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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/19/2008	.	
	.	
	.	

1 The Committee on Health Regulation (Alexander) recommended the
2 following **amendment to amendment (754484)**:

3
4 Senate Amendment
5 Delete line(s) 88-238

6 and insert:

7 400.215 Background Personnel screening ~~requirement~~--

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

- 13 (a) Provide personal care or services to residents;
- 14 (b) Have access to resident living areas; or
- 15 (c) Have access to resident funds or other personal
16 property.



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17 (2) Background screening as provided in chapter 435 is
18 required for all nursing home facility contracted workers who are
19 expected to, or whose responsibilities may require them to,
20 provide personal care or services to residents. The facility
21 shall maintain verification that such contracted workers have
22 been screened pursuant to this section. Contracted workers who do
23 not provide personal care or services to residents are not
24 required to be screened pursuant to this section but must sign in
25 at the reception desk or nurses' station upon entering the
26 facility, wear an identification badge while on the premises, and
27 sign out before leaving the facility. The nursing facility shall
28 maintain a log containing the information collected.

29 (3)~~(2)~~ Employers, and employees, contractors, and
30 contracted workers shall comply with the requirements of s.
31 435.05.

32 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),
33 facilities must have in their possession evidence that level 1
34 screening under s. 435.03 has been completed before allowing an
35 employee or contracted worker to begin employment in the facility
36 ~~working with patients~~ as provided in subsection (1). All
37 information necessary for conducting level 1 background screening
38 ~~using level 1 standards as specified in s. 435.03~~ shall be
39 submitted by the nursing facility to the agency. Results of the
40 background screening shall be provided by the agency to the
41 requesting nursing facility.

42 (b) Employees and contracted workers qualified under ~~the~~
43 ~~provisions of~~ paragraph (a) who have not maintained continuous
44 residency within the state for the 5 years immediately preceding
45 the date of request for background screening must complete level
46 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such Employees



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47 | may work in a conditional status for up to 180 days pending the
48 | receipt of written findings evidencing the completion of level 2
49 | screening. Contracted workers who are awaiting the completion of
50 | level 2 screening may work only under the direct and visual
51 | supervision of persons who have met the screening requirements of
52 | this section. Level 2 screening ~~is shall not be~~ required ~~for of~~
53 | employees, or prospective employees, or contracted workers who
54 | attest in writing under penalty of perjury that they meet the
55 | residency requirement. To complete ~~Completion of~~ level 2
56 | screening: ~~shall require~~

57 | 1. The employee or contracted worker shall ~~prospective~~
58 | ~~employee to~~ furnish to the nursing facility a full set of
59 | fingerprints for conducting a federal criminal records check to
60 | ~~enable a criminal background investigation to be conducted.~~

61 | 2. The nursing facility shall submit the completed
62 | fingerprint card to the agency.

63 | 3. The agency shall establish a record of the request in
64 | the database provided for in paragraph (c) and forward the
65 | request to the Department of Law Enforcement, which is authorized
66 | to submit the fingerprints to the Federal Bureau of Investigation
67 | for a national criminal history records check.

68 | 4. The results of the national criminal history records
69 | check shall be returned to the agency, which shall maintain the
70 | results in the database provided for in paragraph (c).

71 | 5. The agency shall notify the administrator of the
72 | requesting nursing facility or the administrator of any other
73 | requesting facility licensed under chapter 393, chapter 394,
74 | chapter 395, chapter 397, chapter 429, or this chapter, ~~as~~
75 | ~~requested by such facility,~~ as to whether ~~or not~~ the employee has
76 | qualified under level 1 or level 2 screening.



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77
78 An employee or contracted worker ~~prospective employee~~ who has
79 qualified under level 2 screening and has maintained ~~such~~
80 continuous residency within the state ~~is~~ shall not be required to
81 complete a subsequent level 2 screening as a condition of
82 employment at another facility.

83 (c) The agency shall establish and maintain a database that
84 includes ~~of background screening information which shall include~~
85 the results of all ~~both~~ level 1 and level 2 screening. The
86 Department of Law Enforcement shall timely provide to the agency,
87 electronically, the results of each statewide screening for
88 incorporation into the database. The agency shall, upon request
89 from any facility, agency, or program required by or authorized
90 by law to screen its employees or contracted workers ~~applicants~~,
91 notify the administrator of the facility, agency, or program of
92 the qualifying or disqualifying status of the person ~~employee or~~
93 ~~applicant~~ named in the request.

94 (d) ~~Applicants and~~ Employees, prospective employees, and
95 contracted workers shall be excluded from employment pursuant to
96 s. 435.06, and may not be employed or resume employment until
97 exempted or all appeals have been resolved in favor of the person
98 screened. However, an employee of a nursing facility, employed
99 prior to October 1, 1998, who is determined to have a
100 disqualifying offense may continue employment pending the outcome
101 of an exemption request if that request is made by October 1,
102 2009.

103 (4) ~~(3)~~ The person being screened ~~applicant~~ is responsible
104 for paying the fees associated with obtaining the required
105 screening. Payment for the screening shall be submitted to the
106 agency. The agency shall establish a schedule of fees to cover



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107 the costs of level 1 and level 2 screening. Facilities may pay
108 ~~reimburse employees~~ for these costs. The Department of Law
109 Enforcement shall charge the agency for a level 1 or level 2
110 screening a rate sufficient to cover the costs of ~~such~~ screening
111 pursuant to s. 943.053(3). The agency shall, as allowable,
112 reimburse nursing facilities for the cost of conducting
113 background screening as required by this section. This
114 reimbursement is ~~will~~ not ~~be~~ subject to any rate ceilings or
115 payment targets in the Medicaid Reimbursement plan.

116 ~~(5)(4)(a)~~ As provided in s. 435.07:7

117 (a) The agency may grant an exemption from disqualification
118 to an employee, ~~or~~ prospective employee, or contracted worker who
119 is subject to this section and who has not received a
120 professional license or certification from the Department of
121 Health.

122 ~~(b) As provided in s. 435.07,~~ The appropriate regulatory
123 board within the Department of Health, or that department itself
124 when there is no board, may grant an exemption from
125 disqualification to an employee, ~~or~~ prospective employee, or
126 contracted worker who is subject to this section and who has
127 received a professional license or certification from the
128 Department of Health or a regulatory board within that
129 department.

130 ~~(6)(5) Any provision of law to the contrary~~
131 ~~notwithstanding,~~ Persons who have been screened and qualified as
132 required by this section, and who have not been unemployed for
133 more than 180 days ~~thereafter~~, and who, under penalty of perjury,
134 attest to not having been convicted of a disqualifying offense
135 since the completion of such screening are, ~~shall~~ not ~~be~~ required
136 to be rescreened. An employer may obtain, pursuant to s. 435.10,



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137 written verification of qualifying screening results from the
138 previous employer, contractor, or other entity that ~~which~~ caused
139 the ~~such~~ screening to be performed.

140 ~~(7) (6)~~ The agency and the Department of Health may ~~shall~~
141 ~~have authority to~~ adopt rules to administer ~~pursuant to the~~
142 ~~Administrative Procedure Act to implement~~ this section.

143 ~~(7)~~ ~~All employees shall comply with the requirements of~~
144 ~~this section by October 1, 1998. No current employee of a nursing~~
145 ~~facility as of the effective date of this act shall be required~~
146 ~~to submit to rescreening if the nursing facility has in its~~
147 ~~possession written evidence that the person has been screened and~~
148 ~~qualified according to level 1 standards as specified in s.~~
149 ~~435.03(1). Any current employee who meets the level 1 requirement~~
150 ~~but does not meet the 5-year residency requirement as specified~~
151 ~~in this section must provide to the employing nursing facility~~
152 ~~written attestation under penalty of perjury that the employee~~
153 ~~has not been convicted of a disqualifying offense in another~~
154 ~~state or jurisdiction. All applicants hired on or after October~~
155 ~~1, 1998, shall comply with the requirements of this section.~~

156 (8) There is no monetary or unemployment liability on the
157 part of, and a ~~no~~ cause of action for damages does not arise
158 ~~arising~~ against, an employer that, upon notice of a disqualifying
159 offense listed under chapter 435 or an act of domestic violence,
160 terminates the employee against whom the report was issued,
161 whether or not the employee has filed for an exemption with the
162 Department of Health or the agency ~~for Health Care~~
163 ~~Administration.~~