shall adjust this fine by the
1216 change in the Consumer Price Index, based on the 12 months
1217 immediately preceding the change, to cover the cost of the
1218 additional two surveys. The agency shall verify through
1219 subsequent inspections that any deficiency identified during an
1220 inspection is corrected. However, the agency may verify the
1221 correction of a class III or class IV deficiency unrelated to
1222 resident rights or resident care without reinspecting the
1223 facility if adequate written documentation has been received from
1224 the facility which provides assurance that the deficiency has
1225 been corrected.

1226 Section 20. Present subsection (14) of section 429.65,
1227 Florida Statutes, is renumbered as subsection (15), and a new
1228 subsection (14) is added to that section, to read:

1229 429.65 Definitions.--As used in this part, the term:

1230 (14) "Reside" means the licensee or applicant lives in the
1231 adult family care home as a primary residence. For purposes of
1232 this part, any two of the following documents that include the
1233 adult family care home address and the name of the licensee or

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1234 applicant may be accepted by the agency as proof that the
1235 licensee or applicant resides in the adult family care home:

1236 (a) Homestead exemption documentation;

1237 (b) Lease or rental agreement accompanied by a
1238 corresponding utility bill; or

1239 (c) Personal identification issued by a state or federal
1240 agency.

1241 Section 21. Subsection (4) of section 429.67, Florida
1242 Statutes, is amended to read:

1243 429.67 Licensure.--

1244 (4) Upon receipt of a completed license application or
1245 license renewal, and the fee, the agency shall initiate a level 1
1246 background screening as provided under chapter 435 on the adult
1247 family-care home provider, the designated relief person, all
1248 adult household members, ~~and~~ all staff members, and any other
1249 person who provides personal services to residents or who have
1250 routine access to the adult family-care home.

1251 (a) Proof of compliance with level 1 screening standards
1252 which has been submitted within the previous 5 years to meet any
1253 facility or professional licensure requirements of the agency or
1254 the Department of Health satisfies the requirements of this
1255 subsection. Such proof must be accompanied, under penalty of
1256 perjury, by a copy of the person's current professional license
1257 and an affidavit of current compliance with the background
1258 screening requirements.

1259 (b) The person required to be screened must have been
1260 continuously employed in the same type of occupation for which
1261 the person is seeking employment without a breach in service that
1262 exceeds 180 days, and proof of compliance with the level 1
1263 screening requirement which is no more than 2 years old must be

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1264 provided. Proof of compliance shall be provided directly from one
1265 employer or contractor to another, and not from the person
1266 screened. Upon request, a copy of screening results shall be
1267 provided to the person screened by the employer retaining
1268 documentation of the screening.

1269 Section 22. Subsection (3) is added to section 429.69,
1270 Florida Statutes, to read:

1271 429.69 Denial, revocation, and suspension of a license.--In
1272 addition to the requirements of part II of chapter 408, the
1273 agency may deny, suspend, and revoke a license for any of the
1274 following reasons:

1275 (3) Failure of the adult family-care home provider who owns
1276 or rents the home to live in the home.

1277 Section 23. Paragraph (b) of subsection (1) of section
1278 429.73, Florida Statutes, is amended to read:

1279 429.73 Rules and standards relating to adult family-care
1280 homes.--

1281 (1) The agency, in consultation with the department, may
1282 adopt rules to administer the requirements of part II of chapter
1283 408. The department, in consultation with the Department of
1284 Health, the Department of Children and Family Services, and the
1285 agency shall, by rule, establish minimum standards to ensure the
1286 health, safety, and well-being of each resident in the adult
1287 family-care home pursuant to this part. The rules must address:

1288 (b) Services that must be provided to all residents of an
1289 adult family-care home and standards for such services, which
1290 must include, but need not be limited to:

- 1291 1. Room and board.
- 1292 2. Assistance necessary to perform the activities of daily
1293 living.

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- 1294 3. Assistance necessary to administer medication.
- 1295 4. Supervision of residents.
- 1296 5. Health monitoring, including periodic assessments to
1297 determine if the resident is competent to handle his or her
1298 personal and financial affairs and, if not, whether a responsible
1299 person such as a guardian, surrogate, or attorney in fact is
1300 available to make decisions on behalf of the resident.
- 1301 6. Social and leisure activities.
- 1302 Section 24. Effective April 1, 2009, subsections (2) and
1303 (3) of section 435.03, Florida Statutes, are amended to read:
- 1304 435.03 Level 1 screening standards.--
- 1305 (2) Any person for whom employment screening is required by
1306 statute must not have been convicted of ~~found guilty of,~~
1307 ~~regardless of adjudication,~~ or entered a plea of guilty or nolo
1308 ~~contendere or guilty to,~~ regardless of adjudication, to any
1309 offense prohibited under any of the following ~~provisions of the~~
1310 ~~Florida~~ statutes or under any similar statute of another
1311 jurisdiction:
- 1312 (a) Section 393.135, relating to sexual misconduct with
1313 certain developmentally disabled clients and reporting of such
1314 sexual misconduct.
- 1315 (b) Section 394.4593, relating to sexual misconduct with
1316 certain mental health patients and reporting of such sexual
1317 misconduct.
- 1318 (c) Section 415.111, relating to abuse, neglect, or
1319 exploitation of a vulnerable adult.
- 1320 (d) Section 782.04, relating to murder.
- 1321 (e) Section 782.07, relating to manslaughter, aggravated
1322 manslaughter of an elderly person or disabled adult, or
1323 aggravated manslaughter of a child.

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- 1324 (f) Section 782.071, relating to vehicular homicide.
- 1325 (g) Section 782.09, relating to killing of an unborn quick
1326 child by injury to the mother.
- 1327 (h) Section 784.011, relating to assault, if the victim of
1328 the offense was a minor.
- 1329 (i) Section 784.021, relating to aggravated assault.
- 1330 (j) Section 784.03, relating to battery, if the victim of
1331 the offense was a minor.
- 1332 (k) Section 784.045, relating to aggravated battery.
- 1333 (l) Section 787.01, relating to kidnapping.
- 1334 (m) Section 787.02, relating to false imprisonment.
- 1335 (n) Section 794.011, relating to sexual battery.
- 1336 (o) Former s. 794.041, relating to prohibited acts of
1337 persons in familial or custodial authority.
- 1338 (p) Chapter 796, relating to prostitution.
- 1339 (q) Section 798.02, relating to lewd and lascivious
1340 behavior.
- 1341 (r) Chapter 800, relating to lewdness and indecent
1342 exposure.
- 1343 (s) Section 806.01, relating to arson.
- 1344 (t) Chapter 812, relating to theft, robbery, and related
1345 crimes, if the offense was a felony.
- 1346 (u) Section 817.563, relating to fraudulent sale of
1347 controlled substances, only if the offense was a felony.
- 1348 (v) Section 825.102, relating to abuse, aggravated abuse,
1349 or neglect of an elderly person or disabled adult.
- 1350 (w) Section 825.1025, relating to lewd or lascivious
1351 offenses committed upon or in the presence of an elderly person
1352 or disabled adult.

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- 1353 (x) Section 825.103, relating to exploitation of an elderly
1354 person or disabled adult, if the offense was a felony.
- 1355 (y) Section 826.04, relating to incest.
- 1356 (z) Section 827.03, relating to child abuse, aggravated
1357 child abuse, or neglect of a child.
- 1358 (aa) Section 827.04, relating to contributing to the
1359 delinquency or dependency of a child.
- 1360 (bb) Former s. 827.05, relating to negligent treatment of
1361 children.
- 1362 (cc) Section 827.071, relating to sexual performance by a
1363 child.
- 1364 (dd) Chapter 847, relating to obscene literature.
- 1365 (ee) Chapter 893, relating to drug abuse prevention and
1366 control, only if the offense was a felony or if any other person
1367 involved in the offense was a minor.
- 1368 (ff) Section 916.1075, relating to sexual misconduct with
1369 certain forensic clients and reporting of such sexual misconduct.
- 1370 (3) Standards must also ensure that the person:
- 1371 (a) Has not been convicted of, or entered a plea of guilty
1372 or nolo contendere to, regardless of adjudication, offenses
1373 prohibited under any of the following statutes or under any
1374 similar statute of another jurisdiction, if he or she is an
1375 employee or employer ~~For employees and employers licensed or~~
1376 ~~registered pursuant to chapter 393, chapter 400, part II of~~
1377 ~~chapter 408, or chapter 429, or an employee or employer at a~~ ~~and~~
1378 ~~for employees and employers of developmental disabilities~~
1379 ~~institutions as defined in s. 393.063, intermediate care~~
1380 ~~facilities for the developmentally disabled as defined in s.~~
1381 ~~400.960, and mental health treatment facility ~~facilities~~ as~~
1382 ~~defined in s. 394.455, meets the requirements of this chapter.~~

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- 1383 1. Sections 409.920 and 409.9201, relating to Medicaid
1384 fraud.
- 1385 2. Chapter 429, relating to assisted care communities.
- 1386 3. Chapter 784, relating to assault, battery, and culpable
1387 negligence, if the offense is a felony.
- 1388 4. Section 810.02, relating to burglary, if the offense is
1389 a felony.
- 1390 5. Section 817.034, relating to communications fraud.
- 1391 6. Section 817.234, relating to fraudulent insurance
1392 claims.
- 1393 7. Section 817.505, relating to patient brokering.
- 1394 8. Section 817.568, relating to identification theft.
- 1395 9. Sections 817.60 and 817.61, relating to credit cards, if
1396 the offense is a felony.
- 1397 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1398 831.31 relating to forgery, uttering, and counterfeiting.
- 1399 (b) Has not committed an act that constitutes domestic
1400 violence as defined in s. 741.28.
- 1401 Section 25. Effective April 1, 2009, subsections (2) and
1402 (4) of section 435.04, Florida Statutes, are amended to read:
1403 435.04 Level 2 screening standards.--
- 1404 (2) The security background investigations under this
1405 section must ensure that no persons subject to ~~the provisions of~~
1406 this section have been convicted ~~found guilty of, regardless of~~
1407 ~~adjudication,~~ or entered a plea of guilty or nolo contendere ~~or~~
1408 ~~guilty to,~~ regardless of adjudication, to any offense prohibited
1409 under any of the following ~~provisions of the Florida~~ statutes or
1410 under any similar statute of another jurisdiction:

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- 1411 (a) Section 393.135, relating to sexual misconduct with
1412 certain developmentally disabled clients and reporting of such
1413 sexual misconduct.
- 1414 (b) Section 394.4593, relating to sexual misconduct with
1415 certain mental health patients and reporting of such sexual
1416 misconduct.
- 1417 (c) Section 415.111, relating to adult abuse, neglect, or
1418 exploitation of aged persons or disabled adults.
- 1419 (d) Section 782.04, relating to murder.
- 1420 (e) Section 782.07, relating to manslaughter, aggravated
1421 manslaughter of an elderly person or disabled adult, or
1422 aggravated manslaughter of a child.
- 1423 (f) Section 782.071, relating to vehicular homicide.
- 1424 (g) Section 782.09, relating to killing of an unborn quick
1425 child by injury to the mother.
- 1426 (h) Section 784.011, relating to assault, if the victim of
1427 the offense was a minor.
- 1428 (i) Section 784.021, relating to aggravated assault.
- 1429 (j) Section 784.03, relating to battery, if the victim of
1430 the offense was a minor.
- 1431 (k) Section 784.045, relating to aggravated battery.
- 1432 (l) Section 784.075, relating to battery on a detention or
1433 commitment facility staff.
- 1434 (m) Section 787.01, relating to kidnapping.
- 1435 (n) Section 787.02, relating to false imprisonment.
- 1436 (o) Section 787.04(2), relating to taking, enticing, or
1437 removing a child beyond the state limits with criminal intent
1438 pending custody proceedings.
- 1439 (p) Section 787.04(3), relating to carrying a child beyond
1440 the state lines with criminal intent to avoid producing a child

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1441 | at a custody hearing or delivering the child to the designated
1442 | person.

1443 | (q) Section 790.115(1), relating to exhibiting firearms or
1444 | weapons within 1,000 feet of a school.

1445 | (r) Section 790.115(2)(b), relating to possessing an
1446 | electric weapon or device, destructive device, or other weapon on
1447 | school property.

1448 | (s) Section 794.011, relating to sexual battery.

1449 | (t) Former s. 794.041, relating to prohibited acts of
1450 | persons in familial or custodial authority.

1451 | (u) Chapter 796, relating to prostitution.

1452 | (v) Section 798.02, relating to lewd and lascivious
1453 | behavior.

1454 | (w) Chapter 800, relating to lewdness and indecent
1455 | exposure.

1456 | (x) Section 806.01, relating to arson.

1457 | (y) Chapter 812, relating to theft, robbery, and related
1458 | crimes, if the offense is a felony.

1459 | (z) Section 817.563, relating to fraudulent sale of
1460 | controlled substances, only if the offense was a felony.

1461 | (aa) Section 825.102, relating to abuse, aggravated abuse,
1462 | or neglect of an elderly person or disabled adult.

1463 | (bb) Section 825.1025, relating to lewd or lascivious
1464 | offenses committed upon or in the presence of an elderly person
1465 | or disabled adult.

1466 | (cc) Section 825.103, relating to exploitation of an
1467 | elderly person or disabled adult, if the offense was a felony.

1468 | (dd) Section 826.04, relating to incest.

1469 | (ee) Section 827.03, relating to child abuse, aggravated
1470 | child abuse, or neglect of a child.

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- 1471 (ff) Section 827.04, relating to contributing to the
1472 delinquency or dependency of a child.
- 1473 (gg) Former s. 827.05, relating to negligent treatment of
1474 children.
- 1475 (hh) Section 827.071, relating to sexual performance by a
1476 child.
- 1477 (ii) Section 843.01, relating to resisting arrest with
1478 violence.
- 1479 (jj) Section 843.025, relating to depriving a law
1480 enforcement, correctional, or correctional probation officer
1481 means of protection or communication.
- 1482 (kk) Section 843.12, relating to aiding in an escape.
- 1483 (ll) Section 843.13, relating to aiding in the escape of
1484 juvenile inmates in correctional institutions.
- 1485 (mm) Chapter 847, relating to obscene literature.
- 1486 (nn) Section 874.05(1), relating to encouraging or
1487 recruiting another to join a criminal gang.
- 1488 (oo) Chapter 893, relating to drug abuse prevention and
1489 control, only if the offense was a felony or if any other person
1490 involved in the offense was a minor.
- 1491 (pp) Section 916.1075, relating to sexual misconduct with
1492 certain forensic clients and reporting of such sexual misconduct.
- 1493 (qq) Section 944.35(3), relating to inflicting cruel or
1494 inhuman treatment on an inmate resulting in great bodily harm.
- 1495 (rr) Section 944.46, relating to harboring, concealing, or
1496 aiding an escaped prisoner.
- 1497 (ss) Section 944.47, relating to introduction of contraband
1498 into a correctional facility.
- 1499 (tt) Section 985.701, relating to sexual misconduct in
1500 juvenile justice programs.

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1501 (uu) Section 985.711, relating to contraband introduced
1502 into detention facilities.

1503 (4) Standards must also ensure that the person:

1504 (a) Has not been convicted of, or entered a plea of guilty
1505 or nolo contendere to, regardless of adjudication, offenses
1506 prohibited under any of the following statutes or under any
1507 similar statute of another jurisdiction, if he or she is an
1508 employee or employer ~~For employees or employers~~ licensed or
1509 registered pursuant to chapter 393, chapter 400, part II of
1510 chapter 408, or chapter 429, or an employee or employer at a
1511 mental health treatment facility as defined in s. 394.455 ~~does~~
1512 ~~not have a confirmed report of abuse, neglect, or exploitation as~~
1513 ~~defined in s. 415.102(6), which has been uncontested or upheld~~
1514 ~~under s. 415.103.~~

1515 1. Sections 409.920 and 409.9201, relating to Medicaid
1516 fraud.

1517 2. Chapter 429, relating to assisted care communities.

1518 3. Chapter 784, relating to assault, battery, and culpable
1519 negligence, if the offense is a felony.

1520 4. Section 810.02, relating to burglary, if the offense is
1521 a felony.

1522 5. Section 817.034, relating to communications fraud.

1523 6. Section 817.234, relating to fraudulent insurance
1524 claims.

1525 7. Section 817.505, relating to patient brokering.

1526 8. Section 817.568, relating to identification theft.

1527 9. Sections 817.60 and 817.61, relating to credit cards, if
1528 the offense is a felony.

1529 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1530 831.31 relating to forgery, uttering, and counterfeiting.

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1531 (b) Has not committed an act that constitutes domestic
1532 violence as defined in s. 741.28 ~~s. 741.30~~.

1533 (c) Does not have a confirmed report of abuse, neglect, or
1534 exploitation which has been uncontested or upheld under s.
1535 415.103, if the person is an employee of a developmental
1536 disabilities institution as defined in s. 393.063.

1537 Section 26. Subsection (13) of section 400.141, subsection
1538 (3) of section 408.809, subsection (2) of section 429.08, and
1539 subsection (5) of section 429.41, Florida Statutes, are repealed.

1540 Section 27. Paragraph (h) of subsection (3) of section
1541 430.80, Florida Statutes, is amended to read:

1542 430.80 Implementation of a teaching nursing home pilot
1543 project.--

1544 (3) To be designated as a teaching nursing home, a nursing
1545 home licensee must, at a minimum:

1546 (h) Maintain insurance coverage pursuant to s. 400.141(19)
1547 ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum
1548 amount of \$750,000. ~~Such~~ Proof of financial responsibility may
1549 include:

1550 1. Maintaining an escrow account consisting of cash or
1551 assets eligible for deposit in accordance with s. 625.52; or

1552 2. Obtaining and maintaining, pursuant to chapter 675, an
1553 unexpired, irrevocable, nontransferable and nonassignable letter
1554 of credit issued by a ~~any~~ bank or savings association organized
1555 and existing under the laws of this state or a ~~any~~ bank or
1556 savings association organized under the laws of the United States
1557 that has its principal place of business in this state or has a
1558 branch office which is authorized to receive deposits in this
1559 state. The letter of credit shall be used to satisfy the
1560 obligation of the facility to the claimant upon presentment of a



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1561 final judgment indicating liability and awarding damages to be
 1562 paid by the facility or upon presentment of a settlement
 1563 agreement signed by all parties if the ~~to the agreement when such~~
 1564 final judgment or settlement is a result of a liability claim
 1565 against the facility.

1566 Section 28. Subsection (13) of section 651.118, Florida
 1567 Statutes, is amended to read:

1568 651.118 Agency for Health Care Administration; certificates
 1569 of need; sheltered beds; community beds.--

1570 (13) ~~Residents, as defined in this chapter,~~ are not
 1571 considered new admissions for the purpose of s. 400.141(14)(d) ~~s.~~
 1572 ~~400.141(15)(d)~~.

1573 Section 29. The sum of \$241,274 is appropriated to the
 1574 Agency for Health Care Administration from the Health Care Trust
 1575 Fund for the 2008-2009 fiscal year, and 8.5 full-time equivalent
 1576 positions along with an associated salary rate of 298,721 are
 1577 authorized for the purpose of implementing the provisions of this
 1578 act.

1579 Section 30. Except as otherwise expressly provided in this
 1580 act, this act shall take effect October 1, 2008.

1581
 1582 ===== T I T L E A M E N D M E N T =====

1583 And the title is amended as follows:

1584 Delete line(s) 527-571

1585 and insert:

1586 A bill to be entitled
 1587 An act relating to adult protection and care; amending s.
 1588 322.142, F.S.; authorizing the Department of Children and
 1589 Family Services to obtain copies of driver's license files
 1590 maintained by the Department of Highway Safety and Motor

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1591 Vehicles for the purpose of conducting protective
1592 investigations; amending s. 400.141, F.S.; requiring a
1593 search of the Department of Law Enforcement's sexual
1594 offender database to be conducted on all nursing home
1595 residents; amending s. 400.19, F.S.; revising provisions
1596 relating to unannounced inspections; amending s. 400.215,
1597 F.S.; requiring contracted workers employed in a nursing
1598 home to submit to background screening; prohibiting
1599 employees and contracted workers who do not meet
1600 background screening requirements from being employed in a
1601 nursing home; providing certain exceptions; deleting an
1602 obsolete provision; amending s. 408.809, F.S.; requiring
1603 the agency to establish a fee schedule to cover the cost
1604 of a level 1 or level 2 screening and giving the agency
1605 rulemaking authority; amending s. 408.810, F.S.; requiring
1606 health care facilities regulated by the Agency for Health
1607 Care Administration to post certain information in the
1608 facility; requiring the agency to have the information
1609 available on its website; amending s. 408.811, F.S.;
1610 providing that agency employees who provide advance notice
1611 of unannounced agency inspections are subject to
1612 suspension; providing a timeline and process for
1613 correction of deficiencies; providing that the agency may
1614 provide electronic access to documents; amending s.
1615 415.103, F.S.; requiring certain reports to the central
1616 abuse hotline relating to vulnerable adults to be
1617 immediately transferred to the county sheriff's office;
1618 amending s. 415.1051, F.S.; authorizing the Department of
1619 Children and Family Services to file the petition to
1620 determine incapacity in adult protection proceedings;

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1621 prohibiting the department from serving as the guardian or
1622 providing legal counsel to the guardian; amending s.
1623 415.112, F.S.; specifying rules to be adopted by the
1624 Department of Children and Family Services relating to
1625 adult protective services under ch. 415, F.S.; amending s.
1626 429.07, F.S.; providing that license requirements for
1627 specialty licenses apply to current licensees as well as
1628 applicants for an extended congregate care and limited
1629 nursing license; conforming a cross-reference; amending s.
1630 429.174, F.S.; requiring certain employees and contracted
1631 workers in assisted living facilities to submit to
1632 background screening; prohibiting employees and contracted
1633 workers who do not meet background screening requirements
1634 from being employed in an assisted living facility;
1635 providing certain exceptions; requiring the person being
1636 screened to pay for the cost of screening; amending s.
1637 429.255, F.S.; providing that the owner or administrator
1638 of an assisted living facility is responsible for the
1639 services provided in the facility; amending s. 429.26,
1640 F.S.; clarifying a prohibition on moving a resident;
1641 providing for the development of a plan for services for
1642 all residents; requiring that the plan be updated and
1643 reviewed periodically; requiring a search of the
1644 Department of Law Enforcement's sexual offender database
1645 to be conducted on all residents of an assisted living
1646 facility; requiring residents to be periodically assessed
1647 for competency to handle personal affairs; amending s.
1648 429.27, F.S.; prohibiting assisted living facility
1649 personnel from making certain decisions for a resident or
1650 acting as the resident's representative or surrogate;

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1651 amending s. 429.28, F.S.; revising and specifying certain
1652 conditions in an assisted living facility's resident bill
1653 of rights for a resident's relocation or termination of
1654 residency; creating s. 429.285, F.S.; prohibiting resident
1655 relocation or termination of residency in the absence of
1656 certain specified conditions; requiring the administrator
1657 or employee of a facility to sign a notice of relocation
1658 or termination of residency and requiring a physician's
1659 signature under certain circumstances; requiring a
1660 licensee to provide advance written notice to the resident
1661 and other specified persons regarding relocation or
1662 termination of residency; providing that the notice
1663 contain certain information; providing for the creation of
1664 a form to submit relocation or termination of residency
1665 information and specifying information to be included
1666 therein; requiring a licensee to report relocation or
1667 termination of residency to the Office of State Long-term
1668 Care Ombudsman within a certain timeframe; permitting
1669 residents to seek the assistance of the local long-term
1670 care ombudsmen council in reviewing a notice of relocation
1671 or termination of residency; providing for emergency
1672 relocation and termination of residency; permitting the
1673 local long-term care ombudsmen council to request private
1674 informal contact with a resident upon receipt of a notice
1675 of relocation or termination of residency; authorizing the
1676 agency to adopt rules; amending s. 429.294, F.S.; deleting
1677 a cross-reference; amending s. 429.34, F.S.; providing for
1678 unannounced inspections; providing for additional 6-month
1679 inspections for certain violations; providing for an
1680 additional fine for 6-month inspections; amending s.

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1681 429.65, F.S.; providing a definition of the term "reside";
1682 amending s. 429.67, F.S.; expanding the list of persons
1683 who must have a background screening in adult family-care
1684 homes; amending s. 429.69, F.S.; providing that the
1685 failure of a adult family-care home provider to live in
1686 the home is grounds for the denial, revocation, or
1687 suspension of a license; amending s. 429.73, F.S.;
1688 requiring adult family-care home residents to be
1689 periodically assessed for competency to handle personal
1690 affairs; amending ss. 435.03 and 435.04, F.S.; providing
1691 additional criminal offenses for screening certain health
1692 care facility personnel; repealing s. 400.141(13), F.S.,
1693 relating to a requirement to post certain information in
1694 nursing homes; repealing s. 408.809(3), F.S., relating to
1695 the granting of a provisional license while awaiting the
1696 results of a background screening; repealing s. 429.08(2),
1697 F.S., deleting a provision relating to local workgroups of
1698 field offices of the Agency for Health Care
1699 Administration; repealing s. 429.41(5), F.S., relating to
1700 agency inspections; amending ss. 430.80 and 651.118, F.S.;
1701 conforming cross-references; providing an appropriation
1702 and authorizing additional positions; providing effective
1703 dates.